

STATES OF JERSEY
OFFICIAL REPORT
WEDNESDAY, 28th SEPTEMBER 2016

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[9:30]

The Roll was called and the Greffier of the States led the Assembly in Prayer.

PUBLIC BUSINESS – resumption

1. Draft Medium Term Financial Plan Addition For 2017 – 2019 (P.68/2016) – amendment (P.68/2016 Amd.) – resumption

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

I must say that I am against micromanaging the budgets of Ministers in a Medium Term Financial Plan. We elect them to do a job, we elect the Council of Ministers to do a job, and I think to take a relatively small amount of money and tell a Minister what to do with it is not the best way to proceed and we could be here for not just days, but weeks, if we do that. There is, of course, in this particular amendment time to scrutinise further the allocation of the revenue budget of Education towards their staff. This is not a cut which is going to take immediate effect. Indeed, there is even time to propose an alternative Minister for Education before the cut does take effect. Having said that, the Medium Term Financial Plan is about the messages that we send out from this Assembly. In yesterday's debate, we sent out a message rejecting Senator Ferguson's call for an independent review of our fiscal policy because we felt that we have enough reviews, Scrutiny, the Fiscal Policy Panel and so on going on. In accepting Deputy Tadier's proposition yesterday, we sent out a message that we think our native language is important, it has been neglected, and we want resources to be allocated to preserving Jèrriais. What message will we send out today, I ask my fellow Members, when the States is proposing to spend £55 million on 2 schools, but we are saying we are going to cut the payment to teachers by £250,000? I suggest that that sends out a very poor message to teachers who may feel, certainly in Jersey as well as the United Kingdom, that their status as professionals is lower than it should be. It is certainly lower than it is in Europe and in North America. I believe that it is important we reassure the teaching staff of the Island that we do value what they do, we are not going to see their budgets cut, even notionally at this stage, and therefore I urge Members to support the amendment.

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

With this amendment, I am wondering where we are process-wise. While this amendment seeks to put money back into the budget of Education, my understanding is that the policies about employment are done through the States Employment Board. Therefore, like when we have a planning application that comes into this Assembly and you then get a 49-member Planning Application Panel, is this amendment trying to seek for this Assembly to be a 49-member States Employment Board? The point there is we elect the States Employment Board to carry out a function and it is their responsibility in order to do that. If we are not happy with the States Employment Board doing that function then it is our job, as States Members, to get rid of that committee and start again. But this amendment I am struggling with process-wise, because I have come to the conclusion: what is the difference going to be? For example, if the States Employment Board follow the policy, because we will not be changing the policy for the States Employment Board to follow ... if the States Employment Board choose to go beneath a pay scale for teachers, this amendment will not change that. For example, if we support Deputy Southern and put the money back into Education, the States Employment Board can follow that policy and, therefore, through the vacancy management process, Education will then hand back that money to the Treasury. If we do not support Deputy Southern's amendment and, for example, say the Education Department goes out with these new figures and find that they cannot recruit, they then have to go back to Treasury, through contingency funding, to get more money in order to be able to get those posts. I ask the question: if we go one way or another what exactly would we achieve? This is why I am struggling with this amendment, because it does not change the policy. What I would like to

know from members of the States Employment Board, however, is: is this now going to be the attitude which is going to be rolling across the whole States? What I mean by that is, because it is an employers' market at the moment, are we going to be, for every States position, which is what many of the public will call for the States Assembly to do, taking on a more corporate approach when looking at wages to try and take advantage of an employers' market and try and get the lowest level of pay that we can attract at the moment? If someone from the States Employment Board can confirm that that is the policy that the States Employment Board is now adopting, I would be grateful for that. In doing so, could those members also illustrate that is also going to be applied to all sectors of the public sector, including chief officers, because I am very concerned that what we are doing through this policy is targeting one group of frontline staff and not fairly applying it across the board. I do not think that is right. I do agree with the point that Deputy Southern raised previously, that while these are not currently members of staff, however, the unions do have a role to play in this. We have been here before in the States where we have taken money away and that has really handicapped the negotiating abilities of the unions and that has brought the States into a very difficult situation. It did a lot of damage to the reputation of the States and that is why I am minded to support Deputy Southern to allow the States Employment Board to do its role and let them negotiate and do their job in what they do. If they are successful in renegotiating those contracts and getting those levels, then the money will be handed back to the centre. Therefore, while we are arguing one way or another, what difference will it actually make? So if someone could clarify that for me I would be grateful.

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

The first debate on this amendment affected me somewhat. I would like to cast Members' minds back, those who were in the House in the early 2000s. KPMG were commissioned to do a benchmarking report and it was a very interesting report. I was chairman of the Institute of Directors at the time and there was a huge outcry about public sector pay and it is a cry that continues today. What happened, if we go back even further to the 1980s and 1990s, is that Jersey was doing rather well. We were bringing in a lot of money, the finance industry was doing very well, cash receipts were fantastic and we were very generous to our public sector workers, which was great when we had the money. So the gap grew between public sector workers and public sector workers in other places, hence the benchmarking report. That gap was particularly evident in teaching, I believe prison officers, police officers. It was quite huge and it was marvellous because our public sector workers, who did a fantastic job, were paid extremely well at a time when we were doing extremely well as well. Those times are over and we have to cut our cloth correctly.

[9:45]

This is what this amendment does not necessarily observe or acknowledge. We are not going to be penalising, if this were to go through, those who are in post at the moment. We are simply looking at the marketplace and doing what all good governments should do and spending the money wisely. I do not believe this is going to detract from attracting teachers, particularly in the primary sector. The evidence we have suggests that is the case, so it is market forces. What we absolutely have to do is adjust our spending to the money that we have and to the markets that we spend that money in, the labour market. This does that; this suggestion from the Council of Ministers does absolutely that. If we do not do it, we are basically building up more and more and more cost in our public sector that simply is not going to go away. So, if the public want to see serious tax rises that is what is going to happen unless we cut our cloth accordingly, and this is one such thing that we should be doing in this particular segment of public sector pay. It is also going to be happening in the police service and I am sure the Minister responsible in that area will be telling us more about that sometime soon, where we also have a big gap between the pay of police officers here and police officers elsewhere, particularly in the U.K. (United Kingdom). This absolutely has to

happen if we are to have balanced books and an efficient public sector, so this is our opportunity to do exactly that. The one thing that has not been mentioned a great deal is the attraction back of graduates that we have paid for in some way or form, whether it be a grant, or their parents have paid for education in the U.K., to become qualified teachers. That is a leakage; if they do not come back and teach in Jersey it is leakage. A lot do, but a lot do not. What we should be doing is providing an incentive for those to come back, a golden handshake, if you like, to come back and teach in Jersey, because we have spent on their education already, so it would be wonderful if more of them would come back and teach in our schools. That is perhaps an exception. Mention has been made also about differential pay: how can you have a business, in this case a school, whereby some people are on different rates of pay? Well, that is life. People earn different rates of pay for doing different jobs, having been recruited at different times in the economic cycle. That is normal life. So we have to acknowledge that when you do not have the funds, you cannot pay these somewhat inflated wages. We have to cut our cloth appropriately, so I am afraid, as painful as it is to the Deputy sitting behind me, whose actions here today are absolutely laudable, he feels very strongly that there should be consultation with the unions and perhaps he feels this should not happen at all, these are the sort of things that we absolutely need to do. I will just caveat that by saying there is a big opportunity here to do something more, Minister for Education, to attract back our own graduates who have qualified as teachers, give them the incentive to come back. Something else that has not been mentioned is tax. It is in the Minister's comments. The tax differential between a teacher earning a good salary in the U.K. and in Jersey is significant. You are talking an average marginal rate here of probably 12 or 13 per cent, and maybe as low as 10, and in the U.K. 30 to 40 per cent, depending on where they are teaching, what subject they are teaching and what department they are heading up. So it is significant. V.A.T. (value added tax) is 20 per cent and it is 5 per cent in Jersey. I accept the cost of living here is higher, I accept the cost of living in London is higher, perhaps even higher than Jersey now. Senator Bailhache very eloquently stated this huge differential yesterday and that was quite compelling. We are still going to have a big differential as well, but this is our opportunity, as an Assembly, to spend public money wisely. That benchmarking exercise was done back in the early 2000s and we still have not acted on that, so it has taken nearly 20 years, or certainly 16 years, to act on a benchmarking report that was done by KPMG 16 years ago and now we are finally doing it, in this case, for teachers. I believe it is going to happen with police officers, as well, and it has already happened in some other segments of our public sector, and it absolutely has to happen. We cannot afford to provide the quality of services that we need to provide at the current rates of pay in some segments of our public sector. There are other segments where we are not paying enough, and that has been recognised as well, to attract the best, because we still want the best. So I would urge Members, as seductive as this may be as an amendment, to vote against it because if you want balanced books in the future, you are building up more and more and more cost in our education system where we do not have to. We need to put that to good use for specialist teachers, highly qualified teachers in certain subjects where the market is very competitive and the price of those teachers is going up in sciences, languages, mathematics and so on. That is where we need to deploy that extra money, not with newly qualified teachers, who are already going to be paid significantly higher than their counterparts in Guernsey and other places that were mentioned, other Crown Dependencies and the U.K. So I would urge Members, as well intended as this is, to vote against it.

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

Merci bein des fais, Monsieur le Deputé-Bailli. I can speak Jersey French; I just do not know what it means. **[Laughter]** This Assembly is not the States Employment Board and we do not interfere with what we give people responsibilities to do. For that reason, I am very strongly minded to oppose this. However, learning comes from good teachers, not well designed classrooms and fancy new buildings. It is the teacher. That is where investment in education is needed. I read

somewhere among all these 3,000 pages of information I have, or thereabouts, I may be exaggerating, that the Education Scrutiny Panel claims there is a reduction in finance and investment into education over the period of this M.T.F.P. (Medium Term Financial Plan) and so it is for that reason that perhaps a little extra money here could be given to education. It is for the reason that this is more money going to education rather than to wages on teachers that I support this amendment.

1.1.4 Deputy A.E. Pryke of Trinity:

I would like to think that all of us in this Assembly aspire to give our children the very best education possible, education that will take them into the real world and enable them to reach their full potential and take their place quite rightly in society. That is a priority of the Council of Ministers and staff are valued. But time evolves, situations change, and when newly qualified teachers were not coming to Jersey many years ago, encouragement was needed and with that was a very good pay scale. Its structure, as we have heard, was above London, Guernsey and the rest of the U.K. and it has been successful, but now we must attract teachers in other subjects, such as maths and sciences, to come here and teach our children. As in anything, teaching specialist subjects is essential, so the Minister very wisely wants to use some of that money from the starting salary and supplement salaries for teachers in those shortage subjects. That is good for our children's education, but what of the N.Q.T.s (newly qualified teachers)? The proposed starting salary is still above the U.K. levels and Guernsey, still attractive. Terms and conditions are better here in Jersey, shorter days and fewer teaching days, and, very importantly, it would not be retrospective. It would start, if approved, after negotiations with the unions and the S.E.B. (States Employment Board), in 2018. Much has been said about the different levels of pay. The N.Q.T.s here start at level 3, which is just over £38,000. Over the last 4 to 5 years no N.Q.T. has gone below that level. They have all come out with 2 degrees. In Guernsey the starting level is £29,000, so you can see the difference. Mention was made about difficulty in getting N.Q.T.s. Well, as the Minister said, there are 29 total this year, 14 in primary, 14 in secondary, and one, I am very pleased to say, in special needs. Most of those are locals returning here. Our N.Q.T.s do start on level 3, they do have an Honours degree, and we should be very proud of that. This proposal does make sense: investing in our children's education in areas that really need it and using taxpayers' money wisely. I urge Members to reject Deputy Southern's proposition and to allow the department to go forward and begin the negotiations.

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

A lot has been said during this debate from various sides of the argument, but I believe that there is a basic principle at stake here. Is this the correct arena for debating pay scales of a particular group of civil servants? I would suggest, no, it is not. The establishment of the States Employment Board was to remove the potential for any kind of political interference and yet, because this debate has been forced on us by ill-thought-out policies from the Minister, that is exactly what we are doing and we cannot avoid that fact. It is not our place to be debating what we think newly qualified teachers should be paid. Any changes to pay structures should follow a recognised path, which is the States Employment Board negotiating with the representative body of whatever that civil service group may be. For us to start believing that we know better, that we are all experts on this area, I think is a road to disaster because where will it stop? However, if you do think that: "No, it is my role to decide who gets paid what" then I would just question whether or not this move by the Minister for Education does adhere to the Chief Minister's often stated mantra of "investment in education". What makes a good school is not a brand new building, it is not the physical structure, it is the teaching staff and perhaps we have lost sight of that. So for 2 reasons we should support this amendment. The first one is it is not our place to be discussing this. Should the States Employment Board, under direction from the Minister, come back and say: "We have renegotiated

a new pay scale for newly qualified teachers” then, marvellous, we will see the Minister being able to present that to this Assembly as an efficiency, but for us to dictate what the States Employment Board can offer is totally wrong. Academic standards in state schools in the Island are falling, we have to look at investment in teaching staff, and I would suggest that for both those reasons we should support this amendment.

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

It is my view that the policy that is being pursued by the Minister for Education is not just ill-thought-out, insensitive and counterproductive, but it is a systematic attempt to degrade what is a noble profession and it is taking advantage of people who enter this particular profession, not out of some sort of motivation to be paid well, but motivated by the idea of helping children.

[10:00]

Let us be clear about its purpose. It is not being done because of some logical or necessary realignment of a broken wages system. It is being done to fill a deficit created by the Council of Ministers, who now attempt to portray it as investment despite the fact, as the Education Scrutiny Panel’s comments show, it is no such thing. They are merely continuing to fund what they are required by statute to fund anyway but it is being made more expensive on a day-to-day basis because of the growing population that causes strain on our schools. Another policy that the Council of Ministers has completely failed to get to grips with. What is perhaps most perverse about it, is the argument they expect the public to believe, which is that we can somehow support an agenda to raise educational standards while slashing the salaries of the people we expect to deliver those higher standards. I think that the Minister’s performance in this Assembly yesterday was an embarrassment. He stood here and attempted to persuade Members, using figures that were completely inappropriate and out of context. To exaggerate the wage difference, he compared the wages of the lowest qualified teachers in England to the highest qualified new teachers in Jersey. That was completely misleading and is not the way you should be attempting to persuade people of one argument. I thought it was equally embarrassing to see Senator Bailhache repeating the same point, seemingly completely oblivious to the reality behind the figures he was using, and that is particularly worrying, given that he is an Assistant Minister in that department. As a member of the Education Scrutiny Panel, I have taken part in the quarterly public hearings with the Minister where we brought up the issue of N.Q.T. recruitment several times months before we even had the slightest inkling that it was going to be something that featured in the M.T.F.P. We were told by both the Minister and the Director of the Education Department that there were problems with recruitment and they said part of the problem was down to a dodgy online application system. Well, let me tell them that no computer system, application system, however good it is, will do anything to repair the damage that they will be causing to recruitment for newly qualified teachers by slashing their starting salaries by £8,000. It will be the least of their problems. They said that the savings give them the leeway they would need to improve the salaries for those teaching particular subjects where they have specific problems with recruitment. They are cutting salaries so they can raise salaries; as you can see, clearly a very logical argument there. But, of course, the problem is that while you might be able to shift the pay from one group of teachers to another to stop one shortage, you may well inadvertently create another shortage in another area, so it is completely counterproductive. The Scrutiny Panel looked at these proposals in depth and have issued comments, including a report by Professor John Howson from RealGroup, which examined the proposals and made observations on the factors governing the supply of teachers. The first point, which is a point that nobody in this debate has mentioned so far, is that while N.Q.T.s do get paid more in Jersey, that is because they work more hours than their counterparts in the U.K. and without any suggestion of a readjustment of the working hours, cutting salaries becomes even more flawed. The report then looks at the effect of the extra student debt that teachers come out, bearing

in mind that to become a teacher you have to study for 4 years rather than the standard 3-year degree that most other careers require. In a previous debate in this Assembly on the minimum wage a few months ago, I referenced a report called *Is Britain Fairer?* which was produced by the U.K. Equality and Human Rights Commission, which demonstrated the reduced standard of living that young people in particular have had to put up with over the past few years. Part of that is due to the massive increase in tuition fees at U.K. universities, introduced by their Tory Government with the connivance of the Liberal Democrats. It is only now that people are graduating with £40,000 of debt rather than the £15,000 of debt they would have had previously. I said in that debate that the role of the Government should be to reverse the trend of decreasing standards of living for young people, but the policy of this Minister for Education will do nothing but serve to accelerate that decreasing standard by taking these young, newly qualified teachers and slashing their pay, slashing their ability to pay off their student debt, their ability to save up for a deposit on a property, and all round have the effect of making teaching a less attractive career option. The less attractive career option it is the less it will attract those with the most skill and talent who could otherwise go for other careers and make more money, and surely that cannot possibly be in the best interests of children. One of the points that particularly concerns Deputy Southern and Rob Ward, the president of the local branch of the National Union of Teachers, is the effects this proposal will have on the so-called negotiations on workforce modernisation and terms and conditions. A running theme that I have noticed with all of the public sector workers who I have spoken to over the past 2 years, be they the T.T.S. (Transport and Technical Services) manual workers, the teachers or the civil servants, is they all feel that the negotiations with the States Employment Board have been a complete sham. They are not treated seriously and they think the Ministers are completely disregarding them. The Minister is claiming that the proposals are not set in stone, they are just an idea, and that is blatantly complete nonsense because, if this amendment is rejected, the S.E.B. will be entering negotiations with their hands tied behind their backs. The teachers' representatives, who are all saying that this will be bad for the profession and exacerbate the problems we already have with teacher recruitment, will have no ability to get the S.E.B. to agree to a more sensible arrangement because the spending limits will be set. That, I think, is the point here. If there is some more sensible payment arrangement that can exist for teachers, you do not set the spending parameters before you come to that arrangement. It has to be open so that you can have meaningful negotiations, not continue on with the sham that is being perpetuated at the moment. It has also been said that this will only affect new teachers, not those already teaching, but what it will do is create a 2-tier system. How good will it be for morale in the teaching profession in 5 years' time when the teachers, who signed up this year, are in the tearoom chatting to their colleagues, who qualify next year, and are on £8,000 a year less than them for doing exactly the same job? I am sure that they will all get on very, very well indeed in that circumstance. In his speech yesterday, the Minister asked us to remember our favourite teachers from school. Since it was not that long ago that I was at school here in Jersey I remember most of mine pretty well. I remember one teacher who spent hours with my best friend giving him extra support, both educationally and emotionally, after his stepdad died of cancer just a few weeks before his exams. I had another teacher who managed to pick up on signs that another one of my friends was having problems at home, which had affected him so badly he decided to give up on any hope of going to higher education. This teacher took my friend aside, worked with him for hours after school closed to make sure he got his university U.C.A.S. (Universities and Colleges Admissions Service) application in and this friend went to university, got a first class degree and is now heading back to do a PhD. I have got friends now, who are newly qualified teachers, who are so unbelievably committed to the children they teach and who work far more hours than they will ever get given credit for. Teachers do not just teach kids how to pass exams. The best teachers build their students' self-esteem, they are there for them when they are going through tough times and they inspire them to want to better themselves so that they can make the most out of their lives. Maybe

there is a better pay arrangement for teacher salaries that exists, so let us enter honest negotiations to find it, but I ask Members please support the amendment being proposed by Deputy Southern. Education is too important and it is morally wrong to risk degrading such a noble profession on the basis of flawed figures, no evidence and the outright opposition of those working on the frontline, who know the impact it will have far better than any of us in this Assembly. Let us do things properly and let us not go for this ideologically dogmatic cut-cut-cut approach with no evidence to back it up, because the people who will pay the price for it will be Jersey's children and that surely must be wrong. **[Approbation]**

1.1.7 Senator A.K.F. Green:

I am pleased to follow Deputy Mézec, because we agree on lots of things. We agree that we have outstanding teachers here in Jersey. One thing that we do not agree on, and it was a point more made by Deputy Brée, is that standards are falling. Standards are not falling. This Minister and his officers have made it their mantra really to improve standards and all the G.C.S.E. (General Certificate of Secondary Education) and A-level results and all the other vocational training stuff, which is just as important to me, show that standards are increasing. But the world changes and I have to say that I do not think this is the right place to be discussing the wage levels of any staff, be it teachers, doctors, nurses, manual workers, technicians, all of whom make a considerable contribution to this Island, **[Approbation]** all of whom are valued, but this is not the right place. This should be done, led by policies of the S.E.B. with the Human Resources Department and the Chief Executive, obviously with staff representatives and the staff themselves. We are going through a workforce modernisation and realignment of pay. Do not take realignment to mean cuts. Some staff are not being rewarded appropriately and they need to come up and some staff, for historical reasons that might have been absolutely right at the moment, in the wrong grade, are paid at the wrong level, and that is something that we need to put right and it is not easy. As Deputy Lewis said, in the real world you will have a situation where, because of change, one staff member receives better benefits, or pay, than another. We have seen it ourselves with the pension scheme. I have worked with people who had a much better pension scheme than I was able to enjoy and then later on people joined the workforce and had a lesser deal than I had. That is the real world. This is not about doing teachers down; this is not about trying to make unreasonable cuts in education. This is about being fair to the whole workforce to ensure that somebody with an equal amount of training, and degree in education, will have a similar recognition when they first start to somebody with similar qualifications and training, say, in health. This is what this is about, but this is entirely the wrong place to be discussing individual areas of staff wages. I urge Members, even if they think they need to go back to the drawing board, that we need to work quite closely, and closer, with trade unions, to reject this proposition. It is utterly wrong and, by the way, we are investing in education. The whole mantra of the M.T.F.P. is more for education and more for health, so I urge Members not to get involved in micromanagement.

1.1.8 Deputy R. Labey of St. Helier:

I was hoping to get in before another member of the States Employment Board might speak in this debate, because I am just troubled by something that the Constable of St. Martin said in his speech. To paraphrase him, he said he could not envisage circumstances where any new appointee would need to negotiate, and that strikes me as very odd. I have been responsible for employing hundreds, if not thousands, of people over the last 2 decades in London for some of the biggest, and some of the smallest, production companies in the U.K. The negotiations start when the candidate says either yes or no to the job. It is very silly to not leave wriggle room, because you can miss out on the best appointee for the sake of a few hundred pounds and there are myriad reasons why they might want to negotiate. They might be on better pay already, but want to do this job. For their family reasons they might not be able to afford it, and so on. They might have been offered another

job at exactly the same time and so you are in a bit of a bidding war if they are a good candidate. I do not know if there is anybody from the States Employment Board who is going to speak on this debate, but I would like to hear their opinions on this, because if we are cutting off negotiations I think that would be ridiculous. I listen to the debate with interest because I find this one is a very difficult decision because the cost of running this Island is too high and we have to do something about it. We have to do something about it, but the message that we are sending out with this debate worries me because it is saying to everybody: "We are starting with the teachers, we are starting with those essential staff at the bottom rung of the ladder who are desperately important." That is the message that this is sending out, which really troubles me. I would also like to know, having been handed the table this morning of the comparison salaries between teachers in Jersey to inner London to England and Wales and so on, is that a blueprint?

[10:15]

Are we going to be applying this to other areas of the public sector and which ones and when? What is the timetable for that? Are we going to do this with the police? Is it always going to be the people at the lower end that Ministers might not meet in the boardrooms day-to-day, because it is uncomfortable to have to tell the people on the higher grades that in fact those are going to be capped as well, or reduced? I did ask a question when this was brought up in question time, I do not know how many weeks ago, of the Chief Minister and I said: "If we are going to do this with teachers, seriously what about when it is time to appoint the next chief executive officer of the Jersey States? Does that position have to be in excess of £200,000?" Of course everyone laughed and I did not get an answer, but those are the questions that I would like answers to.

1.1.9 Deputy P.D. McLinton of St. Saviour:

Thoughts really. I must say, having had a remarkable 5 children myself, the admiration I feel for teachers particularly - no offence meant to any of the secondary teachers that have taught my children - for primary school teachers who mould this little person into somebody who can read and write and think is quite remarkable and so they should have the utmost respect in all that we say. I just want to draw your attention to one of the Minister's comments: "There is currently an oversupply of new teachers at primary level in Jersey, indicating there is no longer a need for such a large financial incentive in this sector." Could it be that we are storing up for a paragraph in the future which reads: "There is currently an undersupply of new teachers at primary level in Jersey. There is a need for a larger financial incentive in this sector"? We have them now, we take from them; are they likely to rock up on our Island in the future to teach our children so wonderfully? Scrutiny Report: "The debt level of new teachers is substantially higher than in the past. One guide has calculated that a teacher starting on a salary of £25,000 would repay more than £38,000 in debt and take 23 years to pay off their loans." Another paragraph: "If teaching does not maintain an attractive starting salary after training, then it may not attract sufficient candidates into the profession. Students leaving school in Jersey may decide not to train as a teacher if the starting salary appears less competitive than other careers where only a 3-year degree course is required. In this case, the States of Jersey would be more dependent upon recruiting teachers from England. However, in recent years the supply of new entrants into the profession in England has not met the expected demand modelled by the Department for Education." The point that I am trying to make is that what we have here, I think, potentially, and I would like the Minister to clear it up, is low-hanging fruit. I rather fear that there is a snake in that tree, it is going to bite us and we are not going to have the antidote down the years when we stop getting a steady supply of newly qualified teachers. What I do find a very compelling argument is that Deputy Doublet, who has recently been through this life experience, has asked Members to support this proposition. The Minister is in a position to convince me otherwise but right now I am on the balance here.

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

I will try not to repeat everything that has been said. Many of the speeches today are absolutely right in terms of the issues surrounding pay in the States, whether you see it from one side or another. My issue comes in the way that again the Council of Ministers have put the M.T.F.P. addition forward, the way it is worded, the way it is being asked of us to agree certain elements. Just for the benefit of that, I will be supporting Deputy Southern's amendment and the reason why is that we are being asked by Education to basically change the starting salary for newly qualified teachers, but there is nothing in here for any other department and yet we are being asked to agree Summary Table C which sets out contingency allocations. If anyone understands what "contingency" means, it is a future event or circumstance which is possible but cannot be predicted with certainty. If this is going to go forward with negotiations by the States Employment Board, who we do appoint, other than the Chief Minister, who automatically takes that role, then why are we being asked to put it in the base budget now, because it is not certain, because we do not know what is going to happen in those negotiations, if they are going to go ahead? We are being told that they will. Why is it not, like everything else we have been told about public sector reform, sitting within the contingency allocation that is specifically allocated under "Pay, P.E.C.R.S. (Public Employees Contributory Retirement Scheme) and Workforce Modernisation"? Why is that money not sitting there so that Education have the money until those negotiations have taken place and it is agreed between the relevant bodies who can have proper conversations with the real data, the real facts and the real life experiences of both sides; they can have those proper negotiations? We can all assume we know. Unless we have been in the position, like Deputy Doublet has been and Deputy McLinton has just very well stated that it is current life experience, that is what they have seen, but we do not know. We have not experienced that, we have not seen it. I have a son who goes to school and the teachers are fantastic, absolutely brilliant teachers, but that is not the argument here. It is about the newly qualified teacher pay and whether we are looking to put proper pay scales in place for the public sector. The States Employment Board should be appropriately negotiating it, based on proper job descriptions, ensuring that there are proper things in place to ensure that we get the right service delivery for the public of the Island. I am supporting Deputy Southern's amendment because that money should be there in the Education Department until those negotiations have taken place, at which point, if it is decided and agreed that the newly qualified teacher starting salary should be dropped, then that can come out of what we will be agreeing in the central allocation of the workforce modernisation in Summary Table C on the M.T.F.P. Addition.

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

It is always a pleasure to follow the Deputy of St. John. She made some really good points. I would like to go back to where Deputy Southern is. He is not stating what the teachers should be paid and, worryingly, none of the members of the States Employment Board support money in your pocket to have a negotiation with. It is a foregone conclusion. Let me say something about the figures presented: London against Jersey. Many teachers who teach in central London do not live in central London, they live in the leafy suburbs where you can buy a 3-bedroom house for £300,000. Do not compare apples and pears; they are not the same. If I hear one more comment that this is not the place to discuss education, I absolutely give up. We are all elected individually and on manifestos that do have probably half a page of what we would like to see in education. We have then 10 people who have come back and said this is the way they want to do it: "Do not dare question me. We must be right. We have looked at this glass. We have looked at it half empty, we have looked at it half full. This is the only way we are going to let you have it." No, absolutely wrong. I do disagree, people who have stood up ... and, as I say, worryingly the States Employment Board do not want to negotiate. Where is the thinking? I went with the Deputy of St. Peter when I was the Assistant Minister and it was then Deputy Bryans, he was not in Education, with Brighter Futures, to a conference about investing and it is not just the first 1,000 days.

Children, the younger they are, they will soak up everything you give to them and you need the best to give to them. If you cannot teach a child to read and do arithmetic before the age of 5, 6 or 7, forget getting the best teacher when they are 14; it does not work. So what do we do here? This is not the place to discuss the finest piece of education, our teachers? I do not agree. This amendment is a no-brainer. It is not saying spend the money. It is saying give more money to the people who we have given the job, whether you agree that they should be the ones having the job but they are, or give them the money there to negotiate the best teachers. Do not compare people that are M.P.S. (Main Pay Scale) 3s to M.P.S. 1s and tell me you are going to employ the same people who last year passed with an Honours degree and they do not have to be the same qualified teachers this year, because they always have been. You are not comparing the same. Like the Deputy of St. John has just said, it is contingency. Take this out, you are tying the hands of many people, you will affect our young children and you will, like Deputy McLinton said, narrow that pool very quickly. People will not come here. People will look at all the other options and say: "Cost of living in Jersey. Where can I live? Housing? No." You need to keep that money there to negotiate. If you can get the same quality for a better price, I am not one to chuck money away, do it, but put the money there, let the people negotiate with the money and let us get on with it. We do not agree with the Minister, we do not agree that he should tie the States Employment Board's hands, so we vote with Deputy Southern. Let them see, as Deputy Brée said, if they can do it for cheaper. If they can get the same quality for cheaper, if they are going to teach our children excellence, so be it, but please support this amendment.

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

One of the Council of Ministers' objectives is to improve productivity and to achieve higher economic growth in the Island. One of the elements in achieving this objective is a well-educated workforce. I believe that the proposals being put forward by the Council of Ministers are counterproductive, divisive and wrong. They are counterproductive, because it will demoralise the teaching profession, who are doing an exceptionally hard job. I know this, because I was a lecturer for 18 years and I know fully the workload and the stress levels that teachers are working under. We are being told it is only going to affect new teachers. It will permeate through the profession because they will be thinking: "What is next?" They realise that they are picking away at the new teachers and: "They are going to come for us in another way." I can tell you morale in the teaching profession goes up and down and this will definitely put it in a downer. What it is telling teachers is we do not value them and, as I say, whether this measure directly affects them or not, they will feel that we do not value them. I believe it is divisive, because I believe the teachers doing the same job should be paid the same rate. Not paying new teachers the same rate will cause resentment and will lead many of the new entrants to leave the profession before they have really got into it. Remember, the workload of the new teachers will be the same as the existing teachers and if they are paid considerably less it will cause resentment and divisiveness in the schools. I also find it rather strange that many Members of this Assembly, especially the Council of Ministers, who are ardent believers in free enterprise and free markets, do not believe that when it comes to wage negotiation. We heard on Monday, for example, that the States Employment Board would not go to arbitration with civil servants because if the arbitration resulted in a higher wage award they would not have the money to do it. In other words, they have got a capped figure, in the same way that the Council of Ministers are trying to cap the amount of money that teachers can have now. If they believe in free enterprise and they believe that they can get teachers for less money, then they should put it to the test. We should not be taking money out of the pot, withholding it from the States Employment Board; let them negotiate. I will be supporting Deputy Southern on this proposition and I hope other Members will. If you go down this route that they are proposing we are going to have lots of disputes in the future. I can guarantee it.

1.1.13 Connétable L. Norman of St. Clement:

Just briefly, I shall not be supporting the amendment. I am sure Members will not be surprised.

[10:30]

If we are paying employees over the odds, if we are paying above the market rate, then really we have a duty to our constituents, to the taxpayers, to think about doing something about it. I am consoled by the comments of the Council of Ministers who make it quite clear that this change, if implemented after negotiations, would only apply to staff joining the service in future. It would not be retrospective and current teachers would not be affected. That is good, that is proper, that is a responsible employer's attitude. I am now beginning to think it is a pity that we did not have the same attitude, the same moral compass if you like, when dealing with single parents on income support from whom we have taken away £2,000 a year, who had been getting it. We are not taking anything away from existing teachers but we are quite happy to do it for single parents on income support.

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

I shall not be supporting Deputy Southern's amendment. The advantage I see of the plans put forward by the Minister for Education is that it creates flexibility where we do need that, where we can use these efficiencies to grant a premium where there are shortages of teachers in specific subjects. In answer to the query will we not just create shortages by diminishing the pay rates, the flexibility can then be built into the new system that should shortages arise in any subject area in the future pay can be adjusted. Clearly we are in a changed situation and the situation that might have existed years ago when the present pay structure was created, created a very rigid structure. Everybody was paid at the same rate. The profession is now very different and clearly there needs to be that flexibility if we are to recruit the best teachers. We cannot always get the best teachers if we maintain this rigid system, because we cannot grant those premiums. Let us face it, it seems to me that if we were creating an education system afresh we could not afford the present rates of pay. There is a need to limit expenditure across the public sector. We do not see the results in all areas as yet, but we have to make a start; here is a proposal. There is a need to limit that cost and negotiations will take place, a new system, a new structure should be created. I think we should give the Education Department the flexibility to create its education system, and to employ the best teachers that we need. Therefore, I cannot give support to this amendment, which seems to lock in the rigidity we have and which we suffer from.

1.1.15 Senator S.C. Ferguson:

I am curious as to when the workforce and the unions learnt of these proposals. Was this just dropped on them from a dizzy height during the announcement of the M.T.F.P.? Nobody likes to have change dropped on them from a dizzy height. I spent my formative years in the electrical industry in Manchester which, as Deputy Southern knows, had very active unions and the only way to deal with them sensibly was to bring them on board well in advance of changes you needed to make. As I understand it, it seems as if these have been dropped from a dizzy height, but I would be glad if somebody would explain to me what the sequence of events was.

1.1.16 Senator P.F.C. Ozouf:

I should perhaps declare an interest that my late mother was a teacher, my sister is in teaching and my partner is a teacher in the United Kingdom. My twin, who lives in the U.K. and has worked overseas in teaching, happily spends her summers in Jersey at our family home and there are many mornings during the summer when I come down for breakfast to be greeted by many of her old university friends, who I know too, who are teachers and they are there mainly with their partners who are teachers. Politicians like talking about politics. I can tell you, teachers like talking about teaching and certainly over the many years I have lived in this other world of teaching and I enjoy listening to them and learning. I agree that it is absolutely important that teachers should be

recognised for what they do and be more valued, but it is not just about pay. The inspiration that teachers can give to young lives transforms, but we are not really going to solve that by having salary systems that are not right. Over the years it has been clear to me that when the teachers from the U.K. mainly, from all over the U.K., some of them head teachers, one a super head, have been looking at copies of the *J.E.P. (Jersey Evening Post)* and they have looked at the teacher salaries in Jersey, they have expressed, frankly, astonishment at what the starting salaries for teachers in Jersey have been. I have heard this for years. The fact is that all teachers appointed in the last 4 years in Jersey started on the 3 level scale, which is the figure, as I understand it, that is £38,296. What Education are saying is not misleading. It is factual and the normal starting scale in England, and Members have got the actual figures, is point 1, and in Guernsey they have got the numbers. The figures that have been circulated this morning by Deputy Southern - I think it was Deputy Southern - do need to be looked at very carefully. The starting salary in Jersey for teachers with a 2.2 degree is £38,000; in England it is £22,000; inner London £28,000 and Guernsey £29,000. Now, people can shake their heads, but those are the facts, those are the actual facts and those are facts - I am sorry, I can see people; if people want to interrupt and give evidence that is different - from the Education Department and from H.R. (Human Resources) and I have had them checked this morning. If somebody wants me to give way, I am happy if they have got evidence, but those are the facts. Nobody wanted me to give way, so I assume they do not have anything else to say. Those are the facts. Our teaching entry-level salaries are high and this has been an issue which has been around for a long time. Now, I am sorry Deputy Martin is not in the Assembly. I spend quite a bit of time in London and my partner is a teacher and I have to say to Deputy Martin, you would have to spend a long time on a commute, which would probably cost you about £8,000, to find a house at £300,000, so I am afraid the comparisons are not quite right about this Atlantis, that somehow London teachers are better off. Of course there are things that we should be doing. There are things like key workers' accommodation, which is something that the Minister for Housing has seized upon for our nursing profession and we certainly need to encourage home ownership and key worker accommodation for teachers, who should be more valued, and nurses and other things is certainly something that we should look at it. I did not hear Deputy Doublet on the radio this morning, but I do not also think it is the case to say that we have got 50 per cent of teachers leaving the profession in Jersey within 5 years. It appears from the information I have received this morning from the Education Department, which I have asked for, is that in fact the attrition rate is lower. It is not right for Members also, I think, to say that our teachers are unhappy. Teachers in Jersey are in a system, which is the result of this Assembly's decisions over many years. Yes, there are important issues of standards which the Minister and his Director are working on, I think in a way that has been wanted for a long, long time. I think the Minister is doing a fantastic job and I know how much aspiration and hope there is among Jersey schools and their parents in the changes that are being made. In Jersey we have smaller classes; we have, to some extent, shorter terms; there is better pay; there is better terms and conditions; our teachers work in better buildings and facilities, with one or 2 exceptions, which are being fixed by this Medium Term Financial Plan and the capital allocation. St. Martin: a fantastic new school. My niece in Trinity is going to see a school that is having more classrooms put in there. We have better facilities, and I have been to a lot of schools in the U.K. We have a professional support and accountability system, which is not Ofsted. In a recent survey, it was in fact the case that 87 per cent of Jersey teachers said that they are happy in their job. I thought that was a pretty outstanding real fact about what teachers are thinking about their jobs. Now, Members are criticising the Council of Ministers for putting forward this amendment, but this is an anomaly, and in fact it is disingenuous to say that this issue ...

The Deputy Bailiff:

I am sorry, Senator, you cannot use the expression “disingenuous.” It carries with it a connotation of being dishonest.

Senator P.F.C. Ozouf:

All right, okay. I withdraw that. I think it is inappropriate to say that this money should be put into contingencies when there is clearly evidence that there is not a recruitment issue at this level and that the starting entry for teacher salaries in Jersey is much, much higher than in comparative places. Now, I am afraid sometimes this Assembly has to do the responsible thing and has to back a responsible department and a responsible Minister doing the right thing. I do not know what word to use: to send a message that somehow we think that we know better than the education experts and our H.R. people and that we know better than the data. The result of supporting this amendment will say: “Fine, carry on. We can carry on paying our entry-level teachers much, much, much higher salaries.” That is not fair. Now, there may be other scales in the teaching scales in terms of heads and others that may need to be tackled in a different way, but this is wrong and it has been wrong for years. I know this. I have heard it at the breakfast table during the summer when I have seen them, and I can say that with absolute sincerity. These debates are difficult, but they need to be made on facts. There are difficult decisions on finance and there are, in many cases, Ministers and this Assembly having to right, perhaps, the abundant decisions of the past and fixing things that were not fixed before. This is something that stands out. There are other issues in salary scales across other services which are being dealt with in the workforce modernisation and I would not disagree at all that there are other things that need to be dealt with by the Deputy of St. John, but I wonder how she can, when faced with this evidence about this particular issue, say that this money should somehow be allocated to Education, giving the impression that we are simply going to carry on paying something that is clearly out of kilter with the market. It is wrong and I would ask Members to look at the evidence and think about whether or not they are willing to press their buttons and say: “That is fine. Let us carry on paying our entry-level teachers at a level which is well above what the market rate is in the U.K. and elsewhere.” I passionately believe ... and I see people who teach, and what a better world we are for clever people dedicating their lives to teaching and they should be remunerated properly and we should support our education system, but this, at this entry-level salary, is wrong. I urge Members to come to some sensible, proper conclusion and vote against this amendment, despite the emotional pleas to say that a vote against this will somehow be a strike against our teachers and a strike against education. No, look at the evidence: these entry salaries are an anomaly and they have got to be fixed and we should back our Minister for Education.

1.1.17 Senator I.J. Gorst:

I sense that we are coming to the end of this debate and I am pleased to follow Senator Ozouf.

[10:45]

I know many Members have talked about their own experience of teaching and their own families’ experience of teaching, particularly if they are currently encountering that, and I do not think that this amendment and the proposal of the Education Department should be viewed in that light, because I have got nothing other than praise for the teachers who are currently teaching in our system. I am pleased that we have a Minister - as controversial as it is with current educational theory and policy - that is concerned about standards, because I think that every parent is concerned that their child reaches the very best possible standard that they can achieve. Sometimes children say to parents: “Daddy, you want me to be perfect.” No, we just want our children to reach their full potential, and that is a very important differential. I believe that our teachers and our schools are teaching that, helping pupils to reach their full potential. I am personally grateful for those teachers who are doing so with my own family. But this is an anomaly. Every single department

has had to look for savings and efficiencies. We have not let any department off. We have not said: "We have got an ageing demographic and the costs of health care are increasing, therefore we should not ask Health to think about their efficiency levels and deliver services differently." That would be irresponsible. It would not be what taxpayers expect and therefore we have asked Health, while we are still giving them extra money, to also think about the way that they are delivering their service and drive efficiencies where they can. The same with Education, and I see from the Education Scrutiny Report that they are not - I think the word is - overly happy with the fact that we have asked Education themselves to think about how they can deliver their service more efficiently. They have done some netting off and no doubt we will come on to that later in the debate. They have removed money for demographic growth; they have suggested that after you add in the savings that we have asked the department to make that they are not having an investment. But it is right that every department of government seeks to deliver efficiencies and deliver their services to the public in the very best way that they can. As Senator Ozouf eloquently said, there is an anomaly here. The department have been open about where their savings can be made. They have found it very difficult and we are going to come on to another debate in some minutes' time where they have also found challenges. But they are trying, they are trying to deal with anomalies and change the way that they deliver education for the benefit of the community. I am grateful to Deputy Southern for sending around his figures, because I think they do help to clarify his position and the department's position, because over the last 4 years, every N.Q.T. that has been employed in Jersey, they have a threshold, I think it is, requiring a 2.2 or above, has been employed on the Jersey level, that is £38,000. Let us just be clear about that: every N.Q.T. in Guernsey, our nearest comparable jurisdiction, who also are looking at the way they deliver education - and I perhaps will not comment on that in any more detail than that - have employed and employ their teachers on their level, on level 1. So that is the comparison we have got to make. That is exactly the comparison that we have got to make and their level 1 is £29,000, so they start their teachers at £29,000 and we start ours at £38,000. That is the anomaly that this M.T.F.P. allows the department and the States Employment Board to go away and address. I know it is difficult, I am not doubting that for a minute, but it is the right thing for the department and the States Employment Board to be allowed to do that. The inference of the amendment is that there is not an anomaly and that it should be covered from contingency and not be dealt with. I would say to Deputy McLinton, who gave an excellent speech, and he is right to be concerned about difficulties in the future, by addressing this anomaly and allowing the department and the States Employment Board to do so, it will alleviate, in future, his concerns. The challenge will be if the department are not allowed to do that, then his concerns may be realised, because the department will not have the flexibility in their funding to manage this budget in a way which will allow them to pay extra for where there are those blockages. It is the other way around. If it carries on as it is, there is no flexibility to deal with those issues. I know there are difficult decisions in parts of this M.T.F.P., but some of these issues, I think as Deputy Lewis of St. Helier said, have been needing to be addressed for a number of years. Perhaps previous Ministers beat up the Council of the Ministers because they have not done it sooner. We are used to it. That does not mean to say we should not allow the department and the States Employment Board to do it going forward. So I ask Members, as attractive as it might be to accept Deputy Southern's amendment and put it off, I ask them to grasp the nettle and to allow the department to address the issues that they need to, to deliver a more efficient service for our community, because that is what they want to do, they want to drive up standards for every child. They need flexibility to do that and this is an area where that can be delivered.

1.1.18 Connétable S.A. Le Sueur-Rennard of St. Saviour:

Sorry, I will be very quick. I am very uncomfortable with what is going on this morning, to be honest with you. I am not here to negotiate people's wages; I am here for us to make sure we get

the staff we require and I find this whole thing ... I do not know. I am very, very uncomfortable with what is being said, so much so that I am almost going to abstain. I just feel very uncomfortable to negotiate people's wages when we have a department who are doing that and I just feel very sorry about the whole thing. If we were negotiating everyone's wages in all the different departments, then I would feel a little bit more comfortable with it, but we are not. We seem to have just picked out one group of people. As I say, I am not happy and I am a bit disappointed. It is now nearly 11.00 a.m., we have been going since 9.30 a.m., and I feel very uncomfortable, and I just thought I would like everybody to know, whether they are bothered or not, but I think I will abstain, because we are not negotiating everyone's wages, we are just negotiating a tiny amount of people and I think it is very upsetting, I am sorry.

The Deputy Bailiff:

Does any other Member wish to speak on the amendment? I call upon Deputy Southern to reply.

1.1.19 Deputy G.P. Southern of St. Helier:

Thank you to Members for restoring my faith in the debating prowess in this Chamber, because I left the Chamber last night very sad and depressed about the level of issues that were going on and the statements - unintentional, no doubt - that the proper thing to do was to compare people on entry point 3, which we use, with entry point 1, used elsewhere. That is not like for like. The fact is that graduates, Honours graduates, wherever they are, will be likely to be offered entry point 3 and that is the proper place to make the comparison. I will return to that in a minute. But today I am refreshed again, because I have heard a really good quality of argument from many people as they have contributed to this important debate. What they have said is one of 2 things, I think: first, we should not be negotiating people's salaries; we have got a body that does that, it is the States Employment Board, and we have got a union committed to negotiating workforce modernisation, so if we wish to deliver what the Education Department says, that can be negotiated in the proper way, no problem with that. But what we have got here is the Education Department taking a second bite at that by saying not only: "Will you negotiate this?" but: "You must" because they have put the constraint in and this is the context: "We are going to limit what you can offer." Now, how that is arrived at, what you are doing is denying negotiation and that should not be happening. That was said last night very briefly by the Deputy of St. Mary and he was absolutely correct. Why are we discussing teachers' pay? We should not. If the Chief Minister had come with a change in policy: "One of the ways we are going to save money is on the public sector and we are going to reduce everybody's wages by £8,000", then fine. I would still be arguing with it, but as a policy, then fine, bring it to the States and let us debate it. But that is not happening here: "Let us pick on one particular group and reduce their starting salary by £8,000." Now, the problem with debating this in the context of the M.T.F.P. is that all we can talk about is the money. That is all we can do. We cannot talk about policy, we talk about the money, put it in the pot or do not put it in the pot, put it in the Contingency Fund, validly said, and then you can freely negotiate what you can get. You might arrive at the very solution that the Minister suggests is the one he wants. You might well, because honest negotiation may arrive exactly there, or in negotiation you may compromise one place or another place, and if not here, then over here, you are prepared to put up with this, whatever. That could be anything from class sizes to salaries to numbers of teachers, numbers of assistants. Workplace modernisation, it is going to take place. The union is committed to it, it will take place. Part of that, they end up exactly where the Minister for Education wants. It could be, but no, the Minister for Education wants to constrain that negotiation and say: "You must deliver this." Speaker after speaker this morning ... and I will praise Deputy Brée in particular, if I can find his comments, where he said: "We should not interfere with this negotiating process." What we are talking about is an investment in education, and that is an investment in the quality of education.

How would you deliver that? As many people have said, you deliver it through the quality of teaching. That is how you do it, the quality of your teachers.

[11:00]

Deputy Mézec too gave a good speech again and talked about this being a denigration of the workforce. I believe it is. They mentioned also the extra hours that our teachers do and that would be presumably in the negotiation; why not? He also talked about the fact that teachers, in returning to the Island or in coming to the Island, are bringing with them increasing levels of debt. Now, if you want to return to the Island with your degree, you might look alongside you at what other people with degrees are doing. You might observe that those who go into banking and finance, for example, are getting greater salaries than you and membership of Bupa and whatever, so you make that comparison and you say: "Is it worth me going into teaching or shall I follow the crowd and go into finance?" If we lose those teachers, those potential good-quality teachers, and we are losing them ... and perhaps I ought to give some praise, as I have tried to often, to Senator Ozouf, because not only was the quality of debate around this morning much higher, but Senator Ozouf showed himself to be an expert on education, on salaries, on house prices around London, *et cetera*, as he always does. It made me smile. But he kept saying: "These are the facts and look at the evidence" and I want Members just to briefly look at the evidence. One has to ask why the full figures were not in the comments of the department. The actual facts are in order to get this figure of £16,000 - and every time I say the word "misleading" Members are sure I mean unintentionally, incidentally, accidentally misleading every time I use it - if one looks at the figures, they are misleading, because to get the figure of £16,000 more in Jersey than in the U.K., you have to compare entry point 3, ours £38,000, with the lowest point, entry point 1, £22,000 in England in Wales. That produces a figure of £16,000 more pay here, but compare it with the entry point 3, like with like, and it is reduced. If you then take off £8,000 from our starting point, where do you end up? The department says: "If we remove £8,000, that would leave the starting salary for Jersey still 19 per cent higher than the rate for teachers in inner London" but not if you compare like with like. On the bottom of my chart, if Members would pay attention to it, what we get is £38,200 here compared with £30,800 on the equivalent starting point, level 3, which is £8,000 difference. Take away the £8,000 and we end up under the inner London rate. So when it comes to competing for good graduates to join our teaching force and not elsewhere, do we have an incentive in that? No, we do not. If also we look at the England and Wales figure, the final column, and put in the known fact - thank you, Senator Ozouf, the known fact - produced by our own Statistics Department that the cost of living in Jersey, including housing, is 20 per cent higher than in the average in the U.K., then again what we get is a figure, if you look at the comparative cost of living, of £31,000, which again, if you take £8,000 off our salaries, we are below that in England and Wales again. There is a shortage and somebody said - I think the Minister - that shortage is recovering. It is not. I do not know where that evidence came from; where are the facts? There are still shortages in many areas, in fact, in most areas, just simply not producing graduates who stick at teaching. We are still competing with those, then we have lost the whole incentive to come here, so realistically we are going to be saying to people: "Come here and teach here. It will be 20 per cent more expensive than living in the U.K., but by the time we have taken £8,000, we have got zero incentive to make sure you come." So are we going to get the quality of teachers? I think it was Deputy McLinton who said: "I fear there is a risk that sometime in the future with the quality of the teachers, it will be the fact that we will be returning to say: 'We need an incentive'." This debate is not about the incentive, it is not about a change in policy overall, it is about a second go, it is putting up a barrier to honest negotiation of modernisation. That, I do not believe, should be happening. I thank the Deputy of St. Mary, in particular, for saying it yesterday, because that point has been made time and time and time again by contributors and I thank them for saying that. We should not be

chaining down our negotiation mechanism and imposing conditions on it. We should have it open. I maintain the amendment and call for the appel, Sir.

The Deputy Bailiff:

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

POUR: 17		CONTRE: 27		ABSTAIN: 2
Senator S.C. Ferguson		Senator P.F. Routier		Connétable of St. Saviour
Connétable of St. Helier		Senator P.F.C. Ozouf		Deputy J.A.N. Le Fondré (L)
Connétable of St. John		Senator A.J.H. Maclean		
Deputy J.A. Martin (H)		Senator I.J. Gorst		
Deputy G.P. Southern (H)		Senator L.J. Farnham		
Deputy J.A. Hilton (H)		Senator A.K.F. Green		
Deputy K.C. Lewis (S)		Connétable of St. Clement		
Deputy M. Tadier (B)		Connétable of St. Peter		
Deputy of St. John		Connétable of St. Lawrence		
Deputy M.R. Higgins (H)		Connétable of St. Mary		
Deputy J.M. Maçon (S)		Connétable of St. Ouen		
Deputy S.Y. Mézec (H)		Connétable of St. Brelade		
Deputy R. Labey (H)		Connétable of St. Martin		
Deputy S.M. Bree (C)		Connétable of Grouville		
Deputy T.A. McDonald (S)		Connétable of Trinity		
Deputy of St. Mary		Deputy of Grouville		
Deputy P.D. McLinton (S)		Deputy of Trinity		
		Deputy E.J. Noel (L)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy R.J. Rondel (H)		
		Deputy of St. Ouen		
		Deputy S.M. Wickenden (H)		
		Deputy M.J. Norton (B)		
		Deputy G.J. Truscott (B)		

1.2 Draft Medium Term Financial Plan Addition for 2017-2019 (P.68/2016) - fourth amendment (P.68/2016 Amd.(4))

The Deputy Bailiff:

We now come to amendment 4, that is Deputy Le Fondré, and I ask the Greffier to read the amendment.

The Greffier of the States:

Paragraph (a)(i) – after the words “Summary Table B”, insert the words “save that, in relation to the Education Department’s provision for user pays in Appendix 1 and Appendix 2, the introduction of Nursery Education Fund means-testing shall apply in respect of all providers of such education.”

1.2.1 Deputy J.A.N. Le Fondré of St. Lawrence:

In making this proposition, can I just say that I have been somewhat overwhelmed by the response I have received in the past few days from concerned members of the public. It clearly demonstrates that the controversy, when it first aired, continues still, it has not gone away. I would like to thank

everyone who has taken the trouble to get in touch. I have read the comments from the Council of Ministers and I am afraid I rather feel they have missed the point. Simplistically, their points can be summarised into: “We support free education for everyone, irrespective of whether it is statutorily required or not” and roughly a third of the comments in the summary are about the money. This is not about money and it is not about one philosophical view over another. It is very simply about a principle of equality and not discriminating. I make no apologies - I have said it in the report, I think - it cannot be right that the parents of a child who goes to one nursery provider will be means tested, but those same parents on exactly the same level of income will not be means tested if they send their child to a different provider that happens to be run by the Government. That goes against the principles that were established when the N.E.F. (Nursery Education Fund) was originally set up and which has worked well. I am not going to re-run the debate we had on this last time around, I hope, but I just want to cover that principle. That cannot be fair, period. I am going to take a couple of minutes and just read from a sample of submissions on the Scrutiny website by concerned members of the public when they first kicked off. There are a few, but obviously it does illustrate the concerns that were expressed and that are still out there. These are all public, but obviously if there are names on them, I will not mention them: “By providing the market with more non-means tested free nursery places, it will kill off the private preschools, which cost the States nothing and seriously damage the day nurseries. It is almost impossible to make money on under-3s with good quality staff because of the ratios. Jersey has a level of excellence in preschool practice at present, with choice. The decisions, without any consultation with private providers, will seriously damage this.” The next one: “I also think if these ridiculous charges are brought in, they should be for both private and school nurseries.” Next one: “We are very concerned that smaller private nurseries, such as the one we reserved a place at, will be forced to close if the parents of the pupils decide they cannot afford the additional costs of preschool. Jersey would lose some fantastic preschools.” Next one: “Lastly, you are uprooting children, who have begun their nursery education, by forcing their parents to consider other States-run alternatives.” Next one: “Less children will use private providers and use a state school nursery, as they are able to stay at home during the half-terms, again making it hard for mothers and fathers to go back to work.” Next one: “At best, the State nurseries will become over-subscribed and private nurseries will go out of business, providing less options for all families.” Next one: “Putting quality aside, how will capacity in the State nurseries be married up with capacity on the private sector? What will the opening hours be? Will the State nurseries open in term time only?” Next one: “The Director of Education admitted that even if and when there is a nursery class in every school, there will still not be enough places, so either the present lottery system will have to continue, or middle income families will still be discriminated against.” I make no apologies for the length of these because I think when you get this level of submissions, it does demonstrate the concern that is out there. Next one: “It is not clear why means testing should be applied to nursery education. What is the rationale for continuing to provide funding for children in state school nurseries, but not private nurseries? This creates an arbitrary split in funding for those lucky enough to get a place in one of these nurseries. In order for this policy to be applied fairly, a school nursery place would need to be available for all children. This policy appears to be inconsistent with the concept of parental choice, where parents can choose what they consider to be the best nursery education for their children.” Next one: “I write in anguish regarding the proposed 20-hour nursery fees being taken away from a 2 parent family with 2 incomes. A State nursery is not an option to us, as we both work full-time and the State nursery is term time only.” Next one: “It rather seems that the children in private nurseries are being punished for having working parents who are contributing to the tax system. Moving to a State nursery is not an option due to our hours, if indeed we could get a place, and we are very aware how over-subscribed the State nurseries are. In all likelihood, this will lead to some children being withdrawn from nursery.” Not many more to go: “The fact that the change covers private nursery care means there is going to be much more demand for the school nurseries.

Will those who are not eligible for the 20 free hours be given priority for these places, knowing that others can get support elsewhere? It seems to me that private nurseries without the support are going to potentially go out of business and there is going to be less choice for parents.” Next one: “While I agree with the Minister that charges should be brought in for nursery schools, I cannot understand as to why this charge is only going to be applied to parents with children at private nurseries and not for those who have children at States-run primary school nurseries.” Keep going: “Removing funding for use of the 20 free hours at private nurseries and preschools is surely going to see some of these close. It removes parental choice about where a child will thrive at such a young age. Also, how much will it cost the States of Jersey to expand state school nurseries to accommodate the places needed due to the changes in relation to the cost of providing the free places as at present?” Four to go: “It is absolutely not fair to only impact private nurseries. It should be all nurseries or nothing. By allowing it in the State nurseries, you are inevitably going to have a swarm of people trying to get places. The proposal will drive up the demand for State nurseries for those looking for the 20 hours free. The difficulty there is that as State nurseries tend to be term time only, only teachers and the very lucky few have jobs that are term time. It seems very unjust that only private nurseries should potentially have the funding taken away and then, therefore, have their very existence threatened.”

[11:15]

“Our daughters are at the wonderful [named institution in a certain Parish] and it would be a travesty if such a nurturing and excellent place would have to shut down in the name of saving a few pennies here and there. If it did shut down, more places would be needed in already overrun State nurseries, meaning more money would ultimately have to be spent on opening new State nurseries and employing more teaching staff.” I think that is what we would all sum up as unintended consequences. The final one in this particular: “I also think it is unfair for some above [this is at the time it was £75,000 being talked about] to continue to receive the subsidy to nursery education because they have children in State nurseries rather than private ones, and I suppose controversially, but because of fairness, I would suggest that alongside a graded reduction, the inclusion of all children within both States and private sector should be taken into account when means testing.” There are a lot of submissions. I did not count how many, but that is not all of the submissions on the website. That was a fairly quick and dirty sift-through, for want of a better expression, of the submissions. I do not think I can recall any issue that got so much attention in the Scrutiny process for quite some time. What I will say in terms of the submissions, I conclude initially by the one that I placed on Members’ desks this morning. The author is an ex-member of the Education Department, has more letters after her name than are in mine and helped establish the policies and procedures for the N.E.F. I will just repeat her last paragraph: “Should the States demand that any means testing be introduced, the principles of equity must be retained and inherent in this decision. In particular, it is essential that parents seeking to use the non-statutory provision of a nursery class are the subject to the same means testing for access to this provision as those parents seeking to access the N.E.F. in the private childcare and education sector.” That is the last paragraph, as I stated, in her report, which is on people’s desks. Since there was some publicity on this amendment, I have received quite a number of emails and phone calls on that matter and, without exception, they were supportive of this amendment. I understand from an email the night before last that there is a petition, which has now reached 2,700, against the proposals of the Minister for Education. The point has also been made to me that the private sector cannot challenge this. The States, as it has been put to me, are not subject to C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities), as I understand it, so it is perfectly okay for the regulator, the Minister, to - for want of a better expression - abuse his position and to give preference to the States-funded nurseries, to the blatant detriment of the private sector. There is nothing they can, in reality, do about it. I am going to read a couple more comments, which are not from the Scrutiny

submissions, but a lot more current: “As an ex-nursery owner, this has been a problem since the school nurseries first opened. The free places were taken by those in the know, who got their children’s names down at birth, then move the child to the private sector for reception, bad for the child, and depriving a less privileged child of a free place. I think preschools should be free for all” an important point, by the way: “but, if it is means tested, it should be across the board.” So that is the point. A lot of the people are saying: “We would much prefer the system where it was. If it is going to change, be consistent across the board.” That is all this amendment is about. The next comment: “I completely agree. We are both working parents and had to choose a private nursery, as State nurseries close too early in the day and during the school holidays. This left us no choice. It’s also in complete contradiction and out of sync with the States policy of encouraging new mums back to work.” Now, it depends on people’s views about whether mothers in particular or parents should go back to work after children and things like that, but it is very clear that one theme coming out of a lot of the submissions that were made is that what is the impact on the working family? A final comment here: “I agree it should be all providers. It should be both public and private nurseries have the parents means tested.” I picked this one up, because again, obviously I am an accountant and I am looking at the principles, I do not know the ins and outs of education. A lot of the submissions we have had in the last few days are from people far more qualified than me to comment on what the issues are on the education front. But I thought this was interesting: “I have a wealth of experience in early years, with 40-plus years. I have an M.A. (Master of Arts) in early childhood education, N.N.E.B. (National Nursery Examination Board) Level 4 in management, *et cetera*, and have always put the needs of the children first. In all my working life, I have never felt so despondent. Even when fighting for the N.E.F., the Government at the time listened and consulted with us. They listened to the Scrutiny Panel and took on board their report and responded accordingly, but this Council of Ministers works behind closed doors and is not interested in what the public has to say and is not interested in saving taxpayers’ money.” As I said, there have been a lot of emails come through from people far more qualified than me on the true educational impact, *et cetera*, but I will give one small element, and it is not all-encompassing, but it kind of gives issues around unexpected consequences. What has been suggested to me is that private nursery schools have a better pupil ratio, generally of about one to 8; state nurseries have one to 10. This means that it may be better, for example, for a vulnerable child to go to a private nursery during that formative time, which they presently can do under N.E.F. However, with the sliding scale, it is very likely that people earning above the £85,000 will simply cut back their hours to match what they can get on the proposals. That will be driven by finances and that will obviously be to the detriment of that child, but it will also mean that the nursery will lose 25 per cent or more of its income in respect of that child; the child will not be there. They cannot substitute, they have still got a place for 15 hours. That person is in there taking up that time, they cannot fill that gap. The nurseries are strongly of the view that there is no money to be made in looking after under-3s because of the staffing requirements, and the Government are taking away part of the money they do make in respect of the years that do make some money. Private nurseries do have to make a profit to stay in business and there will therefore be a very real risk that some will close. It is a bit of a complicated thing to follow, but I am just trying to explain what they mean and why. If you follow that consequence through, it does make sense. Therefore the consequences are not only reduced parental choice, but to potentially suck more pupils into the States sector and therefore ultimately add more cost into the system. It would also mean that any vulnerable children who were in private care, as it were, will have less of a chance of getting that start in life that was originally intended. To take it back to the key point, this is not about free education. As far as the parents are concerned, it is there already. It is about discrimination and it is about parental choice. While I have focused on a very clear principle, there are likely to be some very clearly unintended consequences as a result of this decision, and further in the emails, they go as far as the impact on working families, ultimately the impact on the economy and parental choice,

and what is probably the most important, the impact on the child. I think the point I would say is that, in the words of the Chief Minister, this is a plan. We are eventually going to be voting on whether to approve the departmental totals. The details lie in the hands of the Minister and the Council of Ministers. This amendment sets a principle. If that principle is so unpalatable to the Minister for Education and the Director of Education, for example, because of their political views on this area, then they can still do something different, but if they stick with their proposals, then in my view it must be fair and across the board. That is all this amendment seeks to do. If you are going to go down that line, establish this principle. Some closing points before I conclude: first, as sure as eggs is eggs, for want of a better expression, this means-testing level will fall. We are facing increasing financial pressure. The next Minister for Education I think will be presented with all sorts of proposals when the next round of savings comes through. Are we willing to bet money now that one of those proposals will be to reduce, let us say, the £85,000 down to £65,000, for example? That will further damage the private sector here, so this proposal that is in this M.T.F.P. is the foot in the door and once it is there, it will reduce. That discrimination thing, unless it is sorted out here and now, will worsen. Two remarks on the Council of Ministers' comments: they talk about the fairest and most equitable solution was to means test the subsidy. That would be in line with most other States subsidies, which are targeted to those who are in genuine need. Let us just think about that because, as Members know, I am still honorary secretary of a housing trust and quite a few tenants that come to us will be on income support. Now, as far as I am aware, if a tenant goes to Andium or they come to us, they will be treated the same way from the perspective of income support and any means testing surrounding that. As far as I am aware, a tenant going to Andium will not get a better deal from income support than if they come to us on a like for like basis. That is how that system works, but the Minister's proposals applied to this scenario would be that a tenant going to Andium would be better off than if they came to us. They would get more income support, despite being in the exact same circumstances and that surely is blatantly wrong. Then they also say, which is interesting ... sorry, I am using the Word version that came through last Friday, so I think it is the last page, 3 paragraphs from the top: "If parents are charged in State nurseries, it is more likely they will decide not to attend, either opting to continue to send their child to the private sector nursery, which the child may have been in since birth, or to use a private sector nursery, where they have more flexibility around choice of hours and wraparound care." I am sorry, to me that implies that the States are trying to give themselves a financial advantage over the private sector in order to attract more custom. Again, I go back to the point, this is about fairness and equity. If means testing is going to be introduced, means test everyone, do not discriminate. Is that not what the Council of Ministers keep talking about? On that basis, I do ask Members please to consider this amendment favourably and I look forward to a very interesting debate.

The Deputy Bailiff:

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

1.2.2 Deputy R.G. Bryans of St. Helier:

Last Easter, the Education Department made the decision to inform parents, nursery managers and owners about their intentions to means test the Nursery Education Fund, or the N.E.F., as it is known. This has become one of the most passionately discussed issues of the year. Since then, I have heard compelling arguments from both sides of the debate, those who are pro means testing, who argue that those who are able to pay should, and those against means testing, who argue that nursery care should be free and a universal benefit for all. The decision to communicate these proposals in the way I did, generated a great deal of criticism of me and of the officers in my department and I have apologised for this. I think people now accept I did it to advise parents of our intentions well in advance to give them time to plan. However, I will not apologise for the

proposal itself. The N.E.F. in its current form is over budget and unsustainable and, as a Minister, I had to try and solve this problem. But the proposal to means test private sector nurseries is also part of a wider plan that aims to refocus our resources and improve the quality of education for all our young people during a time of significant fiscal pressures. I would like to remind you all about what it is we are trying to achieve here in Education. We must not lose sight of the bigger picture. I hope Members will recognise that I am passionate about improving the quality of education for all children. In order to achieve this, we have developed a business plan, which we created in 2015 in partnership with head teachers and officers throughout the department. We jointly agreed a way forward to tackle the key issues facing our schools and children. These issues became the 4 priority areas of the business plan: raising standards; reshaping the curriculum; supporting families; autonomy, providing greater freedom to schools. Our business plan is made up of 42 new actions, which we will deliver over the course of the next few years, alongside the considerable existing work of the department. All these actions have been carefully thought through in order to bring together the essential pieces and construct a first-class education system. One of these pieces is school nurseries. You may have seen that we recently opened a new nursery at Springfield School. Parents are delighted, they had been asking for this and all the places are full. This is the 18th school nursery attached to a state primary school. People say there are not enough free school nursery places, so we have plans to open nurseries over the next few years in Trinity, St. Mary and St. Luke's schools as well. Why is this important?

[11:30]

The answer is simple: to improve choice. We are also doing this to raise standards in our schools, which is a key priority for every member of staff who works in my department. This is not about school-ready children sitting in rows, reflecting an education of the past. It is about advancing children's learning through structured play and giving them the social skills like sharing, listening, taking turns, that they will need to be successful in school later. I know private nurseries will agree on this point. It is probably best expressed in the words of one of our head teachers, who has a nursery in their school. I quote: "The ability for our school to work with young children and their families, as early as possible, will make a very significant difference to the outcomes for the children. Supporting children from a younger age allows professionals to identify needs and respond accordingly. A high-quality provision, led by a teacher, allows specialist, targeted interventions to have an immediate impact and allows for a smooth transition into a school. Research indicates that the quality of preschool is particularly important for children whose parents have low qualifications and that attending nursery can have long-reaching benefits as far as G.C.S.E." The importance of a nursery to a school is clear. We want to give our children a flying start, so why then is it appropriate for us to consider means testing in private sector nurseries, but not in our state school nurseries? The Deputy in his amendment states that means testing only in private sector nurseries is blatantly unfair. I can fully appreciate that perspective. He believes that by offering a service free to one family and not to another is inequitable, but unfortunately, in this case, I think his perspective is incorrect. State nursery classes and private sector nurseries are different. They provide a different set of services for children and parents make a choice about which best fits the needs of their family. Therefore, to assume there is equity in the system is inaccurate. Let me explain this further. School nurseries employ fully-qualified early years teachers in every class. This is not a requirement in the private sector, so the majority do not employ a teacher. School nurseries, by their very nature, are inclusive and provide the vast majority of support for children with special educational needs. No child will be turned away from a school nursery because of an educational, physical, medical or behavioural need. Some support does exist in the private sector through grants from the Jersey Childcare Trust, and staff with the skills or experience to manage children with complex needs are mostly in our schools. There is no such requirement in the private sector, in which children can be refused a place with no right of

appeal. We cannot means test Mont à l'Abbé. Private sector nurseries provide additional childcare services, which are generally not available in State nurseries, for example, wraparound care and flexible hours to assist those parents seeking childcare to fit around working hours. Ratios of staff differ between the private and States sectors, as do the management structure and physical resources to provide nursery services. Parents make a choice about which sector they use and I believe this is the fundamental principle of education in Jersey. If a parent chooses a States-funded education place, this must be free, irrespective of background or income. If a parent chooses a private education place for their child, then in most cases they will need to pay for a proportion of this. Members will be fully aware that parents either choose a private or a States place at all stages of education, whether at primary, secondary or post-16 education. Without the private sector, we would not be able to provide enough places for all Jersey children at each phase, but fundamental to this system working is a parent's choice to send their child to a fully-funded state school if they wish to do so. This principle must remain in place, irrespective of background or income. Throwing out the principle of free States education, just for nursery, could change the social mix in our schools. We currently see children from different backgrounds and incomes sitting next to one another and learning together. This mix reflects society. It is what makes our schools great and fosters high-quality learning. I fully appreciate that some States Members and members of the public will argue that nursery is not statutory education. However, the reality in Jersey is that from the ages of 4 to 18, the overwhelming majority of our children and young people are in education. We regard both nursery and sixth form as an integral part of a child's education, even though they are technically not compulsory school age. The Deputy's amendment seeks to cut off free school education for one group and I cannot support that. The logical extension of this proposal will be means testing post-16 students in Hautlieu and Highlands College, the opposite of what most people want. Means testing parents, who choose private nursery education and can afford to pay for a place for their child, is the right approach to meet the challenges we currently face. If we do not implement our plan, we will have to find an alternative solution to meeting our savings target and restrict the spiralling cost of the N.E.F. As it stands now, any private registered nursery or private school with a registered nursery can apply to join the scheme and is almost certain of getting a place. It could continue to grow. I want to come back to that point about equity, because it is an interesting one, mainly because it only seems to go one way. Before 2011, our school nurseries were open for 30 hours a week. In pursuit of this fabled equity this was cut back to 20 hours a week, in line with private nurseries. The idea was that parents would pay for the extra 10 hours. It has not worked. Many parents simply take their children home after the morning session and our excellent State nurseries are left under-used in the afternoons. So, in the pursuit of equity what we did was disadvantage our children, particularly the ones who would benefit most from extra time in nursery. There was surprisingly little outcry about this, which is also interesting. Certain groups of parents in our school nurseries do not have a strong voice. With hindsight it is clear that in the pursuit of equity we made it harder for parents who use school nurseries to work in the afternoon. We put up a barrier to early education and we made our own nurseries less efficient and effective. Today there are 490 children in State nurseries during the morning, but there is a capacity in the afternoons to provide those 10 valuable hours of nursery every week for another 266 children. In this particular case, equity has been a mirage. We must all learn from this. The State nursery sector and the private sector are completely different and when in the past we have attempted to treat them the same there has been a negative consequence for children in the state sector. They have a different purpose, provide different services and are funded differently. Both are valuable and we need to get the balance right. It is wrong to force State nurseries to behave like private nurseries when it is not in their nature. If the balance is not right then we need to keep working until it is, preferably together and with the benefit of our children at the forefront of our minds. In the meantime, I urge Members to consider these points carefully before making a decision. I believe this amendment is wrong, because the equality it seeks will only be superficial.

It undermines the principle of a free States education. It will affect far more parents, increase bureaucracy and potentially deter some from sending children to nursery. It pushes and squeezes our schools out of shape for the wrong reasons and we must not make this mistake again. If you approve this proposition, you will not be creating a level playing field. You will be creating an obstacle course. I cannot accept this proposition.

1.2.3 Deputy J.A. Martin:

It is always wondering when to speak, but as somebody who was on the Education Committee when Senator Vibert was the President with the Deputy of Grouville, Deputy Ben Fox and Deputy Julian Bernstein, who were tasked to bring the N.E.F. into fruition after lots and lots of consultation with the nurseries and many, many meetings with the parents about the children's wraparound care and their educational needs, many meetings at the Town Hall, I was saddened to hear the Minister open his speech by saying at Easter this was handled badly, because they decided to inform about the private nursery and the means testing. He then went on to say that head teachers and officers in the department had spoken on 42 new actions. Not once had he consulted with the people who used these facilities. The Minister talks about the difference between private nurseries with the 20 hours of education and talks this down. If only we all had the luxury to send our children to a non-fee paying wraparound care State nursery. That would be great, but in the real world we have 90 per cent of working mothers on this Island. They need to be in the office at 8.30 a.m. or 9.00 a.m. and they do not pick their children up until 6.00 p.m. I am talking about at the age of 3 months old, and then you suddenly now want to take these children, because of your policies, because of your decisions, your narrow thinking and not consulting ...

The Deputy Bailiff:

Deputy, the address is to the Chair. It was the Minister's comments.

Deputy J.A. Martin:

Sorry, Sir, the Minister's ... I do apologise. I normally do get it right. It is my anger, I think. I really do think this Minister absolutely knows when he went into this position and he said just then he has a passion for education in this Island but these have to be wraparound. These have to be spoken to with the Minister for Social Security, who is now stopping any form of income support to a parent with a child of 3 and 3 months, because they either need to be in a state school or they need to be in wraparound care. How many, because I have looked, since Easter ... find me a job advertised on Jobs in Jersey, on the Social Security, in the private employment agencies, where you can get a job for 20 hours a week 38 weeks a year and your children are happy. What a luxury. It is not available. Very few, and they will be the teachers themselves. I get the feeling all the way through these comments that we are trying to be in competition and the N.E.F. is not performing. The N.E.F. is not performing, because money is not being put into it, because it conflicts with this Minister or his Director's policies. But we decided, we were tasked, we brought this in and the then Senator Ben Shenton brought an amendment just like this, but it was targeted at the State nurseries. I can remember him standing over there saying: "I am not happy that I am giving 20 hours a week to parents, mums, who are just going out for lunch. I want to know their circumstances" and we all said: "No, this will not happen." So what do we do so many years down the line? We start attacking the nurturers and the providers of our young children, and do not tell me. I have grandchildren who went from reception to mainstream and all summer with just that little change, from the same nursery into the same school, are slightly fearful of the unknown. What the Minister is proposing is that you get someone to look after your child between the hours of 7.30 a.m. and 8.30 a.m. They go for 20 hours, 38 weeks a year, then you find them another carer. We had all these arguments many, many times with the providers, as I said, and the parents, and the effect this has on their children. So we are now trying, I would see, unless we keep it at

least equitable, to force these fantastic providers out of our care system, and at the same time are told by the Minister for Social Security and the Chief Minister that the best thing for our economy is back to work.

[11:45]

Get back to work, but your first thought as a parent, mother or father, is your child's security. Then this Minister, which astounded me more than anything, said the 20 hours in the private sector nurseries is, and I am paraphrasing and I apologise if I am putting words into the Minister's mouth, basically not up to the standard of his State school nurseries, which I absolutely defend. It is absolutely wrong. The people who do this teaching are of a standard. They have to be and they perform and they have to put their reports into the N.E.F. to get the money back. Only 2005, only just under 10 years ago, was this agreed. It was thought that because of the high amount of working mothers we have, long working hours, the children came first, and those children that were staying in the wraparound care from 7.30 a.m. to 6.00 p.m. 40 weeks a year, because not many people get more ... I am being generous here. How many people out of 52 weeks get 12 weeks holiday in the real world? Not many. So that is what we decided. We decided to get them school ready. We decided to give 20 hours free at 3 years and 3 months in the year that they turned 4 in September in those private nurseries, and only 10 years with no consultation of the people and absolutely, in my eyes, saying that the ministry are not doing the job, but we are following the Minister's policies. He has said he is building more. He has already told us they are not full in the afternoons. He could accommodate, I think he said, 200 more children for 10 hours a week, but: "I am following my policy. My policy is right. The children, if they have to move 3 times in a day from a carer to the school to the 20 hours back to a carer then in half-term or the 6 weeks' holiday they go somewhere else." If you are not from Jersey you do not have the luxury of having grandparents or extended family. It is all paid for care, and this is why this was introduced and now the Minister is tinkering. But all the people who have contacted me through the emails that Deputy Le Fondré has read out, I have replied with the same answer. I will listen to the debate and I will listen and read the comments, which I have, as to why the Minister for Education thinks this is equitable. He will have to convince me and he has not. You cannot have very rich people in your state system paying nothing and going out to lunch when you have got severely frightened parents of anxious children concerned that their nursery place might close and they are there, and it is harsh, but you can walk 400 yards up the road and you will see the baby room, 3 month-old babies, because people have to work. They get fantastic care and at 3 years and 3 months they get the same fantastic education that they do to prepare them for school and they are tested. The teachers are tested. The system was working and the Minister for Education and the Director of Education have decided they do not want this system. If you want it, please at least make it fair, but please remember who this was brought in for, only 10 years ago, to protect hardworking parents, but mainly their children, and stop the anxieties. The new Director of Education, when he first came in, said he visited primary schools and nurseries and his main concern was the anxiety of the children who did not know where they were going at 3.30 p.m., and then he comes out with this policy. It does not add up to me. Maybe I am just a simple Back-Bencher Deputy from St. Helier, but I do have a long memory and I know exactly this took years to get in, to make sure that there was a parity between the education in private nurseries and State nurseries and that parents and children were not anxious when they were at work, putting money in our economy. They did not have to worry about their children so much, and now at one fell swoop and an announcement the Minister at Easter said: "We are going to do this." He has moved the goal posts, but he is not looking at his own nurseries, which his policy is obviously failing. He has space but he is building more. To the Minister I say: I support this amendment because it might make him look completely again at where he is going wrong. We do need these spaces. We do need people, if you are going to put them in private nurseries, all to be taken into consideration and they do need to be school

ready, but children cannot be pulled from pillar to post just to fit the policies of the Minister for Education. As Deputy Le Fondré said, if you look at things across the board, it has got to be fair. We do not know. We have not even seen the figures. There is an assumption made about people who could pay in the state nurseries, but no figures. Again, why would I want to make people worse off in one sector, hardworking, who do not have the luxury of choice, and somebody in the other sector who might be, as I say: “Yes, that would be great. I am not going to send my child to that school. I am going to send them to a private school, but I will get them looked after for 20 hours a week because it is free.” It does not wash with me. I will support this amendment and I ask the Minister for Education to really rethink and talk to the people this is going to affect, the parents and the providers.

1.2.4 Connétable J. Gallichan of St. Mary:

Mercifully, the Assembly will be glad to hear, there is not much left for me to say after Deputy Martin’s *tour de force*, but there are a couple of things that I need to say. Many times Members say during the course of a debate, and I am particularly guilty of it, that while they cannot support a particular amendment or proposition they have got great sympathy with it, and so on, and they want the Minister to take note of what they say. Putting a marker down is one thing. I put what I think is quite a strong marker down as to how I feel about this in the debate on P.39 on 15th June. All I can say is the tide has come in and gone out a few times since then. My marker seems to have been washed away and I am back in the same position as I was then. I listened with great interest to what the Minister said in his response to the proposal for this amendment. He raised some excellent points and I know, and I am sure we all know, that the Minister has put in an awful lot of work around this and is genuine in his concerns. Hansard is a wonderful thing. Because I spoke at length in June if Members want to know how I feel they can always look that up, page 31, there you go.

Senator I.J. Gorst:

An excellent speech.

The Connétable of St. Mary:

Well, if you think it was an excellent speech, Chief Minister, for interjecting I might just read it out, but no. No. **[Laughter]** I spoke, I think, with a lot of passion and I spoke also with some authority, having spent time on the Education and Home Affairs Scrutiny Panel, the work of which the Early Years’ report, which led I think directly to what we call the spiral of consultation and debate being broken and the leap forward to the provision of funded nursery care being made by this Assembly. I spoke with so much passion and I can remember saying that was the thing I felt most strongly about in all the things that I had done since my election. That was the thing of which I was most proud and I was most proud of it largely because of the strength of the public in coming forward with their views and giving us the bullets that we needed to load our machine gun of education with. I stand by everything I said then, and I stand by the fact that the greatest thing that we had to deal with then was inequality, and we took conscious measures to remove that inequality. I am struggling with any reason why I would want to introduce that. Fundamentally I am against, for lots of reasons that will be obvious if you read the report that we wrote back then, means testing for this in any shape or form. That is my fundamental position and it is a position that I have come to, as I said, after a lot of work and a lot of consultation. I regard this amendment as the lesser of 2 evils. I know the Minister will not agree with that but I feel that it is likely that there will be some means testing and I think if there is to be it has to be across the board. The Minister spoke about choice. He is right, there is no statutory provision for nursery education, but the Minister says he holds it in high regard and includes it in his concept of our education system. That, I think, is an excellent sentiment to have. But how does the Minister propose to ensure that the people, who

access the places that are free in the nurseries, are the people who most need them? Unless you have a ranking system across all the cohort that are going in, in any year, you are not going to know. Obviously, the special needs provisions are a different case, that goes without saying, but for everyone else there is not a way to know with certainty that the people who could most benefit, the children of families that could most benefit by the assistance that can be given, will be the ones who get the places in the States-funded nursery education. I think that is the fundamental question that I need to have answered, because unless I can be sure of that then I have got to stick my heels in and say no, that my position has not changed. Also, the Minister said to tinker, and I do not want to paraphrase either and I do apologise, but I understood him to say that because there is this ethos within the States of Jersey to provide free education at all levels, to tinker with it with the possibility of one section is wrong. The Education Law that we have here already makes provision for the ability to charge for a child who is not yet of school age. That was thought about a long time ago and it was built into the legislation. So this is not something that we have not already considered. I am just trying to look exactly where it is, but it is definitely within the Education (Jersey) Law that there is a provision where a child of school age ... Article 9, part (3): "The States may by Regulations make provisions for a fee to be charged for attendance of a child below compulsory school age in a nursery school or nursery class established and maintained by the Minister." So, we have already thought about that in abstract in the past when we brought our Education (Jersey) Law in, so it is not an alien concept and I think it is something that we really need to bear in mind. I think probably I just need to say one or 2 little things more. Basically I think really I urge the Minister to look back again, and I have said this before, but I will say it again, at the findings and recommendations of that earlier report. I am just going to read 2 short ones: "We, the panel, found new generations of young children and parents are continuing to miss out on opportunities afforded to others through the inequity of the current system of early years' provision." This is pre-funding, of course. The Minister responded: "Agreed." One word: "Agreed." "We, the panel, also found that there is broad support that the same entitlement to free early years' education should be available to all children." The Minister responded: "Agreed." One word. I am going to support this amendment.

1.2.5 Deputy M. Tadier:

I am glad that the previous speaker has already referred to P.39, and the debate we had in June. In many ways, I think, we have had the substantive debate. That was the debate. That was the debate about means testing, so it is strange to hear the Constable stand up and say that she does not support means testing on principle, because P.39 was a debate on means testing on principle, and she, I think, did not seem to vote for that proposition as far as I can see. She abstained, for some reason, and she will know why she abstained on that proposition.

[12:00]

That is why, I think, we are in a very strange place today. We have had the debate on whether or not we agree with means testing. The proposal on the table with the Scrutiny Report that had just been published asked the Minister not to go ahead with these plans on the basis that I thought, and I think many others thought, although I think there were only 15 who supported that, but certainly 15 people presumably who thought that what was on the table was a complete mess, even with the Minister's concession to change from £75,000 to £100,000 for means testing, which I think was a small victory at the time and it is perhaps a small amount of solace to those parents, who are by no means necessarily wealthy, and are struggling with provision in the private sector. I think that was the debate for these kinds of points to be made. The unfortunate thing is: the Minister's position is completely still a mess, and that is the position we are in, and we have missed the boat on having that in principle changed, because we have given, as an Assembly, the Minister a vote of confidence. We have said: "We are quite happy as an Assembly, 15 of us are not but the rest of us,

24 of us, are quite happy for you to go ahead and present this mess and go ahead and do what you need to.” So we have Deputy Le Fondré’s attempt here to try to give some fairness, as he would call it, to this particular proposal. The problem is if you do not agree with the principle of means testing how can you possibly support this? Because it is an unfairness certainly because I believe that these kinds of services should be paid through taxation and if there is not enough tax money to pay for it then you either have to increase that tax rate or you cut the provision. I do not think you have this middle way whereby you have user pays introduced partially, so partially introduced for some of the more wealthy members in society but of course in a user pays fashion, because they only pay for what they use, and that is not even applied right across the board. So I wish Members good luck in this one, those who did not support the initial one, in trying to find a way to support this. I certainly do not want to see a precedent set, as the Minister said, whereby in future we can say: “Well, what about general primary school provision?” or: “Hautlieu, what about sixth form provision?” If you are wealthy enough, surely you should pay for that as well, because there is not enough money in the pot and we need to redirect that money to the student premium, because there are students at Hautlieu who are really poor and why should it be that parents and families, who are earning £100,000 a year, should get access to free education? That is the next step on the slippery slope. That absolutely is. That is the next logical conclusion. The 24 Members in here who have accepted the Minister’s proposition, if they then go to vote for Deputy Le Fondré’s, it is completely inconsistent with that, so we have, on the one hand, a mess which the Council of Ministers is pursuing, an inherent unfairness. We have to remember of course, and this is why I have a lot of sympathy for those who have taken the time to lobby States Members, those who maybe run private nurseries themselves or who use private nurseries, is that the starting position is completely different. The States does not come from a position where they have traditionally provided a sufficiently large and expansive nursery provision in the state sector. That has largely been provided and picked up by the private sector so, of course, it is necessarily going to put them in a difficult position. If you were a parent or family in a position where you may earn, let us say, £120,000 between you a year and you are currently in the private sector what are you going to do? You could move your children in the state sector. Is that what the Minister wants? When we asked the other day, on Friday, about whether there was sufficient number of spaces in the state sector to accommodate all nursery students, we got some very, I thought, ambivalent answers. On the one hand the Director was trying to tell us: “Yes, there is sufficient space there”, but clearly there are not the numbers of spaces if the demand were to completely switch. So, I would maybe say to those who are listening out there, if you are currently using a private provision you may want to apply to the Minister and say: “Look, you have told us and, in fact, the Director has told us, that anybody who wants to apply for a position in a nursery in the state sector will be given one.” I think it would be interesting to put that to the test, so anybody who is listening out there, who currently uses the private sector for their nursery provision, should get on the phone to the Minister. I think his number is in the phone book. Certainly his email address is in there, or contact the Director of Education and say: “Dear Minister, we would like, as of today, to move our children from this nursery into a state school and please provide that for us because, at the end of the day, we are taxpayers and we have the right to do that.” I would like to see what response the Minister gives those individuals. If it is the same response that we were led to believe on Friday when we had our presentation it would be: “Yes, of course, that is no problem. How quickly would you like to do that?” I think the reality is completely different. I think that is why the timing of this - even if the principle is moot and even if the principle is laudable - does not seem like the right timing. What the States and what the Minister should have done, in the first place, is make sure that the provision was in place, make sure it was adequate, roll it out, talk to the private providers and then introduce, perhaps in the future, some kind of means testing if it was absolutely required. He has completely put the cart before the horse and with the compliant rubber stamping of the 24 in the States Assembly what another fine mess we have got ourselves into. I, for my part, cannot endorse

the Minister's position. I cannot really support what the Deputy is doing, although I appreciate his concern for those providers and how they will be affected and also the level playing field argument that he proposes, but I have concerns that the bottom line is that taxpayers provide money into a pot and that the public sector have a duty, I think, to provide education free for all, no matter whether you are a lowly low earner or whether you are one of the higher earners in our society. That principle is fundamental and the fundamental debate was already had in June. There are times when you cannot support what is put on the table, but it does not mean that you support what the Minister is doing either. With that in mind, I am seriously considering how I will be voting on this proposition.

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

The Minister said very much what I was thinking, although he expressed it far better than I could ever do. I did speak in the earlier debate in June concerning the proposed income limit on private nursery provision. One of the issues I raised, and Deputy Le Fondré will know that, was the concerns of free nursery care at state schools, while the children at the private nursery provision had to pay. Deputy Le Fondré mentions that in his amendment today. We know that the Minister relented slightly and raised the limit during that debate. I have listened to the Minister many times since, the Director of Education, I have listened to him, spoken to the Ministers and read the comments paper as well from the Council of Ministers. I have changed my views in a few respects. I have received the correspondence from many members of the public. I think in relation to today's amendment, there is some confusion from the people who sent emails and made contact with us. I think there is this understanding that we are trying to make, and I think that is what the Deputy is doing, equal for private and state schools. There are also some members of the public thinking today's debate, I am quite sure from the emails that I have received, is about rescinding what the Deputy has previously done with the private nursery facility and the money that would be allowed, or the ceiling that would be allowed. I suppose this really comes down today, and I know there are definitions, *et cetera*, to whether nursery provision at state schools for 38 weeks a year is part of the early years' education for young people, or it is a babysitting facility, whether it is a babysitting facility. I am sure that there are many who might be angered by me saying that, but I think there are also many other people who will share that view. I have received comments from many people during the private nursery debate that took place before. Today's debate, I think, is not about the provision of free childcare or free early years' education. I think the Deputy has brought it today merely out of fairness. I think that was the main aim of today's debate. I have to say I may have been wrong earlier in not accepting that the nursery provision was an education. I quite see it as a baby-caring facility and not part of early years' education. I am not sure if I was wrong when I spoke before. I was supporting the Minister at the time, urging him to leave the proposition as he had it and not to relent by raising the proposed income ceiling level that he had initially set for the parents at that time. If one accepts that it is education, then the amendment must fail. If I decide to place my child in a private school then I know I will have to pay for that service at whatever age I choose to start their education. If I place my children in a private school at reception class then I pay from reception class onwards. If I decide to send my child to a Parish primary school, a junior school, until he or she reaches secondary school age and then transfer them to a private school then I will be paying private school fees from that point until they leave the state school and start in that private school. That is unless, of course, I decide to change tack halfway along and remove my child from the private school and see the child go to Hautlieu where their schooling will be free again. That is my choice entirely. Is it for me to say it is no better to say that nursery schooling is a childcare facility to allow many, and I stress not all parents but some parents, to work? If we accept it is just a childcare facility, then I agree with Deputy Le Fondré and think it is very unfair that parents do not make a financial contribution to place their children in a state-provided nursery class. However, if it is the early stages of education, then it joins the personal choice scenario and

it is up to each and every parent to decide which scheme they want to choose, private nursery schooling, for which I pay, or state nursery schooling, for which I will not. I conclude on the issue that we are reassured by the Council of Ministers and the Minister for Education that there are ample places for nursery-age children, albeit not on everyone's front doorstep, as may be the case with a private nursery. We are on an Island 9 by 5 and however much traffic problems we have each day, and we have heard this morning about parents starting at 8.00 a.m. at work and having to get their children away from home by that time, but that is one of the choices that we have.

1.2.7 The Connétable of St. John:

My email box has been inundated on 2 occasions. The first occasion was the building of a hospital on People's Park and it was interesting to note that about 80 per cent were in favour of keeping the park and about 20 per cent were in favour of letting it at least go through the process of debate. The difference with the second occasion, which is this topic, nursery funding, is that every single email, without exception, was in favour of this proposition. I think we should listen to the people who elect us. Nursery education should not get muddled with primary, secondary and tertiary education. It is something different. States and all governments, most governments I believe, have a statutory obligation to educate their population, and that is from an age in some countries as high as 7 and I believe here in Jersey is as low as 5. So there is no statutory obligation. This Assembly, generously, has agreed to make a contribution towards the cost of nursery education. Sadly, earlier this year it started to means test that generosity, and I am delighted that the Minister for Treasury and Resources has rejoined us just in time, because something he preaches very strongly is taxes, or we often call them charges, should be broad, simple and fair. What is being proposed by the Minister for Education, sadly, is targeted, complicated, but above all unfair. I will not support that type of activity and so I urge Members to use their common sense and to vote in favour of this proposition.

[12:15]

1.2.8 Connétable J.E. Le Maistre of Grouville:

I hate to see unfairness, like most of us in here I think, and means testing the parents of those who send their children to private nursery schools and not means testing the parents of those who go to state-run nursery schools is grossly unfair. It is particularly unfair when at the moment, at least, there are not enough places available in the state-run schools, and whether you get a place or not in a state-run school is a lottery, depending on where you live and when your child's name gets put on the waiting list. In Grouville, for example, and I have to say Grouville is a brilliant school and I congratulate the Minister and all the staff and head teacher there on what a good school it is, but it has one intake at the nursery level and a 2 class intake when you get to reception. Fortunately, in the Grouville catchment area we also have a superb privately-run nursery school. It is absolutely excellent. Two of my children went there, and 3 of my grandchildren went there, and they are always ready to go on to wherever they go for further education. Private schools such as these may be put in jeopardy because people may decide to migrate from the private sector to the public sector. This will allow them, of course, to carry on with full-time employment, should the parents choose to do so. I read the Council of Ministers' comments paper on this amendment and I have to say it is very weak. On page 5, paragraph 3, it claims that the cost of administering the scheme will require an extra member of staff. It then implies that the existing scheme costs nothing, because it is accommodated by the existing finance team. This is, of course, nonsense. If there were no scheme at all we would save a member of staff, and extending the scheme, even if we do have to employ more people, the savings in grants will far outweigh any costs incurred in trying to save that money. On page 4, the paragraph before the last in the comments paper claims that nursery classes are fixed funded; therefore, if someone removed their child, because they did not get the grant, the school would make no saving. Probably true, but if 20 or 30 or 78 children are removed -

and there is a reason for me choosing 78 - of course there would be tremendous savings in the provision of those resources. Just to prove my point, on page 3, the penultimate paragraph clearly states that Education will have to fund 3 or possibly 4 extra classes to provide 78 places. What will that cost? Accepting this amendment will save money on grants and save significant sums in not having to provide 3 or 4 extra classes. It is a win-win for the Minister for Treasury and Resources. Not only that, if we remove this anomaly, it will make it fair and equitable and that is what we need to do.

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

I have not prepared anything for this, but Members will know, because I have mentioned it a number of times, that I am a former chairman of the Education and Home Affairs Scrutiny Panel. In fact, I chaired the panel that produced the report on funding of early years' education, which the Connétable of St. Mary made reference to earlier. I am absolutely certain that that report was fundamental in carrying the Assembly when we debated the introduction of nursery education funding. I want to touch, in no particular order, on just a couple of points today, which I think have not been addressed. One is that we have a discrimination law, and yet one of our departments, I think, is clearly promoting discrimination by means testing within the private sector. We have not mentioned that. We keep using the word "discrimination", but why should we be discriminating against certain members of the public? When we were consulting about the proposals for nursery education funding, a number of private sector providers came to speak to us and they were concerned about how it could impact upon them and the delivery of their services and affect them as businesses, many of them being, of course, small businesses. But it proved when the funding was introduced that it did not have a detrimental impact upon them at all and, as Deputy Martin has said, they are there and they have provided the wraparound care which was promoted at the time. She mentioned, of course, the very high proportion of working mothers within the Island and they, of course, are there providing services for them. We cannot have our cake and eat it, I think. Finally, I think it is ironic when we are debating the Medium Term Financial Plan that Deputy Le Fondré said this is not about money; this is his opportunity to bring an amendment, which he thinks will provide equity and remove the discrimination that there is at the moment. But we are debating the Medium Term Financial Plan. The irony to me is that in the Council of Ministers' comments under "Summary of Financial Implications" they say that this could generate a small level of additional income. It just seems to me absolutely ironic that where we could generate a small level of additional income, when we are counting the pennies, every department is doing that, they are not supporting something which potentially would bring in that small amount of additional income. I do not think that those points have been addressed by previous speakers. So I am minded to support the Deputy's amendment, not because it could potentially generate that income, but because I do not agree with discrimination and I think at the moment there is a situation that is clearly discriminatory.

1.2.10 The Deputy of Trinity:

I start off, really, by seeing if people's memories can go back. I am trying to think of how many years to go back where I can see a *J.E.P. (Jersey Evening Post)* headline when the then president of Education, Constable Iris Le Feuvre, announced - and I am sure someone can tell me the year - that one of her big policies was going to be nursery education in every school. Can anyone remember? I cannot remember the year. 1999? Perhaps 1998. So it has taken us a long time to get to this point, but the policy back at that time is still so important today. As you would expect, I am rejecting the Deputy's amendment, as by introducing the means test in States-funded nurseries, which should be free at the point of entry, we are in danger of completely disrupting the nursery sector. If this amendment is accepted, all parents earning £85,000 and above will now be means tested, so that will double the numbers of families, approximately, as has been said, about 180. But

more importantly to me, it is the removal of the principle of free state education for all and, to be honest, I have tussled with this one because I can understand where people are coming from. The one thing that convinced me was that: free state education for all. As some States Members will know, I have a whole family full of teachers, so we have had this discussion around many tables. Being teachers, being States employees, obviously, they do not have any rights to sometimes put their views across. This happens with all States employees. They do not have a right to reply, which is sometimes sad. But this is the cornerstone of our education system. It enables both the private sector and the state sector to deliver all phases of education. Education, education, education. To lose one's right to free education, irrespective of income or background, will be a retrograde step and one that benefits no one. I believe so far that the whole discussion about means testing, which has now widened to include state nurseries, is not about education, but is about childcare costs. Of course, I am aware of the high costs parents face for childcare. I used to run a nursery. Parents did not have funding then, they paid their own, but their desire was for a light at the end of the tunnel during the preschool years to assist them with those costs. But this debate, as I said, is not about childcare costs. We are talking about nursery education. Of course, there is a role for private nurseries. There are good private nurseries, doing a very good service, there for the children as well as the parents, and there will always be a need for them. But again, and I make no apologies, this debate is not about childcare. This debate is not about protecting or enhancing private business in the nursery sector. This debate is about, and only about, education. School nurseries are an essential component of raising standards and vitally important for developing the skills required by our children to learn. I am so pleased that there will be a nursery open at Trinity School next year. I believe that all our primary schools should have a complete foundation stage, which includes a nursery, as well as a reception class, for a number of reasons. Firstly, as expertise for the school staff team. Early years' practitioners bring with them a range of diverse skills, knowledge and experiences, which impacts on the professional development of all our staff in the school. Secondly, by working with children from the start of the formal stage of education, staff are able to plan more comprehensively with children who will be at school for up to 8 years. That vital year is so important for the teachers to assess: is the child ready for school? Can the child sit down and talk to other children? Can the child use a knife and fork? Can the child use a cup? All those very, very basic skills, and if they do not have those basic skills by the start of reception they will lag behind. Thirdly, a school nursery provides an opportunity for school staff to begin to work with vulnerable families, and that includes our own looked-after children. We know that we, as a Government, have a responsibility for looked-after children at an earlier stage in order to better understand the issues facing the family and the child. This approach will pay dividends for the future as preventative measures can be put in place which improve the education outcomes for the child and improve the lives of family members. Again, this approach is addressing a second of our key priorities: to work with families, particularly those who are vulnerable. Finally, school nurseries will provide an opportunity for a school to work with a child for longer and improve standards for pupils. We all want that, surely. We have seen that our Island-wide key stage 1 results are lagging behind England and, although we catch up by the end of primary school, we feel we should be doing better. It is our belief that increasing the number of children in our school nursery system will have a positive impact on outcomes as children move through primary and into secondary schools. There is a quote from a recent Department for Education research paper: "Highly qualified early years has a larger impact on ability at school entry than a child's mother having a degree." Those formative years are so, so important. Education. The case for having a nursery as part of the foundation stage in a school is clear. It ticks all the boxes to achieving our aims to raise standards and for us to work more closely with vulnerable children especially and families from an early age.

[12:30]

In supporting this amendment, this will change the makeup of nursery classes. Today we have children from different backgrounds, all at one level, all learning together. If this amendment is supported, we are in danger of distorting this classroom mix, leading to a negative impact on learning and standards. The current proposals from the Minister to introduce means testing in the private sector are important, not only to enable the department to meet its commitments as part of the M.T.F.P. proposals, but also to protect the essential growth which has been awarded to enable us to raise the standards across the system. We also find a way of controlling the expenditure of N.E.F., which now could be out of control. So, Members, do we really want to remove our long-held principle of free States-funded education for all? Do we really want to risk altering the fabric of early years' education, which will have a detrimental effect on the learning outcomes for our children, all of which is done to readdress a perceived inequality between 2 systems, which should be viewed as distinct and independent from each other? I will leave my thoughts with you there.

1.2.11 Deputy S.M. Brée:

I would suggest that this has to be the most ill-conceived, inappropriate and misjudged policy coming out of the Education Department. I think even the Minister himself will admit that the way the announcement of this policy was handled was an exercise in public relations mismanagement. Irrespective of one's position on means testing, it is blatantly obvious that just to apply it to private nurseries is discriminatory, both against the providers and the parents. Now, let us look at the offerings that state nurseries and the private nurseries have. The offering is not the same. There is for some parents no choice, because the state nurseries do not offer the wraparound services and the extended times. So the policy, as put forward by the Minister for Education, is discriminating against parents let alone the private nursery providers. Now, we hear very often from the Council of Ministers that they are looking to increase economic growth and productivity. So, let us take the example of 2 parents, who are both working hard, both working full-time, need to be in at work at 8.00 a.m. or 8.30 a.m., do not finish work until 5.30 p.m. They are looking to the best available facilities to suit their child's needs and their needs. Unfortunately, state nurseries cannot provide those facilities. The option, therefore, is to send your child somewhere between the hours of 8.00 a.m. and 9.00 a.m., then 9.00 a.m. until 3.00 p.m. go somewhere else, and then at 3.00 p.m. is picked up by somebody else, taken somewhere else. It is well known that that sort of disruption affects particularly young children the hardest, and yet we have an Education Department seemingly promoting it. I would suggest that not to support this amendment will send out completely the wrong message to parents, and to society as a whole, as to the value that this Government places on nursery education, because if you do not support this amendment, if Members are not willing to support this amendment, then it will introduce discrimination, inequality, and create a non-level playing field to the providers of private nursery facilities. That is why I would urge all Members to support this amendment.

1.2.12 Deputy G.P. Southern:

Once again, we are faced with a difficult choice in the wrong setting. This is a debate on the Medium Term Financial Plan. That is all about financial targets and not about the provision of care for our young people. I am drawn to the words of the Jersey Early Years Association, which start: "J.E.Y.A. (Jersey Early Years Association) is against any means testing." Indeed, so am I, but the opportunity to discuss means testing or not was presented to us by my colleague Deputy Tadier back in June, I believe. A number of people then voted against a proposition not to proceed with means testing until we had had a proper debate about it. So what we have here today is fairer means testing, or blatantly unfair means testing. Nonetheless, it is means testing and my great fear is that having introduced, if we were to introduce, means testing at the level suggested or whatever, that next year that level will be coming down, the year after that will be coming down again and, before we know it, we will be charging everybody for nursery education. That runs directly against

what we are trying to do elsewhere. It makes no sense whatsoever. J.E.Y.A. makes 2 points at the end of their letter which I am paying attention to. It states: "In the U.K., a household income of under £199,000, with each parent working 16 hours per week, is eligible and entitled to 15 free hours. In 2017, this will be increased for vulnerable families to 33 hours. In Guernsey, the nursery education fund threshold is £150,000 per year for 15 hours." What J.E.Y.A. conclude from this is they say, addressing Members: "J.E.Y.A. ask that all Members of the States reading this flyer question the Minister for Education on the points raised and consider the consequences his ill-conceived proposal will have on the Island and its children. In the light of the U.K.'s visionary attitude to early years, we need a similarly progressive proposal to benefit all of our children." I wholeheartedly support their attitude. However, the opportunity for that debate occurred 6 months ago and I feel that I cannot support any form of means testing, because it risks increasing over time. So, therefore, I shall be not supporting the amendment but abstaining, and it is a very rare occasion I ever abstain.

1.2.13 Deputy P.D. McLinton:

I spoke some time ago to this. Firstly, it is very important we understand that nursery, although treated by some as a means of childcare, is a fundamentally important part of a child's education; fundamental. Some may treat it as childcare. So be it. Nursery education, the child goes in thinking they are the centre of the world and suddenly realises there are other people around and, therefore, learns how to socialise, how to grow, how to maybe go to the toilet, how to eat, how to play. I mentioned before I am against any form of means testing, because if you treat nursery education as a part of the education, you grow yourself wonderful people from the ground up. We are all grown from the ground up. So, in a utopian world, there would be free nursery education for all young children. That would be an ideal. If anything, I like equanimity, I like equality, so if we cannot have no means testing then is it not fairer for everybody to be means tested? Does it not sort of work out that way? Because, if you are focusing on the child and not on the parent, then surely it should be equal across the board. We should all get access to it and we should all be asked to dip into our pockets if necessary. There are some people who do not have the choice to put their children into paid-for nursery education because of the way their jobs dictate their lives, and it is sad that that is the case. I understand the arguments for, and I understand the arguments against and they are compelling, but in the interests of equality, which is where I come from, I am minded, unless otherwise persuaded in a very short period of time, to support this amendment.

1.2.14 Deputy R. Labey:

Can I just depart from recent comments and just say that I do not think this House should be telling parents that the appropriate place for their children to learn table manners, or social manners, or how to drink from a cup [**Approbation**] is a nursery school, a primary school, a secondary school or a university? Those sorts of things should be learnt in the home.

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

I have to say in the debate in June I was completely against means testing on this basis and I still am. I would like to hold my head up high and say we support children. We give them 20 hours free nursery across the board. If we are not going to do that, then do not do it. Let us not make an inequality. The Deputy of Trinity said earlier how in 1999 there was a policy decision made that we are going to get nursery education within the primary schools and it has taken a long time to get there. I applaud the Education Department and the Minister for Education and his team for getting us to the point where we are starting to be able to give that service. But in the time since then, we have had the entrepreneurs and the innovators and the people that have seen the need within the Island stand up and take part and build the capacity that we were not able to build ourselves, and thank you to them. A great big thank you to them for doing that so we could start getting in a place

where we can take our part as we should. We are not even thanking them. We are discriminating against them. We are building the capacity and we are giving people the option now that they can choose where they want to go depending on their family lifestyles. So now there is the capacity they can choose to be in private or public nursery. They get that choice, there is the capacity and well done for doing that, but they get a choice. We are not thanking the entrepreneurs of this Island and the people that have innovated and stood up and did the bit that we could not do. We are just saying: "No, we do not need you anymore. We have sorted this out now. You have put all your time and energy in and you have taken the risks and maybe changed your career to do it, maybe because you have seen the opportunities and the requirements." We are not thanking them, even in the slightest, by discriminating against them, by creating a means testing for them and not for us. I think it is wholly unfair. I do not support means testing. I would like to hold my head up higher. I would like to say that we support the children, so I will be supporting the Deputy and his amendment, because I think if we are going to do it we do it across the board. I would rather see us remove it and find the funding and give it to all children. I would much rather do that. I am going to support the Deputy, but I hope that we get to a point where we are better than this.

The Deputy Bailiff:

Standing Orders require that I now ask Members whether they wish to adjourn or to continue.

Deputy J.A.N. Le Fondré:

Can we have an indication of how many people are left to speak?

The Deputy Bailiff:

I have no one waiting to speak, but if people would indicate if they wish to speak now. No, I have no one who ...

Deputy M. Tadier:

I have spoken already. I just wanted to raise a point for tomorrow's business to the Chairman of P.P.C. (Privileges and Procedures Committee).

[12:45]

The Deputy Bailiff:

Well, could we wait, Deputy? We will certainly come on to that before we adjourn. I have one person who wishes to speak and then obviously Deputy Le Fondré will.

Senator P.F. Routier:

May I propose that we sum up and take a vote? Is that possible?

Deputy M. Tadier:

The first point is I have a lunchtime appointment with a constituent at Social Security, so I would not be here for that and I think it is unfair to him at such short notice.

The Deputy Bailiff:

We will obviously see if there is a proposition put to the vote, but does any other Member wish to say anything about whether or not we should adjourn or carry on? Do I have a proposition?

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

It is proposed we adjourn. The States will, therefore, adjourn until 2.15 p.m. but before doing so the Chairman of P.P.C. wishes to I think regroup as to where we are.

The Connétable of St. Clement:

All I can say is I have been looking at the business we still have to get through and I think even by sitting until 6.30 p.m. tonight we are still going to have to arrange for extra days. I suspect that would be starting next Tuesday, unless by some miracle we get through everything in a day and a half, which we are not going to do, I am sure. I think Members will have to put aside 2 or 3 days from next Tuesday. Nevertheless, it would help, I think, if we continue for an extra hour this afternoon. I do know some Members have other commitments. Nevertheless, it is a matter for the States and I would like to formally propose that we sit until 6.30 p.m. this afternoon to try and do at least some of the business.

The Deputy Bailiff:

Is that proposal seconded? **[Seconded]** Does any Member wish to speak on that proposal?

Deputy M. Tadier:

There are 2 points. The first is that I agree that it is okay to sit this evening, but I would ask that no vote be taken. If there are Members who, for whatever reason, cannot be here after 5.30 p.m. it seems unfair that votes be taken. That is just a thought. The other point is, could we ask that any continuing days that we have a lunch from 1.00 p.m. until 2.00 p.m., which would allow an extra half an hour of business to be conducted as most people seem to do with an hour's lunch.

The Deputy Bailiff:

On the first point, Deputy, I think if the States is sitting, it is sitting for all purposes and if a vote falls to be taken during that period then it can be taken. Secondly, obviously that is a separate issue which may be voted on separately if Members agree. Does anyone else wish to speak? Very well, those in favour of sitting until 6.30 p.m. this evening? Those against? Very well, the States will sit until 6.30 p.m. and we now stand adjourned until 2.15 p.m.

[12:47]

LUNCHEON ADJOURNMENT

[14:14]

The Deputy Bailiff:

We continue the discussion on the fourth amendment. Does any other Member wish to speak on the amendment? Deputy Mézec.

1.2.16 Deputy S.Y. Mézec:

I will be incredibly brief just to lay out my position on this because I am a member of the Education and Home Affairs Scrutiny Panel and we looked at the issue of nursery funding very much in-depth with our Scrutiny review.

[14:15]

We came to the conclusion that the changes being proposed by the Education Department were not in the best interests of children. Not only was that our own conclusion, it was, in fact, the conclusion of the Minister for Education, who was forced to admit this in a Scrutiny Panel hearing on the subject. I think what they are proposing to do to nursery education is wholly wrong and I oppose it 100 per cent. I think that the agenda being pursued with nursery education, the end result of it will be a system that is more elitist, where the private sector, which currently is providing an excellent service to many children across the Island - and I visited many of these nurseries and saw first-hand what a fantastic job they do for the children who go there - that will ultimately be diminished by the policy being pursued by the Education Department. So it puts me in a very

difficult position with this amendment being proposed by Deputy Le Fondré. If there is to be means testing, which I outright oppose on principle 100 per cent, if it is going to be introduced, should it be introduced in a way that is equal across the board or introduced in the way proposed by the Minister for Education, which will clearly have the effect of damaging the private sector involvement in nursery education in the Island? That puts me in a very difficult position and I know my 2 party colleagues have indicated their views previously, that it is difficult and it is something that we have had lots of communication, all of us, by email from people who are involved in providing that service, which makes it difficult. So I want to say for the record that while I make up my mind exactly how I will vote on this amendment, I remain absolutely opposed to the principle of means testing in any form whatsoever in the provision of nursery education. I believe that every single child should have access to a free place at nursery regardless of their family background. I will vote against the M.T.F.P. as a whole for a variety of reasons, one of which being I oppose means testing outright. That is my position, but I wait to see and I will listen carefully to Deputy Le Fondré's summing up to decide exactly how I vote on this. I am incredibly uncomfortable with what he is proposing but I am also very uncomfortable with what the Minister for Education is proposing. I support the status quo.

1.2.17 Deputy M.R. Higgins:

Again, I have a similar position to Deputy Mézec. I am opposed to means testing. The proposition at the moment is not about whether we agree with means testing or not but whether we have a situation where it is equitable; both sides, education establishments and private ones, are means tested. I feel like I am between a rock and a hard place. I do not agree with the principle of means testing and, therefore, even to vote for the amendment is basically a vote for something that I do not agree with. I suspect that I shall be abstaining on this and I want to make my position clear. Hence my short speech.

1.2.18 Deputy J.M. Maçon:

I have been contacted by the Chairman of the Scrutiny Panel who for health reasons cannot be here today. She has asked me to make the following points. In her view, she did not feel that 2 wrongs make a right and she feels that this amendment makes a bad situation even worse for families and children and gives them less options. She feels that it is based upon the premise that we should even things up to make them fairer. However, this only makes things fairer for private nursery owners. We sympathise with them as per the recommendation of the Panel and still feel that they should not be subject to cuts until the impact has been assessed, including the impact on the businesses. However, there are 2 other groups of people to whom the amendment makes things less fair: parents and children. She adds she always thinks about how this will affect children. We cannot assume that every parent earning over the threshold will still send their child to a nursery and pay for it. They may choose not to send their child at all. She would stress that then the child misses out. The benefits of attending nursery have been well established. How can we take away this last option for children and deny them the best start in life? If this has a negative impact on even one child, she feels it is the wrong thing to do. It is a fundamental principle in our society that public education is free at the point of delivery. She feels we should not be charging at all for nursery education classes and certainly feels that if she was a head teacher of one of our local schools, implementing this measure would cause great difficulty. She concludes: to sum up, we cannot act in the interests of a small group of business owners over the needs of a number of children and requests again, as per the recommendation of the report, that the Minister withdraw the entire proposal at this time. That is her conclusion. Again, as many other Members have said, I feel that this is a very difficult situation. Why are we looking to round things down to make them equal? Why are we not looking to round things up in order to make them equal? This does not really help us in where we want to be and what we should be achieving for the best thing for the

children of the Island. Like other Members, I will wait to hear Deputy Le Fondré sum up, but I think like many Members I feel for the sake of a quarter of a million pounds this really is not the best case and we should be expecting more from the Council of Ministers.

1.2.19 Deputy K.L. Moore of St. Peter:

I just rise to perhaps try to assist Deputy Mézec and others who are struggling with this issue. The Deputy suggested that he hoped to maintain the status quo, but I think the Minister has been very clear that the status quo is not possible. We are here today because we are bound by our Public Finances Law and we are trying to balance the books by 2019. That is our fundamental aim and in order to do so we have had to make some difficult and challenging decisions. One of those decisions that the Minister has made perfectly clear was to maintain universal provision for nursery funding but to reduce that to 15 hours a week so that it was possible to do so. It was decided, and I think quite rightly, that it was better to means test and maintain the 20-hour provision for those who really need it. So that is why we are here today and debating this issue, which is difficult, I appreciate, and I am grateful to all those who have spoken. But I would like Members to really think about who most needs this provision and that is why we are here. We are hoping to offer 20 hours of provision and maintain what is already available to those who most need it. The consequence of reverting to the status quo is that the provision would be reduced for everybody. What we want to do is maintain the access to nursery for those who will most benefit from it. In my own Parish in St. Peter I know that there is an issue in the afternoons with the 20 hours provision. There are still people who cannot afford to attend in the afternoon. It breaks the heart of the headmaster that there are people who go home or go to shared care in the afternoon rather than being in a very fine establishment in the Parish school where they would gain further education and deepen their knowledge and their understanding so that they were ready to move into the reception years. I hope that Members will really think very carefully about what we are trying to achieve here and who we are trying to benefit.

1.2.20 Senator P.F.C. Ozouf:

I am not going to repeat any of the arguments that have been rehearsed by others and Members will be aware of the importance of early years' education. I am just going to ask and implore Members to think about what they are going to do in supporting, and I felt that there was a mood that this amendment was going to be or might be supported. I want Members to think of the consequences. This amendment means that we will be means testing state school provision, which is the point that the Minister for Housing, the Deputy of Trinity, has made, and I think made just again by the Minister for Home Affairs. This proposition means that we will means test state schools. Now, to me, there may be issues. The Education Department and I have received, constituents and people, individual circumstances that have issues about the time, about the hours that are available in private schools, and it is not just a solution that they are going to be ... even though the Education Department - perhaps this is not well understood - have put more places in state primary schools. I understand that that does not work for some parents and a solution is going to have to be found, but means testing state school provision has to be wrong. Where does this stop? Are we going to means test the next level up? Members are looking at me in aghast terms, but I look at the Constable benches and I look at Members with primary schools in their constituencies who have people ... well, I will look at the Constable if the Constable of St. Saviour wants me to look at her. **[Laughter]** I look at her and I look at the other Constables and I say to them: think of the primary schools in your Parishes, in your Districts, that as a result of this decision will mean that the 20 hours of care that is given is going to be means tested in a school which otherwise has free education. You choose whether or not you get free education, you pay for education or not, when you are over the age of 4, if I am right. That is we provide education for all children from the age of 4 until the age of 18. After having fought for years to get early school and a preschool year

which has so many education benefits, we have put more places in those primary schools in Parishes to do it. If Members are going to vote in favour of this, we are going to means test those schools. Now, there may be imperfections and all things and all policies have to be improved upon, and certainly the Minister for Education and his team I am sure are thinking very carefully about the problems that have been identified, but I am afraid sending signals to the Council of Ministers that they have something wrong or ... this is the easy way of decision making. The consequence of this proposition is to means test the free places for 20 hours in primary schools that are free to parents, and to do that in my book would be absolutely reprehensible. It would be the wrong step. It would be the wrong decision and we should not do it. I think Reform are abstaining. I hope this proposition is not accepted but it is obviously taken on board that there is going to have to be some more work done in trying to find solutions. I am sure that our dedicated Minister for Education, who is sensitive to these issues and others, will find a solution, but this is not it. I urge Members, I implore Members, please do not vote for this. It is wrong.

The Deputy Bailiff:

Does any other Member wish to speak on the amendment? I call on Deputy Le Fondré to respond.

1.2.21 Deputy J.A.N. Le Fondré:

Firstly, can I thank everyone who has spoken? It has been quite an interesting and good debate. I will make a number of points but I will try and keep it short, so I shall set a watch going and see how we do. I make the point it is the Minister who is adopting means testing. That is what is in the Council of Ministers' plans. It is in his power because it is him and the Council of Ministers that control their budget. If they decide means testing is wrong, and I hope particularly under the scenario that this amendment has been adopted, they can go away and find another solution. Senator Ozouf has made that point, but the only way of forcing them to make that solution is, in a way, adopting this amendment. I am sorry, one cannot rely upon a ministerial promise in the middle of a debate - we have been there before - because the solution is on the hoof and we want certainty. Now, it has been made very clear - I think it was the Deputy of St. Peter and also I think Deputy Wickenden - we are in a different place at the moment. The N.E.F. (Nursery Education Fund) came in really as what I would call a good partnership between the private sector and the public sector and that has been in there for some time. It is the Council of Ministers in this M.T.F.P. that is looking to change that balance.

[14:30]

Yes, the status quo is not possible, but that is the point. It is about thinking about things differently. This is a non-statutory obligation. As the Deputy of Trinity referred to when she was talking about getting children to learn social behaviour and learn to use a knife and fork and all that sort of stuff; that is great. That is nursery teaching. It is getting people "school ready" I think is the expression. It is not a statutory obligation. It is about getting people ready for that next bit and that is about acting in the interests of the child. I am trying to pick up a number of points but keep it reasonably short. I was disappointed in both the response from the Minister for Education and from the Deputy of Trinity. I did not really feel there were any real compelling arguments as to why. It was more about the systems that are in place and things like that, but it was not really dealing with this fundamental issue of what does happen in the private sector and what is the consequence of these actions and then subsequently what then rolls out, what happens to the children, and in a few years' time, if private nurseries close as a result because we have taken the money away from them, we have taken their customers away from them, do we need to provide more provision in the public sector? In other words, it just completely changes the balance that we have in place. I will get to the comments made by J.E.Y.A. (Jersey Early Years Association), *et cetera*, but in the ministerial comments that is reinforced. I think the Connétable of St. Martin made the observation about

whether people have choice and things like that or is there room. Well, according to the ministerial comments - J.E.Y.A. use a different number - they refer to the opening of 3 or possibly 4 new nurseries at state schools would help lessen the impact on affected families: "At least 78 extra spaces would become available in the next few years." They are not there at the moment. So from the date of implementation of this, people will have a problem. It was interesting. I think again it was the Deputy of St. Peter that talked about making sure that the provision was there for those who really need it, and that is not quite the same as what is being proposed. For me, this again goes back to equity and fairness, a fundamental principle. I will remind people of my analogy I used, that tenant analogy. In other words, at the moment under proposals of the Minister and the Council of Ministers a tenant going to Andium on income support will be treated better than if they go to a different provider on income support purely because they are going to Andium because it is a States-owned body. That is the principle around what the Minister is proposing. What I am trying to say is no, it should be even-handed across the board. The same rules should apply to the provider. That has been a grand total of 4 and a half minutes so I will move fairly swiftly to what I was going to sum up on. I do thank everybody for having spoken. I think, number one, irrespective of where this debate goes, the Minister does have to mend some bridges with the private sector. That would be my comment based on the feedback that they have had. I would make the comment that is in the submission left on people's desks that: "The 2008 Scrutiny Report recommended that the strong history of partnership with the private sector should be built upon." This is obviously the writer's opinion but, as I said, she has a lot of letters after her name and a lot of experience: "It is apparent that a systematic dismantling of this co-operative way of working is currently being pursued." She again makes the point: "This is because means testing is only to be applied to the private sector, not to the non-statutory provision of nursery classes for which the 1999 Education Law is the right to charge a fee for", which is what the Connétable of St. Mary was talking about. This is a very long submission from another member of the public, who basically was saying the support by the Council of Ministers to reject my amendment: "for seeking to ensure equality by introducing means testing for both the States and non-States preschool years shows, in my opinion, a lack of understanding by the Council of Ministers of the predicament many families, single and joint, find themselves in with regards to a non-statutory education." Obviously, he is writing in favour of the amendment. I will start summing up with this submission that we received from J.E.Y.A. They make the point that the Minister for Education set a precedent by charging for additional hours to N.E.F. in State nurseries already and is already operating a system to do this. I know that, for example, in other areas Education do charge for non-statutory items; Jersey Music Service might be one. So there is kind of a principle out there. Again, look at the bullet point. They say: "An additional 5 state school nurseries are being proposed at public expense. This will effectively close the private and charitable sector, the only sector to provide care for under 3 year-olds and who rely on the income derived from care and education for 3 to 5 year-olds. The collapse of the private sector will effectively remove normal working hours care for children aged 1 to 3 from parents working full-time. This will have a major impact on businesses in all private and public sectors." So, I think that is pretty clear. That is from obviously the operators, but it is people who have vast experience in the product and the quality of what they offer. If you read all the submissions ... and I made the point it is not about money. The Connétable of St. Lawrence very helpfully made the remark this does bring money in, which at a time when we are desperate for funds, is that not what we should be doing? What I was trying to make the point about is it was not about money and it was not about a particular philosophy one way or another. It is about equality. I had another submission that came through, again from a nursery qualified individual, which talks about: "I am also concerned about the assumption that those of a lower income are more in need of services. The comment seems to suggest that higher earners are not experiencing difficulties and/or are not in genuine need. This is a dangerous, naïve view." I think that was about the child more than anything else. The observation was: "If means testing does have to be put in

place, it is only fair and equitable that parents are treated the same when accessing preschool education and the Nursery Education Fund.” That is the fundamental. It is keep it fair. It is have the same approach and effectively do not discriminate between the sectors. Because that is where we have taken the N.E.F., that is where it works really well. The way these proposals are likely to go will cause, I believe, significant damage and that is not just to the businesses. It will cause them damage, but ultimately it is to the people they provide their services to, and that is the children. On that note, I do ask for people’s support on this if possible and I ask for the appel.

The Deputy Bailiff:

The appel is called for ...

Senator P.F.C. Ozouf:

May I just ask for a point of order?

The Deputy Bailiff:

Yes.

Senator P.F.C. Ozouf:

I am confused because the Deputy was not clear and I thought that I want to get your direction, Sir. In voting for this amendment as far as a ruling from you is concerned, is that then an instruction to the Council of Ministers, notwithstanding that there are other issues, that means testing would come into state schools? I want to know whether or not that is the decision that is before us. I know there are other arguments, but the amendment implication is means testing for state schools. Am I right?

The Deputy Bailiff:

I do not think it is talking about state schools at all. I think it is talking about the provision of nursery education and it seems to me on its terms, Senator, it is limited to the introduction of Nursery Education Fund means testing. It shall apply to all providers of such education and that is the providers of nursery education.

Senator P.F.C. Ozouf:

That means state schools will be means tested?

The Deputy Bailiff:

I do not think there is any more that I can say. What I think is it applies to all providers of nursery education.

Senator P.F.C. Ozouf:

So that means state schools will be applied?

The Deputy Bailiff:

That is my ruling. Very well, the appel is called for. If Members have had the opportunity of returning to their seats, I ask the Greffier to open the voting.

POUR: 27	CONTRE: 13	ABSTAIN: 4
Senator S.C. Ferguson	Senator P.F. Routier	Deputy G.P. Southern (H)
Connétable of St. Helier	Senator P.F.C. Ozouf	Deputy M. Tadier (B)
Connétable of St. Clement	Senator I.J. Gorst	Deputy M.R. Higgins (H)
Connétable of St. Lawrence	Senator L.J. Farnham	Deputy P.D. McLinton (S)
Connétable of St. Mary	Senator A.K.F. Green	
Connétable of St. Ouen	Connétable of St. Martin	

Connétable of St. Brelade		Deputy of Trinity		
Connétable of St. Saviour		Deputy E.J. Noel (L)		
Connétable of Grouville		Deputy S.J. Pinel (C)		
Connétable of St. John		Deputy of St. Martin		
Connétable of Trinity		Deputy R.G. Bryans (H)		
Deputy J.A. Martin (H)		Deputy of St. Peter		
Deputy of Grouville		Deputy S.Y. Mézec (H)		
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy R.J. Rondel (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)				

1.3 Draft Medium Term Financial Plan Addition for 2017 to 2019 (P.68/2016) - tenth amendment (P.68/2016 Amd. (10))

The Deputy Bailiff:

Very well, we now come on to amendment 10 and I ask the Greffier to read that amendment.

The Greffier of the States:

Page 2, paragraph (a)(i) - after the words “Summary Table B” insert the words “except that the revenue head of expenditure of the Department of the Environment shall be increased by £100,000 in 2017 to fund the production of a long-term development plan for St. Brelade’s Bay, in accordance with decisions of the States on the sixth amendment to the Island Plan 2011: revised draft revision - approval (P.37/2014) presented by Deputy J.H. Young of St. Brelade on 16th July 2014 and the thirteenth amendment to the Island Plan 2011: approval (P.48/2011) presented by Deputy A.E. Jeune of St. Brelade on 22nd June 2011, and the subsequent inclusion of reference to that plan in the Island Plan (as amended), as recommended in the report of the 2011 Island Plan Interim Review, published July 2014, and on the basis of the funding agreed by the Council of Ministers arising from the second amendment to the Medium Term Financial Plan 2013 - 2015 (P.69/2012) presented by Deputy J.H. Young of St. Brelade on 6th November 2012, and the revenue head of expenditure of the Department of Economic Development, Tourism, Sport and Culture shall be reduced by £50,000 in 2017. Page 2, paragraph (a)(ii) - after the words “Summary Table C” insert the words “except that the total proposed central contingency allocation for 2017 be decreased by £50,000.”

1.3.1 Senator S.C. Ferguson:

I think probably the first thing I should start with is a definition of “local development plan”. A local development plan typically comprises a collection of documents that set out a planning authority’s policies and proposals for the development and use of land in the area concerned, including a core strategy document containing a long-term community strategy for the economic,

social and environmental wellbeing of the relevant area. That is what the States voted for. According to the thirteenth amendment to the 2011 Island Plan, there should be a local development plan for St. Brelade's Bay. This was picking up the original proposition of the States, P.15/1968, agreed on 30th April 1968. This limited the number of private houses to be built, allowed limited commercial expansion of the hotels and no further additional commercial development was to be allowed. This was a proposition brought by the I.D.C. (Island Development Committee) on the basis of a pretty robust Parish Assembly called by the Connétable. In actual fact, we - which was myself, the Deputy for No. 1, Deputy Jeune and the then Connétable, Connétable Jackson - investigated the various incarnations of the Island Plans since 1968, but there is no record of any of the requirements of the 1968 proposition being included in any of them. This was brought to the attention of the then Connétable to the Deputy for No. 1 District and myself when the 2011 Island Plan was being consulted on and, as a result, we brought an amendment to the plan requiring there to be a local development plan for St. Brelade's Bay. This was passed by the States Assembly with 38 votes to nil. Now, just in case anybody does not have a copy of the Island Plan in their briefcase, which is quite possible, I think, paragraph 4.86 of the Island Plan says: "St. Brelade's Bay is generally regarded as one of the most beautiful natural bays in the Island.

[14:45]

Successive development plans have sought to retain and protect its natural beauty and character while recognising its role as an attractive place for tourists and Islanders to visit and as a place to stay and live. However, it is important that the spirit of the 1968 proposition, Development in St. Brelade's Bay Area, P.15/1968, and the 1989 St. Brelade's Bay Environmental Improvement Plan continue to be addressed in this and subsequent Island Plans where they remain relevant today." Paragraph 4.87 says: "While the landscape, setting and important open spaces, which characterise the Bay, are identified and protected through Island Plan policies, there is considered to be a need to review and develop a more detailed planning framework for the area and specifically the defined built-up area, including those parts of the built-up area within the green backdrop and shoreline zones to ensure that current and future pressure for the development and redevelopment of existing buildings in particular is sympathetic to its context and does not detract from the visual amenity of the Bay and the public enjoyment of it." Proposal 16, which codified that, said among other things: "The Minister for Planning and Environment will develop a planning framework in the form of a local development plan for Five Oaks and the St. Aubin area and for St. Brelade's Bay to ensure that development is sympathetic to its context and does not detract from the visual amenity of the Bay and the public enjoyment of it." It says: "This will be adopted as supplementary planning guidance to be approved by the Minister for Planning and Environment." In actual fact, supplementary planning guidance can be a policy, but this is where I think you will find that the Planning Department and the working group concepts diverge because, as you will recall, I defined a local development plan. This paragraph is headed: "Local development plans" and it says: "The Minister will develop a planning framework in the form of a local development plan." Most people's concept of a local development plan is similar to that which they put together for St. Ouen's Bay before it was incorporated into the Island Plan. When the new Deputy for No. 1 District, John Young, realised nothing had been done about the local development plan, he organised funding and the States were happy that the project was funded and would proceed. As you will have noted from the report accompanying this amendment, the only thing that has been done is the loan of an officer to discuss the project. Such a project needs funding, which Deputy Young had effectively arranged, but by early this year we were being told - this is the working group, a representative working group which was put together by the Connétable - that there were insufficient resources and, in effect, it was just for supplementary planning guidance, which is just

that, planning guidance. It was expected that there would be Parish support, which translated means a contribution from the Parish coffers. The inspectors who reviewed the Island Plan in July 2014 recommended that the local development plan be completed as a matter of urgency. So we have funding, recommendations for urgency, and where are we? No further forward. The Bay is designated as a built-up area with all that that implies. On that basis, you could build a housing estate across the Bay. Is that what we want? We have green backdrop zones which Planning ignore. We have green zones which are not. We have a coastal national park where trees and vegetation are being stripped willy-nilly. We have seen landscaping plans which look to have been drawn on the back of a fag packet, if you will excuse the colloquialism, Sir ...

The Deputy Bailiff:

I am not sure that is entirely parliamentary language, Senator.

Senator S.C. Ferguson:

All right, they have been drawn on the back of a cigarette packet and which bear no resemblance to what happened. We need a proper evaluation of building density, proper protocols for landscape plans and proper cognisance of the fact that this is a prime tourist destination. The working group was put together last year by the Assistant Minister, who happens to be the Connétable of St. Brelade. Earlier this year, the officer delegated stated that he thought we were not representative so, in fact, we have visited all the hotels, tourist businesses and restaurants in the Bay to make sure that they were on board with what we were trying to achieve, which they are. I might point out, though, to the Assembly that this is the second working group. The first was set up in 2012. The proposal paper presented to that group was identical to that presented to us, and they were also effectively kicked into touch by the department. At the moment, we have a situation where the States made decisions but no notice is taken of any of them. First, we are told there are no resources. Those obtained by Deputy Young have been spent elsewhere. We were told this. There are suggestions that local Parishes make a contribution, so where is the accountability? Is it the Council of Ministers? Is it the Minister? The Assistant Minister? Or is it the officers who have decided to ignore the States decision? Just who decided to ignore the States and spend the funds elsewhere and, in the meantime, let a prime tourist destination face ruin? By the way, what were the funds spent on? Last week, I was told that the department had found the funds and was working on the project, so where is the local community involvement? Surely the officers are not working on it without serious participation of the local community. So we have a *volte-face* of the department - they found the money - but they are still clinging to design guidance when the heading for proposal 16 in the Island Plan, which the States voted for unanimously, is a local development plan and that is what the States thought they were signing up to. The former chairman of the disbanded working group has, in fact, suggested that a planning inspector be appointed to assess the appropriateness of the proposal made by the department to both working groups. This is particularly valid when you consider that design guidance is just that, guidance. This is not the local development plan that is needed to review building density, landscaping policy and proper recognition of the fact that the Bay is an important tourist destination. Given that the comments of the Council of Ministers confirm that the funds have been found for the project, I am merely asking that the States reconfirm that their intention is that we have a long-term development plan for St. Brelade's Bay, a local development plan for St. Brelade's Bay, like the development framework we had for St. Ouen, a plan that provides policies to protect the Bay and confirms the fact that the States will not permit departments to ignore their decisions. I make the amendment.

The Deputy Bailiff:

Is the amendment seconded? **[Seconded]** Does any Member wish to speak on the amendment? The Deputy of St. Martin.

1.3.2 Deputy S.G. Luce of St. Martin:

Can I start by apologising to the Assembly? This subject really should not be before us today. This is work that is currently in hand and being done. However, I obviously have to accept that it is back again, even though it has been the reason for a number of debates previously. I would end by saying I very much hope that today will be last time we need to find this specific subject on our Order Paper. Normally one would expect any Minister to be only too delighted to accept additional funds but in this case, while the cash would be very nice, it is unnecessary. I do not want to reduce the E.D. (Economic Development) budget any further and I certainly do not wish to take money from Contingency, a fund that should be left completely alone and untouched, kept for the purposes it is really meant for. I say that work is underway. Yes, it has been a long road and recently we have made some progress, even though sometimes we have taken 4 steps forward to then only take 3 steps backwards. But either way, we now know what is not working and much more importantly, how we will be moving forward from here. The following is very briefly what has happened since I became a Member of this Assembly. During 2011 and 2012 meetings were held between the Minister of the day, officers and representatives of an emergent working group - which also included St. Aubin residents at the time - to explore what work could be undertaken and how it would be done. That working group contained a number of professionals who expressed an interest in progressing the work. Unfortunately, progress floundered as the working group became lacking in clarity of purpose and became involved in lobbying on planning applications, principally in St. Aubin. Work was therefore not progressed at that time by the planning policy team of my department because of competing priorities, most importantly the imminent Island Plan interim review. I now move to the first Medium Term Financial Plan debate 2012, amendment 2, and the then Deputy Young who lodged an amendment to secure and increase the budget of my department by £300,000, including £100,000 for Island Plan proposals, including master planning, supplementary planning guidance and affordable housing policy review. That amendment was withdrawn after the Council of Ministers and the Minister for Treasury and Resources indicated that requests could be funded in other ways and that Island Plan related money could be bid for from the central planning vote. Therefore, there were no additional monies directly allocated to the Department of the Environment. I now move to 2014 and the Island Plan Review, P.37, amendment 6. Again, Deputy Young sought to secure an amendment to the shoreline zone policy, aspects of this proposed amendment were identified as problematic by planning inspectors. Following meetings with the Minister and officers, Deputy Young's amendments were revised and the Minister lodged his own amendment to address issues identified by planning inspectors. This amendment was adopted. As part of that debate the Minister advised that the existing policy regime for St. Brelade's Bay was robust and that he was prepared to accept an interim review of shoreline zone policy and would work with residents and businesses to develop supplementary planning guidance to help protect the character of the bay. Since the revised Island Plan of 2014 debate, and since I have been in office, officers of my department have devoted a considerable amount of time to working with the working group to develop a proposal to develop new supplementary planning guidance for St. Brelade's Bay. This has included attendance at public meetings, evening meetings of the working group, lengthy individual meetings with the working group Chairman at my department, in addition to correspondence, telephone calls and the provision of supplementary information. The Department of the Environment has provided sound professional planning advice as to how S.P.G (Supplementary Planning Guidance) can be developed to address the concerns of residents within the context of the existing Island Plan. However, managing expectation has been very difficult. New supplementary planning guidance is not an Island Plan review and there is a big, enormous difference. Engagement with the working party has sought to make it crystal clear from the outset that the work to be undertaken was to develop new supplementary planning guidance to complement the existing Island Plan. Any new S.P.G. has to be consistent with the existing planning policy framework already established by the

approved Island Plan. The Minister could not adopt anything that was not consistent with that current plan. The professional planning advice provided to the working group has sought to help progress the development of the new S.P.G. to help protect and enhance the existing character of the St. Brelade's Bay area. This would be consistent with the existing Island Plan and would serve to supplement it by providing decision makers with an additional planning tool to help them consider and assess planning applications in the Bay. Senator Ferguson in her proposition makes much of local development plans. She describes the local development plan as a collection of documents - and I know she had already said it but I will repeat it - that set out a planning authority's policies and proposals for the development and use of land in the area concerned, including a core strategy document containing a long-term community strategy for the economic, social and environmental wellbeing of the relevant area. This reflects the English definition of a local development plan and there is an additional long definition of that but I will not bore Members with it because irrespective of that, English planning legislation does not, of course, apply in Jersey because we have our own. Yes, we already have our own development plan, it is called the Island Plan under Article 4 of our Planning Law. It was approved, the current one, by this Assembly in July 2014. It sets out the planning policy framework for the Bay and, as already stated, it does not require revision as its existing policies are already robust. Sensitive parts of the Bay are already covered by coastal national park and green zone policies. Even the built up area policy, specific to the Bay and as quoted by the Senator, recognises the sensitivities of the built up parts of the Bay, and additional policy protection applies also in the shoreline zone and the green backdrop zone.

[15:00]

So, as I have said, the existing planning policy framework for the Bay is already robust and serves to do a number of things. It protects the existing landscape character of the Bay and this is evidenced by analysis of aerial photos which illustrate the effectiveness of planning policy over time in protecting the landscape backdrop and the general character of the area. The policy serves to meet the reasonable expectation of both the businesses and the residents in the Bay to develop and improve their homes and businesses while being conscious of the context within which they are located. The Bay, as has been said, is the Island's premier tourist destination and is therefore reasonable to expect and to permit some development of tourist facilities and infrastructure in the form usually of hotels, restaurants, cafes or attractions both to serve the demands of visitors and locals alike. Existing residents should also have reasonable expectation to be able to improve and develop their homes as they see fit having regard to normal planning considerations. Any proposal to amend the planning policy framework for the Bay should, indeed must, only be considered within the context of an Island Plan review. The existing planning policy framework does not require review and it is not my intention to bring forward an amendment to the Island Plan or to do so until such a time as the current plan is due for revision; at the moment in 2020 or unless other circumstances change. The supplementary planning guidance that I am proposing to develop, indeed am developing for the Bay will be brought under the powers available to me under Article 6 of the Planning Law and they state that I may publish guidelines and policies in respect of development generally, in any class of development, the development of an area of land or the development of a specified site. My department is already developing a proposal for new guidance in the Bay and it is my intention to progress with this work having regard to competing priorities over the term of this Medium Term Financial Plan. From the outset of this project my department's most senior policy officers have invested considerable time and effort in seeking a partnership approach to the development of new guidance for the Bay, working with the local community. It has sought to ensure that the planning authorities and the local community has jointly initiated action to deliver on the proposals set out in the Island Plan. But this has unfortunately proved

impossible to do for a number of reasons, namely related to the unrealistic expectations of the group, because that group clearly wants to change the Island Plan and not provide additional guidance to supplement it. It pains me to say this but the group has had lack of clarity and purpose. It has variously sought to become engaged in lobbying in relation to individual planning applications and to become active in planning enforcement of alleged breaches of planning control, thus prejudicing its ability to be involved in an objective development of new guidance. The group is also unrepresentative of the Bay's interests, it is largely represented by the views of residents and does not, in my view, reflect business or other commercial interests. Finally, the group has had a limited capacity and capability. Group members have sought to conflate issues and to prevaricate, thus frustrating an ability to secure direction and to make progress. That is very unfortunate. However, I would wish to acknowledge that people have given up much time and put much effort into this project. Notwithstanding that and in the light of what I have said, my department will now simply seek to adopt a traditional consultation method of engagement in relation to the professional-led development of new guidance in which the public and key stakeholders will be able to scrutinise and comment upon draft guidance prior to its adoption. My department does not have unlimited financial and human resources but it will seek to ensure that this project is developed from my own existing budgets over the lifetime of this M.T.F.P. Attempts have been made to explore with the working group and the Parish the potential for a partnership approach that may have involved the pooling of both financial and human resources but this has not proved possible for the reasons I have already outlined. The project will thus be funded from existing Department of Environment resources and will be prioritised relative to the other demands upon planning policy resources. But I have to tell Members, those other demands will include the progression of the future St. Helier strategic priority, including a movement strategy and a public realm strategy for our capital. It will also include a review of the Esplanade Quarter Masterplan, a review of housing land availability, the development of the Jersey infrastructure levy and a review of supplementary planning guidance for planning obligation agreements, the design for homes and parking among others. So you can see we will be busy. Bids for additional resources from the central planning vote will be made as necessary but the engagement of external consultants is still dependent on the availability of human resources to manage projects within my department. So there Members have it. This work is in hand but it cannot and will not necessarily be my top priority. However, that does not mean my team will not get this work done because we will. I repeat, as I said at the very outset, I very much hope that this is the last time this matter becomes before this Assembly but I would ask Members to reject this unnecessary proposition.

1.3.3 The Connétable of St. John:

It was a point of clarity I wanted because as I see it the proposition is to vote for something that the Planning and Environment Department is already doing. If we were to therefore vote against this, will this mean that we are asking the Planning and Environment Department to stop what it is doing or to continue what it is doing. If that is the case, I think it might be wise for the proposer to withdraw this amendment.

The Deputy Bailiff:

As I interpret it, it is simply asking for further monies to be made available to do a certain thing, if those monies are not made available but the Planning Department is doing it anyway, it seems to me that that will not alter the position.

The Deputy of St. Martin:

If it helps, I can concur with that.

The Deputy Bailiff:

Does any other Member wish to speak on the proposition?

1.3.4 Deputy M. Tadier:

In the absence of anyone else or any St. Brelade representatives speaking on this debate, I think it is important I say a few words. I want to start by saying something more general. I have a lot of respect for the way that Senator Ferguson has pursued this, not just recently but historically and working constructively with other colleagues from St. Brelade, be they Deputies or former or current Constables when it comes to this issue. She does highlight a salient point which is quite topical today of all days on 28th September. It is a key date for us, although some of us may not remember it or may choose not to remember it because in this very Assembly on 20th November 2012, and it is a matter of record, the States agreed by a vote of 21 to 18, including Senator Ferguson who voted for it, at the time. That day, 28th September, should be recognised annually by the States of Jersey as Reform Day to make the anniversary of the events in Jersey of 28th September 1769. The reason I draw attention to that is because year upon year since that date, 2013, 2014, 2015 and this year, 2016, 4 years on, we as a States have chosen to completely ignore that proposition that was democratically made by a majority who voted on that day, many of us who would have been there at the time. I do not know why we have chosen to ignore that but we have and I think that there are a whole lot of States decisions that seem to be made that just simply get ignored. They do not get implemented. In this case it seems to me that it is everybody's fault. We have made that decision yet there has been no recognition of that day. There is no flag that is raised, there is no speech that is made in this Assembly by anyone, either the President, the Chief Minister or any other representatives, nobody is asked to go on to the radio to talk about the events of that day, it is not taught in our schools as far as I know ...

Senator L.J. Farnham:

I wonder if this is anything to do with St. Brelade's Bay?

Deputy M. Tadier:

I will not give way unless it is a point of order and I will explain why this is relevant to this particular debate.

The Deputy Bailiff:

I would be grateful if you could come to that quite shortly, Deputy, explaining why it is relevant to this debate, which is, after all, about funding for a plan for St. Brelade's Bay.

Deputy M. Tadier:

The reason it is relevant is because I think one of the key arguments in Senator Ferguson's opening remarks was the fact that the States have made a democratic decision and it seems to her, and it still seems to me, that this decision has been ignored and if it has not been ignored, notwithstanding the remarks of the Minister for Planning and Environment, it has come into difficulty and that still, yet again, we find time and time again that sufficient protection is not being given to the very important Bay of St. Brelade. That is why it is relevant but I also I think it is good that we have been able to at least acknowledge that it is Reform Day and remember that we have a duty to acknowledge the democratic decisions that are made in this Assembly and follow up on them. It may be an inconvenient truth to some, I am afraid. Now, I do have admiration for Senator Ferguson because she sticks by her guns. How many Senators have we seen come and go, that they come via their constituency seats, sometimes in St. Helier, sometimes it is inner St. Helier, outer St. Helier, they progress through the ranks to Senator and some of them become Ministers and they completely forget the areas which they once represented. It is completely wrong, I think, that some have chosen to try and direct an unfair comment at the Senator, perhaps outside of this Assembly saying that this is pure Nimbyism. It is not that at all, we know that the Senator takes a great interest in Island-wide matters but more importantly she does not forget the people that she started off representing in politics. But this is not simply a St. Brelade issue versus the rest of the Island. This

recognises the fact that St. Brelade's Bay is used widely, it is appreciated not simply by people who live there, who live in the Parish, the business owner down there, everybody comes to St. Brelade at some point during the course of their lives. Tourists come there and I think we all appreciate that. So I think that needs to be put on record. I certainly, for one, will support the principle as I have done in the past that the Senator brings, that we must make sure that action is being taken in the Bay, as in all of our beautiful coastline. I do question why the whole coastline of Jersey has not been made part of the coastal national park. Of course, we know that there is going to be built up areas that pre-exist all around the coast that we can do nothing about but it seems to me at some point we need to make sure that the whole of the coast is given that highest level of protection and that only the most appropriate developments, if at all, are allowed to take place. We know that the Senator has experience of that from a personal point of view. I am very concerned as also a long-standing representative of that district, half of which is in my constituency, about the Costa Del Sol-isation or whatever the current expression is of that particular area.

[15:15]

It is not something I would like to see continuing, and it does need concern. If it means putting more finance to support that then absolutely we must do it to catalyse that because the urgency of it has not been recognised up until now.

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

As you might expect, as the Deputy for St. Brelade with the other half of the Bay in his District you would be right to expect me to stand and speak, and also have St. Brelade's Bay at my best interest. As the Assistant Minister for Economic Development, Tourism, Sport and Culture you might expect I would have a great deal of concern of £50,000 being suggested to be taken from our budget. I also wear a hat of great interest to tourism. Tourism across the whole Island, not just St. Brelade's Bay. As a destination we are a whole Island and I just wish to make that point. I will concur a great deal with that that has already been said by the Minister for Planning over many discussions that I have had with him and with the Connétable of St. Brelade. It is very much true what is being said and I, for the benefit of everyone else, will not repeat all that has been said. The working group has been described in some words as a lobbying group as well. That is true, and that has compromised and handcuffed themselves from being the working group that they were set up to be. It is also true that representation wise just because you go and talk to lots of businesses that are not on your working group does not make the representative in the same way as being on that working group. I think that point has been made as well. Sadly, the working group has found it difficult to work alongside the representatives, the highly skilled representatives from Planning and Environment. There has been a difficult relationship there. I would encourage whichever working group is set up in the future that they utilise the skills that are being offered to them over the many man-hours that have been already used and are being used in the future in order that we are not having this debate here during the M.T.F.P. I would hope that work will progress. I would urge the Minister for Planning of course to prioritise it as high up the list, of his very long list, that he possibly can. But I am confident that Planning and Environment are doing everything that they can to support the work that is already outlined and is already being done. I too say that it is completely unnecessary to further fund work that is already under way and is being done. On that basis I will not be supporting this amendment.

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

I am sad to say I will not be supporting Senator Ferguson today. I can understand her frustration with regard to the lack of action taken thus far by the Planning Department to produce a local development plan for the Bay. I share her concerns. I believe there is a real clear and present danger in the Bay losing its charm and its character, but to spend £100,000 on an independent

development plan, when the Planning Department plainly has a plan in place, just does not make economic sense, particularly in this current economic climate. The Bay is a very special place, ranked one of the most beautiful bays in the world. It is the jewel in our crown, admired and loved by thousands of Islanders and tourists alike. This special magical place deserves special care. So I think it is important that we should attempt to preserve the beauty, the essence, the character, the feel, the charm, the atmosphere and the uniqueness of St. Brelade's Bay. We need to protect the greenback drop zone and maintain the scale amassing the building in the area. I believe Senator Ferguson, all 3 Deputies of St. Brelade, and Constable Pallett should all pull together to make sure the Minister for Planning and Environment and his department deliver a robust and sensitive plan for the Bay going forward. The plan needs to be delivered sooner rather than later.

1.3.7 Connétable S.W. Pallett of St. Brelade:

Members will be pleased to know that I am going to keep to the short speech rather than the long speech because I did have a long speech ready for this afternoon, and rightly so. Not only am I Constable of the Parish, I am also Assistant Minister for the Environment, I think people would have expected me to say some words this afternoon. But I am going to keep it really to some comments that the Senator made. The Senator lives in St. Brelade's Bay. I think most of us know where she lives. She is very passionate about the Bay. I live now on the edge of the Bay and I am equally passionate about the Bay. I walk down there virtually every day with my dogs, through it, round it, view it from the beach and it is without doubt ... and I have not travelled extensively but I have travelled enough to know when I know something is beautiful and that bay you will struggle to find anywhere more beautiful in the world. Which says to me that unlike the comment that we need to protect a prime destination from ruin, it certainly is not in ruin. It is in good working order, but as my Deputies have already said, they are cognisant of the need to protect the Bay and carry on protecting it. Rather than going through the speech I was going to go through, I want to go through a few points. Firstly around the working party. I think the Senator is aware that I have utmost respect for the work that the working party have done, I hope she is. I hope she can pass that on to the members of the working party. I have done my best to help where I can but I have had to be careful that I was not conflicted as being Assistant Minister at the department that I got too involved with the work, so I very much wanted the working party to get on and do their own work. They produced an interim report. Some people may have seen it, some may not have. It is quite an extensive document. There is a lot of good work in it but I cannot agree with many of the conclusions that they came to, although I believe that there is some work in there that the department can use moving forward. Very important work. Whether the group is representative is a moot point. Clearly there are representatives of business, the Senator herself is a director of a company within the Bay and whether that is a conflict or not is not for the here and now, but there clearly is some business interests on the group. I think they do understand, though, and they understood towards the end of their work that there needed to be a wider representation on the group and we were working towards that, which disappoints me that the group and the chair have decided that they wish to disband the group, because I think there is an opportunity for them to engage with the department and carry on with the work, and work with us to produce supplementary planning guidance that is worth its salt and will protect the Bay. Much has been made of a long-term development plan. I think and I hope to think that the Senator and the working party understood what they were setting out to do. I think it is clear from the Planning Inspector's report from the examination in public in 2014 what he expected us or expected any working party in the department to do. That was provide supplementary planning guidance. They were quite scathing in a way that it had not been produced earlier. It is probably quite right. There are various reasons for that. I think the delay coming into this period of time over the last couple of years was due to the elections and then it took some time to get the working party up and running. But it was clear what they felt should be produced and I think it is clear from a letter I sent - and I do not have

a copy of the letter but funnily enough I found all my notes from the meetings that we had, both in the Parish Hall and when we first met - to the members of the working group asking them to take part that I would be asking them to work towards, and I will quote from my own letter: "Developing supplementary planning guidelines." I think it was clear then what we were setting out to do. I think there has been some misunderstanding. If that is anything to do with me, I apologise and I think the Minister would do the same if there has been misunderstanding. But the document that the senior planning officer put to the working group, I think, was quite clear and it recommended this be achieved through development of design guidance. It is quite clear from his discussions with the group that what he saw was supplementary planning guidance and I think the group probably felt that that was not going to be strong enough. I feel it is going to be strong enough. The current planning guidelines in the Bay, which have already been mentioned by the Minister are strong enough, they are robust enough, in fact in regard to the shoreline policy they are probably too robust and there probably needs to be some movement on that to allow the hotels as we move forward to develop, change and move with the times. Something that Deputy Norton has been quite clear about, that it is a living and working environment and it is important that it remains so. There have been mistakes, let us make no bones about it. There are probably some developments in the Bay that all of us would find probably not to our liking. I like modern, contemporary buildings but there is a place for modern contemporary buildings and sometimes we have to be very careful about what that looks like. That is where the supplementary planning guidelines come in. I think they need to be stronger, they need to give an idea of scale, mass and design, something that is not currently in the plan and something that I hope that the Minister, myself as Constable and as Assistant Minister, and the working party, and the Senator - and the Deputies - can work towards providing. One thing I certainly do not think, and I know it has been mentioned. The Senator is not here because of any Nimbyism, she is here because she believes the Bay needs to be protected. Something that I think we all agree. We all go down there now and again. I think if we do not then we are missing one of the most beautiful parts of the Island. But we all agree that we need to protect the best of our environment. We are Ministers or Assistant Ministers in the Environment Department, it is our job to ensure that our environment is protected. It is not the Planning Department anymore, it is called the Environment Department for a reason, because we all live in it and we need to protect it. I will carry on doing that. I think I will do my part in ensuring that I hold the Minister to account in a way to ensure that we provide what we have said we are going to do in the timeframe that he has promised. He said by the end of this term. It will be by the end of this term. It is not that I do not want to support the Senator, because if I did not think we were doing the work I would vote for this amendment but we are doing the work. I do not think we need to transfer money from other areas of government like Contingency and from other departments to do this. If we need to find the money, and if I see anything in the department that needs to be funded, I shall be knocking on the Minister's door to say: "We need to push this forward" or: "We need to make sure this work is done." It does need to be professionally led. In a way there are parts of the amendment I do not like because it is suggesting that the department does not have professionals that can lead on this. We have, they are immensely professional. I have a huge amount of respect for what I have seen from the work that the officers do. I know we will probably not totally agree with maybe some of the advice that the working party have been given but, nevertheless, I think our own policy office have done their best to try provide the support for the working party. I am not going to be scathing or negative about the working party because trying to get lay people or members of the public to assist in government and help us is hard at the best of times. In this case we had a number of people, 8 to 10 people willing to give huge amounts of time up to try to help us as a department to reach where we needed to reach. I have the utmost respect for them, I do not want them to pack up working, I want them to carry on. I really want them to be part of something that is meaningful and we can take forward and be part of planning guidelines that will assist - I have one of the Planning Committee sitting right next to me here - to

help him to be able to make decisions on the Bay in future. I think I have probably said enough. I said a lot more than I was going to say but, like I say, I have the utmost respect for the working party. I do not think this amendment is necessary. The work will be done, you can hold me to account, Senator, if this work is not done by end of this term. I am sure you will be throwing it down my throat at the next election, and rightly so. I am not sure we need a much longer debate on this, I know we have probably sat longer than we ever thought we would this week and I know Members may want to speak after what I have said, but for me we are doing the work and I will do my utmost best to make sure that we do it on time.

[15:30]

We can sleep in our beds safe that St. Brelade is going to be in good hands moving forward.

The Deputy Bailiff:

Does any other Member wish to speak on the amendment? Very well, I call on Senator Ferguson to reply.

1.3.8 Senator S.C. Ferguson:

It is not so much the Bay; it is the fact that there has been a very dilatory ... I am not criticising the Minister because this happened before his time. It is the dilatory response of the department. The Minister has said that we have had all these experts helping the working group. Well, the Director of Policy, a very nice gentleman and very competent, wrote to us on 27th May saying: "With regard to the resourcing of any proposal, it has simply been stated that the Department of the Environment is unlikely to be able to resource the project in its entirety and would need to draw on some local support." In other words, money from the Parish. Now they have suddenly found the money. I think that is brilliant. I wish I had a golden goose like that. Yes, I think the Connétable is probably right because the thing that the States voted for, it was a local development plan and it has been watered down to design guidance. I have looked up design guidance and unless it says design guidance policy or policy design guidance it is what colour do you want the houses? That sort of thing. It is not what we need for the Bay, not looking at the planning decisions that have been made over the last year or so. The last 5 years I would say. In actual fact, when we were talking about the inspector, he was talking about the perverse effects of the Minister's amendments to Deputy Young's proposal. You know, the expectations of the residents, the businesses, everybody in the Bay as well as the last but one States Assembly was for a local development plan. The planning policy framework that everybody says exists is not being applied and it is not sufficient. It is not robust enough. Do people want the Bay to become Hong Kong or, nearer home, Portelet? Do we want the Bay to become a haven for 20,000 square foot palaces? I do not know; the States will make their own minds up. I would like to know, however, when the Minister expects to present the proposals he is talking about to the community. That, I think, is really quite important because it is all right to talk about unrealistic expectations but with great respect, Minister, through the Chair, I think the population of the Island is entitled to know when we can expect to see these plans for which we have miraculously found the money. As I say, we were attended by one officer who told us there were no resources and the Parish will need to contribute. The Connétable, yes, he is reconstituting a working group as a more representative group, although, as he says, I am a director of a tourist business in the Island so I can see both sides of it. Deputy Norton, yes, it looks as though it is just for St. Brelade but in actual fact I think all tourists visit the Bay. Deputy Truscott, the cost is not worth it. It is not worth £100,000 to save St. Brelade's Bay? Oh well. We will obviously have to wait and see but I hope the supplementary guidance will be sufficient, will be strong enough but judging by what has happened so far I am a little concerned. You know, we do need landscaping; some rules, some protocols for landscaping in the Bay. Tree protection, building density and remember that it is a tourism destination area. We are not criticising the

abilities of the officer we were using. He was obviously constrained by internal policies but we are concerned, it is a major tourism area, but more importantly the States in 2011, 2012 thought that they were voting for a local development plan, approved it unanimously and here we are and we still do not have it. So who is dragging their feet? I would ask Members to support this in order to help encourage the tourism industry which is gaining so much more importance nowadays as another leg for the economy. We are putting money into tourism and yet we are neglecting the assets, it does not make sense. To ignore what the States have said they want done, that is also tied up with this amendment. I ask for support and I also 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: 13		CONTRE: 31		ABSTAIN: 0
Senator S.C. Ferguson		Senator P.F. Routier		
Connétable of St. Saviour		Senator P.F.C. Ozouf		
Deputy J.A. Martin (H)		Senator A.J.H. Maclean		
Deputy of Grouville		Senator I.J. Gorst		
Deputy J.A. Hilton (H)		Senator L.J. Farnham		
Deputy J.A.N. Le Fondré (L)		Senator A.K.F. Green		
Deputy K.C. Lewis (S)		Connétable of St. Clement		
Deputy M. Tadier (B)		Connétable of St. Peter		
Deputy M.R. Higgins (H)		Connétable of St. Lawrence		
Deputy J.M. Maçon (S)		Connétable of St. Mary		
Deputy S.Y. Mézec (H)		Connétable of St. Ouen		
Deputy R. Labey (H)		Connétable of St. Brelade		
Deputy T.A. McDonald (S)		Connétable of St. Martin		
		Connétable of Grouville		
		Connétable of St. John		
		Connétable of Trinity		
		Deputy G.P. Southern (H)		
		Deputy of Trinity		
		Deputy E.J. Noel (L)		
		Deputy of St. John		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy of St. Ouen		
		Deputy S.M. Wickenden (H)		
		Deputy S.M. Bree (C)		
		Deputy M.J. Norton (B)		
		Deputy of St. Mary		
		Deputy G.J. Truscott (B)		
		Deputy P.D. McLinton (S)		

1.4 Draft Medium Term Financial Plan Addition for 2017 – 2019 (P.68/2016) – eleventh amendment (P.68/2016 Amd.(11)) - as amended (P.68/2016 Amd.(11) Amd)

The Greffier of the States (in the Chair):

We now move on to amendment 11. Deputy Lewis, do you wish to speak to it as amended?

Deputy K.C. Lewis of St. Saviour:

Yes, please, if Members are content.

The Greffier of the States (in the Chair):

I ask the Greffier to read to the amendment as amended.

The Deputy Greffier of the States:

1) Page 2, paragraph (a)(i) - to agree in principle that the payment of recurring water charges (“water rates”) or the cost of supplying drinking water, as appropriate, attributable to all properties previously affected by pollution from the Airport Fire Training Ground (except for those where a legally-binding agreement is entered into with the States of Jersey or the Ports of Jersey in relation to water supply following such pollution) shall continue until such time as water from all the boreholes and wells supplying such properties have been declared (on an individual basis) safe for drinking purposes in respect of such pollution (that declaration to be made by the Minister for Health and Social Services in accordance with the Appendix to the report accompanying this amendment), and in consequence thereof, after the words “as set out in Summary Table B,” insert the words: “ except that the net revenue expenditure of the Department for Infrastructure shall be increased each year by an amount to be calculated by the Treasury and Resources Department sufficient to cover the payments in relation to such water supply.” 2) Page 2, paragraph (a)(ii) - after the words “as set out in Summary Table C”, insert the words: “except that the total proposed central contingency allocation shall be decreased each year by an amount to be calculated by the Treasury and Resources Department to cover the amounts identified in paragraph (1) above.” 3) Page 3, new paragraph, after paragraph (d) insert new paragraph as follows: “(e) to request the Minister for Treasury and Resources to seek to increase the dividend payments from Ports of Jersey by an amount sufficient to cover the payments in relation to water supply set out in paragraph (a)(i).”

Deputy J.A.N. Le Fondré:

Can I just declare an indirect financial interest as previously advised? I declare the interest but will reserve my right to speak and vote later.

Connétable J.M. Refault of St. Peter:

May I make a similar declaration? As Member will know, I was Chief Officer throughout the period of the pollution and also my position now as Constable of St. Peter representing the parishioners of St. Peter and also representing the people of Jersey as the shareholder representative looking after Ports of Jersey and would ask whether you require me to withdraw or can I take part in the debate?

The Greffier of the States (in the Chair):

You are not required to withdraw because of those factors, Connétable. Connétable of St. Brelade.

The Connétable of St. Brelade:

I would also like to declare an interest in regards to a legal agreement I had on a previous property I owned in the Bay. I think it is unwise for me to take part in this debate.

The Greffier of the States (in the Chair):

Members should note that the second and third parts of the amendment fall away if the first part is rejected. Deputy Kevin Lewis.

1.4.1 Deputy K.C. Lewis:

This amendment is brought on behalf of the residents of both St. Brelade and St. Peter, a number of whom are either listening or watching online. A large number of households and businesses have for decades been affected by contamination coming from the airport caused by the firefighters in the early 1990s when they were using a certain type of foam while training to put out fires. It emerged it was being used near an old well or soakaway and somehow entered into the groundwater used by so many householders for drinking water. I would add I have the greatest respect for the Airport Fire Brigade, they were just using the tools they were given at the time. It emerged that the foam was carcinogenic and so the saga began. In 1985 the airport was warned of a concern by a member of the public that firefighting foam was being used for training purposes too close to what was described as an old well. A response was received giving various assurances. Some 5 years later the official analyst laboratory confirmed the presence of contaminants in the water supply of a resident. Shortly thereafter, as you will see in the report, a resident found foam in a land drain. Three and a half years later, the airport accepted that it had contaminated the water supply. It subsequently became apparent that it was the actual aquifer that had been contaminated with constituent parts of the firefighting foam. Part of that which is known as perfluorooctane sulfonate or perfluorooctane sulfonic acid, P.F.O.S. or P.F.O.A. for short. To quote the United States Environmental Protection Agency, which is the agency referred to by the States of Jersey Health Protection Unit in correspondence with residents: "Studies indicate the exposure to P.F.O.A. and P.F.O.S. over certain levels may result in adverse health effects, including developmental effects to fetuses during pregnancy or to breastfed infants (e.g. low birth weight, accelerated puberty, skeletal variations), cancer (e.g. testicular and kidney), liver effects (e.g. tissue damage) and also immune effects (e.g. the antibody production and immunity) and other effects." Of course this is not just some of the surface pollution that could be mopped away. If one looks at the height of the runway and looked down to St. Ouen's Bay, the P.F.O.S. has gone down some considerable distance, some 150 feet down to the bay below, then way down to the shale aquifer. I should emphasise that in the early days the dangers and consequences of what happened were probably not realised. However, there is no doubt that the airport poisoned the water in St. Ouen's Bay. The poisoning stretches west from the airport and has reached the sea wall, St. Ouen's pond to the north and, I understand, Le Braye to the south, thereby affecting all properties covered by that area. If the Water Pollution Law had been in place the principle of polluter pays would likely have been applied.

[15:45]

The point here, as far as residents were concerned, previously they had a good potable source of water that was basically free. The views therefore of the residents was that not only should the airport have been providing mains water, they should also be responsible for the water rates arising from that main supply. That is the basis of the original 2007 agreement that was sent out to affected properties. During 2006 and 2007 at public meetings held between Government Ministers, airport officials and affected residents and property owners, certain promises were made to those affected. Those promises were backed up in writing. From almost the very beginning of this issue, both sides have wanted to settle in the spirit of good neighbourliness. Over the years the affected residents have had a relationship with the airport based on trust and every action taken has been based on that trust. This is why there has been no urgency to finalise agreements when the airport started delaying them and this is why legal action was not taken against them. It was not needed as there was trust. However, the newly incorporated Ports of Jersey have changed this. The approach is not that of good neighbourliness, rather that the Ports of Jersey have become aggressive and are renegeing on promises previously made. It is simply not fair that the trust of residents is now being turned against them. So what this proposition is seeking to do is to apply a political solution; a fair solution rather than a narrow legalistic solution. This is not an issue of saving money in a corporate

world. This is a matter of publicly elected representatives ensuring that the people that they are directly responsible for are treated fairly. I would like to address some of the points and the comments from the Council of Ministers, which hopefully will also indicate how and why residents consider that matters are being reneged upon. I will also come back to it in summing up. One, frequency of testing. The point is that the levels fluctuate, therefore you need to have more than one reading per year. The airport in the past have been doing twice a year and therefore it seems reasonable to continue on that basis. Two, the Council of Ministers stated that the basis of determining whether the water is safe is being changed. Firstly, this is about a precautionary approach, something which the airport have previously said they were taking. This contamination is dangerous. This is following the approach originally laid out by Health Protection. If Members look at page 5 of the report accompanying this amendment they will see the reference to 2 letters referring to the U.S. (United States) Environmental Protection Agency. That was the standard being applied at the time. It is the U.S. E.P.A. (Environmental Protection Agency) that have issued a revised standard in May of this year. Three, Ports imply that this is about compensating those not affected. The proposition is quite clear. It is about all properties affected by pollution from the airport's training ground. They have either been affected or they have not, so it is not about compensating those who have not been effected. Four, language is being used ... I want to give a couple of very specific examples of where residents think there is a huge legal hair-splitting going on. In a meeting last week between Ports and the secretary of one of the estates, the Deputy Chief Executive said the following: "For those households the Ports of Jersey do not feel that have contaminated water supply, we will send letters advising that they will start charging for the water supply, giving a fair period of 3 months' notice." The policy is first agreed whether a community or individual water supply is affected or not. To achieve this the Ports of Jersey have engaged a U.K. consultant to determine this. He does not believe the water supply is contaminated, or indeed has ever been contaminated. Yet in my hands I have 2 sample reports produced by the airport, one clearly shows readings for P.F.O.S., that is the borehole has been contaminated. I will note that it was a few years ago but around the time of the original draft agreement. But there are contaminants and they are above the U.S. safe limit. I am informed that there are 2 boreholes which many States residents share, but that the airport is only testing one of them. But perhaps more importantly the other report is for a separate, private that is, borehole on the same estate. The last reading for May of last year is above the U.S. limit but below the U.K. limit, therefore there is a concern that the airport will just say: "You are not contaminated and it is no longer our problem." Bear in mind that this year, and again Members will see it on page 7 of the report, the airport wrote one letter talking about the asserted pollution. A possible source of the contamination was asserted to have been caused by the use of firefighting foam, which it has been asserted to have caused. Not only has the previous Airport Director admitted it was the responsibility of the airport, it was also included in the public document of the proposition dealing with the settlement from the multinational company that provided the foam. Am I allowed to mention the company's name? I think it is in the public domain.

The Greffier of the States (in the Chair):

Yes.

Deputy K.C. Lewis:

The company was 3M. We received just over £2.5 million. If it was only asserted pollution and unproven then do we need to repay this money to 3M if there was no pollution? Of course not, but this just gives the overall impression of a corporate organisation trying to apply weasel words to their dealing with members of the public and wriggle out of their responsibilities. Residents are concerned that they are being railroaded by an aggressive corporatized style approach. I repeat, this is not an issue about saving money in a corporate world, this is a matter of publicly elected

representatives ensuring that the people they are directly responsible for are treated fairly. I ask for Members' support and I make the amendment.

The Greffier of the States (in the Chair):

Is the amendment as amended seconded? [**Seconded**] The Connétable of St. Peter.

1.4.2 The Connétable of St. Peter:

I hope Members will bear with me, I had expected to be required to leave the Chamber for this debate so I have not prepared a speech. It is going to be very much ad lib. Just to give a flavour, you have just had a letter circulated around to all of you a few moments ago. That is as a result of an early morning meeting this morning in the Chief Minister's office with the Minister for Treasury and Resources, myself, other officers and the executors of Ports of Jersey present. We worked very hard with them to come to what we hope is a pragmatic solution that gives comfort to the residents of both Le Grande Vingtaine in St. Peter and Le Mont Le Grand estate just outside St. Peter and St. Brelade. What I would like to do with your permission is just to read the content of the letter for the sake of Hansard.

The Greffier of the States (in the Chair):

I do not think it is usually in order to have letters read into the record. Perhaps you could summarise the key points in your own words for the Assembly.

The Connétable of St. Peter:

Thank you very much, Sir, for your reply. I am just trying to pick the main points now. Discussions collectively represent some 30 or so domestic properties in addition to engagement with quite significant commercial businesses. "As we work through the domestic properties I can confirm that Ports of Jersey will offer a settlement based on the original Council of Ministers' direction in 2010 to those properties which have contaminated water supply and remain in ownership by the same people as at the time of that contamination. This settlement will be based on a property's water usage for prohibited purposes and includes a time period of 25 years from the 2010 Council of Minister's Direction. Most importantly, if any affected property owner is subsequently unsatisfied with the settlement offer, we would agree to mediation to reach a conclusion with that owner" signed by Doug Bannister, addressed to Senator Alan Maclean, the Minister for Treasury and Resources. With that said, what we have asked the Ports to do as part of the decisions this morning, the early-morning meeting this morning, is to try and move this on. In some ways, while this has been a challenging item, I thank Deputy Lewis for bringing it forward because it enables me as a Constable of a Parish to help my parishioners to move forward to a conclusion which is good for them and also those few people in Le Mont à La Brune Estate as well. I think if I can just set the scene a little, certainly the product is, as Deputy Lewis said, a 3M product known as aqueous film-forming foam commonly called Light Water because the water floats on fuel, effectively. The offending item or compound within it is perfluorooctyl sulfonate which is the part which is what we are really concerned about. All airports within the British Isles are required under Civil Aviation rules that their fire departments train aggressively with the use of the foam so they can see the effects of that on fires and how it works and how windage will affect it and how strong updrafts will carry it upwards as well. That was required to be done on a 3-monthly basis for every fire-fighting shift. When this matter came to a head, we were very, very concerned at that time. We had hydrologists in which gave us an indication where a possible plume could extend to and that was effectively the 2 streams that bound the area of the plume: that is the stream that runs through the sand quarry and the stream that runs through Val de la Mare through the St. Ouen's Pond. They are effectively the barriers to the plume going any wider. However, because it was right on the edge of the plume, we decided to include Le Mont à La Brune Estate and also did some testing on the Jersey Water Company's boreholes in Les Blanche Banques in St.

Brelade which feeds into Val de la Mare Reservoir. Our concern at that time was so strong that we suspended all training with fire-fighting foam and we chartered on a regular basis what was Rockhopper in those days, now Blue Island, to take the fire crews over for half a day at a time to Bournemouth Airport to do their fire-fighting training over there with the use of foam. So I think in that regard the airport has been very much aware of its responsibilities, as Deputy Lewis said, that the polluter needed to resolve this issue and the polluter paid. The polluter then went on to pay quite a lot of money in bottled water for drinking purposes immediately as we became aware of the problem. Bottled water was delivered on almost a daily basis to the householders down there and subsequently it was decided it would be more effective to put them on water mains, which happened over a period of time immediately afterwards. I believe some of the commercial premises on the Five Mile Road, while the trenches were open, were also given foul sewage as well at that time which was a benefit to them at that time as well. I have to acknowledge that on reading the proposition from Deputy Lewis, some of the comments in there which he highlighted did seem to be probably a little bit more aggressive than one would expect them to be and that is a matter that the Ports will need to understand and take on board. We do live in a very political environment, so we are very close to our politicians and so are the people, and we need to be aware of that. But certainly I hope and believe that this letter dated today, 28th September, from the Chief Executive Officer of Ports of Jersey, will give comfort to the residents that we are working hard to find a solution and certainly now that I think we have got to this point, I will certainly, in my role as shareholder function with the Ports of Jersey, continue to put pressure on the chairman of that company to try and get this concluded as soon as reasonably possible. Thank you very much.

1.4.3 Deputy J.A.N. Le Fondré:

Can I just say, I do thank the Minister and the Assistant Minister for the letter to come through? I will address some obvious concerns, only having just seen it in the last minute. But quite literally I think I will go with the speech initially because it is trying to build up on where residents are and I think it is quite important Members do understand there is a lot of angst and anxiety and anger as to where we are today. To be honest, it should not have been necessary for a debate to come to this today. St. Ouen's Bay is one of the many jewels in the crown of this Island and I can think of very, very few places in the world which beat it. But from 1985 to possibly 1996 the airport poisoned the water which supplied quite a large number of households and properties in the area. It was poisoned with a potentially cancer-causing chemical and that pollution continues to this day.

[16:00]

There is a little bit of expansion on what Deputy Lewis has just said, I am afraid, but I think it is important to understand. Now very clearly it was not a deliberate act; no one in their right minds does that. I am not in a position to judge if it was, I will use the word "negligent" because that is the view that is shared by many residents, but particularly, and this is in the light of the delays and procrastination that has occurred during the last decade, this is not something that has been going for a year or 2 years, it has been going on a long time. The point was it was caused by a States body, the contamination got into the ground water and there was certainly correspondence referring to an old well. Deputy Lewis referred to part of it, I have a copy of the letter, and it is: "With reference to the fire practices which take place at the boundary of the airport. I would like to take this opportunity to draw to your attention to the possibility of contamination to well water on the neighbouring farms. During the winter of 1984, foam was present some 30 yards from a well. I was perturbed to see this as I am not familiar with the chemicals used to extinguish a fire and indeed which were used to simulate such an occurrence. Owing to the rock formation on the western slopes after heavy rain, water finds its way very quickly to the lower regions. I am therefore anxious to be notified as to the result of that as soon as possible." The response has been

annexed in the report from the airport who stated that they only used water but also that: “The Airport Fire Service is well aware of the need to avoid pollution and every care is taken to avoid this.” Evidently not enough care was taken over time. What I would like to do is just talk through the little pack that I have sent around because it has been quite a complicated subject and it is just trying to understand how this happens. Firstly, on page 2 there is a little diagram. What Members will see is a F.T. (Fire-Training) ground, they will see a soakaway and just underneath that they will see a little shaded thing which says “pollution” and the theory is that the pollution is tracked under the soakaway in a sort of sump arrangement because of the rock formation down there. When it rains, potentially the pollution rises, it goes over the sump, and flows down the hill. That is certainly one thought that was around, things may have improved since then, from about 1995, 1997. But the point is that contamination into the ground water, it did come from the airport fire-training ground. It has been confirmed on at least 2 occasions, once by the Airport Director of the day and once in this Assembly. I would just like to refer to the letter from the Airport Director just so there is no avoidance of doubt: “Dear Mr X, I write to confirm our 2 recent conversations as a result of my visit to you last week. I agree that Jersey Airport has been responsible for the contamination in the well at your farm.” Now to me, that was the right response. It is very clear, it is very responsible, no messing around. Obviously, from the airport’s point of view, they tried to move things forward. What I want to do is put things into context. In 2000, the committee was considering safety levels that were expressed in 100 parts per million. The British limit is now one part per billion and the U.S. limit is 70 parts per trillion and that was updated in May of this year. Now just while I am doing this, it is not a magic trick, Members may recall when I have done G.S.T. (Goods and Services Tax) things that I have the occasional prop. So this is one careful prop which has now leaked, so we will keep it there. What I would like to do, if I hold that up, that is about 3 millimetres of fluid, okay? Imagine it in the bottom of a cup. You can just about see little dark bits there, yes? Right, if I can just put that somewhere behind me; I do not really want that falling over. I would like you to visualise a room one and a half to 2 times the size of this Chamber and fill it with water, okay? Have you got that? If that volume of water was filled with more and that dye in that quantity, that would be a toxic level of the pollutant according to the U.S. Environmental Protection Agency, okay? One and a half to 2 times the volume of this Chamber. I am being rough, okay? But it gives you an idea of what we are talking about but I hope it illustrates how toxic this stuff is. Now, as Members will see, those are direct photographs from one of the residents as to when the contamination started emerging. Over the page, I always love numbers to bits, I am not going to bore people too much, on page 4 we look at the top right you will see a “60” under the column of P.F.O.S. These numbers are from the airport, okay? The 60 is the level of reading in 2000, so this is at least 4 years after, in theory, this foam was no longer being used. That is 60 times the British limit and the U.S. limit is significantly lower. You then look at the bottom lines which have got some yellow splodges next to them, and it obviously settles down, 23rd February 2005 it is 5.8 and a month later it goes up to 12. Go over the page, and this is from a live borehole, I hasten to add, and the point I would make, it is within about half a mile of most of the affected properties and there is a reason for saying that very shortly. What you will also see, the fluctuations occur again, this time in December 2008, 3 and a half, it goes up in June 2009 to just under 6, so it fluctuates and it changes relatively rapidly. Then to bring us all the way forward to June of this year, if you look at the bottom we are at 6.8. Just to make that visually more helpful, over the page there is a graph. Obviously the left-hand reading of 60 is off the scale but Members will see that the right-hand peak is the highest reading in the last, I think, about 8 and a half years. Now just to bring that home, the solid red line at the bottom, that is the British standard, the dotted red line right at the bottom of that graph is the U.S. standard. The other point I would make over the following page, trying to back up about this U.S. standard bit, is an extract from a summary of the U.S. Environmental Protection Agency. Members will note it is May 2016, it is an advisory note, but it is their recommendation, and it talks about 0.07, that is significantly below the level of

one part per billion that the British standard is and which the airport are presently using. At the bottom, which is more important in a way, it confirms that if you have in this instance P.F.O.S. and what is referred to as P.F.O.A. in the same thing, you should add the 2 together and compare them to that low limit of 0.07. The other difficulty is that the impression many residents have in the dealings is that the airport has been talking about P.F.O.S. whereas, for example, this proposition is not specific, it talks about the contaminants because there are about, I will say, 5 to 7 contaminants. There is P.F.O.S., there is P.F.O.A., there is P.F.H.S. (Perfluorohexane Sulfonate), there is T.D.F.O.S. (Tridecylfluorooctyl Sulfonate) I think which is not directly fire ground. I cannot remember the other letters, but there are other readings in there. Now I would also point out that the graph and the table were taken from a kitchen tap. This particular household continues to receive bottled water. Members will be delighted to know I have managed to skip a fair amount of my speech which is good because that is the abridged version. Now, what I will say is that my understanding in relation to adding the levels together, that the Deputy C.E.O. (Chief Executive Officer) of the airport, the man dealing with this at present, the man writing all the letters, did not know of that recent advice some 2 months ago. I can also confirm that the same Deputy C.E.O. has verbally stated it was not really the airport's responsibility and it is not something that a commercial organisation should be getting involved with. All I will say is this amendment strives to sort that out. We will get back to the letter in a minute. The reason I am raising some of the technical points now is they are relevant to how that letter is interpreted. It has also been clear that in the past the airport has been willing to cease payment of water rates before even verifying what the contamination levels were or still are and that is within the last 12 months. The trouble is, from the residents' point of view, that does not demonstrate that their present approach is one of a good neighbour. They do welcome the letter, that is a step in the right direction, let us put it that way, but basically at the moment there seems to be a complete failure in the present executive to continue to accept responsibility for what has happened. That is based on the correspondence about asserted pollution, the asserted pollution act asserted to have been from the airport fire ground, in contrast to 1993: "Jersey Airport has been responsible for ..." nice and clear. Now, as I said, there are a variety of compounds in the contamination. Just looking at one of these, which is P.F.H.S., which is not on the documentation I sent around, okay, because it seems that that testing is only just coming through. Part of the problem here is that obviously the ability to detect these compounds is getting a lot better. But anyway, this is a quote from a U.S. website, the Environmental Working Group: "The half-life of P.F.H.S. is estimated between 2.9 and 30 years in the human body. While the toxicity of P.F.H.S. has not been well studied, its sister chemical is known to damage the liver, to produce either birth defects in lab animals." I am not sounding flippant, but we have heard some of this already. Elsewhere on the site in relation to these types of compounds it states: "They act through a broad range of toxic mechanisms of action to present potential harm to a wide range of organs: ovaries, liver, kidney, spleen, thymus, thyroid, pituitary and testes." Now, out of curiosity, and this is why I raised this, where is the health monitoring programme that should surely be in place? This potentially started sometime between 1985 and 1990. Now the airport did correctly start putting people on to mains water but it has taken a long time. Part of the problem is, again, the ability to detect and it is also about how knowledge is increased. But I can refer to one resident, and some people may well know him, who in 2000, so again 4 or 5 years notionally after the actual act of pollution stopping, had a borehole which tested clear so he remained on that borehole. By about 2004, 2005 it had become contaminated, so it is not clear within that time period how much of the stuff he was drinking. I remind Members of the quote, and it is in the report from the Health Committee of the day: "The science of P.F.O.S. and related chemicals is in its infancy. It is likely that within, say, 10 years, we will know far more about the health impact of this chemical on human health. Early pointers are that P.F.O.S. may have significant effects; it is certainly far too soon to say it is 'safe'. This level of uncertainty makes it unwise for the States to assume that P.F.O.S. represents no threat to human health or the environment" yet it is clear that in 2000 testing

did cease on certain properties because there was no trace of P.F.O.S., that is what I have alluded to, but it came back. Please, now I do accept, and I think the Council of Ministers have accepted, that the airport stance has been not helpful, shall we say, in the last months. This is one of the reasons that residents are very unhappy. But I am going to say this: one of the things that they have raised, and I would imagine the response is because the law came in after the event, by the way, but they have asked: “Was the airport ever challenged under, say, the Water Pollution Law?” One of them sent me an extract so I said I would read them out: “Any person who causes or knowingly permits the pollution of any controlled waters shall be guilty of an offence. If the person is a Minister, liable to a fine, or in any other case, liable to imprisonment for a term not exceeding 2 years or to a fine or both.” Remedial action, and this is probably the more important thing: “Remedial action is where any person has caused or knowingly permitted any controlled waters to be polluted. The Minister may require the person to do all or any of the following things to eliminate, reduce or control the pollution, to remedy or mitigate its effects and to restore the waters.” Obviously I have abridged that slightly. In the words of the Minister for Infrastructure yesterday on a different subject, the polluter must pay. The difficulty is, the people are saying: “Well, hang on, if this had been Mr. Smith or Company X and they had a large oil tank which had leaked catastrophically, badly and disastrously and had contaminated somebody’s well next door (a) that person would be required to remedy that and (b) they would have probably had every environmental health agency you can think of that we have crawling all over them like a rash.” Yet that does not seem to have happened in this instance. The other question they are asking is that given you have got this fluctuation going through and given this thought process that is it every time the water rises it goes over a sump and comes down the hill, is that a new pollution incident each time? Is that what is causing the levels? Do not forget, that level in 2016 is the highest it has been in the last 8 and a half years and yet the contamination and clearly the source of that pollution has stopped, so something is still causing that problem. Now, again, it is the work that needs to be done in there. So, basically they rather feel that the airport should be trading somewhat more cautiously rather than simply telling people: “You now have to pay your rates or be cut off” which is kind of some of the messages that people are getting: “even when the samples do not clearly demonstrate a consistent pattern of safe levels.”

[16:15]

To pick up on the comments against the proposition from the Council of Ministers, it is felt to be a rather different twist of positive steps that the airport has been taking, a rather different interpretation compared to what the views and experiences of the residents has recently been. In terms of approach, there is clearly a lack of consistency in how certain types of residents have been treated. I recently discovered that some residents are, with all probability, still drinking contaminated water but properties on both sides are connected to the mains. I quote a resident who wrote to me recently: “On 23rd January 2007, a letter signed by Alan Maclean to a resident quotes: ‘I would like to thank all those attending the meeting (sorry, I should say Deputy Alan Maclean at that point, Assistant Minister for Economic Development) at the airport on 4th December 2006.’ Nearly 10 years ago now: ‘I can assure you we have noted the points made and are now endeavouring to proceed as quickly as we can to bring this matter to a satisfactory conclusion.’ Some nearly 10 years later a conclusion still hangs in the breeze, like the wind sock at the airport, and you now wonder why the residents have to back a proposition. It is the airport that caused this mess and we have taken around a decade to get nowhere.” Another resident remarks on the comments from the Council of Ministers: “To imply it has not been possible to conclude an agreement because of the residents is scandalous. Absolutely scandalous.” I think that was after they read the comments from the Council of Ministers. A further resident stated: “Incorporation of the airport must not be allowed to enable the avoidance of responsibilities and obligations

previously accepted by officers and Members of the States of Jersey.” I will address some of the remarks on the Council of Ministers’ comments against the amendment. A resident said to me: “It is worth reminding them that residents have never sought compensation. They just want to be put back into the position of where they were before, basically free water which they considered to be good quality drinking water.” That is it. To cite a different resident in direct response to the Council of Ministers’ comments: “To refer to over-compensating is bizarre. The airport polluted and poisoned our water supply. There has been no compensation whatsoever, merely the provision of an essential life ingredient, and I will add on the same basis as before: simply repaying water rates imposed on residents because you have got no choice is not compensation and there are users who would prefer to be on borehole water and who would prefer to return to it but they cannot.” Now I will also refer to the comment, we have kind of touched on it already, by the Council of Ministers: “This amendment changes the basis for determining a safety standard.” Deputy Lewis has referred to it but I emphasise it again, the U.S. Environmental Protection Agency was first referred to by our Health Protection Unit and that is in the report and it is in the correspondence. If Members really want to know, there are 3 files like that to the correspondence one has been able to get together of the residents that have helped to bring it together. It continues even to be a reference today. Something came out of one department very recently and it gave 4 locations on the U.S. E.P.A. website as a source of information. 3M is an American company, therefore, why should we not use a precautionary approach and use the levels as advised by the best scientific data we can get, including from America. I am not picking, I will say, Cleveland, Ohio or wherever it is, it is random, it is a fairly fundamental and sound organisation, it just does not happen to be a British one, but they have a lot of experience in this whole area. So the U.S. Environmental Protection Agency I would hope would be a credible agency to use for a safety level. That is one of the issues. I remind Members of this issue around: has a borehole been contaminated or not? Well, you see, what one concern is, and this touches on the letter, if the airport is using the British standard and somebody is below that limit but above the U.S. limit, is the airport considering them not to be contaminated? This is bearing in mind the quotes that I have read out about the results of this contamination, the poison to your body, are from their websites, from the U.S. sites; they are doing testing. The E.P.A. has done various testing over a number of years, it has been peer reviewed, and that is why they have brought this recommendation out. On the one hand the airport has stated that there are no agreements in place; therefore, they cannot be held to them. This is the point, most people have been acting in good faith because there was a general kind of move and then sometimes there has been a complete about turn. Very clearly, the view is in the last 12 months since incorporation, there has been a really major 180-degree turn. But, for example, the ministerial response, they allude to a previously proposed period of payment as an argument against the residents. This amendment is pretty consistent with the agreement promulgated in about 2007: “Until the water is declared safe, the failure to reach an agreement to date lies entirely at the airport’s door.” Now, again, I will re-emphasise this, the airport states they should not compensate those who are not affected. Absolutely. That would be a complete waste of taxpayers’ money, derogation of duty, all that sort of stuff. That is what that amendment says, Deputy Lewis has addressed it; it has affected properties. So if a property has not been affected by pollution, it will not be covered but if it has been affected and its water cannot be declared safe, then it continues to get water rates. That has to be reasonable. Surely, it is unclear to me how that is against the public interest which is where it used to rest with us as the States as opposed to the commercial interests of a body and, I will say, trying to move away from its responsibilities. Now the Council of Ministers state: “The Ports of Jersey should be allowed to continue to seek equitable settlements with affected owners” which is kind of the view of the letter. Although, as I said, the letter is a step forward to where we were. But to cite one resident: “Not when they have had every opportunity to seek equitable settlements in the past 9 years. The residents and owners have been keen to reach agreement, the airport has been incapable of moving draft agreements on. Instead, they have

blamed all manner of others; it has been everyone else's fault but theirs." Now I do accept that when you are dealing with 76 residences or whatever, 150-odd people, it is difficult to deal with people but number 1, is you deal with them in good faith, and number 2 is, where you had made progress, do not suddenly do an about turn. It is about sitting down and working through. The problem is here, is there, is this argument around: "Oh, we do not want to waste taxpayers' money." Fully understood. The other elephant in the room is: what have the health consequences of this been? That has not entered into the conversation with residents. They have just been trying to get a decent water supply but the trouble is because of the intransigence and because of, I will use the word "aggression", it has been coming through, that picture now potentially starts to change and we do not really want to go there. So, it is not about using different safe levels, it is about using the lowest level from 2 respected bodies. We can talk about legalities and complexities and all sorts of technical problems but ultimately, as one resident put it to me, it is this simple: is our water safe to drink? If it is, then everything is sorted. If it is not, then the polluter, the airport, must pay, and that pretty well sums it up. I think the other remark in response to the comments: "Deputy Kevin Lewis's amendment undermines the positive steps taken by the Ports of Jersey to resolve this issue. Positive steps? Nine years? Hardly positive either by comparison to a snail." These are quite professional people some of them and they are really getting very fed up. What I want to say, the way this amendment was meant to work is it takes the money which Ports are already spending and recommends instead they pay that to Treasury as a dividend, so in theory there is no material additional cost. That money is transferred into infrastructure which is the area recommended by Treasury in terms of the amendment. They then use it to pay residents according to the framework established in the amendment mainly: is the water safe to drink or not? Okay, the amount represents a negligible amount of contingency but I can think of no better use, particularly as it is the intention to make this amendment net neutral in cost terms and to temporarily use contingency to fund this and it is then a matter for the Minister. Now I have tried to make my speech with as much objective fact as possible. I remind Members it takes the whole thing back to the principles originally offered by the airport, it gives a very clear and simple framework. What I would like to do is just look at the letter. Now obviously I have had about 5 minutes to consider this; less than that. Now as we work through the domestic properties, so it is not everybody down there: "I can confirm the Ports of Jersey have offered settlement based on the original Council of Minister's Direction 2010 to those properties which have contaminated water supply." Now, so the big question is, what is their definition going to be of a contaminated water supply? Then it is going to be: "... and remain in ownership by the same people as at the time of the contamination." Well what time do we use? 1993? 1996? 2004? Or do we use the latest blip of 2016 and 6.8? Because the difficulty is that contamination on the basis it is the highest level in 8 and a half years is potentially flowing down to everybody else. In other words, there is a fear, and residents do not know, is this another wave and therefore everybody is going to get another spike "... which will be based on the property's water usage for prohibited purposes" and then there is a time period. Then they talk about mediation. Now mediation might have been the right way. It is the first time it has been offered, I believe. "Prohibited purposes", I do not have the list with me but previously prohibited purposes were pretty well everything. Okay, you can water your patio if you want, but it was drinking, showering, do not brush your teeth with it. The trouble is, that has very recently changed, so now I think you can shower with it but you cannot brush your teeth with it. So think about that kind of logic because are we going to have a 2 sources of water coming into the house now type of scenario? It gets somewhat silly and this is part of the problem. We have gone from the kind of: "We are going to sort this out" to a very legalistic and hair-splitting approach and this is the difference between the commercial approach and what was meant to be the public-interest approach. In other words, our duty as an Assembly to look after the public and the people bluntly we have poisoned. Because what is the time period? Because people were drinking that water for a period of time. Do not get me wrong, I accept, and I declare, by the way, my father was President

of the Harbours and Airports when this happened, okay? He died in 1996 and at that point, my understanding was that they did not know what the problems of this thing were, and that is why I think there was a resolution then to get mains water. I think that happened in about 1997 but it has taken time. I can recall conversations at the time with him because the legal advice is it is not our problem but the public good is we need to be doing something about this. This is the difference between the political approach, and this needs a political solution, to a legal and commercial approach. I really want to try and make that distinction. So I do not know how it is going to go, this letter is obviously quite interesting. Residents will not have seen it. I suspect the initial thing is: "Great" and then they look at it and think, given the experience of the last 12 months and the definition of ... I did have that quote and I have lost it but it was along the lines of that meeting that Deputy Lewis said: "We are going to carry on paying water rates if you have become contaminated but we do not think you have ever been contaminated" and yet their very report says they have been contaminated, albeit at low levels, okay? But those low levels relative to the graph I have just sent around are still above the U.S. limit. So I think the first point we almost get to in Mediation and Agreement is what is the measure we should be using? A precautionary approach, I would suggest, should be the lower of British Water Inspectorate standard and the U.S. E.P.A. Start at that point and then you have got the basis for going forward. I am sure residents would be delighted to work properly if there is the right approach. I know Senator Farnham, Senator Gorst, Senator Maclean and Senator Green have kind of indicated that there might be a way of trying to work things forward, depending on what the outcome of this is.

[16:30]

But just to conclude on the actual amendment, it takes the whole thing back to the principles originally offered by the airport; it gives a very clear and simple framework. It is not open-ended in theory because it finishes when the water is declared safe or if the airport has an agreement in place. There is still scope for that. But it means that the airport can no longer, and to quote the *J.E.P.*, bully residents into signing something by threatening to have their water cut off if they do not comply. There are issues, there are inconsistencies, when people bought their properties and things like that. Did they know? Do they have the choice? Because in theory they have got a borehole on the site that they can still use. But broadly speaking on this amendment, if a property is affected by pollution above the safe limit by reference to the lower of the British and U.S. standards, then its water rates get paid. The responsibility has to lie with the polluter. If it is below, and has been for 5 years, then they cease. A clear cut-off. It is not open-ended and equally the Ports can still negotiate. So, it is not an issue of saving money in a corporate world, this is a matter of publicly-elected representatives ensuring continued responsibility for pollution caused by a States body. It is a matter of honour and it is a matter of integrity. I really do ask Members, if they can, to support this amendment. Thank you.

1.4.4 The Deputy of St. Ouen:

I have been aware of this problem in St. Ouen's Bay for some decades and I speak generally and not particularly as Deputy of St. Ouen because, as far as I know, there are no properties within St. Ouen's Parish that are affected. I find the recent correspondence from the Ports of Jersey alarming in the light of assurances that have been given to residents in the past. Residents were told in the draft settlements that were circulated that the Minister shall, until regulatory approval is given, indemnify them against sums they, from time to time, incur as water charges. Then in another letter, Deputy Maclean, Deputy at the time, says: "We have decided" and I do not know if that was ever a formal Ministerial Decision but I shall call it a Ministerial Decision: "We have decided that all residents who have in the past experienced any level of P.F.O.S. contamination in their borehole supply shall have the cost of their connection to the mains water supply reimbursed as well as

having their water rates paid for.” Now, I learn from the correspondence set out in the amendment that Ports are writing in a very different vein. This is what I find alarming. They write to residents to say: “You incorrectly seek to rely upon draft settlement agreements and correspondence as constituting some sort of binding commitment. There is no binding commitment or contract between the States of Jersey and the property which Ports is required to honour. Terms were never finalised nor agreed upon by the parties. Consent was not reached between the parties.” Oh my goodness, that is a highly selective and legalistic approach and a complete *volte-face* to the approach that was previously adopted. It said that agreements were never finalised. Why were agreements never finalised? Well, we now learn in the letter just handed to us: “Ports of Jersey have been working through a programme. We have dealt with all of the commercial properties and have started work with the domestic properties.” It is 25 years since this pollution was first identified. Are the residents at all to be penalised because terms were never finalised? Goodness me. What of that Ministerial Decision? We are now told there is no binding commitment that is binding on Government. So a Ministerial Decision, what status does that have? Can the public of this Island not rely upon it? Or perhaps it is a commitment that is not binding. That is what the correspondence from Ports seems to suggest to me. But over the last 25 years or so arrangements have been put in place, they were put in place as soon as the severity of the pollution was realised, and they have continued for all that time until it seems the clear implication in the last few months that the assurances previously given are in jeopardy. They are uncertain. There is nothing to which Government is committed to. Why proceed in this vein? It seems to me it just draws the battle lines between 2 parties where previously there was good faith and an acknowledgement of responsibility. If battle lines get drawn, then there is a risk that lawyers get involved and that is not desirable. I hope Ports are not organising itself to rid itself of a liability which I believe it clearly has for all the historical reasons set out. Regrettably, I recognise this sort of language. It does appear to be a drive to take it into the legal world and up the ante and to suggest that if we cannot settle on our terms, then what are residents to do? They have to resort to law. But have they? Surely after 25 years or so since learning of this pollution, residents are out of time and do Ports realise this, that they cannot come along and make a complaint about what happened in the 1980s or 1990s because they are way out of time? They did not take any legal action within the 3 years so it is tough luck to the residents. Good on the residents for taking the Government on trust, for taking the assurances, and it was right for the Government to give its assurances at the time. Are we now to penalise them, to enhance their risk to them and create this distress because those assurances seem to be ripped up from under their feet? They relied upon statements made by Government and it is important that Government continues to honour that commitment. Therefore, it is important for us to make the funding available to continue that commitment while these negotiations are put in train. The difficulty is that residents cannot be confident in the light of the recent attitude of Ports to rely solely on Ports to resolve the issue. It is right that we, as a States body who has previously given these assurances, should in a sense seek to guarantee the continuing arrangements until Ports come up with the settlement. Yes, the letter that we have just received today mitigates and perhaps gives some comfort, and I am pleased that it appears there was a meeting early this morning at which Ports may have been told they have got to proceed differently and I hope they do proceed differently. But there are still issues that the letter does not make clear. It is unclear, it is not expressly stated, that the present arrangements for paying the water rates of parties will continue until a settlement is reached. Like Deputy Le Fondré, I am also wary of the statement that: “Ports will offer a settlement to those properties which have contaminated water supply.” Well, clearly there is an argument over whether the supply is contaminated if there is talk about 2 different levels and what is the safe level. So, if there is to be talks on a settlement, it must be with all those who have previously been regarded as affected to all those, and to have a mediation even if Ports are in a position and they are saying: “You are not affected. We are not offering you any settlement” it is right that that should be mediated. So there are still issues to

resolve and rightly residents would be concerned if they are thrown at the mercy of Ports in the light of recent correspondence. So I believe it is perfectly proper and correct that we should guarantee that funding should continue and I believe the amendment seeks to do that and therefore I will be giving it my support. I am grateful.

1.4.5 Deputy D. Johnson of St. Mary:

My point is a very simple one. I take it, and perhaps the Minister for Treasury and Resources can confirm this, that on incorporation of Ports the responsibilities and liabilities attaching to Treasury in this matter were effectively assigned to Ports. If that is the case then it is right that whatever form the agreements were at the time it is Ports who are in control of that. Moving on from that I note that the proposition seeks to require a dividend to be paid from Ports to Treasury to enable these continuing obligations to be paid. Why? The Assistant Minister for Treasury and Resources has confirmed that in his capacity as custodian of the shareholder function, the Treasury in this connection, he would use his best endeavours to see that Ports give proper assurance and treat these claims properly. If that is the case then it is the obligation of the Director of Ports to pay out this money. He does not need to follow the circuit of going to Treasury so that they can pay out. I am unsure, therefore, as to why these further funds are required in the context of the M.T.F.P.

1.4.6 Deputy J.M. Maçon:

It is just in relation to the letter that we have received and I do not think has been picked up on. I mean certainly if I was a resident I would not take this letter to be of too much comfort because if you look in the second paragraph, and although it says: "To which contaminated water supply and remain in ownership by the same people at the time of contamination", well, this has been going on for quite some time. So people have died, inheritance has happened, families have transferred properties in that time. If I read that that would have concerned me certainly as a resident. Deputy Lewis, when he presented this amendment, says that there were concerns about weasel words in which the Port is trying to get out of its commitments. Well, in my eyes, if I was a resident, that would be a concern for me and also, it has been touched on, at the time of contamination so again that would raise a concern. So, as a resident, if I was living there I would be deeply concerned about this and I think this letter seems to me to back up kind of the attitude which Deputy Lewis has outlined and I am not convinced the other way at the moment. So I just want to bring that to Members' attention.

1.4.7 Senator A.J.H. Maclean:

The issue of this water situation with contamination emanating from the airport, as Members have heard, is very long. It has been going on for close to 30 years now when the issue first arose. Members will be aware, and can see from the proposition, that I have been involved, or was involved, when I first was elected to this Assembly with my responsibility as an Assistant Minister at the airport and harbour, as it was at the time, now the Ports, and indeed at that particular time there was a different Airport Director and we sat down and we realised that this matter which had, for quite a number of years prior to that, been dragging on in an unsatisfactory way. It was a matter, and I think the term was used by the proposer of this amendment, it was a question of being a good neighbour and in particular as a government body, the airport owned by the public, it was important that that good neighbour matter was held with the highest of importance and we took a view that we had to try to reach a resolution and find a settlement among those people affected. Now, clearly, and I think it was Deputy Le Fondré a moment ago, alluded to the fact as to why this has perhaps gone on for an unacceptable period of time, and it is largely because there are 78 properties involved, the majority of which are residential. I think it is 6 or 7 off the top of my head that are commercial. That amounts to something in the order of about 150 people. Now, we realised, and I attended a number of public meetings to try and assess the situation and find a

reasonable path forward together with the Airport Director of the day, and we realised that getting independent advice on matters relating to the health issue, which we did, getting independent legal advice on a matter which is highly complex, as you will have detected just simply from the paper and details in the proposition, and indeed much of what Deputy Le Fondré has said so it required external legal advice from the U.K. as well as our own law officers.

[16:45]

It was important that all that information was collated and then the idea was to get agreement among all those affected. We sought to get them into a single group because, as the Deputy of St. Ouen said, this looks like it is moving into a legal area and of course what we do not want to do is to get lawyers involved and of course he should know with the drawbacks that that can have. Clearly one gets very good legal advice but of course with a group of 150 people and 78 properties we wanted to have a single legal representation for that group to make it much easier to manage. In reality we got to a stage of a draft agreement. The Deputy of St. Ouen also raised a number of points around why it had not just taken so long but also the various elements of the detail of paying water rates and the period and so on and so forth. So we got a group together and unfortunately when the draft settlement agreement was presented a number of residents, and I can understand the rationale, as an individual, wanted their own lawyers to have a look and that then started a long drawn out process which sadly got us into a position where the draft settlement agreement was not finalised, was not concluded and we have carried on in the intervening period. Now, the Deputy of St. Ouen said: "Well, residents have been penalised." Well, they have not been penalised because in that period 2 things have happened. Firstly, just about all the residences in the Bay that were within the potentially affected area, and I say "potentially" because again it was decided that the first initial advice was there were broadly 2 streams that split down the Bay and the independent professional advice was that would be a natural boundary for this plume of contamination to stop at. We, however, took the decision that we would extend further. I will give you an example. Beyond that area, that natural boundary that we were advised should be the end of the plume area of contamination, was Mont à la Brune but we decided to include Mont à la Brune in the area anyway. There has never been any contamination there that we are aware of in all the testing that has been undertaken but nevertheless they were included and that was part of the good neighbour behaviour and the public body deciding to take a belt and braces approach in this matter. I was there. I was making a lot of the decisions and I believed it was the right thing that we should do and that is exactly what we did do at that particular point. So we had the potentially affected area which included, as I have already said, 78 properties. Now, of those 78 properties in the intervening period so far to date 67 have been connected to mains water. None of the residents have paid that. It was part of the agreement; the water connections were paid for. Seven are connected up but not on mains water so they have it to the premises. It is there and available for them. There are only 4 who, by their own choice, do not want to be connected to mains water. I have no idea why but there are, nevertheless, 4 who do not wish to be connected. So in that intervening period connections have been paid and water rates have been paid. Now, there was no undertaking at the time that payment of water rates would be open-ended or, to put it another way, in perpetuity. There was a negotiation and some had a view that, and this was more of a legal view, the period of time should perhaps be around 15 years. The residents, as you would expect, had a different view. They were looking for 40 years or something of that order. As a matter of negotiation over a period for the draft settlement agreement a time period of 25 years was broadly agreed. I have to re-emphasise that agreement was never finalised, never settled, never agreed by all parties but nevertheless that is where, so Member are aware, the 25-year period came from. Sometime later, by the way, this matter came before the Council of Ministers. That was in 2010 and in 2010 it was agreed by the Council of Ministers that the position taken up to that date was a

reasonable position to take and the intention was to again try to reach settlement with the residents. Now, I do not believe for one moment that the incorporation of the ports has changed anything at all. I do accept that some of the language in the letter is probably, as the Deputy of St. Ouen ... I am sorry to keep pointing at the Deputy of St. Ouen. He just happens to be in my line of sight and he made some relevant points. But, as he pointed out, some of the language in the letter was a little bit legalistic and I suspect what has happened is that the Ports have sought their own independent advice and have been careful in the way in which they have written the letter to residents. They have written to all residents; that is the 6 or 7 commercial properties and, of course, the balance which are residential. To date they have had dialogue specifically with commercial businesses and I believe 3 or so residents, including a fourth resident who represents the Mont à la Brune Residents Association. So 4 effectively have been engaging with the Ports since the first letter from December 2014 and indeed the Ports then sent out an update letter in April 2015. That letter, by the way, also included in it the contact details of the person who was leading on this project, leading to try and arrive at a settlement, realising that it is not in the interests of residents or the Ports that this remains an open-ended unsettled issue. The Ports are trying to resolve it. I believe that from discussions that I have had very briefly and in particular from the meeting, together with the Chief Minister and my Assistant Minister, that Members will have heard from earlier on in this debate, that the Ports are committed to resolving this. Their view is, having been familiar with the history to the situation, that the best approach is to try to seek settlement with individual residents, or small groups if that is more workable, because that is the way it is going to be more manageable than it has been in the past. There has been ...

Deputy R. Labey:

Would the Minister give way? So before he finishes his speech I would like to get some clarification from him as to whether he believes the recent behaviour of the Port Authority to be ethical; does he condone that behaviour? Does he not regard the liabilities clearly lie within the Port Authority and that we should not really be debating this at all today?

Senator A.J.H. Maclean:

Well, I absolutely agree with the fact that we should not be debating this today. The liabilities do fall exactly as the Deputy has said and this should not be a matter that is being debated within this Assembly. The resolution is there to be had and I am confident that it will be. I say that in almost a guarded sense because I am aware of the history, as Members will now be, of how long it has taken to get to this particular point. It is not easy. It is complex. But it is a matter that quite rightly the Ports should and, I can say, intend to resolve. I also would like to put to rest the suggestion that there has been threatening behaviour, or bullying tactics, from the Ports. I have seen nothing unless, of course, Members feel that the language in the letter that was referred to previously, slightly legalistic I accept, some might have interpreted as being threatening. The Ports have reassured me that the intention is that the door is open. They want to engage with residents. They have been sending their letters out on the 2 occasions that I have referred to, only had 3 or 4 residents that have been in contact with them. There has been silence apart from that. They would welcome conversations with other residents and indeed that is, after all, the only way that a resolution in this matter is going to be reached. So I am satisfied that there is no intent for threatening or bullying behaviour and I would not expect, and neither would any Member in this Assembly, that to be the case. Moving forward, and as I have mentioned already, to the meeting that was undertaken this morning, that was with the intent of trying to reach some clarity and to be absolutely certain about what the position is and how it is going to be moved forward. The letter that Members have before them, you will see at the bottom, it talks of mediation. We were keen to make absolutely certain that there is no doubt in residents' minds that if a sensible, satisfactory and mutually acceptable agreement is not reached then they have a recourse to mediation. The Ports

have agreed to that. There is no reason why they would not. There was no heavy language or hard work in getting that particular mediation point included. They were very happy to do that. They understand the difficulties and the concerns. So mediation is available. I would go further than that. If Members want any further comfort that I am very happy, initially, to make certain that if a settlement agreement is not reached and a mediation by any resident is required that I am involved in the very early stages, not in the mediation, but making certain that residents are comfortable that it will be taken seriously and will be undertaken and will happen independently. I have no doubt that will happen but if reassurance is required I am happy to do that partly because of the responsibility I have as Minister for Treasury and Resources as the shareholder for the Ports but also because I feel I have been involved in this for a long time. Not recently but certainly at a point when the decision was taken to try and reach a settlement some years ago. I very much hope that Members will accept the points that I have made, accept the points of my Assistant Minister and the method and way in which this is going to move forward. I do not believe that accepting this amendment is the right course of action. I know the amendment is well-intentioned and I have had discussions with the Deputy about this matter but I feel that there are a number of reasons why it would just make life that much more difficult. I mean the issue about dividends does not make sense. I think the Deputy of St. Ouen, again looking in his direction, raised this, or it might have been somebody else. I think it was the Deputy of St. Mary, sorry. It just simply does not make any sense. In fact the water rates, just to be clear, that are being paid at the moment by the Ports, amount to round about £76,000, I think it is, per annum. Clearly a lot of money in many respects but certainly manageable as it has been for quite some years by the Ports via their profits that they make and their trading activities so that matter can be managed by the Ports as, indeed, it certainly should be. The other issue, of course, is there is an opportunity, as part of the discussions that residents who are affected will have, with the Ports to have their water rates paid for a period of time. The alternative, which was discussed at the time and is still available I believe, but is a matter of discussion and negotiation, that such payments could be capitalised and so a resident could indeed say: "Well, instead of having my water rates paid for that period of time I will accept a lump sum payment to settle it." As I have said, the health risk has been largely mitigated by the connection to mains water by the residents down there. I should also make clear, perhaps, to Members, just to put this into context. I have talked about the number of properties, 78 or so. I have also talked about the number of total residents. What we perhaps have not mentioned, or I have not brought to Members' attention, is, to put it into context, of the 78 properties it is in fact 42 of these properties which I am told currently have no evidence of contamination. So we are looking at a level of round about 36 properties. Now, frankly the number is almost secondary. I mention it out of interest for Members so that they can get a sense of the scale of what is being dealt with and the issues that need to be addressed. I could go into a number of other points but I do not really think it is particularly necessary. This is, as I have said, quite a complex matter. By that I will just draw out one point simply because Deputy Le Fondré mentioned this. It might have even been Deputy Lewis. That is in relation to the various authorities that have different levels of contamination that they have authorised. In the U.S.A., for example, the E.P.A. levels that were set that the Deputy referred to are in fact advisory levels. Basically the whole issue is skewed in many respects in that regard because it deals with the whole of life.

[17:00]

So it is looking from conception to death and as a result of that that does tend to skew. What the U.S.A. are trying to do, and it is not unreasonable in many respects, is to ensure that there is protection for the unborn child. Making certain that water is not drunk or consumed that might affect a child and indeed the Environmental Health Department here in Jersey issue very similar advice. What they say is that pregnant women should not drink water from a borehole because

there are a whole range of other contaminants within borehole water in different areas of the Island and it does represent a risk to unborn children. So there is a lot of information and data around. It is very complex and it is important I think that we leave the experts to try and arrive at a sensible conclusion to a matter that has been dragging on for, I think we would all agree, far too long. I think that is probably all I will say at this moment. I will just repeat the point that the Ports are prepared to conclude this matter in a sensible way and that mediation, if that is not acceptable to individual residents, is available and I am happy to be, in the early stages, involved to give both Members here and residents hopefully some satisfaction. I will leave it at that. I would ask Members, in light of all that, to have the confidence, hopefully, to reject this well-meaning proposition.

Deputy J.A.N. Le Fondré:

Point of clarification?

The Greffier of the States (in the Chair):

Before I take that I understand that His Excellency the Swiss Ambassador to the U.K., Mr. Dominik Furgler and his party, are watching our proceedings from the Bailiff's gallery. They are, of course, very welcome in the States Assembly [**Approbation**] and I do not even need to ask you to show your appreciation of their visit in the usual way.

Deputy J.A.N. Le Fondré:

Just seeking a couple points of clarification on what the Minister just said. Is he saying that rates will be paid until mediation is resolved? Is he saying that, for example, a safe level will be agreed through mediation? That will be a starting point. Is he saying that in terms of who is affected will that be agreed and what the definition of pollution is? Finally, could I just ask what his definition of evidence is that 42 per cent are not affected? Is that because they are below the British level of contamination or is it because in the sampling they are no longer affected, in other words the levels are zero, and that is on the basis of tests this year, or is it on the basis of out-of-date testing? There are a few questions in there.

Senator A.J.H. Maclean:

I am happy to answer those. Taking it in reverse order, with regard to the levels. Yes, that would be based on the British levels. The water is collected locally but tested in the U.K. and the British levels are those that are applied for the purposes of the numbers that I was provided with in terms of levels of contamination. In terms of the mediation, which I think is the area that probably is more of interest to the Deputy and Members, it would be my view, and this was the case originally when we reached the draft settlement position, that some form of framework needs to be clarified and it is likely that that would need to be done as part of a mediation process. I cannot see that I can be clearer than that.

Deputy J.A.N. Le Fondré:

Sorry, just to clarify. In relation to the levels; so if people are contaminated but below the British standard but above the U.S. one, are they being counted as not contaminated in that 42 per cent the Minister just cited?

Senator A.J.H. Maclean:

Yes.

Deputy J.A.N. Le Fondré:

I think that makes the point.

1.4.8 Deputy E.J. Noel of St. Lawrence:

A few questions to the proposer of this amendment if I may, which he can respond to in his summing up. Question one, what was the owner of the property known as El Tico's exact involvement in the drafting of his amendment and his amendment to the amendment?

The Greffier of the States (in the Chair):

Deputy, I do not think that is order. The amendment has been lodged by Deputy Lewis and I think it is obvious that Deputy Le Fondré knows quite a lot about the issue but I do not think there needs to be a question put which gives the impression that there has been some sort of problem with the way in which the amendment has been lodged. There has not been a problem.

Deputy E.J. Noel:

I appreciate that. Thank you very much. My second question, is that I am surprised to see that my department is proposed as the administrator of these water payments especially as Deputy Lewis was the previous Minister and Deputy Le Fondré was his Assistant Minister. In his summing up would the proposer please explain his rationale for selecting the Department for Infrastructure in this respect as I fail to see any pollution or water connection to my department?

1.4.9 The Connétable of St. Saviour:

Sorry, it was just something I picked up on what Deputy Le Fondré said and I hope he can... It was kind of under your breath, we were talking about the residents and then you kind of implied that maybe some animals had been contaminated by the water. Just to clarify, have they or have they not? It was just something that slipped out and I thought maybe with the animals, because the animals are drinking the water down there and there are a lot of animals, if it has not happened well and good but if somebody could just reassure me one way or the other.

1.4.10 Deputy R. Labey:

I just wanted to thank the Minister for giving way earlier during his speech to me. I do not know about other Members but the more I hear about this the more uneasy I am becoming especially with recent developments and the communications from the Ports Authority to the residents. We have got to remember that borehole water is essentially free, mains water is not. I think if the recent letter sent to residents and distributed to us has ministerial approval and backing that we should know about it because that troubles me. We must remember that the Ports Authority does, I think, still have on its board former senior political representation. The idea of mediation here is also, for me, something of a worry. I do not think that is much of a comfort to the residents affected or it may not even be appropriate because 100 per cent liability now lies with the Ports Authority. The Minister for Treasury and Resources says that Deputy Kevin Lewis's amendment is not the way to go about things and not appropriate but I do want to register my strong feeling on this matter now that liability does lie 100 per cent with the Ports Authority. No compromise. I guess that the best way to do that is to support Deputy Lewis's amendment which I will be doing.

1.4.11 The Connétable of St. Martin:

It is the hidden danger that is the most worrying. I think we all worry what we eat. We all worry what we drink if we do not know what we are drinking and we all worry what we breathe. I think that we probably had learning before on the Island. I am not sure when the leachate problem occurred, whether it was before this or after. We have got the worry about asbestos. Four words that have come through this afternoon during the debate that I have picked up and I know other Members have spoken about them. One of those words is "bullying" and we have different interpretations of the word "bullying". We know that parties want to settle. There has been no urgency. Well, you wonder why there has been no urgency to deal with the matter before. Maybe because the States were still paying but we were told it was because of that second word "trust".

There has been a loss of trust. The third word I have picked up is “breakdown”. There has been a breakdown now and the cause of that breakdown, the fourth word, was “aggression” from the Ports of Jersey, the allegation of aggression from the Ports of Jersey. I know the proposition is seeking to have funding. Compensation was given by the company at the time, I think £2.6 million from my understanding. I am not sure if all that money was spent on the work that has been done there on the affected ... or more than that. I do not know. It is a shame we cannot find an answer to the pollution problem. I mean I am sure every expert available has probably looked at it but whether there was a way of drilling lower down, we have seen this plan come this afternoon, so we can flush out what is left or this could just continue for ever. The difficulty; we have received the letter this afternoon in the middle of a debate. We are trying to listen to the debate. We received the letter and I am not sure if Deputy Lewis of St. Saviour, the proposer of the amendment, is able to accept that. Whether it should be resolved through this Medium Term Financial Plan or whether it should be Ports of Jersey is a different issue. As to the letter itself, I know how difficult it is to prepare a letter and I know the departments have got the top officers to prepare letters at very short notice. It has happened in the Parishes before. It happened in my Parish when somebody has tried to prepare a letter at very short notice and circulate to Members and it does not always convey the true meaning. I think the meaning of the letter this afternoon does offer a way forward although it might not be written in that style. As I said, I do not know what we would do if we found a similar issue in this building that may have affected all of us and how we would be feeling in 2 days’ time, in 5 years’ time, in 10 years’ time when we are gone. The queries that I did have: were the Ports aware - I think some of it has been answered - of these issues when they took over? I know the Deputy of St. Mary brought this up this afternoon. It is quite an important point. What commitment we may have given as a Government to the Ports of Jersey regarding whether Treasury were prepared to continue funding or whether we just handed this over to Ports of Jersey to resolve and that £2.6 million that I spoke about. This issue; there does not seem to be an end to it. We do not know when this is ever going to end. It could just continue ad infinitum I think. Even if approved this afternoon, it does not resolve and give closure to the issue and even the letter itself, this afternoon, that does seem to give an offer to 2035, if I have read the letter right. There is a lot more to do. I am finding it very difficult to decide but I thank Deputy Lewis for bringing the matter to the public’s attention and to Members’ attention this afternoon but I do not think I will be able to support the proposition.

1.4.12 The Deputy of St. Martin:

Before I say the very few words I intended to could I just address a point brought up by Deputy Labey who said that borehole water is essentially free? I challenge the Deputy to commission the drilling of a well, maintain it and pay for the pump and the pipework before he would say that again.

Deputy R. Labey:

Essentially free.

The Deputy of St. Martin:

Essentially free while there are no bills to pay. I digress. I am unhappy. I am unhappy with this proposition. I am unhappy with paying money to people who are no longer affected. I am unhappy with paying money to people whose water has never been affected. I am unhappy with the ongoing considerable cost of this issue. I am unhappy with the States of Jersey for not resolving this sooner. **[Approbation]** I am unhappy with Ports. I am unhappy with Ports for not carrying on in the spirit of the way the States were negotiating. I am unhappy with the attitude of the communication that Ports have had with individuals. I am unhappy with the grouping of individuals together and I am also unhappy with putting some individuals together in groups. I am just unhappy. **[Laughter]** I

will be even more unhappy if we agree this amendment this afternoon which makes things even more complex and further complicates the issue. I would like Members to agree the status quo and I would ask them to join me in asking the Minister, and he has already said he will do this, to get on and resolve this matter. I would say to Members please reject this amendment. Let us get on and get a fair settlement for those affected.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on these amendments? If not I call Deputy Lewis.

1.4.13 Deputy K.C. Lewis:

I thank all Members who have spoken. Right, first to speak, Constable of St. Peter. I would just like to reiterate I am in no way, shape or form, having a go at the fire brigade at the airport. They do an excellent job and they are worthy of our admiration. It is just that they were given the wrong tools to start with. I would like to thank Deputy Le Fondré who has made some extremely valid points. Deputy of St. Ouen, who has a great legal mind, and I am sure he will enjoy listening to a page or 2 of the settlement agreement in draft form which was presented to some of the residents.

[17:15]

Company name; this is all the Jersey blurb: “(a) the public of the Island of Jersey is the owner of Jersey Airports. The States Assembly is the legislator for the Island. Some of those elected Members are appointed as Ministers who conduct the government of the Island on behalf of the public. The Minister is a Member of the States Assembly with responsibility of Jersey Airports. The Minister is empowered to enter this agreement with the landowner. (b) The landowner alleges, in respects more particularly defined with this agreement, that the landowner has suffered loss and damage as a result of activities from time to time conducted at Jersey Airports and that the Minister is thus legally liable to the landowner. (c) With respect to recital (b) above the Minister denies that the landowner has suffered or may suffer loss or damage. Any loss or damage, the existence of which is denied, is or was caused or contributed by activities at Jersey Airport and that in any event the Minister has any legal liability. (d) As an act of goodwill and without the acceptance of any liabilities of the landowner the Minister has agreed to make a payment to the landowner subject to the terms of this agreement to satisfy any claims that the landowner might have with regard to the allegations at recital (b). Even though the Minister denies the existence of any such legally enforceable claims. (e) The landowner has agreed that both he and his successors in title shall not use any water naturally occurring in, on or under the property for prohibited purposes until regulatory approval is given.” Main settlement provisions: “For the avoidance of doubt the landowner shall only be entitled to claim under the indemnity at clause 3.1.2 above in respect of any water charges incurred in relation to any use of water that is for prohibited purposes and notwithstanding endeavours to ensure that no claim under clause 3.1.2 above is made in relation to any water use for any non-prohibited purposes.” So they have not polluted any water but you are not allowed to use it anyway. The Deputy of St. Mary wanted clarification, made some good points. This is basically a vehicle. It is transfer payments. The Airports or Ports Authority will be paying this. It is just a route taking it out of Ports because of the prevarication that has been going on. Deputy Maçon made some good spots in the various agreements. In the letter that was received today, we sort of wait 9 years and just as I stand up to speak the letter arrives. The reason I am bringing this proposition basically is because the residents of St. Ouen’s Bay are at the end of their tether. They have been going round and round and absolutely getting nowhere. While I appreciate the letter from the Ports Authority it does not say anything new. “As we work through the domestic properties I can confirm that Ports of Jersey will offer a settlement based on the original Council of Ministers’ direction in 2010 to those properties which have contaminated water supply and remain in the ownership by the same people at the time of the contamination. This

settlement will be based on the property's water usage for prohibited purposes and include a time period of 25 years from 2010." That is from the C.E.O. of the Ports Authority. The subject of contamination, as has been shown by the graph, the readings of which go up and down every 6 months. The P.F.O.S. itself is water resistant. It is in the aquifer so it could lie dormant and then a good thunderstorm brings it out again. Deputy Noel, yes, absolutely a great point. I was asked to bring this by the residents of St. Ouen's Bay and, as previously stated, Deputy Le Fondré's family has an interest in one of the establishments down there and has declared that interest. Senator Maclean has mentioned Mont à la Brune and the houses there have never had any contamination. The readings I have in my hand say otherwise. On several occasions in Mont à la Brune they have had reasonably high readings of contamination. The contaminants, known as C8s, perfluorooctane acid and perfluorooctane sulfonate, apologies for my pronunciation. That is something that we will be hearing about in the future because there is a worldwide problem with this particular contaminant. Several air forces in the world are extremely worried because they have got bases in the middle of nowhere next to villages and that is something that is definitely going to be ongoing. The Constable of St. Saviour mentioned animals. Cattle, it should be avoided. I apologise for the terminology: oral exposure for cattle should be avoided which can lead to intestinal irritation and anybody in the farming world will know what that means. Right, so the ...

The Connétable of St. Saviour:

Sorry, could I have clarification?

The Greffier of the States (in the Chair):

By all means.

The Connétable of St. Saviour:

I just need to know if some of the animals ... do you have any indication of animals being affected. You have humans that are not allowed to drink it and I can tell you 9 times out of 10 these animals are most probably drinking from borehole water anyway because mine do, and they do not live anywhere near the airport I hasten to add. So I would like to know if any defects have been found in the animals. Have animals been born defective or something because I would just like a little bit of clarification please on that point?

Deputy K.C. Lewis:

Not to my knowledge; it just says it should be avoided in the notes that I have.

Deputy E.J. Noel:

If I may ask for a point of clarification as well. The Deputy did not answer the question that I was able to ask and it is, why did he include the Department for Infrastructure to administer these payments when my department has no connection with either the airport pollution or the provision of water?

Deputy K.C. Lewis:

No, it was not particularly with the Infrastructure Department. It was a vehicle because we have had so much trouble with Ports trying to get a settlement there. The Ports will still be paying for this. It would just go via Infrastructure Department. If any Members have any queries they should support this amendment, I recommend they read the notes from the Council of Ministers. Ports of Jersey advised that the sum of £76,425 was spent in 2015 which included both direct provision of bottled water, water rates and ongoing testing. The water testing regime proposed in the amendment could significantly increase the cost, possibly over £100,000, but there is no suggestion of changing to the water testing regime anyway, so why would that money increase? "The amendment by Deputy Lewis undermines the positive steps being taken by Ports of Jersey." So it

is my fault, then. As I say, the people are at the end of their tether. They have been round and round and round; it has been going on for 25 years and people would like a resolution. This water, some say it is contaminated, which other people deny: “If the water is not contaminated why did the airport and States sue a multinational company like 3M for just over £2.5 million?” Probably about £3 million in today’s money: “Surely that money should be handed back to them.” I do not think so, because the pollution does exist. I would like to correct Deputy Le Fondré on one minor point according to my research: P.F.O.S. and P.F.O.A. are both dermal and ocular irritants, so skin and eyes. I would not recommend putting that on your vegetable patch and, as I mentioned, do not give it to livestock. You cannot have a bath in it, you cannot have a shower in it, you certainly cannot cook with it and, heaven forbid, you cannot drink it. So that leaves what, exactly, under the prohibited uses clause? What else can you do with this water? The only thing they suggested you can do with it is flush the loo with it, which is completely unrealistic to expect all households in the area to have 2 sets of plumbing: one for permitted uses and one for prohibited uses. Also, where the Minister for Infrastructure has inherited the sewerage plant, what happens when you flush this P.F.O.S. down the loo? It will end up in the sewerage system and, once it has been sanitised, you are left with something collectively known as cake, which has been sterilised, which goes back on the land. As the P.F.O.S. has not been destroyed, or the P.F.O.A., then around and round we go again. There is only one way to destroy P.F.O.S. and P.F.O.A., and that is high intensity incineration, which is not feasible. We have heard that the Harbours and Airport sued the multinational company, so this goes round and round. We cannot have it both ways: either there is pollution or there is not. The people of St. Ouen’s Bay, through no fault of their own, have lost their pure spring water due to the P.F.O.S. and P.F.O.A. contamination from the airport. It is only natural justice that the airport, through the States, pays for the pipe water for the residents, but the residents are not asking for money, they are not asking for any special privileges whatsoever: their clean, fresh water was taken away and they just want that clean, fresh water replaced. This is Jersey: clean, fresh water is a basic human right. I thank all Members who have spoken and I urge Members to do the right thing and support this amendment, and I ask for the appel.

Senator A.J.H. Maclean:

Sir, I was wondering if I could ask the Deputy just to clarify one point? I do not wish to extend the debate any further but, with regard to Mont à la Brune, because I had raised this when I made my speech earlier, the Deputy made the point that the water there has been contaminated, or is contaminated. I have a consultant’s report which says that it has not, and I just wanted to know whether it was P.F.O.S. contamination or whether it was some other form of pollutant that he was referring to? Just for clarity sake.

Deputy K.C. Lewis:

It was P.F.O.S.

The Greffier of the States (in the Chair):

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

POUR: 19	CONTRE: 26	ABSTAIN: 0
Senator S.C. Ferguson	Senator P.F. Routier	
Connétable of St. Saviour	Senator P.F.C. Ozouf	
Connétable of St. John	Senator A.J.H. Maclean	
Deputy J.A. Martin (H)	Senator I.J. Gorst	
Deputy G.P. Southern (H)	Senator L.J. Farnham	
Deputy J.A. Hilton (H)	Senator A.K.F. Green	
Deputy J.A.N. Le Fondré (L)	Connétable of St. Helier	

Deputy K.C. Lewis (S)		Connétable of St. Clement		
Deputy M. Tadier (B)		Connétable of St. Peter		
Deputy of St. John		Connétable of St. Lawrence		
Deputy M.R. Higgins (H)		Connétable of St. Mary		
Deputy J.M. Maçon (S)		Connétable of St. Ouen		
Deputy S.Y. Mézec (H)		Connétable of St. Martin		
Deputy A.D. Lewis (H)		Connétable of Grouville		
Deputy of St. Ouen		Connétable of Trinity		
Deputy R. Labey (H)		Deputy of Grouville		
Deputy S.M. Bree (C)		Deputy of Trinity		
Deputy T.A. McDonald (S)		Deputy E.J. Noel (L)		
Deputy G.J. Truscott (B)		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy S.M. Wickenden (H)		
		Deputy M.J. Norton (B)		
		Deputy of St. Mary		
		Deputy P.D. McLinton (S)		

[17:30]

1.5 Draft Medium Term Financial Plan Addition for 2017-2019 (P.68/2016) - third amendment (P.68/2016 Amd.(3))

The Greffier of the States (in the Chair):

We now come to amendment 3. I ask the Greffier to read the amendments.

The Deputy Greffier of the States:

Paragraph (a)(i) - after the words “Summary Table B”, insert the words “except that the Social Security Department’s proposed net revenue expenditure shall be reduced by £8.3 million in 2018 and £16.8 million in 2019 in respect of a reduction in the level of the States Grant to the Social Security Fund.” Paragraph (a)(ii) - after the words “Summary Table C”, insert the words “except that Central Allocation, Pay, P.E.C.R.S. and Workforce Modernisation shall be increased by £800,000 in 2018 and £1.8 million in 2019” in respect of increased States employer contributions. Paragraph (c), replace paragraph (c) with the following “(c) to approve in principle the increase in the social security employer’s contributions (including class 2 contributions) between the standard earnings limit and the upper earnings limit by 2 per cent in 2018 and a further 2.5 per cent in 2019 to raise a total of £7.8 million in 2018 and £18 million in 2019, with the necessary proposition to be brought forward by the Minister for Social Security so that it can be debated by the States Assembly in time for the increases to be implemented.”

1.5.1 Deputy G.P. Southern:

I rather suspected it might be my go when we should no longer be here but, nonetheless, I will try and raise a little bit of energy and discuss this proposition, which is entirely, for once, appropriate to be discussed as part of the Medium Term Financial Plan because what it proposes is an alternative way of raising what we need to pay for increased health costs. We know we have a structural deficit and we know we need to raise some more money, the question is: how do we do that? Now, the Ministers propose that we have an increase of 1 per cent based on income tax structures and that we pay for the health charge that way. If Members examine my proposition they

will see the way that is structured. It is progressive at low rates of income, it is proportional, extensively over a period between £60,000 income and £160,000 income and then, at the very top end, it is regressive. I have problems with the regressive nature of this protection built into a lot of our taxation for the high earners, but I have not dealt with that here, that is dealt with in Deputy Mézec's amendment 8, which will be discussed later. So how do we generate more tax in order to pay for increased health costs? The proposal of the Ministers falls squarely on those people who pay tax, earners in the middle incomes who are already saying that their tax burden is too great. 20 Means 20 has had a serious impact upon middle earners; can we, in some way, protect those middle earners? The other issue that is doing the rounds, and has been for the last decade, is we are paying 20 Means 20, we are paying G.S.T. because of initiating a reduction in tax on companies. Companies are under Zero/Ten now and the question has been doing the rounds the last decade: how do we get companies to pay a little more, to pay their fair share, towards the tax burden? We have reduced their taxation enormously. Prior to Zero/Ten company tax was around something like £400 million a year, personal tax was around something like £80 million. Nowadays those proportions are more or less reversed; companies pay around £80 million and individuals pay around £400 million. How can we somehow get that balance back? The answer is, I think, that we use the other contribution system that we have got set up, which is the social security contributions. Social security contributions are a strange creature, really. You and I probably pay 6 per cent on every pound of our earnings, our employers pay 6.5 per cent on those earnings, up to the standard earnings limit, which currently sits at £49,500 a year. Above that, prior to 2013 employees and employers paid not a penny more. This means that for really high earners they do not pay 6 per cent, they are paying perhaps 2 per cent, or even the really high earners, 1 per cent. It is a regressive system. Recognising this in 2013 the Government itself, in looking for some additional revenues, said: "Hang on, this regressive form of contribution system can be altered" and they brought in a 2 per cent charge for earnings between the standard earnings limit and the upper earnings limit in order to generate some £7.5 million of additional income. So the principle of increasing at the top end the contributions has been made by the Council of Ministers. When I started thinking about how we might generate additional revenues, I recognised that the biggest continuous hole in our tax revenues occurs in supplementation of the contributions in our social security payments, because those below the standard earnings limit, who do not earn enough to fully cover their contributions, we top up with a contribution from the taxpayer. Back in 2013 that amounted to some £68 million; it has been capped since then at £65 million. Nonetheless, £65 million of tax revenue going to prop up the social security system is what we pay. Having spotted that £7.5 million, I then thought: "Is there any way we can generate more from this particular source and reduce supplementation and thereby use what was supplementation to fund our health tax?" That is a system I have tried to bring in. The great advantage of this is, I believe, that it affects employers' contributions; that is where I have targeted it. So the issue of under Zero/Ten companies not making their contribution properly, could we get some more money out of them? The answer is yes, through the social security contribution system. Doing the sums, one finds that increasing the contribution from employers above the standard earnings limit from 2 per cent to 4 per cent will get you around about £7.5 million. Increasing it yet further from 4 per cent to 6.5 per cent, that is, now we have got a completely proportional system on earnings at the top and bottom ends, the employer in this case pays 6.5 per cent on those contributions. In order to generate sufficient revenue to cover the £15 million going towards health services and paying for the States contribution to its own workers, covering that as well, means that it is employers' class 1 contributions and class 2, self-employed. The joy of this is that I believe it only affects those employers whose workers are earning greater than the standard earnings limit, greater than approximately £50,000 a year and up to £164,000 a year. So the contributions come from employers who have relatively high-earning employees. So it is not going to hurt the little man down the road who is getting by on paying himself £30,000, it is not going to affect companies that

only employ low earners, it only kicks in at £50,000 a year for employees, up to £160,000. As you have heard from the voting public, I am sure, the joy of this is that it does not fall on the shoulders, again, of middle Jersey, middle earners, and it is only paid by those employers whose employees earn over £50,000 per annum, and it is a contribution towards tax revenues from companies. I think that is something that we have all probably talked about and tried to address in the past: how do we get a little bit more out of companies? How do we pay for our health tax? I think this mechanism does the trick. I commend this proposition to Members.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** Deputy Pinel.

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

In this amendment, Deputy Southern has proposed a complicated manoeuvre to push money around the system. His argument is that this will still balance the books for the Medium Term Financial Plan purposes while at the same time protecting the squeezed middle from additional government charges. Unfortunately, as is often the case, a little investigation starts to unravel the negative consequences of the manoeuvre. Deputy Southern's concise report does not address the implications of his proposal. He is suggesting significant changes to the contributions levied through the Social Security Fund; Members deserve a detailed analysis of the potential impact of those changes before being asked to approve such a major change. All I can do today is to draw attention to some of the areas that will be affected if this amendment is approved. I will focus my comments on the impact on 2 of the funds under my control: the Social Security Fund and the Health Insurance Fund. Ministerial colleagues will provide further information on the more general impact on the economy of the proposed change. First, the Social Security Fund. Our population is ageing and government needs to be well prepared to meet the new challenges that we will face. In my particular area, the funding of the old age pension is of fundamental importance. The Social Security Fund is getting close to the point at which the money paid out in a year is more than the money received in contributions. We do have significant reserves and, at present, that fund is in an overall healthy position. However, we will need to take action soon to make sure that the current generation of workers will still be able to benefit from a social security pension in the future.

[17:45]

For example, it may be necessary to increase contribution rates to continue to provide the same level of pension that is currently available. There are 17,000 people aged over 65 living in Jersey today. By 2035, that will be 28,000; that is 11,000 extra people. We need to make sure that they will be able to draw a pension from the fund. At the next States sitting I am planning to launch a major consultation on the steps that government needs to take over the next few years to make sure that individuals are able to save towards their own retirements and that the social security pension continues to play a key role in supporting pensioners. The need for a review has been flagged up for some time, for example, it was described in the detailed report accompanying the 2015 Medium Term Financial Plan. More recently, we have been keeping the Health and Social Security Scrutiny Panel up to date with our plans. The timing of the review was discussed in a public hearing in March this year. As Vice-Chair of the panel, it is disappointing that Deputy Southern has not made any reference to this major review in his report. Following the outcome of the review, it is quite likely that the next Minister for Social Security may need to ask working-age people and employers to make a bigger contribution into the Social Security Fund in order to protect the old age pension for future generations. The amendment we are discussing today also requires many individuals and employers to make additional contributions into the Social Security Fund, however, as extra money is collected from individuals and employers, the amount of funding provided by the States is

reduced. In order to raise £15 million by 2019, Deputy Southern is suggesting that the contribution rate for class 2 individuals and employers should be set at 6.5 per cent on all earnings up to the upper earnings limit of £162,000. None of this £15 million of extra income will be used to help meet the growing cost of pensions. I cannot say today how much extra money we need to collect for pensions; that will depend on the results of the public consultation. The advice we get from the government actuary and the options will be discussed and decided over the next few years. If this amendment is approved and contributions from class 2 people and employers have already been increased, it is much more likely that any extra contributions to support the old age pension will need to be taken from all employees, all employers and at all wage levels. At this point, I would like to make 2 specific points about this amendment: I have mentioned contributions from class 2 people; several thousand working-age people pay class 2 contributions. This includes people like sole traders, small business owners and freelance workers. It should also be noted that 80 per cent of small businesses in Jersey are in operation. Many of these people may consider themselves to be within the squeezed middle that Deputy Southern is seeking to protect. By concentrating contributions within the social security system, many people in this group will need to pay significantly higher contributions. The second technical point relates to the upper earnings limit. Deputy Southern has proposed that contributions should still be capped at the current upper level. In this way, his proposal is no different from the Council of Ministers' proposal. Under Deputy Southern's proposal the highest earners will continue to pay proportionately less than those on lower incomes. The rationale for this is not clear. There are examples of other social security systems that include uncapped contributions. Members should also be clear that, if this amendment is approved, Deputy Mézec's amendment in respect of removing the cap will fall away. The amendment only refers to the health charge itself. In summary, this amendment does nothing to address the contributions made by those with earnings above the £162,000 limit, and the significant increase in class 2 contributions will affect many who count themselves in the squeezed middle. Turning to the Health Insurance Fund. This fund supports primary care costs: visiting a G.P. and the cost of prescription drugs. It is a much smaller fund than the Social Security Fund and it has already reached the point at which we are paying out more money each year in benefits than we receive in contributions. This situation will get worse each year as the number of older people in the population increases. One of the great successes of recent times is the advance of modern medicine, which allows people to live longer and healthier lives, but this also involves an increased range of drugs and treatments that add to the cost of health care. For example, the number of prescriptions used locally has risen by 13 per cent in the last 5 years. At present, when social security contributions are received in the department, the income is split with a proportion going to the Health Insurance Fund and the remainder being paid into the Social Security Fund. Under Deputy Southern's proposal, all of the extra funding from the extra contributions will be allocated to the Social Security Fund. So, if this amendment is approved and contributions from class 2 people and employers have already been increased, it is much more likely that any extra contributions needed to support the cost of primary care, will need to be taken from all employees, all employers, and at all wage levels. Finally, I have just explained that the Health Insurance Fund is already in current year deficit. The contributions into the fund no longer cover the cost of the benefits. Members looking ahead on the Order Paper may then be puzzled about P.82. Why am I proposing to transfer further money out of the fund over the next 3 years? If Members look at the detail of that proposition, they will see that I have taken the unusual step of building a legal condition into the transfer so that it will only take place if a health charge is introduced and collecting income in 2018. In my view, creating a new sustainable funding mechanism for health costs is absolutely essentially to the future good health of our health system. The last part of Deputy Southern's financial manoeuvring is to remove that legal condition and to allow the transfers to be made out of the Health Insurance Fund without any guarantee that we are addressing the long-term funding of health costs in the Island. To sum up, under Deputy Southern's

amendment, the income received from the extra contributions, combined with the transfers from the Health Insurance Fund, is only just enough to fund the health costs already planned up to 2019. This amendment does not take any account of the increasing costs of providing old age pensions. This amendment does not take any account of the increasing costs of providing primary care services and, finally, this amendment does not provide a dedicated funding system to help with the increasing costs of healthcare. I strongly urge Members to reject this amendment. **[Approval]**

The Deputy Bailiff:

Does any other Member wish to speak on the amendment? I call upon Deputy Southern to respond. Oh, Deputy Mézec; just under the wire, Deputy.

1.5.3 Deputy S.Y. Mézec:

I was not sure if anyone was going to contribute to this debate. I know it is a long day, but there we are. That last speech was, frankly, very bizarre to listen to because a whole host of criticisms were made of what Deputy Southern is trying to do that are all equally applicable to the Council of Ministers' actual plans. That is just so bizarre to say: "We could not possibly accept what Deputy Southern is proposing because he has not done X, Y and Z, but when the M.T.F.P. vote comes up for the full thing you will have to support that, even though it also does not seek to do lots of what Deputy Southern is suggesting." The Minister for Social Security said that Deputy Southern was proposing making our social security contribution system more complex. Well, no, it does the precise opposite of that because it seeks to apply a single rate to more sections of the income band so it is seeking to make it more simple. Having lots of different bands makes things more complicated so I do not accept that criticism. It is about making it simpler. She said there was no analysis of the effect it would possibly have. Well, guess what? We do not really have much analysis of what the health tax is going to do, especially when we have comments made by the Minister for Treasury and Resources before about potential future stealth taxes that could be brought forward. I think it is surely much safer to work with what we already have rather than introduce taxes, new bureaucracy, new administration costs when there is potentially going to be opening the floodgates to even more stealth taxes in the future, none of which we know the impact of. Those 2 criticisms I do not see as holding any sway at all. She also spoke about the consultation she is going to begin for the social security system too and I have to say it feels like no Member of this Assembly can ever propose anything because: "Oh no, there is ongoing work, there is an ongoing review going on so shut up and stop complaining. It is all being dealt with so do not worry about it." I think Members of this Assembly who are democratically elected have every right to try to put forward proposals that were in line with the manifesto commitments they made to the electorate who voted for them and this is certainly seeking to do that. I know Deputy Southern has had a longstanding position of wanting to see our social security contribution system made fairer and more progressive where it is now regressive. The thing that bugs me the most about this is she spoke about class 2 contributions. I will be the first person to say that I think self-employed people in Jersey get an absolutely rotten deal with our social security contribution system, many of whom take a pay cut to become self-employed, to get into business and end up penalised with these class 2 contribution systems paying even more than they would be otherwise, when I think a much better system would be to have further rates of contributions to recognise the importance that small businesses play in our economy and the importance of self-employed people in our economy. The most frustrating point about that is that is also the Council of Ministers' policy. It was in the Chief Minister's 500-word statement when he stood to be re-elected as Chief Minister and now here we are almost 2 years later and nothing has been done apart from an apparent announcement that is coming in the future that there is going to be a consultation on it. I do not see anything wrong whatsoever in pre-empting a consultation to propose making the system fairer and getting rid of the need for the health tax, so where was the consultation for the health tax? Where were the public

ever asked: “Stealth taxes; what are your views? How should we go about doing it? How can it be done in a fair way?” You can introduce a new stealth tax and potentially open the floodgates for more stealth taxes without any sort of consultation but when it comes to one we have already where democratically elected Members have proposed solutions to them previously: “Oh, no, we cannot do anything then. We have to have this consultation.” I think what Deputy Southern is proposing makes complete sense. It balances the books for the next few years, which is what the M.T.F.P. is supposedly meant to be doing anyway. It finds the revenue that we need for the health tax and the Minister for Health and Social Services says that there will still be no dedicated, sustainable funding mechanism for health if this is passed. Yes, there is. It is called income tax, which is what funds health already and if our income tax revenues are not funding our public services properly then we need to review income tax to make sure it does that. Introducing stealth taxes is the wrong way to go about things because the nature of which the Council of Ministers is following is making it regressive. It is further extending the burden of taxation on middle earners, which I have several problems with. I think economically it does not make sense but also democratically it is something that no Minister had the guts to say to the public of this Island when they stood for election last time. Surely it makes sense from a pragmatic point of view to look at the taxes we already have, make sure they are fit for purpose and doing what they should be doing before we open the floodgates to new taxes which we have no idea where that ends. We do not know the detail for the health tax properly. Future hospital tax: what next? Will there be an education tax after that? We know that we do not have decent funding for higher education so what about a graduate tax, then? That will be another 1 per cent on your income if you are a graduate. Then, 15 years down the line when we see that because of demographic changes it is now unsustainable so then it is up to 2 per cent and then it is up to 3 per cent. This is the problem we are facing. Our tax and spend model is completely broken. It needs to be looked at properly and I think introducing new taxes at this stage is completely the wrong way to go about it. We have problems with our social security contribution system where those who are earning the most are not paying a rate that is I would say progressive compared to those who are earning much less.

[18:00]

This goes some way to rectifying that to at least a degree and avoids introducing a regressive new tax and all the bureaucracy and administration and extra costs to get those employees in the civil service to administer it. If there need to be further things looked at in the future then that can form a part of the social security contributions review. We can have this review that has apparently been announced by the Council of Ministers as their justification for rejecting Senator Ferguson’s amendment for a review and we can look at the conclusions and recommendations that those make and I do not see anything wrong whatsoever with pre-empting it to stop opening the floodgates for these new taxes. So, I will be supporting Deputy Southern’s amendment and I do not accept any of the criticisms made by the Minister for Social Security who, I think, has used arguments that can be equally applied to the Council of Ministers’ proposals at the moment. I hope Members will support the amendment.

1.5.4 Deputy J.M. Maçon:

I remember asking all the candidates who were standing for the position of Minister for Social Security about this very aspect because we knew from the former Senator Le Gresley when he was leaving office that social security rates were going to have to go up in order to meet the ongoing demographic needs of the funds. I did put these questions to the Minister about how this was to be done. Whether you raise the basic rates or whether you are going to increase the upper cap rate and her response was we would probably do both in the long term. The question is: given that we have a system where the current working population pays for the current retired population, and with

people on the side which both draw from, the problem is if you have a shrinking working population the issue is do we capture what the working population is contributing sooner rather than later because we know that the demographic is going to change, and that the draws on the funds are not going to be enough unless you want to get to a situation whereby my generation in 20 years' time are going to be taxed even more out of existence when they are looking at even greater university debt. Will they even be able to afford their housing costs? Are they going to be able to afford any other of the taxes and charges that are coming through? Certainly within my manifesto I made quite clear that I would support measures to increase the cap on contributions because I knew that is the way it would have to go. Therefore in principle I think what Deputy Southern is trying to promote is ultimately what is going to happen. Whether we like it or not it is what is going to have to happen. On the other hand, the Minister did point out some very important technical points about how this should be brought in and therefore it is a bit of a rock and a hard place for me because I understand what needs to be done but when you are talking about things it is the right process to do much more consultation on the technical aspects and how we should proceed in this manner. Therefore I will wait for Deputy Southern's conclusions and listen to this but in principle I absolutely agree with what Deputy Southern is trying to achieve here. It has to be done and it has to be done sooner rather than later, and if I can urge the Minister to get on and hurry up with the consultation. I think it has to be done for the future of the people of the Island.

1.5.5 Deputy S.M. Wickenden:

I am glad to follow the Deputy there and I agree that the mechanism needs to happen at some point. We have an ageing demographic. We are going to have to pay for it somehow. We all know this. It is coming down the line and probably the mechanism is going to be raising the cap on social security. It is going to be probably raising how much is being raised in all aspects of it and that is going to cover what we need to do and that is probably the right way of doing it. My concern now and the question I will put to Deputy Southern is that if we raise this now for this purpose, for the health charge purpose, what are we going to do later down the line to help, with the pension side of it? Are we cutting off our nose to spite our face in this area and that concerns me, but I would like to hear from you about where you think we can go further from this to be able to meet the requirements of the pension fund, the ageing population and meet those requirements; so I would be very interested to hear your views on that.

The Deputy Bailiff:

You can direct remarks through the Chair, so to hear the Deputy's remarks on that would be a way of doing it. Does any other Member wish to speak on the amendment?

1.5.6 Deputy M. Tadier:

Just to have the full 3 Members speaking I am glad we have had other Members talking as well. The good thing about my colleague, Deputy Southern, obviously a stalwart in the Assembly, is that he is not somebody who simply criticises the Council of Ministers but he can be relied upon to provide alternatives and alternative policy and hopefully that is something that our party does already and will continue to do. I think it is a healthy part of any democracy to have an opposition having alternative policy that is put forward in the Assembly but more importantly put forward to the electorate before an election. This idea about social security caps and making social security more progressive is not a new one. It is something that we stood on before the election in 2014 and it is something that we continue to think around and continue to fight for. It is interesting today to get criticised by the Minister for Social Security saying that Deputy Southern's proposition does not go far enough because it still has a cap on it, which is quite interesting because, of course, what he has tried to do in doing this is to work within the system that we currently have and say: "Okay, we have a cap but then there is scope within this area." Bearing in mind that the one peeve that is

continual and we have heard about it in the previous first amendment brought by Senator Ferguson is that we still do not have a way to tax companies that trade in Jersey, that make profits in Jersey, that use the infrastructure in Jersey but do not seem to contribute. Of course, this is a way of making sure there is some contribution significant from those individuals. It is a beginning. It is not an end by any means. It does not tie the hands of the Minister for Social Security to say that is the beginning and the end, so this idea that simply by passing this today would prevent her from making a more progressive system and getting more revenues in the future, either before or after her review has been concluded, I do not think is a valid one. If Members are interested they can read a blog post that I made in 2015, although I thought it was earlier than that but I may be wrong. The point I made is that you could have a system whereby you have a very progressive rate. If we want to help middle Jersey, if we want to help self-employed people we could have a 5 per cent flat rate of social security which would increase our yield so it would increase it by £7.5 million, similar figures to what we are talking here, and a lot of people, the majority of people would find themselves better off, slightly, of course, but it would put more money in their pocket, more money to spend in the economy. It would increase the fund, make it more sustainable and it would mean that the top earners and the employers would contribute and this is something that goes in a similar vein. This is saying that it is a way to start to tax companies, to get contributions from companies that are currently not paying. We know that is addressing one of the key issues the electorate is demanding. It is fiscally responsible to do that because it does not bury our head in the sand. The whole idea to hear the Minister saying it does not address the long-term funding for health; does the Council of Ministers' M.T.F.P. address the long-term funding for health? I have not seen that but they have given us a little figure. They have produced something which is remarkable that we will talk about no doubt very soon. You could not wish for a worse proposition that says, okay, let us increase taxes but not on the people who have the money. It is progressive to a certain point, of course, but that progressive curve is very steep. If we look at it, it curves very steeply from around about £15,000 up to £60,000 like that but it tapers off very slowly on a very low taper so that those high earners are paying very little. You really could not make these kinds of policies up so by all means if Members want to find some reason not to vote for this that is within their ability of course to do that, but I do not think that we or Deputy Southern should be under any unfair criticism for bringing something forward which goes in the right direction. I would ask Members if they think there is merit in the direction of travel to send a strong message to the Minister for Social Security and the Council of Ministers that this is the right way to proceed and it is something to be explored. I am worried when I hear words, given the fact that there is an ongoing piece of work from her department, saying that we know that in future all contributions are going to have to go up at all levels. I do not think it is appropriate for the Minister to be saying that now. It is not appropriate for her to be pre-empting the outcomes and moreover I do not think it should be the correct outcome that in the future those who are already paying 6 per cent of their own employee contributions should expect any increase if they are on the standard rate. Nor employers, indeed, under that rate when there are people at the top who are paying zero per cent above the cap and only 2 per cent in the higher rate for social security. There is lots of work to be done around this and I am glad that the sounds coming out of the Minister and the Council of Ministers are perhaps starting to take these arguments on and I think there can be a win-win in the future where we see a more progressive rate of social security where people could possibly be paying a lower rate. More than likely it will have to stay the same but they will not see an increased contribution for the vast majority, but those at the top who will not feel it will be able to make that contribution. At least ask them. The other point is why do we have consultations for some things but not for others? It seems on something like this that is pretty much an open door, people who are already employed and living in Jersey who are not going to go anywhere and are relying on that income, especially at the top end, why are we consulting on something so extensively yet we will impose a highly regressive health tax which is unpopular and fiscally predatory, you could argue, while taking such a long

consultation period on something that should be so simple? I think the Council of Ministers have lots of questions to ask on this. As for our part, we are happy to continue to propose alternative policy that has been thought through and we will continue to do that.

1.5.7 Senator A.K.F. Green:

I would like to pick up on the health aspects of this amendment. There would be no surprise that as Minister for Health and Social Services I would do that. My colleague, the Minister for Social Security, has made the point that Deputy Southern's proposal to draw increased employers' contributions, and it is employers' contributions not company contributions, into the Social Security Fund would be to the detriment of the Health Insurance Fund. Just to be clear it would be to the detriment of the Health Insurance Fund. Members will be aware that currently H.I.F. (Health Insurance Fund) receives approaching about one-fifth of employers' contributions. Our health system is evolving, moving to a less hospital-centred care model to a greater focus on community care. The redirecting of all the money from the Deputy's proposed increase would be to ignore the growing importance of primary care services, G.P.s (General Practitioners), dentists, pharmacist, community nurses to name but a few and I apologise to all the ones I have left out, but it is just a matter of time. As Members may recall, the sustainable primary care strategy for Jersey sets out areas that we will be working on in order to provide a safe, sustainable, affordable care system, care that puts patients and their families at the centre of all that they receive. From a patient perspective, primary care should be the first point of contact in the health and social care system, central to diagnosis management and ongoing care, treating the whole patient involved in their continuing care and prevention of illness. This is important to all of us but particularly to our ageing population. Community-based services are critical in keeping us well and being supported at home and that is what the public told us they wanted. A number of pilots round primary care are underway to support health and social care professionals to test out new models for delivering care, either in primary care settings or delivered by primary care practitioners, in particular, integrating community nursing to support the development of knowledge and skills in order to support long-term transformation of the primary care workforce, to evaluate the benefit of new models to patients, professionals and the wider system including outcomes of quality and value for money. The primary care strategy sets out a direction of travel for developing primary care in Jersey as part of the transformation of the whole of the health and social care system. At this time, when the provision of such essential primary care services is being recognised and reviewed, now is not the moment to redirect resources that I have written here may well be required to fund primary care but I am going to change that to will be required.

[18:15]

There is no doubt that it will be required to fund a primary care system, a system underpinned by the rationale that the right care is provided in the right place by the right person at the right time and at the right cost. To conclude, I am asking Members to reject this amendment. I am acknowledging we need to have a mechanism for which we can pay for the growing costs of health care. We have a plan. We have a plan. It is called a health charge. May I suggest that we stop desperately looking at every other possible alternative? Believe me, we have already done that. It is time to face up to the fact that the hypothecated income stream based on income is a way forward. The long-term charge followed a similar principle. That was not popular when it was talked about but it is certainly popular now. I do not get phone calls every day now about the rising costs of care in nursing homes and residential homes. Of course no one wants increased charges but we have to have a safe and sustainable service and when it comes to our health and that of our nearest and dearest we all need to have a way of paying for it. The proposals in this amendment are not the way to find that funding and I ask Members to reject it.

1.5.8 Deputy J.A.N. Le Fondré:

Just briefly, I was not going to speak and Senator Green will be delighted to know he encouraged me with his last words. He made a comment that accept this is the best way forward and almost implying the health charge is a *fait accompli*. I wanted to say that the whole point of bringing this to the Assembly is that ultimately it is for States Members to decide whether they support those proposals or not. He should also understand, I hope in a nice way, that there is a lot of concern out in the real world, in other words not that this is not the real world but this is the political world, of the increases in charges that are taking place. Therefore if there are other measures that might achieve the same thing which is supporting the increase in the funding for the Health Department, which is the aim but without imposing costs directly on taxpayers necessarily, they should at least be open for discussion in this Assembly. From that point of view I would have thought that was hopefully broadly speaking what he meant other than that this Assembly should just rubber stamp the proposals of the Council of Ministers. I will say I was supportive of this amendment. I might switch back to abstain. I do not know. I want to listen to how it continues. There are 2 things I have a problem with on a health charge, or 3 things. One is it is a tax ultimately and the question is have we achieved enough in the savings area before we go down that tax level? Second is that graph. I think a number of people have and it is a separate debate, which is this tailing off at the end. Although I am a person who quite likes flat taxes and always accept that it is going to increase up to about £60,000 and it is not going to be an effective rate if it is going to be less than 1 per cent, I do not think you should decrease from 1 per cent the more you earn and I have a bit of a problem with that. You will note that is one of our comments in the Corporate Services Scrutiny Panel as well. Thirdly, this in a way assists the Zero/Ten problem in terms of companies that do not pay tax now making a contribution towards the services they use. That is my attraction to this. My caveat is, and I am not too keen and I should have thought about it, 2 per cent steps. In other words in terms of sending a message I send the message that at the very least it has an attraction and I will take the point that perhaps there needs to be some further work.

1.5.9 Senator L.J. Farnham:

I just want to talk about the cost to business of this amendment. Where is the money going to come from? In the best case this could have the impact of increasing the cost of doing every type of business in Jersey. It is detrimental to Locate Jersey, Digital Jersey, Jersey Finance and all the other bodies. They are working hard to attract inward investment to the Island and diversify the economy. However, the real concern is the amendment that seeks to increase employer contributions is fundamentally flawed as it fails properly to recognise the consequences. The Minister for Social Security alluded to that. These ideas sound all very plausible but when you drill down and start doing a bit of investigation there are serious consequences. I have been looking a lot at the figures released yesterday by the Statistics Unit that show that nearly all sectors of the economy from agriculture to manufacturing, to construction to wholesale and retail and tourism are increasing their contribution to the economy against a difficult background. What does the Deputy want to do? It is a well-intentioned amendment but significantly increases the costs of doing business. Companies do not pay these sorts of charges at the end of the day. People do and it will be passed on in various different ways, shapes and sizes and can end up doing more harm than it could good. Increasing the cost of employing people in Jersey at a time when we are facing significant economic challenges, as the Deputy challenged me on during question time on Tuesday, would bring greater risks to us not achieving our economic forecasts. I think we are going to see and I hope we see some growth. The Fiscal Policy Panel has said we are going to see zero growth. These sorts of things will make it hard to stay level. They can drive business's contribution to the economy down and we just do not need that. The Deputy indicates that the purpose of this amendment is to recover lost tax revenues from companies who benefitted from the reduction in company income tax under the Zero/Ten changes. However, the proposition is not targeted at

companies but at employers irrespective of what legal form they take or whether they are paying corporate tax. The proposition therefore is badly targeted for this purpose and as described above may simply impose costs on Islanders and fail to achieve its primary aim. The proposal is to increase self-employed and employer contributions by a significant percentage over a 2-year period and should not be taken without proper consultation with local businesses and employers. Also finally, I am trying to understand where Reform Jersey is coming from. They are all over the place with their amendments and while I will not criticise the Deputy, especially Deputy Southern because he does work hard, harder than most with these amendments. It does not address the regressive nature of income earnings above £164,000, yet we are going to see a proposition coming from Deputy Mézec, the leader of the party, that asked for just the opposite. I am getting a bit lost as to where they are coming from. I suppose the approach is if you fire in enough amendments you are bound to get somewhere at some stage but this I just wanted to make Members aware is significantly damaging to businesses and employers at a very crucial time when we are trying to rebuild our economy and create new jobs.

1.5.10 The Deputy of St. John:

I really look forward to hearing Senator Farnham's speech when the Council of Ministers bring forward their proposals to increase the contributions in the near future and I am sure it will not be the same speech he has just given. It fathoms me. I had the joy of being an Assistant Minister at Treasury last year and this particular situation came up of we have no money, what are we going to do? The Social Security Fund was mentioned as one of those particulars and, of course, it came in the M.T.F.P. last year. We capped, we froze the grant that we pay in tax revenues into the Social Security Fund. It is all written in the M.T.F.P. that was agreed by the States Assembly last year. There was a piece of legislation where the Minister for Social Security asked us to change the formula up until the end of the M.T.F.P. period, which will reduce the value of the reserve fund by £20 million. So, we will have to make that up as well at some point in the future and we did that without a review. We were told that review is coming: "Trust us." I get rather sick and tired of listening to what is all right for one and not for the other and there were so many different conversations around this in the last M.T.F.P. about the potential of cutting the grant in half. Instead they came forward with a cap because in the Strategic Plan, believe it or not, which has been agreed by the States Assembly, it talks about long-term planning and this was seen as a short-term measure and agreed as a short-term measure but when I am told by the Council of Ministers only last year we are taking £20 million out of the Social Security Fund because we need it to fund what we need to do which should be through tax revenues. Now I am being told: "Do not do this. Do not do what Deputy Southern is asking us to do because we have not had the review yet. We need to have that review", which will be out in a couple of weeks, I believe. I believe the review will consider options for increasing the liability for contributions from higher earnings, reviewing the level of the standard earnings limit and the upper earnings limit, increasing the percentage rate for contributions, reviewing the balance between employer and employee contributions, reviewing the liability of self-employed contributors, reviewing the method for operating pensions and benefits, increasing the State pension age, reviewing the eligibility for pensions, reviewing the range of working age benefits available. That is all on page 129 of the M.T.F.P. that was agreed last year. It does bother me when I hear a Minister standing up saying how difficult it will be for businesses to absorb this kind of cost. We are all going to have to absorb some kind of costs because this States Assembly has recognised we need to pay more for health and guess what? There is an ageing population problem and this has been a consistent theme not for the last couple of years, not for the last 10 years but for about 20 years. In the 1990s they had the foresight, or somebody in the States Assembly had the foresight then, to put the rate up higher than it needed to be to counter for that long-term planning. I believe it was Senator Routier. Well done, Senator Routier. [Aside]. He was there, okay. Not a well done, then. It does really bother me and my

message across to the Ministers is stop this trying to act as if you know better than everyone and that there is a real plan there because I am sick and tired of hearing: “Put it off, we will wait for a review. Put it off, we will wait for a review.” I believe people elected us in to make decisions and I would like to make one.

The Deputy Bailiff:

The adjournment is proposed. It might be helpful just for the guidance of Members if Members who still wish to speak on this could show just to get a sense of numbers. Very well. In any event the adjournment is proposed. Do Members agree we adjourn? This House is adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[18:28]