

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 28th MARCH 2017

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[9:30]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

1.1 Welcome to H.E. The Lieutenant Governor

The Deputy Bailiff:

I am sure Members would wish to join me in welcoming His Excellency the Lieutenant Governor to his first ordinary sitting of the Assembly this morning. **[Approbation]**

1.2 Westminster Terrorist Attack – Letter to Speaker of the House of Commons

The Deputy Bailiff:

The Bailiff wrote to the Speaker of the House of Commons last week with regard to the attack on the House of Commons on Wednesday last. In a moment I will read the letter but may I suggest that Members may wish to show their solidarity with parliamentarians in the United Kingdom and our determination not to be silenced by acts of terror in the traditional Jersey manner by means of a foot-stamp when the letter has been concluded. The Bailiff wrote: “Dear Mr. Speaker. I am writing on behalf of the people in States of Jersey to express our deep sympathy for the attack on the House of Commons yesterday. I would particularly like to extend our condolences to the families of those killed or injured in the attack and to pay tribute to the commitment to duty of the police officer who lost his life in New Palace Yard. It is at times like these that we realise how much we all depend on the security and emergency services and we should remind ourselves of that debt more frequently than I expect most of us do. We in the States of Jersey stand united with the House of Commons and other democratic legislators in rejecting violence and upholding democratic principles and the rule of law. In that context, I especially commend your decision to ensure that the House met as usual today to carry on its normal business. There could be no better way of exemplifying the importance of democratic politics and the commitment of the politicians and staff who support it. Yours sincerely, William Bailhache.” **[Approbation]**

1.3 Exhibition on History of the States Chamber

The Deputy Bailiff:

Thirdly, I would like to bring to Members’ attention to the fact that preparations are under way by the States Greffe for an exhibition later this year about the construction of this Chamber. June will see the 130th anniversary of the Chamber’s opening and the exhibition will mark the event by explaining this part of the Assembly’s history. There will be a launch event on Wednesday, 21st June, the day of the anniversary itself, after which the Bailiff has agreed that the exhibition may be housed for a time in the atrium of the Court building. I understand that the Greffe has approached the Comité des Connétables about then taking the exhibition on tour around the Parishes to increase public access. Further news about the exhibition will be forthcoming in due course.

1.4 Filming in the Chamber

The Deputy Bailiff:

Lastly, because we have a new Lieutenant Governor, the media have asked that they be allowed to take library film and photographs at the next sitting of the Assembly on 18th April, on the assumption that the Assembly is content with that then permission will be given. The normal period within which media are allowed to prepare their library footage is from the beginning of the Assembly until the beginning of Question Time. Very well.

QUESTIONS

2. Written Questions

2.1 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE FUTURE DELIVERY OF HOSPITAL SERVICES: [1(175)]

Question

Further to the Assembly's approval of 'Future Hospital: preferred site' (P.110/2016), will the Minister set out the range of services that the Department of Health and Social Services will provide from the new Hospital and explain how the Department will ensure that sustainable and accessible transport links are maintained (or improved) for specialisms required off-Island?

Answer

The new hospital will broadly provide all that the existing hospital provides. The new build will not prevent us from doing anything that we currently do or automatically allow us to do more. We will continually seek to undertake treatment on island where clinically safe and cost effective to do so.

Services in the New Hospital will include all of the following:

24/7 services

Emergency Department

Emergency in-patient facilities and 24/7 medical staff for Medical, Surgical and Paediatric care

Maternity Unit, Obstetric Theatre and Special Care Baby Unit

Emergency Theatre

Intensive Care Unit and High Dependency Unit

Imaging

Pathology

Pharmacy

Physiotherapy

Medical Records – with out of hours retrieval

Estates and Facilities

Planned/elective/out-patient services

Renal dialysis

Oncology unit with chemotherapy provision

Medical Day Unit

Day of Surgery Unit

Elective in-patient beds

Orthopaedics

Breast Surgery

Colorectal Surgery

General Surgery

Urology

Vascular Surgery

Ears Nose & Throat
Ophthalmology
Cardiology
Gynaecology
Oral surgery
General Medicine
Neurology
Pain Management
Diabetes
Rheumatology
Nephrology
Paediatrics
Haematology
Gastroenterology
Cardiology
Respiratory
Infections and Blood borne diseases
Genital Urinary Medicine

Off-island provision

Emergency and urgent transfers for conditions such as multiple trauma, head injuries, burns, cardiac interventional care etc. will be flown urgently to a specialist centre by our contracted air ambulance and this will continue to be the case in the future.

Across the whole spectrum of elective services there will be cases that are rare or complex and that are best managed in specialist centres. These cases will be referred off-island and include services such as:

Radiotherapy
Neurosurgery
Complex Spinal Surgery
Transplant Surgery
Complex Paediatric cases
Cardiothoracic Surgery
Second opinions or advice

It is highly unlikely that we will undertake these services on-island due to the low number of patients requiring these treatments and the need for specialist skills and equipment.

Off-island transport and access

We have partnerships, via contracts, with key UK Specialist Centres. In recent years, these contracts have also required the UK centre to provide transport links from airports to their

hospitals. The vast majority of our patients fly to airports where there are multiple daily flights and reasonable road/rail transport to the hospital (Southampton/Gatwick).

If flights are added or removed by the airline companies we will reassess the logistics hospital by hospital and adjust our patient flows accordingly.

The emergency transfers are undertaken via a contract with a specific provider. The current contract is due for renewal and will be finalised later in the summer. The sustainability of the service is a key element of the service specification.

Occasionally, due to adverse weather conditions, a helicopter is required to transport a patient off-island. This method of transport will be used if the patient's clinical condition cannot be safely or appropriately managed on-island whilst waiting for the weather to improve so a standard emergency flight can be undertaken.

2.2 DEPUTY J.A. HILTON OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE INDEPENDENT AUDIT OF THE QUALITY OF FRONT LINE PRACTICE AND MANAGEMENT IN THE CHILDREN'S SERVICE: [1(176)]

Question

Further to the 'Independent audit of the quality of front line practice and management', undertaken between May and July 2015 in respect of the Children's Service, and the recommendations arising from the four phases of that audit, will the Minister advise which, if any, of the recommendations were adopted and state what criteria will be used to measure performance and the outcome of those recommendations to ensure that a difference is made to the lives of children in the Island?

Answer

The four audits that considered a small sample of practice ranged from entry to the service through to considering the circumstances of looked after children. All of the recommendations of the audits were accepted and were incorporated into the Children's Service improvement programme.

Completed actions include:

- The permanent establishment of the post of team manager in the Multi-Agency Safeguarding Hub (MASH)
- MASH manual and guidance in place
- Staff training and development
- Strengthened management oversight of decision-making
- Development of a child's single assessment and plan
- Performance indicators in place for child protection
- Significant number of cases reviewed and quality assured
- Documentation for looked after children reviewed and further developed
- Pathway plans in place for care leavers
- Permanent independent reviewing officers in place
- Staff receiving regular reflective supervision.

Longer term actions such as the development of a corporate parenting strategy are ongoing across the partnership working with children.

These audits have been part of a broader framework of quality assurance developed in the service and across the range of agencies working with children in Jersey.

The Children's Service is underpinning its improvement work using the framework tried and tested by the Scottish Care Inspectorate: *'How well are we improving the lives of children and young people?'* This framework is validated by the European Foundation for Quality Management (EFQM) and provides a method of measuring outcomes for children. The service will self-evaluate its progress using this framework.

The service has adopted a performance management framework based on Annex A (National Performance Indicators) used in England as well as a number of information management processes to ensure oversight of progress and to ensure a proactive approach is taken to service planning and delivery.

Children's plans are outcome focused and are SMART (specific, measurable, achievable, realistic, time bound) and are reviewed on a regular basis to measure progress. Practitioners use validated tools to measure progress of a child or young person against the outcomes of safe, healthy, achieving, nurtured, active, respected, responsible and included.

The new Children's Service IT system has been commissioned and will provide individual client information as well as a number of business reports. These business reports will include a range of performance reports with the facility to aggregate and collate information on outcomes (target and achieved). This will include quantitative and qualitative outcomes and the development of proxy indicators to measure the wellbeing and protection of children and young people.

The installation of the system is scheduled to start in April 2017 which will include service-wide testing, staff training and incorporating Jersey legislation and policy, with a planned implementation across the Service by the end of 2017.

2.3 DEPUTY J.A. HILTON OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE NOTIFICATION OF ASBESTOS-RELATED DISEASES: [1(177)]

Question

As asbestos-related diseases are considered to be industrial diseases in the U.K. and elsewhere, will the Minister explain why they are not designated as such in Jersey and why all notifications of asbestos-related diseases are not routinely given to the Health and Safety Inspectorate?

Answer

The answer provided presumes that Deputy Hilton's reference to asbestos-related diseases being considered 'industrial diseases' relates to the classification of certain occupationally acquired, asbestos-related diseases as 'prescribed diseases' under the UK 'Industrial Injuries Scheme'.

In the UK the 'Industrial Injuries Scheme' provides non-contributory, no-fault benefits for disablement because of an accident at work or because of one of over 70 prescribed diseases known to be a risk from certain jobs. The list of prescribed diseases for which benefits are paid include work-related asbestos-related diseases, namely asbestosis and mesothelioma, as well as lung cancer and pleural thickening where there is a history of substantial work-related asbestos exposures.

The basis of the Law for these benefits in the UK is contained in the Social Security Act, 1998, the Social Security Contributions and Benefits Act, 1992 and the Social Security Administration Act, 1992. The States of Jersey has not adopted an equivalent benefit scheme, so no equivalent list of designated or prescribed 'industrial' diseases exists.

There would be little, if any, tangible benefit of the Health and Safety Inspectorate being notified of asbestos-related diseases at the time of diagnosis. Asbestos-related diseases have a very long latency period between first exposure to asbestos and the onset of disease, which can vary between 15 and 60 years. By the time of diagnosis, it would not be possible to identify exactly where or when the workplace exposure that led to the disease occurred so there is very little that can be done from a Health and Safety Inspectorate perspective. The emphasis must therefore be placed on preventing exposures to asbestos now, as this is the only way to eliminate asbestos-related diseases in the future. I can confirm that this remains a high priority issue for the Health and Safety Inspectorate.

2.4 DEPUTY J.A. HILTON OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING MESOTHELIOMA AND OTHER ASBESTOS-RELATED DISEASES: [1(178)]

Question

Further to an undertaking made in October 2014 to a constituent by the Medical Officer of Health that all deaths from mesothelioma, or other asbestos-related diseases, would be followed up with the Viscount and local medical practitioners (with reference to potential exposure history as well as a full occupational history) in order to build up a prospective picture of the pattern of such diseases and any relevant exposures to risk, will the Minister explain whether or not this has happened and, if not, explain why not and state when that undertaking will be implemented?

Answer

Following the 2014 undertaking in a letter to a member of the public with an interest in the subject, the MOH asked the Public Health Intelligence Unit to devise a process aiming to collect the desired information. There have been ten deaths recorded as due to malignant mesothelioma since 2014. A new form was created and has been in use, sent to the deceased's GP, as recorded in the Deaths Database, in relation to deaths which were recorded as due to mesothelioma or asbestos-related causes. Enquiries were also made to the Deputy Viscount in cases where there had been an inquest, from which additional information could potentially be gleaned.

This new process has not yielded any additional useful information. It emerged that GPs do not hold information in their records about an individual's full occupational history spanning up to 40 years of a working life: there was only very limited information able to be provided about the most recent occupation, none of which pointed to any pattern. Nor was there sufficient information available from inquests.

2.5 THE DEPUTY OF ST. OUEN OF THE CHIEF MINISTER REGARDING STATISTICAL INFORMATION IN RESPECT OF INCOME EQUALITY [1(179)]

Question

Will the Chief Minister list each source of published statistical information which together comprises the "*the full range of published statistics*" used by the Council of Ministers to monitor income inequalities, as reported in his answer to Written Question 1(160) tabled on 14th March 2017?

Answer

The Statistics Unit produce a wide range of statistics as outlined in their programme of releases. This includes periodic, detailed surveys which provide information on incomes, income inequality,

and how people on different incomes are faring financially, such as the “Household Income Distribution Survey”, the “Jersey Opinions and Lifestyle Survey”, and the “Housing Affordability Index”.

In addition, more frequent statistics are produced which provide insight into these areas, including average earnings, employment, unemployment, inflation, and rents and house prices.

Alongside this, reports are commissioned from time to time by government which provide information and insight on issues around incomes, income inequality, and how people at different incomes are faring financially and effected by policy decisions, for example, the distributional analysis undertaken as part of the Medium Term Financial Plan, and the forthcoming such as the personal tax review, the review of the economic and fiscal impacts of increases in the minimum wage, and the review of the economic value of migration.

2.6 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING STATISTICAL EVIDENCE AVAILABLE IN RESPECT OF RELATIVE LOW INCOME: [1(181)]

Question

What statistical evidence, if any, does the Chief Minister have to back up the statement made in the answer to Written Question 1(160) from Deputy M.R. Higgins of St. Helier that "*relative low income is reducing*"?

Answer

Income inequality reduced between the Jersey Income Distribution Surveys of 2002 – 2009/10 as our economy performed well, and deteriorated between the surveys of 2009/10 – 2014/15 as the impact of the financial crisis affected people’s incomes.

In particular, the deterioration between 2009/10 and 2014/15 was driven by a reduction in the employment income of those aged between 30 – 39 and unqualified people, and as low interest rates and rents stretched out the distribution after housing costs.

Since then, the range of economic statistics are much more positive, with unemployment at a six year low; participation at a high of 86%; and earnings rising above inflation for four consecutive years (2013 – 2016) after 3 years of below inflation increases (2010 – 2012). So more people in work and earning more. The 2014 Jersey Annual Social Survey provided some advance indication of this more positive outlook, reporting that while there had been no material change in numbers reporting they were finding it difficult to cope financially, the proportion who said their situation had worsened in the last 12 months had reduced considerably, and those who said their situation had improved in the last 12 months had increased.

We have more to do to ensure that the positive economic changes that are taking place benefit more people across our Island. As the review of personal taxes has shown, we have a more progressive tax system; and our approach to spending, for example, investment in health and education, helps those who need it most. With more information and statistics than ever before, we can and will do more to help those on lower incomes.

2.7 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING THE IMPACT OF THE JERSEY AIRCRAFT REGISTRY ON ECONOMIC GROWTH: [1(182)]

Question

Further to the response to Written Question 1(15), in which seven items relating to the Jersey Aircraft Registry were included in a list of legislative measures which could demonstrate a tangible effect on promoting economic growth, will the Minister explain why these seven items were included given that only two aircraft had been registered and that, taking into account the cost in setting up the Registry compared with how much it had made in registration fees, it was running a deficit of close to £850,000?

Answer

The development of an aircraft registry approved by this Assembly has always been an investment in the long-term future of Jersey.

I can inform the Deputy that Jersey remains well placed to maximise the economic benefits of having an aircraft registry.

The Deputy appears to understand the term economic growth as meaning Government Departments must generate a return from the registry almost immediately.

The aim of the Department is, in the fullness of time, to recover the investment. However, Government has made the investment to ensure that, in the long term, Jersey enjoys the benefits of the registry as was always the stated case.

In the meantime, I, my Assistant Ministers, and the Council of Ministers, are responsible enough to take the long-term view and we remain confident that our aircraft registry will prove successful.

2.8 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE INVOLVEMENT OF MINISTERS IN ADDRESSING FREEDOM OF INFORMATION REQUESTS: [1(183)]

Question

What involvement, if any, do Ministers have in assisting with gathering the relevant information to answer Freedom of Information requests; and are Ministers shown Freedom of Information requests when the subject involves their Department?

Answer

Ministers do not have a role in the gathering of relevant information to answer Freedom of Information requests, although they may be informed of the existence of a request as a courtesy, in particular, where the request requires Departments to search files and correspondence in the names of Ministers.

2.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE IMPACT OF THE DEPARTMENT'S POLICIES ON HOUSEHOLDS RELIANT UPON INCOME SUPPORT: [1(184)] Question

Will the Minister advise whether she has information available to her showing that the reduction in value of Income Support components in real terms since 2009 was £43.79 for a couple with one child and £75.39 for a lone parent?

If so, will the Minister explain why those figures were not provided in response to Oral Question 1(163) from Deputy M. Tadier of St. Brelade on 14th March 2017, given that such figures would be very close to the estimates of £45 and £75 initially provided in the question; and will she confirm whether the support offered to low-income households through Income Support components (adult,

child and household) has therefore seen a real-terms reductions of the order outlined above as a result of the decisions of her Department?

Will the Minister also provide the source of the figures she cited on 14th March 2017 that the average total income for lone parents has risen by £75 a week and for a couple with children by £123 a week, given that figures available in the Minister's annual reports comparing 2015 with 2012 suggest smaller increases have occurred?

Answer

This question was inadvertently not distributed by the States Greffe to the Minister for Social Security in time for a response to be provided. The question will be carried over to the next meeting but will not be counted amongst the five written questions which Deputy Southern could table for answering at that meeting.

2.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE PROSPECT OF A REVIEW OF THE HEALTH INSURANCE FUND: [1(185)]

Question

Alongside the review of the Social Security Fund, will the Minister undertake to review the Health Insurance Fund and, in particular, whether the decision taken by one of her predecessors to remove prescription charges continues to be sustainable given the growth in expenditure on pharmaceutical benefit to £13.5 million in 2015?

Answer

The Health Insurance Fund is not part of the Social Security Review which is currently being undertaken by the department.

'A Sustainable Primary Care Strategy for Jersey' was published in December 2015 and sets out five 'ambitions', one of which is payment. The funding for services, including the reintroduction of a prescription charge, remains an option for consideration and such deliberations will be made in the context of the development of primary care services and with input from partners in Health and Social Services. An external consultancy is assisting Social Security and Health and Social Services with an assessment of current funding and payment systems in primary care, and the role of prescription charges will be considered in the context of this wider review.

The Health Insurance Fund is subject to actuarial review at five year intervals. The last review reported on the condition of the fund as at 31 December 2012, therefore a further review is due which will consider the condition of the fund as at 31 December 2017. This review will be undertaken during the summer of 2018 when all claims on the Health Insurance Fund have been processed and activity in the fund for the period of the review (2013 to 2017) is stable.

2.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE CHOICE-BASED LETTINGS SYSTEM: [1(186)]

Question

Will the Minister outline how the new system of choice-based lettings, in which potential tenants are encouraged to bid for properties, works in conjunction with the strict date order under which the waiting list for social housing operates; will she account for the high refusal rates experienced in 2015, as reported in *'Andium Homes: Annual Report 2015'* (R.76/2016); and will she state what measures, if any, have been adopted in response to these refusal rates and with what success?

Answer

The Andium Homes choice-based lettings system gives applicants registered on the Affordable Housing Gateway waiting list the opportunity to express interest in, and view, available social rented properties.

An available property will be offered to an applicant who (having expressed interest in that property) has the highest priority. In this case, priority is determined by:

- Band – applicants in band 1 receive the highest priority.
- Date order – the applicant who has been waiting longest in the highest band will take priority.
- Housing requirements – the property must be suitable for the applicant’s stated requirements (e.g. a need for a ground floor property or a walk-in shower).

This process is consistent with the policies of the Affordable Housing Gateway.

If the applicant with the highest priority turns down the property, the next person with the highest priority registered on the waiting list will be offered the property.

Andium Homes introduced a choice-based letting system in 2016, following a pilot scheme in 2015. Prior to this, offers for housing had been made directly to applicants. However, direct offers did not provide an efficient lettings process, resulting in a large number of refusals from applicants who were not interested in the properties that had been offered to them (as identified in the 2015 Andium Homes Annual Report).

The introduction of a choice-based lettings system has shown positive results, providing an efficient, clear and customer-oriented approach to the allocation of social housing. In the 1st quarter of 2016, for instance, the average turnaround time for properties was 42 days, which has reduced to 23 days in the 1st quarter of 2017. Moreover, the number of offers turned down by applicants has reduced significantly:

Q1 2015	57%
Q1 2016	51%
Q1 2017	18%

Properties refused as a percentage of offers made

The advantage of the choice-based lettings system is that it enables applicants to make informed decisions about the type and location of the property they can let, which is more likely to result in them living in a property they can settle in and enjoy.

The introduction of the choice-based lettings system is consistent with the Minister’s Housing Strategy, which identifies the need to make the best use of housing resources by ensuring the efficient letting of social rented housing.

2.12 DEPUTY M.R. HIGGINS OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE HUMAN RIGHTS COMPLIANCE OF ARTICLES 8(3)(b) AND 8(4)(b) OF THE STATES OF JERSEY LAW 2005: [1(187)]

Question

Will H.M. Attorney General explain how Articles 8(3)(b) and 8(4)(b) of the States of Jersey Law 2005 are Human Rights compliant?

Answer

From a European Convention on Human Rights (“**ECHR**”) perspective the most relevant right is Article 3 of the First Protocol to the ECHR (“**A3P1**”), which provides –

“The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.”

Limitations on A3P1 rights are permitted provided that they do not impair the very essence of the rights or deprive them of their effectiveness and provided they are imposed in pursuit of, and proportionate to, some legitimate aim (*Mathieu-Mohin v Belgium* (1987) 10 EHRR 1, para 52).

A state is afforded a considerable margin of appreciation by the European Court of Human Rights (“**ECtHR**”) in determining what is proportionate. The ECtHR case law reflects that restrictions on eligibility to be a candidate may amount to a limitation on A3P1 rights. However, the ECtHR has accepted that stricter restrictions can be placed on the right to be a candidate than on the right to vote and in *Zdanoka v. Latvia* (2007) 45 EHRR 478, the Grand Chamber held (para 106):

“the Contracting States enjoy considerable latitude in establishing constitutional rules on the status of members of parliament, including criteria governing eligibility to stand for election. Although they have a common origin in the need to ensure both the independence of elected representatives and the freedom of choice of electors, these criteria vary in accordance with the historical and political factors specific to each State. The multiplicity of situations provided for in the constitutions and electoral legislation of numerous member States of the Council of Europe shows the diversity of possible approaches in this area.”

Disqualifying a person who has become bankrupt or made a composition or arrangement with his or her creditors from being elected serves legitimate aims of protecting public money and mitigating the risk of undue financial influence effecting the work of the legislature. Arguably a person who is bankrupt or has entered into an arrangement with regard to his or her debts may present a greater risk, both with regard to the proper management of public money and of being subject to undue financial influence. Preventing a person from standing for election for up to five years from the conclusion of the bankruptcy proceedings or the making of the arrangement is not disproportionate to these aims.

2.13 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR INFRASTRUCTURE REGARDING TRAFFIC DATA FOR CERTAIN ROADS IN ST. HELIER: [1(188)]

Question

Will the Minister publish data for the years 2015 and 2016 to show traffic numbers, flows and accidents during both peak time and non-peak time on St. Aubin’s Road and Victoria Avenue; and will he publish similar information in respect of Bellozanne Road, Tower Road, West Hill and any road which runs between St. Aubin’s Road and Victoria Avenue?

Answer

The data requested above has been provided below.

Accidents

The Department only has data to May 2016 as more recent data is not yet available. In the period Jan 2015 to May 2016, the following personal injury accidents were recorded:

Road	Fatal	Serious	Slight
Bellozanne Road	0	0	1
Tower Road	0	0	2
West Hill	0	0	0
Victoria Avenue	0	1	7
St. Aubin's Road	0	4	13
Tyneville Lane	0	0	0
Paris Lane	0	0	0
First Tower Link Road	0	0	0
Farleys Lane	0	0	0
La Rue du Galet	0	0	0

The Department does not collect accident information itself, but works from information provided from the States of Jersey Police. Data is not collected where only damage has been caused to vehicles.

Traffic Data

The Department only has traffic data for Victoria Avenue from the roads specified above during 2015 and 2016.

The data was recorded from a manual traffic count of the PIERSON ROAD / ESPLANADE / VICTORIA AVENUE / A1 Junction and was undertaken on 10/11/2015.

The data for Victoria Avenue is provided over the next six pages.

2.14 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING THE NUMBER OF VISITORS SEEKING INFORMATION BEFORE AND AFTER THE CREATION OF VISIT JERSEY: [1(189)]

Question

Will the Minister provide the number of visitors who:

- (a) sought information at the old Tourism Department in the three years before Visit Jersey was created; and
- (b) have sought information from the tourism information section at the Jersey Museum since Visit Jersey was created?

Answer

TIC footfall

	2015	2016	
March	7,333	7,469	2%
April	9,600	10,706	12%
May	14,949	13,207	-12%
June	15,127	14,634	-3%
July	18,514	15,944	-14%
August	22,025	17,725	-20%
September	16,066	14,125	-12%
October		10,343	
November		4,945	
December		4,664	

* Data was not collected from October 2015 to February 2016 due to low numbers of visitors out of the main holiday season.

**TIC moved to Jersey Museum from 24th February 2016

TIC footfall at the previous site and Jersey Museum is shown in the table above. The data before 2015 has been archived and what we hold will be circulated once retrieved from Jersey Archive.

Visitor habits when accessing information for a holiday are changing. This change is driven by mobile technology and free WIFI. People now access information online before travelling and up to the minute information in a destination via mobile phones and websites like TripAdvisor.

Therefore, Tourist Information Centres (TICs) are changing and evolving. Research has shown that most European TICs are changing the way they provide tourist information because fewer tourists are visiting TIC's. Visitors increasingly get information from the internet. Tourist expect free WIFI with easy access, especially in cities. This is becoming the preferred way of accessing information.

It perhaps helpful to acknowledge that access to Visit Jersey's digital sites (Facebook, Twitter, Instagram and jersey.com) have shown increases without exception throughout 2016 and this trend is continuing into 2017.

2.15 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING EMPLOYMENT LEVELS AT THE JERSEY FINANCIAL SERVICES COMMISSION: [1(190)]

Question

Will the Chief Minister request the Jersey Financial Services Commission to provide the following information for members?

- The number of staff employed by the Commission in each section or department, broken down further to show the number of years each employee has been employed by the Commission; and
- The level of staff turnover at the Commission over the last five years, together with an explanation of the reasons for such turnover.

Answer

- a) The Jersey Financial Services Commission (“JFSC”) employed 129 people as at 1st March 2017 across a range of full-time and part-time positions. This breaks down into department level headcount as follows:

Supervision	61
Operations	27
Policy	15
Registry	14
Enforcement	9
Director General’s Office	3

The average length of service is 5.71 years.

- b) Staff turnover (as a % of headcount) over the past 5 calendar years was:

2012 10.4%

2013 5.5%

2014 8.7%

2015 21.7%

2016 8.7%

The spike in turnover during 2015 was commented on within the JFSC Annual Report for that year. This was a year when industry demand for good quality risk and compliance staff resulted in comparatively high staff attrition for the Commission as a large percentage of staff left for employment in regulated entities, this was especially prevalent in Supervision. Efforts have since been concentrated on growing resilience to this particular issue and an enhanced focus on structure, succession planning and the overall employee proposition has resulted in a more sustainable level of staff turnover.

2.16 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING ENTITIES REGISTERED WITH, OR LICENCED BY, THE GAMBLING COMMISSION: [1(191)]

Question

Will the Minister request the Gambling Commission to provide the following information for members?

- (a) the number and type of businesses that are registered or licensed with the Commission and the income derived from each of these registered / licensed entities; and
- (b) the number of internet gambling licences which have been issued, if any.

Will the Minister also explain whether or not the Commission has generated the levels of business and income originally envisaged when it was first established?

Answer

- (a) The data requested by the Deputy is contained in the Annual Reports published by the Commission and a list of current licensees is freely available from the Commission's website: <https://www.jgc.je/list-of-licensees>.

As of March 2017, the terrestrial industry in the Island was made up of 7 Class 1 Bookmakers (operating 90 gaming machines in 26 shops), 2 Class 2 (on course) Bookmakers, a Parimutual Operator, 2 Crown and Anchor Operators, 29 Thrift Clubs, 3 Hosting Providers, a Gambling Software Provider and 2 Personal Gambling Licence Holders. There is also a Promotional Prize lottery in progress, plus a seasonal 'amusement with prizes' licence awarded for the summer season, as well as a small number of gambling machines licensed to operate in 19 pubs, clubs and restaurants. There are also 4 remote gambling operators and 3 platform providers. Licence fee income for 2016 (unaudited) amounted to £549,052.

- (b) There are seven remote gambling licences in operation, with a further two currently being processed. Four of these licences are for remote gambling operators, while the other three are platform providers who provide remote gambling services to other businesses.

The Commission is an independent regulator created by the Gambling Commission (Jersey) Law, 2010. Its functions are prescribed by that statute and are as follows:

- "(a) *the general supervision of gambling, including in particular –*
- (i) *supervision of providers of gambling services, and*
 - (ii) *investigation of whether any person is complying with, contravening, or committing an offence under an enactment relating to gambling; and*
- (b) *any other function conferred on or transferred to the Commission under this Law or any other enactment."*

No such other function has been so conferred or transferred. The Commission's functions are therefore regulatory, and do not extend to generating gambling business and income. The Commission receives no public funding.

3. Oral questions

The Deputy Bailiff:

But we now come on to Oral Questions, the first question ...

Deputy M. Tadier of St. Brelade:

Before you do that, Sir, may I ask a point of order? This week I have had 2 oral questions refused and it is the first time in 8 years that I have not managed to get them revised to make them in order and they were relating to whether or not the Ministers, Senator Maclean and Senator Farnham, had offered their resignation or had been asked to resign. I was told that they are not in order. Could the Chair clarify for the public and the Assembly why these are not in order?

The Deputy Bailiff:

Deputy, the position is, as I understand it, that you have asked for written reasons from the Bailiff as to why he ruled those questions to be out of order and the Bailiff has provided those written

reasons. There is no matter for decision before the Assembly or for ruling by me at this point and, therefore, the matter rests with the Bailiff's communication of his reasons to you.

Deputy M.R. Higgins of St. Helier:

Sir, could I just clarify a point? My understanding is that any question that we submit has to be legal, it must not be invoking a crime. It must be according to Standing Orders and there is a third, which is not terribly onerous either and questions like that do not fall within the exclusions from Standing Orders. Can you just clarify what the Standing Orders are with questions and try and explain why it was not allowed?

The Deputy Bailiff:

No, Deputy, this is not a matter for questions of the Chair on matters that were not before the Assembly today. As I say, the Bailiff has communicated to the Deputy his reasons. If Deputy Tadier wishes to share those reasons with Members, then the Bailiff's reasons underpinning his disallowing the questions will then be apparent.

Deputy M.R. Higgins:

Just clarification though, his refusal has to be in accordance with Standing Orders, does it not?

The Deputy Bailiff:

The Bailiff's refusal is based upon his interpretation of Standing Orders. This is a matter of Standing Orders. It is not a matter of generalised discretion. The only basis on which questions are not allowed is if, in the opinion of the President, they do not accord with Standing Orders.

[9:45]

Deputy M. Tadier:

Sir, may I have a further point of order? One of the reasons given is that the resignations are a personal matter for the individual States Member and not an official matter of official responsibility. Given that only a few months ago there was controversy where a Minister in question wanted to give a statement that was on official responsibility and he was forced to give a personal statement, could this be something that is looked into? It seems that the disagreement both from the ministerial Benches as to whether ...

The Deputy Bailiff:

Deputy, that is not a matter that calls for a ruling from the Chair and, therefore, it is not a point of order. It is a matter that you can, of course, raise with P.P.C. (Privileges and Procedures Committee) if you believe Standing Orders need to be changed in that respect.

Deputy M. Tadier:

Can I raise the issue as a point, Sir, and say that I do not believe that the Standing Order is being interpreted correctly because I think resignations are a matter of public interest and the ...

The Deputy Bailiff:

Deputy, that is not a matter on which I can rule today. The Bailiff has ruled; he has given his reasons. If, as a result of that ruling, you believe that Standing Orders need to be changed to clarify the position differently, then it is open for you to raise that matter with the P.P.C. We then come on to Oral Questions and the first question is the one that Deputy Mézec will ask of the Minister for Social Security.

3.1 Deputy S.Y. Mézec of St. Helier of the Minister for Social Security regarding the publication of a report on the potential impact of a significant rise in the minimum wage: [1(201)]

Following the adoption of paragraph (b) of P.150/2015 which requested the Minister to produce a report by December 2016 on the potential impact of a significant rise in the minimum wage, when will the report be published and why has there been a delay?

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

The Chief Minister explained in his response to a written question from Deputy Southern on 17th January 2017 that this work is underway. Oxera have been commissioned to undertake this complex piece of work and it is being overseen by the Economics Unit, among another of other priorities that are impacting upon that team. The December deadline was arbitrary; the short delay will have no impact on the minimum wage timetable because the report is now on course to be completed in time to feed into the forum's minimum wage review.

3.1.1 Deputy S.Y. Mézec:

The first supplementary then is: do we have a date for when the report will, therefore, be published?

The Deputy Bailiff:

Deputy, you will get your supplementary at the end. I have to invite other Members to ask questions.

Deputy S.Y. Mézec:

No, the process is I ask my first question and then I get a supplementary.

The Deputy Bailiff:

I beg your pardon. Yes, I am sorry. Thank you.

Deputy S.Y. Mézec:

May I, therefore, then ask is when will this report come out, so that we can read it and interpret whether or not it gives a good guideline as to what progress can be made soon? Would the Minister like to comment on the fact that since this was agreed that we would have this report, not only are we in a situation where the U.K.'s (United Kingdom's) minimum wage is now higher than Jersey's, not only is Guernsey's now higher than Jersey's but, as of a few days ago, the Isle of Man have now voted to increase their minimum wage to be higher than Jersey's? Does the Minister consider that this is an incredibly pressing issue that the Island is embarrassing itself by falling behind on and should be taken much quicker than it looks like it has been taken previously?

Deputy S.J. Pinel:

Gosh, a plethora of questions. Starting from the back going forward, I do not think the Island is embarrassed at all. The Assembly agreed the last minimum wage, which will come into effect on 1st April. In answer to the Deputy's question, the report should be ready by the end of April, which will then feed into the Employment Forum's minimum wage review that will start at the beginning of May with a survey which will take 8 weeks.

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

I wonder if the Minister could advise as to what consultation she has been having with the Minister for Economic Development, Tourism, Sport and Culture because clearly a rise in the minimum wage will have an impact on the economy, both in a positive way and she may attain a negative way. Can she advise the Assembly as to what discussions have occurred with the Minister for Economic Development, Tourism, Sport and Culture and E.D.D. (Economic Development

Department) because this is such an important matter, both socially and economically, and it is taking far too long to establish what I would consider a much higher minimum wage more akin with the living wage?

Deputy S.J. Pinel:

Yes, I agree with the Deputy that it has taken a very long time but it is also very important and not something that can be rushed. The impact on commerce, on business, on hospitality, agriculture is huge, which is why it is taking this amount of time. The Employment Forum are directed by the Minister for Social Security in April as to what they independently will review in conjunction with the report that is coming out, in answer to Deputy Mézec's question.

3.1.3 Deputy M. Tadier:

It had previously been stated by the department that the minimum wage plus benefits equals the living wage. Does the Minister accept this definition and, if so, does she accept that it does not help people who, for whatever reason, cannot claim benefits?

Deputy S.J. Pinel:

The living wage, to which the Deputy refers, is a moveable feast. The living wage in the U.K., we do not have one here, it is not statutory. There is a national living wage in the U.K. that is statutory, which is £7.20, which is only available to people over 25 and this Assembly directly said there would be no age discrimination in minimum wage.

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

Could the Minister explain to Members why she calls the timescale adopted by this House to be arbitrary and of no importance?

Deputy S.J. Pinel:

I certainly did not say it was of no importance. It was not a fixed deadline for December. As I have said before, the Economics Unit have huge amounts of work to undertake, including the distribution analysis of the personal tax contribution, which was published on Monday, with various other units, Statistics Unit's Business Tendency Survey. They have not been able to devote their time entirely to this and we are very grateful for the information that they have given and they will complete their report by the end of April, as I said.

3.1.5 Deputy G.P. Southern:

Could I ask her to explain why she chose the word "arbitrary"?

Deputy S.J. Pinel:

Purely because it was not a fixed definition of December.

3.1.6 Deputy A.D. Lewis:

Does the Minister not feel that, given the importance of this issue, there perhaps should be a fixed deadline to come forward with this information because it is of huge importance and it should have a fixed deadline? Does she not agree?

Deputy S.J. Pinel:

At the risk of repetition, I have just said that the report will be produced by the end of April which will inform the Employment Forum, which is an independent body set up to review the minimum wage, and they will use that report to help them do their survey and come up with their consultation results.

3.1.7 Deputy G.P. Southern:

Perhaps the Minister is looking for praise for bringing a report to the House 4 months late.

Deputy S.J. Pinel:

No.

3.1.8 Deputy S.Y. Mézec:

But 2 corrections, first is that part (b) you did specify for the report to come out in December and the Minister said that there is no living wage in Jersey; that, of course, is not true. There is a branch of the Living Wage Foundation that has been set up in Jersey and says that the living wage is £9.75 an hour. I would like to ask the Minister then, given the developments that have been happening in the U.K. and the fact that the U.K. Government has set a deadline of 2020 to have their minimum wage reach £9 an hour, does the Minister not now consider that inaction is simply not an option and that Jersey should be looking to reassess its own timeline for increasing the minimum wage and readjust it, given the developments in the U.K., so that we can be looking to have a minimum wage perhaps even of around £10 an hour by 2022, that sort of figure? Is that the sort of thing she would be prepared to consider?

Deputy S.J. Pinel:

I did not say there was no living wage in Jersey; I said it was not statutory. As regards direction to the Forum, then the Assembly agreed that we would attempt to reach a mean wage of 45 per cent by 2026. The instructions to the Forum will probably include, depending on what the report says, to bring that forward, in answer to the Deputy's question. I hope that it will because it has been a very long time in the coming and I agree.

3.2 Deputy G.P. Southern of the Minister for Health and Social Services regarding the impact on the transition to the new policy on delivery of personal care in the home of any failure by Family Nursing and Home Care and Health Care Assistants to reach agreement: [1(199)]

What is the Minister's assessment of whether the transition to the new policy on delivering personal care in the home will be put at risk by any failure to reach agreement on contractual terms of healthcare assistance between Family Nursing and Home Care management and the health care assistants affected by the end of March 2017?

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

As I have said on many occasions, Family Nursing and Home Care staffing arrangements are a matter for them. But, that said, I have every confidence that Family Nursing and Home Care will reach agreement with its staff and the organisation will be in a position to continue to offer home care services.

3.2.1 Deputy G.P. Southern:

Is the Minister aware that he will be employing a body, Family Nursing and Home Care, who have removed travel time that is essential for elements to their job required from remuneration schedules for these particular workers?

Senator A.K.F. Green:

I have said on many occasions I do not intend to involve myself in the terms and conditions of employment of organisations that work with us, so as long as they meet good employment practice and legal requirements.

3.2.2 Deputy M. Tadier:

That said, does the Minister accept that it is not good employment practice not to pay your staff who worked in a very crucial and critical area of care in our community to not pay them for travel time when they are on the job? It is one thing perhaps not to pay them to get to the job and get home but, as travel is an integral part of their job, presumably we do not apply the same rules to ambulance drivers and staff that are in the direct employ of the States. Would the Minister undertake to look at this matter seriously and rule that if you do not include travel time you are not a good employer and, therefore, you will not get the States contract?

Senator A.K.F. Green:

I have said on more than one occasion and I will say again, I do not intend to involve myself in the terms and conditions of employment for staff. The negotiations that are going on in Family Nursing are a matter for them and it should always be seen as a whole package, not just one item in isolation.

3.2.3 Deputy S.Y. Mézec:

This Minister wants to absolve himself of any responsibility for the working conditions of people who work in the healthcare profession; that is just the Government that we have for the moment, but he cannot absolve himself of any responsibility for the people who benefit from the services that the care industry provides. Does this Minister not accept that by presiding over a situation where the working conditions of these people is being degraded to the level that it is, that he is going to see fewer qualified people who want to get involved in this profession, he is going to see morale hit rock bottom and, ultimately, it will be the patients who suffer from this? Given that that is a situation he is prepared to see happen, would he not consider changing his mind and taking a more active interest of the working terms and conditions of people who work in the care profession?

Senator A.K.F. Green:

The terms and conditions, as I have said, is a matter for Family Nursing. That said, there are now 20 providers of similar service in the Island, so I do not think that we can consider the service to be at risk.

3.2.4 Deputy S.Y. Mézec:

Supplementary. Is the Minister, therefore, admitting that he is happy to see a race to the bottom and that the more service providers we have the lower the wages of these people will go, the worse their terms and conditions will be and that is just something we have to accept, that this noble profession, that people who look after the vulnerable people in our society, will simply have to prepare for being rewarded less and less for it and it will become a less attractive career to go into? Is that really what he wants his legacy to be?

Senator A.K.F. Green:

There is no race to the bottom and those people that provide services are now regulated and in fact the Chief Minister recently appointed a Commissioner for Care that will oversee standards throughout the care industry.

3.2.5 Senator S.C. Ferguson:

Is the Minister aware that not paying for travel time impinges on the time spent with the cared for and makes their treatment inferior and, therefore, the patients are suffering?

Senator A.K.F. Green:

I would ask that the Senator produce the evidence to support that.

3.2.6 Senator S.C. Ferguson:

With the greatest of pleasure, will the Minister listen to it when I produce it?

Senator A.K.F. Green:

The Minister will pass any information that the Senator gives me on to Family Nursing and Home Care. I am sure that will help them in their negotiations.

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

The Minister said he does not take any responsibility for terms and conditions of the employees of Family Nursing, however, does he not take full responsibility for the provision of, I believe, a grant that we give to Family Nursing, which must be their largest source of funding? Therefore, surely if there is any impact on the services that Family Nursing provides to its patients, which is, therefore, then integral to the care in the community that is a lynchpin of health policy, surely he must take responsibility, at the very least, that the monitoring of the grant is properly used and is effective in providing the level of care that people are used to.

Senator A.K.F. Green:

The short answer to this is we have a service level agreement with Family Nursing and Home Care and I do not foresee that they will not be able to deliver that service. How they deliver the service is providing it to the standards agreed in the terms and conditions that we have agreed with them; how they deliver it is a matter for them.

3.2.8 Deputy M. Tadier:

The reality will be something like this, that a healthcare worker working for Family Nursing might see 6 patients a day and spend an hour with them, spend half an hour between each of the patients driving, which is not unreasonable.

[10:00]

Out of that 8 and a half hour day the individual only gets paid for 6 hours out of a 42 and a half hour week and that is probably a conservative estimate of the hours they do; they only get paid for 30 hours a week. How can this be conscionable for the Minister to accept and sign off this kind of agreement? Perhaps to ask rhetorically, if not openly, whether he would entrust his own family to the care of these individuals on such a low wage, not being paid with not enough for them to live off for the week.

Senator A.K.F. Green:

I do not know how many times I have to say it: the negotiations are a matter for Family Nursing and Home Care. They have not concluded those negotiations yet, so we do not know what the final outcome will be. I am not going to rise to the bait about my own family.

3.2.9 Deputy M. Tadier:

Supplementary. Although that may be the case, signing off the service level agreement and the terms and conditions is a matter for the Minister. He confirmed in his first answer today that good working practices do come under consideration that he can take into account. Can he put on record now that he will look at whether or not the whole package constitutes good working practices before he signs that off?

Senator A.K.F. Green:

We have already signed the contract. I have no intention of getting involved either in the negotiations with Family Nursing and Home Care or their staff, no intention at all.

3.2.10 Deputy M.R. Higgins:

Does the Minister accept that by agreeing a figure with Family Nursing and Home Care at the present time he has got their arm behind their back and he is squeezing it because it has fixed a cap on what they can pay their employees because they have very little in the way of other sources of funding?

Senator A.K.F. Green:

The Member seems to have completely forgotten that we are fully funding Rapid Response, fully funding home care visits, fully funding childcare, the maternity visits. We are making a grant of over £6 million to Family Nursing; I think that is a very good commitment to care in the community.

3.2.11 Deputy M.R. Higgins:

Supplementary. In terms of the family visits going out to people who are incapacitated and need assistance getting out of bed in the morning or being put to bed at night and maybe getting a cup of tea, does he still think that is sufficient?

Senator A.K.F. Green:

The Member seems to have muddled up what Family Nursing are doing; that side of the service is maintained as it is. The Member seems to have muddled up the cleaning part of the service with the care part of the service.

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

Could the Minister explain what would happen in terms of care provision should he decide to suspend the service level agreement until Family Nursing and Home Care decided to conclude the situation?

Senator A.K.F. Green:

Then we would have a very dire situation where Family Nursing will not be then providing the support for people in the community, the Family Nursing services, the support for mothers who have just given birth; that is something we cannot comprehend.

3.2.13 Deputy G.P. Southern:

Does the Minister accept that there may well be health and safety considerations attached to the terms and conditions under which these assistants are working? Does he not agree that what he is signing up to is a 2-tier level agreement because where he has a service level agreement on Rapid Response and Reablement they are paid and they continue to be paid for travel time, whereas people doing a similar job in people's homes, where travel is essential, will not be paid for that travel time?

Senator A.K.F. Green:

As I have said before, the negotiations are a matter for Family Nursing, providing that they are reached appropriately and complied with good practice and complied with the employment legislation.

Deputy G.P. Southern:

Point of clarification ...

The Deputy Bailiff:

No, that was a final supplementary, so ...

Deputy G.P. Southern:

Sir, clarification, if I may.

The Deputy Bailiff:

Very well.

Deputy G.P. Southern:

The Minister did not address the first part of the question which was: does he consider that there may well be health and safety considerations attached to terms and conditions and, therefore, he ought to take a look at terms and conditions in order to verify that health and safety is not being endangered?

Senator A.K.F. Green:

Sir, it is true I did not answer that part of the question. I am happy to do so if you ...

The Deputy Bailiff:

Yes.

Senator A.K.F. Green:

Yes. The health and safety is an important part of the terms and conditions and the work and risk assessments that Family Nursing carry out when looking at all working practices. I do not expect that this particular change in practice would be any different.

The Deputy Bailiff:

We now come to ...

Deputy G.P. Southern:

Is he happy with a 2-tier system of ...

The Deputy Bailiff:

No, that really was a final supplementary, Deputy.

Deputy G.P. Southern:

He has not addressed the second half of the question either, Sir.

3.3 Deputy M.R. Higgins of H.M. Attorney General regarding the bankruptcy provisions of Articles 8(3)(b) and 8(4)(b) of the States of Jersey Law 2005: [1(194)]

Will Her Majesty's Attorney General advise Members what the legitimate aim is of the bankruptcy provisions in the States of Jersey Law 2005? Does he consider that Articles 8(3)(b) and 8(4)(b) are proportionate to that aim and, if so, why?

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

The provisions the Deputy refers to in Articles 8(3)(a) and 8(4)(b) have been extant since the law was passed in 1966, the first States of Jersey Law. As we know, Article 8(3)(b) disqualifies Senators and Deputies from election if they are bankrupt; bankruptcy is defined in the Interpretation Law but such disqualification will cease if a person pays his debts in full or before the conclusion of the bankruptcy proceedings and in any other case on expiry of 5 years from the date upon which the bankruptcy proceedings are concluded. The same applies under 8(4)(b) in relation to compositions or arrangements with creditors; the same requirement to pay debts in full or another case to wait for 5 years before being eligible to stand. But integral provisions, although

subject to a rather longer list of disqualifications, apply to the office of Jurat, pursuant to Article 3 of the Royal Court Law 1948. This provision in respect of different public offices is well recognised in Jersey law. It is hard now to speculate as to the original reason for these provisions because there is no report or record of debate in respect of the 1948 law or the 1966 law now in existence.

The Deputy Bailiff:

Attorney, the time normally allowed for answers is one minute 30 seconds. You are now one minute and 50 seconds, I wonder if you can ...

The Attorney General:

Sir, I am only halfway through, I do apologise. [Laughter]

Deputy M.R. Higgins:

It is an important issue, Sir, so hopefully you will allow more time.

The Deputy Bailiff:

Perhaps you could continue for the time being but I will allow extra time for supplemental questions if need be.

The Attorney General:

I am grateful, Sir. The principle in relation to the rule regarding Senators and Deputies was presumably along the lines that it was thought wrong for people who were incapable of managing their own financial affairs, to the extent that they became insolvent, to be put in charge of other people's financial affairs unless they either paid off their creditors in the course of the bankruptcy or at least had the chance to prove that they could re-establish themselves in the following 5 years. Is that provision in Article 8(4) legitimate and proportionate for human rights purposes? In that regard I refer the Deputy to the lengthy written answer I have given today and, in short, for the reasons set out in that answer, it is a legitimate and proportionate purpose for the purposes of human rights legislation.

3.3.1 Deputy M.R. Higgins:

In fact just so it is absolutely clear to Members, the reason I raised this was from a proposition I brought a short while ago and I did not realise the Bankruptcy Law was as onerous as it is for States Members because the Attorney General advised us that any ordinary bankrupt has to have 5 years to pay off his debts and if he pays off his debts and he is cleared. But a States Member or someone who is thinking of applying for the States is barred for another 5 years on top of that. In my research there is no other State that has a provision like that and, therefore, this is why my question was whether it was proportionate. I have read the answer to the Attorney General's question and I might say that I am ...

The Deputy Bailiff:

Deputy, this does have to be a question.

Deputy M.R. Higgins:

Okay, just a question. Okay, my question then is: what is the procedure for challenging this particular provision because I think it is about time we did challenge the Human Rights Law in the Island and the interpretation of it? Would there be assistance from the States in terms of a quality of arms, so it is on a point of law?

The Attorney General:

There was a misunderstanding in the question, the early part of the question. It was suggested there was some special rule for bankruptcy in relation to States Members; there is not. All persons in Jersey are subject to the same provisions in relation to bankruptcy and discharge. But the point is that a discharged bankrupt who failed to pay his debts during the course of bankruptcy is not eligible for election for the following 5 years. In terms of a challenge, of course it is possible for a person to mount a challenge to any legislation and invite the court to issue a declaration that legislation is incompatible with human rights legislation and then the matter could be looked at afresh by this Assembly. But, ultimately, it is a matter for this Assembly to determine whether or not it wishes to change these provisions.

Deputy M.R. Higgins:

Just the question of the quality of arms ...

The Deputy Bailiff:

I beg your pardon, Deputy Mézec, I did not see your light. Deputy Mézec.

3.3.2 Deputy S.Y. Mézec:

That is okay, I did put it in on late. The question I would like to ask is: what are the legal consequences of the Articles in the States of Jersey Law that make bankruptcy something that inhibits ...

The Deputy Bailiff:

Sorry, I beg your pardon, Deputy. Deputy Labey, I think in leaving you are leaving us inquorate, so if you would come back until ... please do continue, Deputy.

Deputy S.Y. Mézec:

I just wanted to ask, what are the legal implications of the Articles in the States of Jersey Law that prohibit somebody from becoming a Senator or Deputy if they are bankrupt? Is it those clauses just being removed? Are there any unintended consequences of doing that or would the only consequence of that simply be that people who are bankrupt would be able to become Senators and Deputies?

The Attorney General:

Yes, if the provisions were removed then persons who are bankrupt would be capable of standing as Deputy or Senator.

3.3.3 Deputy M.R. Higgins:

I would like to draw all Members' attention to the fact that it does not apply to the Constables and, therefore, it is discriminatory in human rights terms as well. Could the Attorney General advise whether funds would be available from the States on this because, as we all know, bringing a court action in Jersey is impossible for an individual unless he has very deep pockets? It is an important issue regarding this Assembly.

The Attorney General:

A person challenging these provisions may or may not be entitled to legal aid, otherwise they would be unrepresented and they would look to the Court to assist them in the course of any proceedings.

3.4 Deputy J.A. Hilton of St. Helier of the Chief Minister regarding the prospective holding of a debate by the States Assembly following the publication of the report of the Independent Jersey Care Inquiry: [1(196)]

Will the Chief Minister inform Members what steps, if any, he plans to take to ensure the States Assembly can debate the report of the Independent Jersey Care Inquiry as soon as possible after it has been published?

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

As soon as the report is published I intend to make an official statement in the Assembly. I will also be requesting a special meeting of the Assembly for an in-committee debate during that week, providing the fullest opportunity for Members to debate the findings.

3.4.1 Deputy J.A. Hilton:

Can the Chief Minister inform Members whether Frances Oldham will be invited to present her report to States Members? Has she been asked to do this and, if not, why not?

Senator I.J. Gorst:

I am not aware that she has been asked to do so. If Members wish her to do so I can certainly make that request to her. **[Approbation]**

3.4.2 Deputy M. Tadier:

Just a second request, I think that one would have expected that to be the norm anyway, one would have entirely expected that. But if it is not the case I think that we would be grateful for that; I certainly would.

Senator I.J. Gorst:

I respond to that because it would not be the norm for a fully independent inquiry to present to the Parliament that perhaps a request is the norm is that the report would be presented with a short statement issued by such a chairman. The norm would be that even questions were not answered but I shall certainly relay the mood of the Assembly in respect of that request or I shall ask an officer to do so.

[10:15]

3.4.3 Deputy J.A. Hilton:

I would request that States Members are given enough time to read and digest the report before we have the Committee of Inquiry and before Frances Oldham addresses States Members, if she does. I think it is imperative that States Members and the media are given a chance to ask questions when the report is published. I thank the Chief Minister; I can see him shaking his head there. But will he ensure that States Members are given time to read and digest the report before he arranges for the Committee of Inquiry?

Senator I.J. Gorst:

Of course it is not my report, it is a fully independent report. My understanding, as I stand here before Assembly Members this morning, is that interested parties are officially recognised interested parties by the public inquiry, and previously registered as such, will receive the report slightly in advance of it being formally published. I assume that States Members will have it at that slight in advance. I think we are talking one or 2 hours in advance before it is made public. That would be the normal process for an independent public inquiry. What I am proposing to do is make a statement in this Assembly as soon as we sit. I am also proposing, dependent on the timing of the release, that I ask this Assembly to convene for a special sitting for an in-committee debate as soon

as practically possible after it has been published. That in-committee debate will, by its very nature, Members will not have had a great number of days and weeks to digest what will be a weighty tome, I expect, with many recommendations; that will be the first stage of our deliberations. I would then expect that Government come forward with a formal response to the recommendations and an action plan. I would expect that that formal response and action plan, which will be a number of weeks after that time, would then be debated again by this Assembly and this Assembly would give approval to the response to the recommendations and the action plan. But in the immediate aftermath of the publication, I think it is only right that the States have an initial ability to formally debate it, albeit in-committee.

3.5 Deputy R.J. Renouf of St. Ouen of the Chief Minister regarding consultation on draft Regulations to be made under the Regulation of Care (Jersey) Law 2014:[1(192)]

Given the importance of ensuring health and social care providers deliver care in the community that is safe and of a high quality, is the Chief Minister satisfied that sufficient effort has been made to bring to public attention the consultation presently taking place into draft regulations to be made under the Regulation of Care (Jersey) Law 2014?

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

I would like to ask Senator Routier to answer this question.

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

I would like to thank the Deputy for this question. Currently the phase of consultation is predominantly focused on technical matters such as definitions of services. We are consulting with care providers and some service representatives and that consultation is open until the end of April. This is a timely reminder for those people who are contributing to the first phase of this consultation. This will then be followed by the developments of more detailed standards describing how services must be delivered and what clients, their families and loved ones can expect. These detailed standards will be developed by the Care Commission, who are required by law to consult representatives of those affected by the standards. This will be an extensive process, which, as I say, will be carried out by the Care Commission. As far as today's position is concerned, I am satisfied that this phased approach to the consultation process is satisfactory.

3.5.1 The Deputy of St. Ouen:

The regulations that are drafted and that are attached to the consultation paper are far more than technical, in my opinion, and deal with matters such as standards of care, premises, staffing matters. Why does the Minister not consider the general public to be stakeholders in such matters, especially given the content of the gov.je website page that expressly states that it seeks the views of people who use such services, their carers and their relatives?

Senator P.F. Routier:

There is no intention to stop people contributing to this consultation. This next phase, the issues which the Deputy rose about, the describing of services, for instance, the design layout and the physical environment and the ratio of staff and qualifications of training and all those matters will be part of the consultation which the Care Commission themselves will be consulting on. That will be the next phase after April and I hope that the general public will participate in that consultation. I know recently a consultation process was carried out, only a couple of evenings ago, which was well attended, well received and people are sort of looking forward to the next stage which I am sure the items that the Deputy is focusing on will be covered very fully during that consultation.

3.5.2 Deputy M. Tadier:

The care of our elderly in particular when it comes to that time of life is, I am sure, of paramount importance for all of us. Does the Assistant Minister agree that regulation is only one part of ensuring good delivery of service and that when we see a vastly-increasing elderly population projected in the next few decades that it is absolutely important that resources - financial resources - put in by government must also increase proportionately, if not more than proportionately? Is that a fair point to make and does the Assistant Minister think that with our current tax and spend model the resources will not be able to be given to that particular sector without fundamental changes to the tax and spending model?

Senator P.F. Routier:

I am not going to comment on the tax and spending model as Members will be aware that there is a piece of work going on about tax at the present time in which every Member will have an opportunity to have their say during that. But the main point which the Deputy was making about the importance of ensuring that we do support the elderly in our community is something which I am sure everyone in this Assembly wants to achieve. So, I think it is a high priority to ensure that our growing elderly population are cared for in an appropriate manner.

3.5.3 Deputy M. Tadier:

Does the Assistant Minister accept that the free market cannot be relied on too heavily in order to deliver adequate and affordable health care for our most vulnerable members of society and does he agree that there is a risk in this particular model that we are putting too much emphasis on private suppliers and not enough on the public sector provision?

Senator P.F. Routier:

I probably need to declare an interest as being a trustee of an organisation which does provide care for people in the community. So, I am a big fan of non-States departments being involved in providing some of the care because they can often do it far better than governments because they deal with things in a good way. So, the comments are made as a philosophical difference of approach and I am a supporter of people being provided best services by whoever can provide it.

3.5.4 Deputy G.P. Southern:

Will these new regulations cover delivery of care in the home and will they extend to terms and conditions where they may impact on health and safety of those cared for, in particular among organisations delivering this care in the home?

Senator P.F. Routier:

The Care Commission will have a wide brief and it will include people who are in their own homes as well as in larger institutions. The Care Commission will look at all aspects to ensure that the care is appropriate for those people who are using the services.

3.5.5 Deputy G.P. Southern:

Will the Care Commissioner examine terms and conditions where they may have an impact on health and safety of clients and/or the workers?

Senator P.F. Routier:

No doubt the Care Commissioner will do what he thinks is appropriate.

Deputy G.P. Southern:

If I may, that is a woefully inadequate answer in the sense that the Minister is conducting consultations at the moment and says the commissioner will make up his mind.

The Deputy Bailiff:

There is time for you to ask a further supplemental, Deputy, so please do.

3.5.6 Deputy G.P. Southern:

Would the Assistant Minister care to be more specific about what these regulations cover and not what the commissioner may or may not instigate when he arrives?

Senator P.F. Routier:

The standards which the Care Commissioner has to determine may include things like what information a provider must publish describing the type of service offered, matters relating to design and layout of the physical environment, the ratio of staff and the qualifications and training that they should have and the arrangements that should be in place to manage the dignity, safety and wellbeing of those using the service. Those are the headline ones but there are plenty more which I could spend quarter of an hour going through with the Deputy. Certainly, the main aim of the commissioner will be to ensure that people are safe and well looked after.

3.5.7 Deputy G.P. Southern:

A supplementary, if I may. Especially where reference is made to safety, will these regulations cover safe-working practices for the deliverers of home care?

Senator P.F. Routier:

That will be a matter for the commissioner.

3.5.8 The Deputy of St. Ouen:

Will the Assistant Minister confirm that members of the public will be given an opportunity to be consulted about these regulations before they are brought to the House, not simply an opportunity to contribute to standards but these regulations, given that there has been no media release to the public seeking their participation in this consultation thus far?

Senator P.F. Routier:

Yes, certainly it is the duty of the commissioner in its terms of reference to ensure that the public are aware of the consultation process and I would fully expect that the commissioner will ensure that that happens.

3.6 Deputy M.R. Higgins of the Chief Minister regarding the means available to the public to address excesses or misdemeanours of the Island's public servants and public bodies: [1(195)]

What is the Chief Minister's assessment of the means and equality of arms available to the public when trying to address any excesses or misdemeanours of the Island's public servants and public bodies; if they are assessed to be adequate, will the Chief Minister explain why and, if not, what steps will he take to address the situation?

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

Jersey has a range of internal appeals, regulatory and judicial processes and robust political oversight of course, not least in this Chamber. We have a mature and well-respected legal system which is human rights compliant and legal aid is available to those without resources in a variety of cases, particularly of course criminal matters. Decisions of public bodies can be challenged by way of judicial review which is an internationally-validated appeal process available to members of the public.

Deputy M.R. Higgins:

Can I say, what a load of rubbish? Sorry, I do believe that, Sir.

The Deputy Bailiff:

Well whether you believe it or not, it is not a parliamentary statement with regard to the statement of another Member.

3.6.1 Deputy M.R. Higgins:

Very well, if that is the case, I will take away “rubbish” and say it is totally inadequate. The Minister has just mentioned that we have got all these things. There are Members in this House who have been battling for years to try and get justice for members of the public because, one, the legal system is totally inadequate in terms of costs of going to court, some lawyers charging £400 an hour, that is, about 125 hours of legal assistance would render every States Member their whole salary gone. That is how bad it is. People cannot afford to go to court and ...

The Deputy Bailiff:

Deputy, this does have to be a question.

Deputy M.R. Higgins:

It is a question, I know. I am just putting it ...

The Deputy Bailiff:

Well, it is not coming anywhere near a question at the moment.

Deputy M.R. Higgins:

Yes, I am putting it in context. With lawyers’ fees going up to £400 an hour, most people of ordinary wages would not be able to afford to employ a lawyer. The legal aid system is inadequate, very few people are getting assistance through that and therefore they are having to be litigants in person. Will the Chief Minister tell us what he is going to do to assist litigants in person? Because if you cannot afford a lawyer and you cannot get legal aid, you have got to do it yourself, what assistance can the Government provide to individuals to get redress and justice?

[10:30]

Senator I.J. Gorst:

My answer was neither rubbish nor inaccurate and the Deputy knows it. He just did not like it and I think they are 2 very different things. If a member of the public decides to be a litigant in person that is their choice and if it presents a problem, of course it can be difficult to be a litigant in person, that is why there is the legal profession to support people through those complex legal processes and to navigate the judicial process. We know that for some members of our community access to justice is not what we would wish it to be from a cost perspective but I do not accept the broad-brush accusation that the Deputy has made. That is why as a Government we have set up the Access to Justice Review. That is why the Access to Justice Review is working with the Law Society on changes to the legal aid system. That is why the Jersey Law Commission is undertaking a piece of work about administrative redress and when those pieces of work have been completed, we will see what recommendations are made.

3.6.2 Deputy M. Tadier:

Is the Chief Minister committed to delivering a public sector ombudsman during this term of office?

Senator I.J. Gorst:

That is an under active consideration, as I understand it, by P.P.C., which I do not think the Deputy is on any longer. Contrary to what Members may think - that I may think - about the Administrative Board of Appeals considering some of their recent reports, I think that that system could, with a number of changes, be improved considerably and deliver greater access to their adjudication and their findings. I hope that that is a course of action that P.P.C. are taking in order to improve that existing process without needing to move to a public sector ombudsman.

3.6.3 Deputy M. Tadier:

His former Assistant Minister who, like a stopped watch, sometimes gets things right a couple of times a day came out in support of a public sector ombudsman once he was freed from the shackles of collective responsibility. Will the Chief Minister seriously look into bringing forward a public sector ombudsman which has I think been recommended in recent reports, the name of which I do not necessarily remember, and also get on to P.P.C. to find out exactly where they are in delivering this key service to the public?

Senator I.J. Gorst:

It is news to me that there is collective responsibility around P.P.C.'s table. I did not believe there was such a thing and that it is not fair for the Deputy to suggest anything other than that. Of course, there is not, I know, but the Deputy was trying to suggest that there was. P.P.C. is considering these matters. That is right, that is the responsibility that we in this Assembly give them to do. I have given my personal opinion; of course, there may be other opinions held by any Member of this Assembly and they will argue for their opinions.

3.6.4 Senator S.C. Ferguson:

Given the recent business with bills being reduced by something in the order of 80 or 90 per cent, does the Chief Minister not think that it is urgent that some things should be done with regard to access to law?

Senator I.J. Gorst:

There is an Access to Justice Review being undertaken and, as I say, they are working with the Law Society in regard to legal aid. I have said in this Assembly before, and I will say it again, just because a professional services firm, be that a firm of accountants, be that a firm of lawyers, have a certain time on the clock and charge at a certain rate, every client of those organisations should challenge that time on the clock, should challenge those rates and should not necessarily accept 100 per cent recovery or 80 per cent recovery. People do, I accept, need to feel empowered to challenge the rates and the time that professional service firms might put on to a billing system. Of course, we know in the judicial process there is the process of taxation which will reduce bills as well. There are other professions who will work with clients to help mitigate and reduce professional service fees, so there are already in place a number of mechanisms to help reduce those costs.

3.6.5 Senator S.C. Ferguson:

But in that particular case, the Law Society reviewed the results and said: "Nothing wrong with them", so does he not think there is a little more work to do?

Senator I.J. Gorst:

I would take from the Senator's question that our approach of working with the Law Society around legal aid and access to justice is the right approach to take because she is verifying the approach that they took in that particular instance.

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

Considering what the Chief Minister has just said, when people are pursuing legal aspects in those situations at those times, some people can be under incredibly emotional and stressful circumstances. Given that point, does the Chief Minister really think it is reasonable then to expect these people to be able to then challenge the people that they are seeking for support and help in their cases? I do not think that is the case. Therefore, as Senator Ferguson has said, does not more thinking need to occur on this point?

Senator I.J. Gorst:

Let us be clear, as I said, there are a number of redresses and options available to clients right now as we stand this morning in this Assembly. But that does not mean that we are not continuing with a piece of work around access to justice, the cost thereof, the functioning of the legal aid system and we are doing that in conjunction with the Jersey Law Society. We have just heard from Senator Ferguson how she has supported in a particular case the action taken by the Law Society. So, I think that the Access for Justice work, the view of the Law Society, we can work together to deliver improvements but be in no doubt there are currently remedies in place.

Deputy M.R. Higgins:

If I could ask for a point of clarification of the previous speaker first? Could he tell us when the Access for Justice Review is scheduled to report or to finalise its deliberations?

The Deputy Bailiff:

Well do you want to ask your supplementary question on top of that and the Chief Minister can deal ...

Deputy M.R. Higgins:

Yes, and then the question will follow the answer.

The Deputy Bailiff:

I was rather thinking that you would ask for the point of clarification as part of the supplementary question than ask for it again.

3.6.7 Deputy M.R. Higgins:

Okay, I shall. It has been mentioned about taxation. I am aware of one recent case where the 2 lawyers got paid £100,000 and the person who was contesting the figures got a very low fraction of that. The system is not working. The Law Commission also put forward the idea of a public ombudsman scheme and I know that P.P.C. and others were talking about whether it could be afforded. I am sorry, the lawyers are getting more than enough to fund that system for a year. So, will the Minister bring forward proposals himself for an ombudsman scheme because it is quite obvious the system is not working? He knows, because Members have come to him with members of the public who are getting no justice and no redress whatsoever.

Senator I.J. Gorst:

The answer to the Deputy's first question is July. It is not within my remit to tread roughshod over P.P.C. when they are already considering that particular matter. He is right, the Law Commission have made a recommendation about a public sector ombudsman. I have also had representation from the chairman of the Administrative Board of Appeals who has got some suggestions, which I am sure he is relaying to P.P.C., about changes that could be made to the existing system which would make it more accessible and be able to deliver in a more timely and efficient manner. I think that some of those arguments being made by the chairman are good arguments that could in effect improve the situation that the Deputy is concerned about but it is rightly for P.P.C. to take these matters forward.

3.7 The Deputy of St. Ouen of the Chief Minister regarding the statistical evidence available to support statements that relative low income had reduced: [1(193)]

What statistical evidence relating to income inequality has led the Chief Minister to conclude that “relative low income is reducing”, as reported in his answer to Written Question 1(160) tabled on 14th March 2017?

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

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

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

As our economy improves, it is of course important that people across our society benefit. Members will have seen the written answer today listing the sources of evidence which are widely available. Income inequality reduced as our economy performed well before the financial crisis and then deteriorated afterwards as employment income suffered and low interest rates and rents stretched out the distribution after housing costs. Our economy is now improving with unemployment at a 6-year low and earnings rising above inflation for the last 4 years. As reported yesterday, our income tax system is also more progressive and we are considering the distributional impact of spending decisions. We need to continue with these improvements.

3.7.1 The Deputy of St. Ouen:

A supplementary, please? The Assistant Minister’s answer supports his view of a more positive outlook and many of the surveys he has mentioned in that answer and the written answer talk about essentially how people are feeling, but does he acknowledge that the employment, inflation, other surveys he has mentioned to justify his answer do not provide the firm, statistical evidence that the numbers of people in low income are reducing from the level seen in the last income distribution survey?

Senator P.F. Routier:

Certainly, it is recognised that there is more work to be done with regard to the analysis of the information which is available. I would be very pleased to make sure more work is done to ensure that we can get a clearer picture of that particular issue. I think we all in the Assembly want to ensure that the income distribution is better than what it currently is and we are going to work towards achieving that.

3.7.2 Deputy S.Y. Mézec:

Not a single thing said in the answer from the Assistant Minister contributes tangible evidence that income inequality is going down in Jersey. His Government in their M.T.F.P. (Medium Term Financial Plan) supported policies to cut the support to pensioners and single-parent families. The Income Distribution Survey showed that a third of pensioners live in relative low income and 54 per cent of single-parent families live in relative low income. What assessment has been done to see the effect of those 2 cuts to those 2 groups that already live in large amounts of relative low income? What assessment has been done to see the effects of those cuts on those people? If none has been done, how can he possibly make the statement that relative low income is reducing in the Island?

Senator P.F. Routier:

Looking at reports which look at historic situations of what has been going on obviously in the past is always a difficult thing to do when we are looking at things which have been carried out more recently. Some of the decisions that the Deputy has just spoken about are more recent decisions of this Assembly which will no doubt be part of the work which the Statistics Unit and the Social

Policy Unit will look at going forward. But, as I say, what Members will hopefully recognise is that we went through a very difficult time a few years ago with the recession and we are now getting back to try to improve the situation. There is work to be done. There is no denying we need to improve matters and we will be doing our best to achieve that.

3.7.3 Deputy S.Y. Mézec:

A supplementary? I am glad that the Assistant Minister has made the point he has made at the end there and, in his initial answer, he referenced economic growth. Now ignoring the fact that there is no trend in economic growth in Jersey and it is fluctuating in each different year, what evidence does he have that what economic growth we have had in Jersey has benefited people at the bottom of the income scale? Because the last time I saw figures, 50 per cent of the jobs that were being created are zero-hour contracts, jobs which cause instabilities in people's lives and usually come alongside low pay as well. What evidence does he have that the economic growth we have had has benefited those people or is it just another statement like the one he has initially made that has no real meaning behind it?

[10:45]

Senator P.F. Routier:

There is a lot of evidence out there which is being collated by our department. It is very difficult to pick out single items of information from each of those pieces of work which make the whole picture. The reason I am struggling with answering those specific questions about particular percentages is because the opening question was about: what was the range of the statistics which are available; what are we looking at? I have provided that answer. If you want to go into more depth about what all those surveys and all that information is, we need to do more work. I am quite happy to sit down with Members and with our officers to go through that information.

3.7.4 Deputy G.P. Southern:

Has the Assistant Minister performed a fresh Income Distribution Survey so that he can justify making the statement that relative low income is reducing? If he has not, because that is the only way to measure relative low income, will he withdraw the statement that relative low income is reducing?

Senator P.F. Routier:

The next Income Distribution Survey is in a pattern of surveys which is being carried out and that will happen by the Statistics Unit in the normal way. So, the answer to the question of being based on, as I said earlier, it is on historic information. When we are making decisions in the Assembly we can only work on the hard information we have. So, as I say, the next distribution survey will be in a couple of years' time and we will have to work from that.

3.7.5 Deputy G.P. Southern:

A supplementary, if I may? Does the Assistant Minister accept that those on relative low incomes are likely to be in the income support system and that the income support components have been frozen since 2009? Therefore, for example, a single person on his own on income support is £15 a week worse off than he was in 2009. Does he not admit that rather than decreasing the relative low income, it is increasing via the freezing of income support components?

Senator P.F. Routier:

I think the Deputy and I have had many years of discussing income support and the mechanisms of how it works. Income support is there to support people who are in work and we are finding that more people are now in work than in recent times. So, talking about a reduction in income support

is not the whole picture because people are being able get work and we have found that over the last 4 years the earnings have been increasing by above R.P.I. (Retail Price Index) and that is hard evidence. So there are more people in work, they are earning more money ...

Deputy G.P. Southern:

That is not hard evidence ...

The Deputy Bailiff:

Deputy, please.

Senator P.F. Routier:

They are earning more money and that is what we need to encourage.

The Deputy Bailiff:

I have Deputy ...

Deputy G.P. Southern:

The Assistant Minister is misleading the House. Accidentally perhaps, but he is misleading the House by pretending that he has statistics which suggest ...

The Deputy Bailiff:

Deputy? If the ...

Deputy G.P. Southern:

... that relative low income is reducing. He is misleading the House.

The Deputy Bailiff:

If the President is speaking, other Members should not speak and should sit down, please. You have made your point, there is nothing that can be done about that allegation at this stage. The Senator has given his answer. I was to say that I have notification of Deputy Higgins, Tadier, Lewis and Mézec that they wish to ask questions in connection with this matter. I will allow those questions, plus the supplementary of course from the Deputy of St. Ouen, but I cannot take any more names wishing to ask at this point. Deputy Higgins.

3.7.6 Deputy M.R. Higgins:

I agree as well, the answers given by the Assistant Minister are basically without evidence. He has not done any research. Will the Assistant Minister accept that the income earnings growth is highly localised, largely in the financial sector, and is not permeated down into the other sectors? Together with the fact that many of the people we have employed in the Island are on zero-hour contracts at minimum wage, there is very little chance of any growth in income equality from that source?

Senator P.F. Routier:

The Deputy's perspective of the way the economy is working leaves a little bit to be desired, I am afraid, because certainly earnings have been increasing above R.P.I. and there has been increase in employment across all of the sectors. The number of people in work now is greater than it has been.

3.7.7 Deputy M. Tadier:

If relative low income is indeed reducing, we would be grateful to see the evidence and for that to be circulated. I think the Assistant Minister has made a statement which I do not think is true. We

all want to see income inequality get better. That is certainly the truth for me and my colleagues and I am sure for many Members of this Assembly but it cannot be true for the Council of Ministers who pursue a policy of giving tax breaks to the rich. The Assistant Minister himself who has been a member of multiple manifestations of government in recent years ...

The Deputy Bailiff:

Deputy, there does have to be a question, I am afraid, and there are other Members waiting to ask as well.

Deputy M. Tadier:

Yes, does the Assistant Minister accept that the Council of Ministers does not want to see income inequality get better because they have policies that give the rich a tax break on their long-term care which is capped, they have a 1 per cent tax rate for some people in the Island? The most obscenely wealthy in the Island pay 1 per cent tax, if at all, on their worldwide income while every other citizen in the Island has to pay 20 or 27 per cent on their disposable income.

Senator P.F. Routier:

We know that the philosophical difference between the Reform Party and the majority of other people in this Assembly is quite stark. The income inequality issue, Members seem to be forgetting that the exemptions in the income tax thresholds have been increased over recent years. The food costs bonus for G.S.T. (Goods and Services Tax) is there. There are lots of mechanisms which are protecting people who are at the lower end of income and not forgetting that we have also invested about £7 million in getting people into work. We are supporting people to get into work and we are ensuring that they are able to support themselves which has got to be better for the whole community not only for the community but for them as well.

Deputy M. Tadier:

May I have a supplementary?

The Deputy Bailiff:

Briefly.

3.7.8 Deputy M. Tadier:

If the Minister genuinely thinks and it is the policy of the Council of Ministers that they want to see income inequality get better, what tangible steps will they take to close the gap? That is to say, if we want to see better income inequality it means closing the gap between the lowest earners and the highest earners in our society. Does he believe that we should be closing that gap and how will he do it?

Senator P.F. Routier:

I do believe that; that is something we should try and achieve. You will have seen the work which is published by the Minister for Treasury and Resources about all the tax information. I think if Members spend a bit of time reading that document, they will find it a very, very good piece of work. It shows that with the exemption thresholds which have been increased over recent years, we are supporting people at the lower income. The piece of work which we are going forward with will come from that very useful information. With regard to specific matters which he is asking that we might put in place, the work has to be done to do it on an informed basis.

3.7.9 Deputy A.D. Lewis:

It is of course laudable that more people are in work than ever before but many are on minimum wage or just above minimum wage. Does the Minister not agree that the fastest way to solve some

of those inequality in wages is to have a higher minimum wage and not to wait some 11 years to get the 45 per cent of median earnings which is the current objective of this Government? Should the Minister not be pushing very hard his Council of Ministers to adopt a much higher minimum wage, more akin to the living wage so that people can live in Jersey on the salaries they are earning even though they are on low-paid jobs?

Senator P.F. Routier:

It is always a difficult debate to have regarding minimum wage. I do not know if Members remember, I brought the minimum wage legislation to this Assembly many years ago so I have been a supporter of minimum wage since that time. But regarding the actual level, that is a decision which is made by this Assembly on the information which is provided by the Forum which looks at the appropriateness of a wage because they take into consideration the needs of the horticultural industry and the hospitality industry. There are issues around that which really need to be balanced to ensure that we do not affect those industries in a negative way. I do support the need to increase the minimum wage as soon as we possibly can but it is a balanced judgment which is very difficult to make and that is why we asked the Employment Forum to carry out that work for us to advise us. Because we all have our own personal opinions about these things but this piece of work needs to be done in a consultative way to ensure that we do not affect our economy in a negative way, as well as supporting those we want to support.

3.7.10 Deputy A.D. Lewis:

A supplementary? But does the Minister though support a speedier approach to increasing the minimum wage and not take 11 years to get to median average earnings? This should be achieved in 5 years' maximum. Does the Minister not agree that this speed should be much, much faster?

Senator P.F. Routier:

I would certainly like to see it carried out faster.

3.7.11 Deputy S.Y. Mézec:

The Assistant Minister has had ample opportunity in both written questions and these oral questions today to provide us with the statistical evidence to back up the claim that relative low income is reducing. He has not been able to do so and has instead given us the most flimsy assumptions, every single one of which can be rebuffed simply by pointing out R.P.I., freezing income support components and reducing the disregard for other income support components too. So, therefore, would the Assistant Minister like to take the opportunity to stand up and apologise for saying something that just is not true? Would he like to restore a little bit of faith in politics out there by standing up and telling States Members the truth, which is that they have no evidence that income inequality is reducing in Jersey and they have all the evidence that their policies are making things much worse for the poorest people in our society?

Senator P.F. Routier:

I do not like playing ping-pong with comments across the Assembly because it is not an appropriate thing to be doing. We are not a 6th form debating society; we are here to make decisions for our community. If at any time Members are misleading our community, it may be we need to look closer at ourselves sometimes; some Members might be saying things which are perhaps inappropriate. The information that is available to our community through the various reports and surveys which are carried out are there, open and available, and we will continue to make decisions which are for the best of our community. I am not going to make any apology to anybody because we have carried out the work diligently and ensure we will do our best to ensure that we can protect those who are on lower incomes.

3.7.12 The Deputy of St. Ouen:

Surely, the Government should not seek to put a gloss on statistical information provided by an independent Statistics Unit. Given the Assistant Minister's acknowledgement this morning that he was in difficulty picking out specific items to give the whole picture, I give him an opportunity once again to withdraw the categorical statement that relative low income is reducing when the only reliable statistical evidence we have is entirely to the contrary.

Senator P.F. Routier:

That statement was made in answer to a written question a few weeks ago which the Chief Minister made. Obviously, using words in answers can be sometimes a tricky thing to do. The general principle of what was said was that things are improving. As far as withdrawing that comment, I do not think I am in a position to do that because that was a comment that was made in truth and honesty at that stage. But all I would say as of today is that we will do our utmost to ... picking on one specific piece of information from a report is a difficult thing to do. The Deputy is quite right, we need to get all the information together into one place and come to a view and that is what we will attempt to do in the future.

[11:00]

If there has been any sort of misunderstanding on the way the wording of the answer is, it can only be an apology for that. But certainly the intention is to reinforce the fact that our economy is doing well, there are more people in work and we are ensuring that we will do our best to protect those on low incomes and we will continue to do that.

The Deputy Bailiff:

Very well, we come to question ...

Deputy G.P. Southern:

If I may? The Assistant Minister is misleading the House. It may well be that he does not understand how relative low income is defined.

The Deputy Bailiff:

Deputy, an accusation of misleading the House cannot be made really in this context. That may be your view, it may be that you have to deal with it outside the Assembly or bring a proposition or something of that nature. But this is a question time, the question has been asked, it has been answered, and this was the final supplementary. There is no room for asking further supplementary clarifications or questions as a result of it. There has already been a very substantial amount of time allocated to this question well above the norm and I am going to move on to the next question. We come to question 8 that Deputy Southern ...

Deputy G.P. Southern:

Can the Chair indicate to me, because I am confused, how a Back-Bencher can challenge the voracity of a statement being made by a Minister then if it is not appropriate?

The Deputy Bailiff:

Well, firstly, when there is opportunity available, by asking supplementary questions, challenging it, secondly, by bringing a proposition, reciting the facts and circumstances where the Deputy believes, or a Back-Bencher believes, that there has been a misleading of the Assembly and dealing with it through the course of a proposition. But, Deputy, I must move on to the next question and I am going to deal with question 8 of which you will ...

Deputy G.P. Southern:

To the Chair, Sir, are you recommending I take the paths we have which are a motion of censure or a motion of no confidence in the Chief Minister?

The Deputy Bailiff:

No.

3.8 Deputy G.P. Southern of the Minister for Social Security regarding figures showing the real-term reductions which had been made to Income Support components: [1(200)]

Let us try again. Will the Minister produce for Members the figures relating to real-term cuts in income support components that demonstrated a reduction in disposable household incomes and which she made available to Deputy Tadier at the end of her response to his Oral Question 1(163) on 14th March 2017?

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

Yes. Thank you.

3.8.1 Deputy G.P. Southern:

Understood. I am glad for that response from the Minister that will release the figures she had in front of her at the time when she failed to produce those answers. She said: "I have a long list of figures but I have some figures I could give to the Deputy if he would like." Why did the Minister withhold those figures? Because I have them in front of me now and they suggest that the £45 worse-off figure that was given for a couple with one child over the past 8 years was mirrored by the department's calculation which was £43.79, as near as could be to £45, and that the figures given for single parents of £55 for old claims worse off and £75 for new entrants to the Income Support Scheme ...

The Deputy Bailiff:

Could you please ask the question?

Deputy G.P. Southern:

The question started way back, why did the Minister withhold these? Because they are in front of her, they were not complicated and they agree with the figures that were suggested in the question.

The Deputy Bailiff:

Very well. Minister.

Deputy S.J. Pinel:

I do believe I have answered the Deputy's question. The Deputy appears well informed about the Social Security numbers and figures so for the benefit of all Members, the officers are compiling a brief explanatory text to accompany the figures and these will be sent to all Members today.

The Deputy Bailiff:

Would you like a final supplementary, Deputy?

3.8.2 Deputy G.P. Southern:

Since we are running out of time, and I seem to be the one that is taking it up, will the Minister admit that the figures presented by Reform Jersey of £45 worse off over the past 8 years since 2009 for a couple with one child in terms of the components of income support, and the figures of £75 for new entrants and £55 for old entrants were in fact fairly accurate by her own department's figures?

Deputy S.J. Pinel:

I reiterate, I have answered the question and all Members will be in receipt of those figures today.

3.9 Deputy S.Y. Mézec of the Minister for Economic Development, Tourism, Sport and Culture regarding actions to mitigate any loss of taxpayers' money, and the lessons learnt, in respect of the Jersey Aircraft Registry: [1(202)]

Following the publication of information that only 2 aircraft have signed up to the Jersey Aircraft Registry, what action, if any, will the Minister's department take to mitigate any loss of taxpayers' money on this project and what lessons, if any, have been learnt for the future?

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

Can I start by saying there has been no loss of taxpayers' money? The development of an aircraft registry as approved by this Assembly was never intended to be a short-term investment, neither was it expected that it would recover the original investment within a year or even 2 years of becoming operational. This has always at best been a medium to long-term investment for Jersey. I would, however, like to add that the aim of my department is, in the fullness of time, to recover that investment. This is why towards the end of last year we tasked our officers to outline new options to expand and improve the registry. To that end, work is underway to achieve those goals and discussions are taking place with commercial organisations, all of which have broad experience in the sector. These discussions are taking place under a confidential and non-disclosure agreement, so I am sure that Members will understand that I cannot share any details at this stage. To conclude, I would just like to thank Deputy Norton, who has been leading on this for our department, and our officers for their efforts. Although I cannot deny that this is not going to be challenging, I would like to assure Members that we are and will continue to do everything possible to ensure that our aircraft registry is a success given time.

Deputy S.Y. Mézec:

A supplementary?

The Deputy Bailiff:

Yes, just a moment, Deputy, I think we are inquorate. Yes, could I ask any Members in the coffee room to return to the Assembly? Are we now quorate? Yes, we are. Very well. Sorry, Deputy, please ask your question.

3.9.1 Deputy S.Y. Mézec:

If I can remember it. When you compare Jersey's aircraft registry to the registries in the Isle of Man and Guernsey, it is clear that ours is progressing at a much, much, much slower pace than theirs were. In fact, at the current rate, it will take Jersey 200 years before we reach the same number of aircraft as Guernsey. I do not want to mix up any metaphors here but is it not simply the fact that Jersey has missed the boat on this one and would it not be better to just mitigate our losses from this point when it is going to take far too long before we are in a position where this does become a viable investment?

Senator L.J. Farnham:

No, I do not agree with that. The Isle of Man started their aircraft registry in 2007. It started slowly and has become very successful. The same happened in Guernsey. They started slightly later but they did get a couple of years more than us and that has proved beneficial. We are late to the market with this, there is no denying that, but there still is opportunity for us to move forward. I

think the mistake we possibly made with hindsight - and hindsight is a wonderful thing - is that we targeted our registry to private and corporate aircraft where, really, we should have gone for the commercial sector as well. But, as I said, work is being undertaken in my department and I will be coming back to the States as soon as possible to change the legislation to enable us to expand our market into that sector which I think will be of great benefit.

3.9.2 Connétable J.E. Le Maistre of Grouville:

Does the Minister know whether our registries, both aircraft and shipping, are financially competitive and do we provide as good a quality service as the Isle of Man and Guernsey who are obviously our immediate competitors?

Senator L.J. Farnham:

Yes, I think they are and I think we do. I would like to praise our shipping registry in particular for the good work they are doing in expanding that. There are opportunities for us to go into category one shipping and we are having discussions like we are having discussions with the Minister for External Relations and that is an option that we are exploring. As for the Aircraft Registry, yes, we have at least the same, if not better, opportunities in our competitive aircraft registries to grow our market but that is going to take some time and it is going to be challenging, although we have got off to a slow start. In my department, when the ship lets in a bit of water we do not jump, we grab a bucket and we work together and we sort it out, and that is what we are doing here.

3.9.3 The Connétable of Grouville:

Part of the question was: are we financially competitive? It is very difficult to know whether our quality is as good.

Senator L.J. Farnham:

Yes, we are financially competitive.

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

It has been identified that this particular project has cost the Island £860,000 so far. Will the Minister please tell this Assembly how much more money and time he is going to take and spend until he accepts that this is a doomed project due to the lack of expertise and management within his department?

Senator L.J. Farnham:

That is the spirit; it is always nice to get a strong, supportive message from Deputy Brée. This is not a waste of money, this is an investment in the Aircraft Registry, it is an investment in the future for Jersey. Now, the bulk of the investment has been made, it would be absolutely foolish to walk away from that now. We have a structure in place to take advantage of this. I think the Deputy tends to focus on the cost of everything and the value of nothing. This investment we have made is valuable if we all work together to make it work.

3.9.5 Deputy S.M. Brée:

A supplementary, please? Since November 2015, there have been 2 aircraft registered on the registry. One, a private plane was the test aircraft to ensure the registry worked, the other one is a helicopter. I ask again the Minister to explain why, since November 2015, apparently, his department has done nothing to add any aircraft to the registry through marketing, through promotional activity and also why he does not feel that this would be best placed into the hands of the Ports of Jersey who have the expertise in that area whereas apparently his department does not? Thank you.

Senator L.J. Farnham:

The Deputy is wrong. The first aircraft was not a test, it was an aircraft that belonged to a resident and, if the Deputy did a bit more research, he would find out that a considerable sum of G.S.T. was raised from the transaction. If the Deputy would have listened to my earlier answer, he would have heard me say that with hindsight we would not have just focused on corporate and private aircraft, we would have expanded to the commercial sector. We gave the registry a year for when it became operational and our department did not do nothing. It worked with relevant aviation experts to try and promote and get registrations. It was not successful. We got 2, we had a target of 12, so we are doing something about it. I would hope Members, especially Deputy Brée who is chairman of our Scrutiny Panel, would be more supportive and work in the best interests of Jersey. It is not in the best interest of Jersey to try and say: “We should throw this money away”, it is in the best interests of Jersey to get behind this and support it so we can make it work.

The Deputy Bailiff:

I have Deputy Tadier, Lewis, the Deputy of St. Mary, Deputy Southern, then I will do a final supplementary with Deputy Mézec.

3.9.6 Deputy M. Tadier:

I am loving listening to this “ministry of spin” where the Minister stands up and says: “We had a very low bar target in the first place of 12 per cent. We managed to get 20 per cent of that which is 2 out of 12.” Well it is less than 20 per cent, is it not? It is one-sixth and he tries to spin that as a victory. Is it not a bad gambler who says: “We put in so much money, we have clearly lost, we have got to write that off. But that amount of money is far too much, I am going to not only call but I am going to raise into the next round, even though the cards that I am holding are 7-2 off suit.” The Minister will know exactly what I am talking about with that.

The Deputy Bailiff:

Well could you ask the question, please?

Deputy M. Tadier:

Well that could be a question, but I will ask the real question which is, it is not about hindsight, it is about having basic knowledge. When you have got the Isle of Man with a pre-established and long-established aircraft register and you have got Guernsey similarly but also with the competitive advantage of not having to charge G.S.T., it is quite clear to any G.C.S.E. (General Certificate of Secondary Education) or even primary school student that that is not a very good starting position to start off with.

[11:15]

The Deputy Bailiff:

Deputy, this is a speech, it is not a question.

Deputy M. Tadier:

Does the Minister accept that this was doomed to failure from the start and for whatever reason, perhaps lack of political oversight or whatever, it was not going to work and now is the time for the Minister to put his hands up, accept that and walk away?

Senator L.J. Farnham:

Absolutely not.

3.9.7 Deputy A.D. Lewis:

Could the Minister explain as to whether having G.S.T. on corporate aircrafts, for example, is an impediment to acquiring that element of business? Does it make us uncompetitive? Also, if we are looking to create more on the registry than kept and stored locally, is hangarage an issue? There is currently very little hangarage at the airport. If you want to attract owners of large corporate aircraft with highly-valuable equipment, they need to put it in a hangar; there is no hangarage. What is the Minister doing with the Ports of Jersey to alleviate these 2 issues: hangarage so locally-owned aircraft can be bought and used locally and also is G.S.T. an impediment to being competitive?

Senator L.J. Farnham:

Can I just start by talking about hangarage and, yes, there is a shortage of hangarage but that has been identified by the Ports of Jersey in the Masterplan. They are working with the sector to ensure that is addressed but we cannot get more hangarage quickly enough. At the last aviation event that was over here, I was talking to the sales director of one of the world's leading provider of commercial jet aircraft who said he had lost a number of sales to Jersey residents simply because there was not enough hangarage. Turning on to G.S.T., well, G.S.T. is more applicable to the purchase of the aircraft than it is to the registration of the aircraft. Just referring to an answer I gave a minute ago; I believe the G.S.T. raised on the aircraft that was registered here, because it was bought by a local resident, was £360,000 from one transaction. So, in relation to the registration of corporate aircraft, there are already some exemptions that are in place for components of aircraft. The challenge we have is the perception because, although G.S.T. has a very little impact on the registration of aircraft, there is a perception that we have G.S.T. where Guernsey does not. In reality, it makes very little difference but that is a challenge and it is a good question.

3.9.8 Deputy A.D. Lewis:

A supplementary? If hangarage was an issue, and still is an issue in trying to attract local residents to own such aircraft and register them locally, why was that not part of your business plan to create hangarage more quickly? It is not a huge construction issue building hangarage, why is that taking so long?

Senator L.J. Farnham:

I think that sits in with the Ports of Jersey business plan; they have identified it. With hindsight, yes, I think we should have been more attuned to that back in 2011 and 2012 when this idea was being incubated. But the Ports of Jersey are on the case with our full support and I have urged them to work as quickly as they can to provide more hangarage for local aircraft.

3.9.9 Deputy D. Johnson of St. Mary:

The Minister will recall that at the public hearing held last week his Assistant Minister advised that he was confident that there will be further aircraft entered on the register before the end of June. In answer to a further question, the Assistant Minister advised that this would be at no further cost to the States. Would the Minister please clarify and confirm that he agrees with both those statements?

Senator L.J. Farnham:

As I remember it, the Assistant Minister was hoping to come back with what we are doing in the next stage by the end of June. We cannot guarantee, and I would not guarantee, how many and when aircraft are going to be registered. I will guarantee there will be future registrations and over a period of time that will build up. Towards the end of last year, it was identified that the current strategy was not proving effective so we significantly reduced the amount of expenditure that the administration of the aircraft registry was utilising. That has been reduced now while we are in

discussions with third parties to a very low amount, for example, we are covering the legal requirements for insurance and so forth.

3.9.10 Deputy G.P. Southern:

Given the absence of any plan going forward, as the Minister so often wants to say, what targets will the Minister admit to and in what timescale in order to assure himself that the scheme that he is going to devise over the coming 9 months, let us say, to the end of the year, to make it successful is working and worth maintaining?

Senator L.J. Farnham:

There is a plan and the plan is, despite the Reform Party's best efforts, is to make this work. We want success for the Aircraft Registry. I am not going to fall into the trap now of naming targets and objectives. The objective is to make this work and I hope States Members will get behind it. I know the Council of Ministers are supportive and my department is working very hard and we will undertake to do whatever we can to make this a success.

3.9.11 Deputy G.P. Southern:

Supplementary, if I may? Would the Minister not agree that his plan to make things better is to make things better and would be appropriate to attribute to Baldrick?

Senator L.J. Farnham:

Sorry, I missed the last. Could you repeat ...

The Deputy Bailiff:

I am afraid I did not hear the last part either. It was a reference to Baldrick, was it?

Deputy G.P. Southern:

Yes, Sir. "I have got a plan."

Senator L.J. Farnham:

Pots and kettles, I will leave at that.

The Deputy Bailiff:

I think that is ... we will move on to the final supplementary from Deputy Mézec in that case.

3.9.12 Deputy S.Y. Mézec:

When they can come up with such great detail like this it is so difficult not to have confidence in their abilities, is it not? A couple of months ago I asked a written question of this Minister asking him to list everything that he had done in office that he believed could present a tangible effect on economic growth and 7 items on that list were to do with the Aircraft Registry, which we now know has had no tangible impact on economic growth and simply has a theoretical impact in the future, which on current trends will be 200 years in the future before we are even on par with Guernsey. Is it not in the best interests of Jersey to recognise when the Government has made a mistake and cut their losses at that point? Is it not better for taxpayers to say: "We are not going to waste money on something that is going to take so long and perhaps never see a return to taxpayers", whether it is on the Aircraft Registry, whether it is on the Innovation Fund and that it is in the people of this Island's best interest to have a Government that recognises when it is just not good at something, is that not the better way forward?

Senator L.J. Farnham:

No, what absolute rubbish. The Deputy is on form this morning. He has given us more rubbish than he normally does.

The Deputy Bailiff:

I think you might afford the President an opportunity to speak before criticising him for not having done so. I point in the general direction from whom said: "He does not get pulled up." You really cannot say that it is rubbish. You can say you do not agree but to stand up and simply comment that what someone else has said is "absolute rubbish" is not very parliamentary.

Senator L.J. Farnham:

Well, I have to disagree with what the Deputy says. What are we doing? We are going to make this work. The Deputy can cast all sorts of aspersions. But what have I done for the economy? What has the Reform Party done? What they do they do absolutely nothing, except protest all the time. That is all they do. They protest and complaint and protest and complain. They do not come up with any solutions. Do you know what would be in the best interests of Jersey? Is for the Reform Party to come along with some advice. They like giving out advice, come and talk to me, come up with some ideas for making the Aircraft Registry work.

Deputy S.Y. Mézec:

Yes, close the Aircraft Registry down, that is our advice.

The Deputy Bailiff:

Senator, this is not an opportunity for an attack on a political party or indeed an attack directly at Government. The question that has been asked of you is simply: "Would it not be better in circumstances such as this that the Government accepts that it is not working and effectively walk away from it?" That really is the question.

Senator L.J. Farnham:

I was just getting warmed up as well, Sir.

Deputy M. Tadier:

Would the Minister give way?

Senator L.J. Farnham:

No, I am not giving way.

The Deputy Bailiff:

You cannot give way in questions.

Deputy M. Tadier:

I was going to say he will have lots of time in the ...

The Deputy Bailiff:

Can you really ... please do sit down.

Senator L.J. Farnham:

Tempting though it is to be beguiled by the Deputy's wit, I am not giving way.

The Deputy Bailiff:

Let us just answer the question.

Senator L.J. Farnham:

I do not agree that it is in the Island's best interests to throw in the towel after investing a significant amount of money in an Aircraft Registry.

The Deputy Bailiff:

That ends the period of Oral Questions. We come on to Questions to Ministers without notice. The first question period is the Minister for Social Security.

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

4.1 Deputy J.A. Hilton:

Currently approximately 177 claimants residing outside of the Island are in receipt of long-term incapacity allowance with an average award of £72 per week, which equates to an approximate yearly sum of £662,000 of taxpayers' money being awarded to non-resident claimants. Is the Minister satisfied the method of assessing these claimants is robust enough and all attempts are being made to avoid fraudulent claims?

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

The Deputy is quite right with her figures and this is something that will be under review in the Social Security review that is ongoing at the moment. The way the assessments work is whatever assessment somebody is given in Jersey then extends to wherever they may be living and receiving the benefit. So if they have a 3-year review as a medical board given to them in Jersey they will have to do that in the country in which they are residing. That medical board in that particular country feeds back the information to us to justify the benefit being paid.

4.1.1 Deputy J.A. Hilton:

Can the Minister confirm for Members that a medical board consists of a G.P. (general practitioner) and it is not made up of several medical people? My concern there is that it is easier for claimants to pull the wool over the eyes of their G.P. rather than a board of medical individuals.

Deputy S.J. Pinel:

A medical board is composed of a lawyer, a G.P. and an independent person, and referring to the Deputy's former mention of claims, there are quite frequently a lot more claims per person. It is not just one claim per person, so there is a difference between the figures in claimants and the number of claims being processed.

Deputy J.A. Hilton:

Can the Minister just confirm ...

The Deputy Bailiff:

That was a supplementary. We may be able to come back to you if time permits.

4.2 Deputy G.P. Southern:

Does the Minister accept that a single disabled person on income support will be in real terms some £22 worse off now than they were in 2008?

Deputy S.J. Pinel:

It is very difficult to answer the Deputy's question because obviously these are all individual cases and there are various components paid out with long-term incapacity, disability allowance, and so it is very difficult to give an actual factual definition of somebody who will be better off or worse off, depending on what components they are receiving.

4.2.1 Deputy G.P. Southern:

It is very simple, Minister. The calculation is what is inflation over the past 7 years and we have components that are not adjusted for inflation. That accounts for £15 with being worse off for a single person and £7 on average - so it could be more, it could be up to £12 - for those with an average long-term incapacity claim. So this is the disabled made £22 worse off than they would have been in 2009. Does she not accept those figures?

Deputy S.J. Pinel:

As I said in my answer, I am aware that inflation has been 16 per cent over the years that the Deputy described in 2008, but it cannot be a single person who is individually categorised here because of the different components that are allocated.

4.3 Deputy R. Labey of St. Helier:

The Minister cannot have failed to notice the uproar which followed the U.K. Budget and the Chancellor's attempt to raise the tax rate for the self-employed. Given the double contribution levied on the self-employed here is so blatantly unfair, does the Minister really have to wait for a policy recommendation in an overdue report before seizing the initiative and taking some action to remedy this inequality and inequity?

Deputy S.J. Pinel:

I have constantly said over the last few years that I find the self-employed situation very difficult, which is why I have asked for it to be included in the review that we are conducting at the moment. Because it has a huge effect on the economy as to how we adjust it, how we put in recommendations then necessarily the review has to be quite a long time but it is a primary concern of the review board to look at this. I understand the Deputy's concerns and we are addressing this with a lot more redundancies being prevalent, a lot more people wanting to start their own business. We do not want to crush entrepreneurship. We want to support it and with the Back to Work and actively seeking work teams we are doing this, but as far as legislation goes we will have to wait for the findings of the review.

4.3.1 Deputy R. Labey:

Can I ask how long we have to wait?

[11:30]

Deputy S.J. Pinel:

The first consultation on the review is finished and due to be published, or the report on it, in the next 2 or 3 weeks, and that will include some reference to self-employed but there will be more to do.

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

As the Minister will be aware several Parishes, including St. Helier, have teams of volunteers who go out into the community to support people in hardship while St. Helier retains a professional and paid Community Services Department. Does the Minister not think this indicates that income support is failing to offer the kind of individualised support for the less well-off that was provided when the Parishes administered welfare?

Deputy S.J. Pinel:

No, I do not. The income support system is a safety net, as everybody well knows, and nobody falls out of that safety net. The Connétable's comparison with the voluntary sector is well deserved, and the voluntary sector in this Island deserve absolute praise for what they do. They

have never ceased and they continue to actively work in the community. This is a balance against income support. It is not a substitute for it.

4.4.1 The Connétable of St. Helier:

Perhaps the Minister could also refer to the fact that St. Helier has got a Community Services Department of one and a half full-time staff that is rushed off its feet in providing the safety net that is supposed to be provided by Income Support.

Deputy S.J. Pinel:

If we are going to parochial contests; St. Clement has a voluntary community scheme of 30 people who are not instead of income support, they are to balance it and help it out.

4.5 Deputy J.M. Maçon:

Could the Minister update the Assembly on the work that her and the Minister for Economic Development are doing in order to produce a work-based pension scheme?

Deputy S.J. Pinel:

The work-based pension scheme is also being investigated as part of the Social Security review. It was one of the questions within it and we have just had all the consultations back, about 1,300 of them, which are being analysed and the report on some of it will be out in a couple of weeks.

4.6 Deputy S.Y. Mézec:

This sort of follows on from the questions we were asking the Assistant Chief Minister earlier. The Income Distribution Survey showed that the 3 groups which had a large proportion living in relative low income in the Island, which were pensioners, disabled people and single parent families, every one of these groups have seen the support that they may have been eligible for from the Social Security Department cut under her leadership. Does she have any personal estimations about what effects these cuts will have had on the numbers of people living in relative low income in Jersey and does she think that those cuts are consistent with the statements made by her ministerial colleagues that relative low income is reducing in the Island?

Deputy S.J. Pinel:

A lot of questions in that particular question. We constantly monitor the savings that we were asked to make as part of the M.T.F.P. and the main thrust, as the Deputies will all know, was making this benefits targeted rather than being across the board, which we achieved in doing. We monitor constantly the situation that has evolved since then and there appears certainly ... I think the Deputy mentioned lone parents. I think we have had 2 questions from lone parents who have had their benefits reduced. So we do monitor it absolutely constantly. If there was anything that came out of the reductions, the savings, then obviously we would have to look at the individuals involved.

4.6.1 Deputy S.Y. Mézec:

I do not think I got anything that even approached being an answer to the question that I asked there. What I was asking is: given the cuts that she has made to the support that is offered to people in these groups what estimations does she or her department have on the numbers of people who live in what would be categorised as relative low income? So for the people that are given support by the Social Security Department, they have to provide a huge amount of detail about what income they have, where it comes from, so the department will know this and will know who will fit under that very specific definition of what is relative low income. Does she have any estimates about how that proportion has either increased or decreased as a result of the changes that she has made?

Deputy S.J. Pinel:

No, an estimate is a forecast and we deal with the individuals individually. So if they are having problems with their income we settle it individually. So there is not an estimate or forecast of those who might be in what the Deputy describes as relative low income.

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

Now that the Employment Forum has concluded its consultation on the family friendly employment legislation, can the Minister please update the Assembly on what the next steps are and the timeframe for these please?

Deputy S.J. Pinel:

I thank the Deputy for her question. The Forum have completed. The consultation finished on 17th March, so they are now gathering the responses. They will have to adjust their workload to deal with the minimum wage at the end of April, so we will not have the final report on the consultation until the end of this year.

4.7.1 Deputy L.M.C. Doublet:

Will there be an opportunity for States Members to contribute to their policy formation in maybe a similar way to other Ministers have held workshops for certain policy areas?

Deputy S.J. Pinel:

Yes, I will ensure that happens.

4.8 Deputy J.A. Hilton:

Referring to my earlier question, can the Minister confirm the medical board in other jurisdictions consists of the same number of professionals with the same level of qualification as the Jersey Board?

Deputy S.J. Pinel:

Personally I cannot because it is not part of my remit. This is all independent medical boards who are appointed in Jersey and similar ones in other countries with which we have a reciprocal agreement, such as Portugal and Spain, Ireland and the U.K.

4.9 Deputy G.P. Southern:

Does the Minister accept that as a result of her policies those pensioners on income support will be £24 a week worse off than they would have been in 2009 in real terms? That is pensioners.

Deputy S.J. Pinel:

When we changed the pension scheme last year we introduced an increase in the disregard for pensioners of 23 per cent, as opposed to the standard format which was £55 out of their pension. So the pensioners can now choose ... the people entering the scheme now will automatically have 23 per cent disregard of their income. People who were on pensions beforehand will have a choice of whether they stay with the £55 or go for the 23 per cent, whichever is more beneficial to them. So again it is an individual pensioners' right to choose that. So what they may gain or not is debateable again.

4.9.1 Deputy G.P. Southern:

Supplementary, if I may? The Minister referred to the income support scheme as a safety net. Does she not accept that over the years because it has been ignored and is not index linked, the safety net is now too low and is starting to get some holes in it after only 9 years?

Deputy S.J. Pinel:

No. We are constantly reviewing income support and in fact there is another review going on at the moment to make sure there are no holes in the safety net.

The Deputy Bailiff:

That brings the time allocated for questions to this Minister to an end. We then move on to questions for the Minister for External Relations.

5. Questions to Ministers without notice - The Minister for External Relations

5.1 Deputy M.R. Higgins:

The Minister has been quoted in the media, and I know that is dangerous, as stating that what he is seeking following Brexit is for the movement of people in and out of the Island to remain as it is at the present time. As we have no population control whatsoever on people coming in and out of the Island, is that not dangerous?

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

I am not sure that is an entirely accurate representation of what I have said in relation to Brexit. What the Government's position is, as is quite well known, that we seek to replicate, so far as we can, the arrangements that we have in place under Protocol 3. So far as migration is concerned, we have, at the moment, free movement of people from the European Union, but that is subject to legislative controls in Jersey. That is how we control immigration and control population. To the extent that we are able to replicate that situation, that seems to me to be a desirable situation.

5.1.1 Deputy M.R. Higgins:

Supplementary? I am surprised by the comment. At the present time we have no controls over movement of people in and out of the Island because we are part of the Common Travel Policy, people coming into the U.K. then come to Jersey, and people from other areas that the U.K. accepts in. Surely if it is left as it is ... sorry, I am just thinking about this. We have no control whatsoever at the present time. What controls will be imposed following Brexit to enable us to try to control our population? We know we need some people, but we have had unrestricted growth, which is causing damage to our economy and Island.

Senator P.M. Bailhache:

I do not believe that we have had unrestricted growth. We do have immigration controls into Jersey. It is true that we are part of the Common Travel Area and that people can move freely to and from the British Isles and from Ireland and, as a result of Protocol 3, we have, in effect, free movement of people with the European Union. But it is not true to say that we have no control on immigration because our control on immigration is exercised through the Housing and Work Law, which requires that licences be obtained before people can either take up accommodation or work in the Island. That is a situation which, as I said in my earlier answer to his question, we would seek to perpetuate.

5.2 Deputy G.P. Southern:

Will the Minister update Members on what progress has occurred in the finance sector, in particular, ensuring that passporting rights are maintained so that we get access to the European market once the U.K. leaves the E.U.?

Senator P.M. Bailhache:

As the Deputy will know, we made very good progress prior to the referendum in June last year towards obtaining a passport to enable financial services, or some of them, to be marketed in the European Union. E.S.M.A., (European Securities and Markets Authority), which is an acronym for an organisation which I cannot at the moment remember, I am sure Members will be able to find out from Mr. Google, what it stands for. Jersey received the approval of E.S.M.A. to the Island moving forward to obtain the passport for financial services. Unfortunately a political decision was made in the European Union following the referendum result, which effectively has put on hold the process for obtaining such a passport. We obviously would be hopeful that ultimately such a passport will issue but that is a matter for the European Union.

5.2.1 Deputy G.P. Southern:

Could he further explore what may happen in the event of no deal being reached by the U.K. with the E.U. and whether that would be significantly worse than the best deal that could be obtained, given that the E.S.M.A. regulations, I believe, are dependent upon the fine detail of regulations that operate in the Island?

Senator P.M. Bailhache:

I think the Deputy is really asking a different question, which relates to a much broader issue of what the position will be for the United Kingdom and therefore for Jersey indirectly if the United Kingdom does not succeed in reaching an agreement with the European Union for its withdrawal from the E.U. There was a very interesting speech given by Monsieur Barnier, who is the Chief Negotiator for the European Commission in the forthcoming negotiations at which Monsieur Barnier set out very clearly what the objectives of the European Union were and how the Union proposed to approach the negotiations with the United Kingdom. One of the things that Monsieur Barnier spelt out was the unfortunate consequences that would ensue if there were to be no agreement.

[11:45]

So I think that the Island and, indeed, everyone with a concern for a satisfactory resolution of relations between the U.K. and the E.U. will hope that there will be an agreement.

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

Post-Brexit, is the Minister confident that Jersey will be able to obtain membership of the World Trade Organisation at least to the equivalent of that of the Isle of Man?

Senator P.M. Bailhache:

The Deputy asks a very good question and I certainly hope that long before the Brexit negotiations have been concluded that the United Kingdom will have been able to ratify the W.T.O. (World Trade Organisation) agreement on Jersey's behalf.

5.4 Deputy J.M. Maçon:

Can the Minister explain following Brexit what work has been done in order to prevent Jersey students being seen as foreign overseas students, as I am hearing that that already is beginning to creep back into the system?

Senator P.M. Bailhache:

I do not think that Brexit will have any effect on that. At the moment the European Union students are dealt with in the same way as British students and, on the whole, students from Jersey and other Crown Dependencies are afforded the same treatment. There are exceptions. Two universities, I think I am right in saying, do not treat Jersey students in that way and the Minister for Education,

through his department, is making efforts to see whether that can be rectified. But I do not believe that that has anything to do with Brexit.

5.5 Deputy S.Y. Mézec:

Would the Minister like to take the opportunity to do what the States of Guernsey have already done and make it clear that in any discussions on Brexit the position of the Jersey Government will be to seek to maintain as far as possible the rights of all E.U. citizens in Jersey and make it clear that their status in the Island is not something really that we want to see up for negotiation, and we want to make it clear to those people living in Jersey that every effort will be made to keep security in their lives in Jersey and that they are welcome here?

Senator P.M. Bailhache:

I think the Deputy makes a very important point and I believe that the Chief Minister has on more than one occasion expressed the earnest desire that negotiations between the U.K. and the E.U. will lead to the result that citizens of the European Union will be able to remain in the British Isles. I say the “British Isles” because whatever negotiations are included by the United Kingdom will affect us in Jersey and in the other Crown Dependencies. So I agree with the Deputy that it is very important that security should be given to E.U. citizens in the British Isles at the earliest possible juncture.

5.6 Deputy S.M. Brée:

Bearing in mind recent statements made by the U.K. Government in relation to Brexit, and the likelihood of divergence of interests between the U.K. and Jersey, does the Minister believe that it is in the Island’s best interests to seek further constitutional independence from the Crown and the U.K.?

Senator P.M. Bailhache:

I do not share the Deputy’s pessimistic approach that there will necessarily be a divergence between the interests of the United Kingdom and the interests of Jersey. Certainly at the present time we have been given access to Ministers and officials in the United Kingdom Government and enabled to make it very clear what Jersey’s aspirations are following the withdrawal from the United Kingdom. It is possible, of course, that divergences may occur in the future but at the moment I have no evidence that any is in prospect.

5.6.1 Deputy S.M. Brée:

Supplementary, if I may? It does seem strange that the U.K. Government themselves are identifying the fact that it is likely there will be divergence of interests. However, in the likelihood that such divergence occurred would the Minister recommend to this Assembly that the Island should seek further constitutional independence of the nature in my first question?

Senator P.M. Bailhache:

I think the Deputy has misunderstood the position. I do not believe that the United Kingdom Government has expressed any suggestion that divergences might occur in the future. Those who gave evidence to the House of Commons and Select Committee on Justice - they may have included the Deputy - suggested that such divergences might arise in the future and that led the Justice Committee to express a view in relation to that possibility. The Justice Select Committee indeed expressed the hope that the United Kingdom Government would clarify its position if such divergences were to occur. But I repeat, that I have no evidence at the moment that there are any respective divergences and one hopes that the situation will not arise.

5.7 Deputy M.R. Higgins:

One divergence that may occur, according to British Government policy, it does not want to have again the unrestricted movement of E.U. citizens into the United Kingdom. The Senator said a short while ago that he wanted to try and see the existing situation continue. We have had 1,500 people for the last 2 to 3 years coming into the Island when the policy is 325, and there is concern about over-population and the impact on housing and schools, et cetera. Does the Minister think that the Council of Ministers would seek to allow the existing system of free movement of labour in and out of the Island from the E.U. if the U.K. sought to stop it?

Senator P.M. Bailhache:

It is very difficult to answer a hypothetical question of that kind. I can only say that the agricultural and hospitality industries in this Island have a need for staff from outside the Island because the labour needs cannot be supplied by local people. We must hope that the United Kingdom will arrive at some accommodation with the European Union, which leads to a situation where our own interests will be adequately protected.

The Deputy Bailiff:

If there are no other questions for this Minister ...

Deputy M.R. Higgins:

Supplementary?

The Deputy Bailiff:

You have 45 seconds.

5.7.1 Deputy M.R. Higgins:

Why can we not bring in a work permit system and allow the interests of those industries catered for rather than giving permanent residency rights?

Senator P.M. Bailhache:

I do not believe we need a work permit system. We could bring in a work permit system if we wished to do so but we do not need to do that because we have controls which are exercised through legislation.

The Deputy Bailiff:

Very well, that brings the time allocated for questions to the Minister for External Relations to an end and the end of question time generally. There are no items under J.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

6. Deputy J.M. Maçon of St. Saviour, on behalf of the Education and Home Affairs Scrutiny Panel, made a statement regarding the Panel's report, *Tertiary Education: Student Finance*

6.1 Deputy J.M. Maçon:

When the Education and Home Affairs Scrutiny Panel started its review very little was changing in respect of the dire problems being encountered by the families of people trying to finance a university course. The grants were inadequate and the Minister for Education had no answers. A report presented by the Minister in May 2016 showed that there were no solutions on the horizon. An in-committee debate in the States on 11th October 2016 found no answers and still nothing changed. There had been no input to that debate from the Minister for Treasury and Resources. Families found themselves either unable to send their children to university, or perhaps worse,

having to choose which one of their children they would send, all based purely on finances. The grant system has proved, and is still, insufficient for the needs of many and the very limited student grant loan system of up to £1,500 again fails to meet people's needs. There has been no political will to look seriously at this for years. During the public hearings, the Ministers for Education and Treasury and Resources placed the responsibility for getting something done very clearly at the door of the other. In recognising that, the panel interviewed the Chief Minister at a public hearing. In that we learned that the Chief Minister had created a sub-committee of the Council of Ministers to undertake finding a solution. Suddenly there seemed to be the political will to get something done, which the panel welcomes. The panel engaged an adviser who worked in education policy for over 40 years, has influenced the development and passage of the present and the previous U.K. Government's reform proposals for higher education in England and has been at the heart of almost every major U.K. national policy development in higher education. The report he has provided, which is attached to our report, clearly shows that Jersey spends far too little on higher education and that there are options available for workable solutions. The panel has now completed its review and makes the following recommendations: "The Minister for Treasury and Resources should phase out higher child allowance for standard rate (20 per cent) taxpayers as soon as possible. The Minister for Treasury and Resources should phase out all higher child allowance from marginal rate taxpayers and redirect money to direct assistance for students once a suitable solution is found. The Chief Minister must ensure that the Council of Ministers Sub-Committee tasked with finding a solution to the problems of financing students through university examines the implications of income support when seeking a solution to the problems of financing students through university. The Minister for Education should provide an online calculator that allows families to understand their entitlement and that is flexible enough to change as policy is amended, with immediate effect. The Chief Minister must ensure that the Council of Ministers Sub-Committee is tasked with finding a solution to the problems of financing students through university, must consider some form of a student loan system. The Chief Minister must ensure that the said sub-committee should publish its terms of reference, specify a deadline for the work to be concluded and present its recommendations to the States in the form of a report." The panel feels it has cleared what was clearly a political blockage and will be keeping a close eye on what the sub-committee is doing to ensure that the work is done. The panel's report, including that of the adviser and reports from workshops held in schools with students and parents, was published on 15th March 2017

The Deputy Bailiff:

There is now a period of up to 15 minutes where questions can be asked of Deputy Maçon.

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

Thank you to Scrutiny for the report. Of course we will look at the recommendations to see what we can effect. As the Assembly is aware, we have a sub-committee on which sit the Chief Minister, Minister for Treasury and Resources, myself and my Assistant Minister, and we are looking at the issue of providing student loans and we will carry on doing that. I think the report highlights how complex and difficult this issue is. If it had been easy it would have been resolved some time ago. In fact in the report itself it does not come up with a solution but indicates ...

The Deputy Bailiff:

This is an opportunity to ask questions of the speaker, not to make a speech about what the position is.

Deputy R.G. Bryans:

I just wanted to ...

The Deputy Bailiff:

I am afraid Standing Orders allow 15 minutes for questions, not for any other purpose. Does anyone wish to ask any questions of Deputy Maçon?

6.1.2 Deputy M.R. Higgins:

Can the chairman of the committee say whether the committee puts as much emphasis on other forms of higher education than non-vocational students? The skills we require for the future are not just academic ones through university education and I would like to ensure that all students are given the same opportunity.

Deputy J.M. Maçon:

I thank the Deputy for his question and I believe in the second sentence of my foreword I make the point that higher education is not for everyone and other routes are no less valid. So absolutely the Deputy is right, university is not the route for everyone but for those who do have the talent and ability do we do enough to support them, and the panel came to the conclusion that it does not.

[12:00]

But that is not the only route to follow for a valid career path, and the panel makes that very clear throughout its report.

6.1.3 Deputy G.P. Southern:

Having read the report already, I feel it is a solidly based piece of work but I see that 2 things are missing from this statement. I think one would be the sixth paragraph which could, if push came to shove, be the basis for a proposition rather than a recommendation. Also in the 6 recommendations made there is no sign of a date anywhere by which the Scrutiny Panel expects action to be taken. Will the chairman agree that a date should be set for action and that the best alternative to the Ministers doing something, if they fail to meet that deadline, should be actioned by his panel to bring forward a proposal?

Deputy J.M. Maçon:

Thank you and I appreciate the Deputy's eagerness in order to see things done. I would also emphasise that certainly there on the panel unfortunately there is a process and there is a protocol where the Ministers do have 6 weeks in order to respond to the report of the panel and it would be at that point in which the panel would decide whether anything further should be done in the way of a proposition, for example. We are stopped by protocol.

6.1.4 Deputy G.P. Southern:

But still, if I may, does the chairman not accept that the absence of dates in this report is a lamentable fact?

Deputy J.M. Maçon:

Again, I would not disagree with that. We would obviously welcome timelines from the Council of Ministers and we hope that that will be reported in their response to the panel in 6 weeks.

6.1.5 Senator I.J. Gorst:

I, like the Minister for Education, welcome the report. I wonder if the chairman would join me in thanking particularly his panel, who did a lot of great work in bringing forward this report, and the Deputy of St. John for the support that she gave him during the course of this review. He chaired the hearing that I attended upon and I think it is a great piece of the panel working together.

Deputy J.M. Maçon:

Absolutely. I think our panel has certainly taken a very flexible approach whenever we work. I would take absolutely every opportunity to commend and thank the work of the Deputy of St. John and her contribution to the panel, but no less to not mention the other members of the panel, Deputy Mézec and Deputy Doublet, who again we all work with a very good team and I hope that this report ... and I thank the words of the Chief Minister who has commended the work that has been put forward in the report and I hope to see a productive response when that comes forward.

6.1.6 Senator A.J.H. Maclean:

Just very briefly, I would echo the words of the Chief Minister insofar as the panel have done an excellent piece of work in capturing the essence of the problem. What they of course do not do is provide the solution. The solution of course is one which is going to be quite costly and the Deputy of St. John is quite rightly pointing in my direction saying that indeed it is my responsibility.

The Deputy Bailiff:

Is there a question?

Senator A.J.H. Maclean:

Yes, I have, Sir. I am setting the scene of the question. Of course it is a matter of costs and I would simply ask the chairman if he would agree that the biggest barrier at the moment is one of cost and although it is something that there is an undertaking from the group that has been set up by the Chief Minister to address or seek to address, would he agree that without doubt there is a significant barrier in terms of affordability for some of the suggestions contained within the report?

6.1.7 Deputy J.M. Maçon:

I would not disagree with that. Yes, it is quite clear that Jersey underfunds higher education, that is quite clear, especially when you compare us to other European jurisdictions. Therefore it is a role for the Council of Ministers to say if this is something we value and there is something in the Strategic Plan in which the Council of Ministers want to achieve, it is for them to come forward with funding proposals and how that is done. I thank the Chief Minister and the Minister for Treasury and Resources and the Minister for Education for acknowledging that quite clearly now and therefore we look forward to what work they will come forward with because quite clearly it is now a matter for political decisions to be taken within the Council of Ministers.

The Deputy Bailiff:

If there are no other questions then we move on to the next items on the Order Paper, which is Public Business.

PUBLIC BUSINESS

7. Television Licence Fee: exemption for Jersey residents aged 75 and over (P.117/2016) - as amended

The Deputy Bailiff:

The first item of Public Business is Television Licence Fee: exemption for Jersey residents aged 75 and over, P.117/2016, lodged by Deputy Tadier. Before I ask the Greffier to read the proposition can I confirm that you wish to make the proposition as amended by your own amendment?

Deputy M. Tadier:

Yes, please.

The Deputy Bailiff:

Do Members agree that it can be taken as amended? Yes. In which case I ask the Greffier to read the proposition as amended.

The Greffier of the States:

The States are asked to decide whether they are of opinion – (a) that the BBC should not charge over 75s living in Jersey for T.V. (television) licences in line with their proposed policy for U.K. residents; (b) to request the Chief Minister to enter into renewed talks with the BBC to exempt Jersey residents who are aged 75 and over from the licence fee, and to report back to the Assembly on his progress no later than September 2017.

7.1 Deputy M. Tadier:

Before I start I think it is important to acknowledge the work that has been ongoing certainly at officer level between the Government of Jersey and the various bodies in the U.K., the BBC and the Department of Work and Pensions, to mention just 2 of those. It should be clarified from an early point that nothing I say in this is in any way to be taken as denigration of the deal and the negotiations that they have been done on behalf of Jersey and its residents. We appreciate that I think all and any criticisms that I do have will be limited to the ministerial oversight and the politics perhaps that has not been brought in where it should have, in my opinion. So I think it is important to start off with that. No need for a foot stamping, I am sure the modest civil servants appreciate that we all know the hard work that they do on a daily basis. If I can also continue with an anecdote because of course we all listen to the BBC or we all watch the BBC I am sure in some guise or another, and if we do not more fool us because we probably pay a T.V. licence even though we do not necessarily enjoy or choose not to watch or listen to the BBC. I am sure that many Members often, if during their busy schedules only, get a chance to listen to the radio when they are driving between their appointments. On one such occasion I was listening to the radio, BBC Radio Jersey, so I thought, and I thought: “This is a very interesting programme. We are getting some hard political debate here” and if I recall it was something like the Social Security policy and one woman on the one hand, was saying: “The Social Security Department have got a lot to answer for. We are really letting down this section of society.” On the other hand we had a spokesperson for the Government robustly defending that. We had some very interesting robust debate going on there. I thought: “This is strange, this is very unusual for Radio Jersey to have this kind of cutting edge normal robust debate.” Then I looked at the radio and it said Radio 4. Then I realised: “Oh, that is the issue. It is not Radio Jersey, normal service is resumed.” The reason I raise that is not to criticise BBC Radio Jersey, but the point will be raised later, because when we have raised the issue with Radio Jersey in the past and saying: “Why is it that it seems that we never have any proper political debates in Jersey?” You turn on a radio whether it is an English radio, whether it is a French radio, whether it is a local radio of a small Island like Barbados, Martinique, Guadeloupe, wherever, and you will hear good robust debate, not just one person giving their opinions being slightly moderated by the questioner, you will hear 2 people of differing opinions often thrashing things out in the public interest, of course because that is the role of the media, often is to act as a fourth estate, which we know. We have the 3 estates but the other integral part of the pillar is the fourth estate. They said: “Well, look, it is not for the want of trying. We would like to get Ministers on to debate these issues, plurality of opinion, but they more often than not refuse to come on with us and there is nothing we can do about that.” So I think it is a malaise that we have with government, with this particular manifestation of ministerial government; not simply the BBC. But I would say to the local BBC, I think it is inconceivable that somebody, for example, like Andrea Leadsom, the Minister for Environment ...

The Deputy Bailiff:

Deputy, can I ...

Deputy M. Tadier:

It is relevant, Sir.

The Deputy Bailiff:

I mean you have spoken for quite a while and we have not got anywhere near the request to exempt Jersey residents ...

Deputy M. Tadier:

I can say why it is relevant, Sir, and I will sit down while you ...

The Deputy Bailiff:

If you explain how what you are saying is quite relevant that would be of assistance.

Deputy M. Tadier:

I can explain why it is relevant. I would have hoped that you would give me the latitude because it will become apparent later on and trust my judgment in this area. I am not saying that you will necessarily think I have got good judgment, but I will explain why it is relevant. It is because we are going to be asked to exercise a judgment call today as to whether or not we think that the deal that the Government of Jersey has got for our over-75 population in Jersey is a good one. One of the arguments that has been put forward by the Government of Jersey is that this is the best deal we could have got given the circumstances and that it is important that we keep BBC in Jersey and that essentially what I will be saying is that they did not want to rock the boat too much. I would like to try and understand why it is that the Government of Jersey might get a substandard deal for our over 75s in Jersey because the political setup between them and the BBC quite suits their political needs. That is my opinion, that is the point which I would be wishing to develop. I had hoped to have saved that explanation for later but we will carry on with the anecdote. It is inconceivable that a senior Minister in the U.K. would have the temerity to turn down an appearance, let us say, on the *Today* programme with John Humphrys, or whoever is presenting it, and saying: "I am not going on there unless you give me a slot on my own because I do not want to be grilled by any spokesperson of the opposition". If they did of course you could rely on John Humphrys to ask the very tough questions that the Minister did not want to hear. Now I would suggest, and this is not a criticism of anyone, it is just a statement of fact that we do not get this level of scrutiny from our media in Jersey. There could be all sorts of reasons for that. It could be down to resources. The nearest thing we do have is what is called the Hot Seat. I call it the "Cosy Seat", which seems to just be a ministerial platform for spin once a week where the Chief Minister can come on and say whatever he likes. Ironically the person who hosts that, who is in the public domain and is a radio presenter, Tony Gillham, I think does a very good job considering the fact that he... perhaps exactly because he is not political. He asks the questions of the man or the woman in the street would want to ask of Ministers. Perhaps the questions that other members of the BBC would not be allowed to ask or choose not to ask. But again we are not here to denigrate BBC Radio Jersey. So my contention is, of course this Council of Ministers do not want to rock the boat. Of course they do not want to try and get a good deal for our over 75s in Jersey, the very deal that they should be banging on the table for, which is parity and equality, because the system suits them as it currently stands in Jersey. We should be doing more to strengthen accountability that we have through all our forms of media in this Island. I do not think I will be getting an invite to the studio any time soon to put those points of view across. Now the reason that this proposition has been lodged in 2 parts was because when ... I obviously lodged the substantive proposition before December, so it was 4th November, I was asking the Chief Minister to enter into talks with the BBC to exempt Jersey residents who are aged 75 and over from the licence fee and to report back to the Assembly on its progress no later than January 2018. Obviously we found out later, because

a statement was given in quite a short time after that, and it just shows that what lodging a proposition can do. You get a statement pretty quickly from the Minister who was in charge at the time, who is not here today, which no doubt will shorten the debate, because of course those talks were already going on. He gave a statement which is attached to the amendment. Now my issue with this statement is that when you read through it there is quite, as you would expect, a ministerial complexion has been put on that for the want of a better euphemism. He talks in it ... the first part he is talking about that Jersey's relationship with the BBC remains clearly defined.

[12:15]

It is all these issues to do with the charter. But the nub of it is that we do not have parity with the U.K. and, as I would read it, there has been spin here, quite simply, to say that we have got an excellent deal for Jersey. What would an excellent deal entail? What is the highest level of deal that we would aspire to? It would presumably be the starting point has to be that if the BBC is going to give all over 75s in the U.K. a free T.V. licence, and I underline the fact that it is the BBC that will be doing this, not the U.K. Government, so it is not a political decision anymore, it is the BBC ... no, the Minister can speak in a short time. The BBC now will have a policy from 2020 that if you are resident in the U.K. and you are over 75 they will not charge you for a T.V. licence. There is no longer going to be a charge for over 75s in the U.K. for a T.V. licence. We should have been asking: "That is fine, give us the same thing" on the basis that every year in Jersey, and it is in the main report, 37,000-plus colour T.V. licences are sold in Jersey for which the BBC receives £5.4 million from Jersey alone. Now of that the Government in Jersey, which we know has a means tested policy, gives £220,000 to cover 1,520 residents that are on the state benefit for that, which includes people who are not taxpayers in Jersey and over 75. Now that figure compares to ... if we look at the extra costs which would be involved, if Jersey had to pay the additional, and these are from figures in 2009 when I brought my proposition asking the States to cover the full cost for all over 75s, it would have been in the region of an extra £500,000. So we can figure out quite quickly that the majority of over 75 year-olds in Jersey do not receive a free T.V. licence; that was a political decision made by the States previously and confirmed in 2009. Now I think it is important to add that had the States adopted my proposition in 2009 to say that all over 75s should have a free T.V. licence we would not be in this position today. We would not have to have this debate because the BBC would have simply taken over the cost of that. So the fact that Jersey only partially covers for the lowest earners, the lowest over 75s means that that deal can no longer be done. That is just an aside but that goes to show there are consequences perhaps for this parsimonious position that in the short term may have saved the Social Security Department some money but in the long term it has been prejudicial to this particular group given the fact that we are here today. I am not suggesting that could have been foreseen by any means. There are 2 parts to this proposition. The first part I would hope is quite uncontroversial and something that every Member of this Assembly could sign up to. I will read that out. It is essentially an in principle position to say what the opinion of this Assembly is: "That the BBC should not charge over 75s living in Jersey for T.V. licences in line with their proposed policy for U.K. residents." I would hope that we could agree to that. I think that we all have constituents that we know of and when I have been told recently or in the past why would we give a free T.V. licence to a rich person living in Jersey when they can fully afford it, irrespective if they are over 75 or not. Why would we do that? It is unfortunate because that is picking an extreme example. The vast majority of over-75s in Jersey who do not qualify for a free state T.V. reimbursement or free T.V. licence are not wealthy. That is the simple fact of it. We know them, we see them often, if not every day, every week in our constituencies, many of them struggling to survive. Many of them are finding it hard to balance the books. They just do not qualify for this particular benefit. It does not mean that they are super rich. I think that needs to be put on record. I would say that we need to be doing something for this group who are often the forgotten ones in the Island. Clearly we make the

argument that these have been long-term taxpayers in the Island. They have paid into the system and if I were arguing today for the States to cover this cost then I would be making that argument that no matter how rich or poor or in the middle they are, they have contributed into the tax system if they are wealthy. If they are not they are still paying G.S.T. and if they are at the bottom, of course, they get covered anyway. But we are not talking about the Government's responsibility here. We are talking of the duty of care that the Assembly think that the BBC as a public body and a public institution should be showing to all its licence fee payers and all its audience within the British Isles. To discriminate on the basis that Jersey, Guernsey and the Isle of Man have different arrangements with their Social Security Departments and that it was not the BBC who initiated these changes, I do not think stacks up. I would hope that the BBC, being that big organisation with its charter with an implied duty of care, would look at the figures and say that they are pretty small and, given the fact that they take in over £5 million worth of licence fees from Jersey already and given the fact that order of magnitude is some tenth of that, they should take the hit and provide across the board a service which is equal. I think the BBC have an equality clause within their charter; I would be very surprised if they did not. I would say to them they should be offering this anyway, but certainly our Ministers should be going over there and asking for the same deal. I do not like to look at Jersey politics historically with rose-coloured glasses, and I do not think it is always true when people say: "Back in the day things were different"; we had some bombastic individuals, some political heavyweights, and no doubt that is only part of the story, selective memory, et cetera. But I cannot help thinking that back in the day, and I will not mention any names for the sake of embarrassing them or leaving out other people who are perhaps equally noteworthy, but if a Jersey delegation had gone over to the U.K. with a clear vision of what they wanted, but with the politicians leading the delegation, and say: "Okay, this is what we want. How are you going to be able to deliver that to us?" given the fact that it is a 2-way street, that of course the BBC provides a service, of course they provide news in Jersey, of course they broadcast the States Assembly. I say "of course", and it is something that they have been doing, which, really, is no longer necessary. With due respect to the gentleman up there, and we all know him and we like him, a great chap, he does not need to be there. We can just have an open stream. We can just say: "Open up the 1026 am radio", stream the States and, if they want to talk about what is going on in the States, great, that is all good. We have online streaming now as well which we know, if it is not watched live, necessarily, it certainly is watched retrospectively and we can have clips that are used for that. So I would say that the arguments that have been put forward have been too one-sided. It seems that the Government are fighting the BBC's corner and recognising what they do for the Island of Jersey, but not fighting enough for our over-75s population. This is clearly a great opportunity to say to the BBC: "We want you to cover the full costs for all over 75s. We will not accept this discrimination" and clearly we would presume that the Isle of Man and Guernsey could make a more robust case for that. There are ways to do that, I think. If I had certainly been part of the delegation, and perhaps I should not go down this route because I leave myself open, I would be saying: "Well, hang on a minute. Jersey, as part of the British Isles or part of your viewer base, pays our licence fee. Do we get all the services?" I am not sure that we do get all the services, although I respect that technology is being rolled out. I do not think we have got digital at the moment, which is a shame, or maybe it is not a shame, but I like to listen to digital radio in my kitchen and I cannot get Radio Jersey on that. Again, it is not the biggest loss, necessarily. I like to listen to French radio when I am driving along, if I can catch it all, or the very good programmes across the panoply of the BBC. Ironically, we do not pay for those programmes. You listen to the radio, you do not pay, and that is strange, because that is where some of the best programmes are on the BBC: they are on the radio. I am not suggesting that they cost the most. Some of the most expensive programmes that the BBC produce ... we know that one word has already been ruled out of order this morning, so I will not say that, but they are certainly inadequate for my viewing needs, which is perhaps ironic. So there is always cross-subsidy that goes on in the BBC. The BBC has to

fund populist, sometimes trashy, programmes that would not necessarily appeal to all, and they have to fund minority programmes which are of bespoke interest, because that is the way they work. The reason I say that is because there is also a geographical way in which there has to be cross-subsidisation, and the argument will be put forward that, if we rock the boat too much, the BBC could leave in its entirety from Jersey, and then we would not get any local news whatsoever. I do not think that is quite true. First of all, I do not think that would happen. Second of all, I think it would be a nuclear option if that happened and there would be many consequences to that, not least bringing into question the legitimacy and sustainability of the licence fee, per se, in the U.K. That is going to happen anyway. But the air space in the market would be filled by other providers. I gave this some thought after the briefing I had with Senator Routier the other day, and I thanked him publicly for that; it was good of him to put that on and it was certainly useful for me, but the counterargument could be made that even if, in the worst-case scenario, BBC local news did leave the Island, or for whatever reason, that would be filled by other broadcasters. As I have said, it is very strange that Jersey, given the fact that it has got a high profile and it is becoming increasingly cosmopolitan and we are past the 100,000 mark now, only has 2 radio stations. It does not even have any digital radio stations, as far as I know. We have got BBC, we have got channel 103, we have got a commercial radio station and we have got a public broadcasting organisation, both of which clearly take up big parts of the market and which are going to be very difficult to compete against. It will be interesting in the future to know about whether any of the funding that currently goes to the BBC might be apportioned in a different way. But we are getting perhaps into a different area. I do agree that it needs to be put on record that the sustainability, in fairness, of the television licence in itself is questionable. If they are going to take this approach to say: "We are going to discriminate against your over 75s while giving our over 75s a free T.V. licence" that is going to bring into question that inequality further. The first point is that the licence fee is a regressive tax because everybody in the U.K. who has a television has to pay it, irrespective of their income, apart from the over 75s, of course, they have got that carve-out. It does not even matter whether you watch the BBC, you are still charged. So it is an outdated mode, it has been said, of funding the licence fee. This will become relevant, because they are going to have to grapple with this. What we have seen is that a partial plan has been put forward by the BBC which is in the next couple of years they will take over a third of the cost from the U.K. Government, and that will be mirrored here. In the second and third years they will take over two-thirds of the cost and then, after that, they will take on the full cost. The problem we have got with that over here is that they are taking on a third, two-thirds and then the full cost of what is already a fraction of our over-75 population. So, in the first year they are going to cover a third of the figure that I quoted earlier, the £220,000-odd, and then they are going to cover the two-thirds of it. My question is: who, in this Assembly, is standing up for the rest of the over 75s, the majority of those who do not get to benefit from this? I would say that it is our job, each of us here today, to stand up for those and to say to the Ministers: "We think you can get a better deal for us. We would like you to go back to the table and insist on this."

[12:30]

Just to finish, we do have bargaining chips here. To take it back one step, Jersey is one of the places which has the lowest default rate of payment of fee licences. The figures bear that out, and I can circulate them; I was given them yesterday by the government officers. On top of that, they use our court system to do that, at an expense to the Island and at an expense to, whether it is the Parishes or the courts which are administering that justice. You have also got to question ... I spoke to someone yesterday about this issue and he says: "I have not paid a T.V. licence in Jersey since 1995." I do not condone that, by any means, but he said: "I just decided at one point I was fed up of getting these letters and I stopped paying it and I have never been found out." So one has to question what is the ability of the BBC to even find out in Jersey whether or not somebody is

paying their television licence? What usually happens is they adopt a business model, I suspect, where it is obviously not done by the BBC, it is done by the television licensing people themselves, they send out these blanket letters to “the occupier” saying: “We have noticed that there is no television registered at this address” and you keep getting those. I know because at one point I did not have a television for about 2 or 3 years, and what I did, after about a year, I got fed up of receiving these letters, chucked them in the bin. Waste of paper; it is terrible. I thought: “I will give them a call and say: □Just to let you know I do not have a T.V. at the moment, I am not getting one in the near future’.” It is only at that point that they started coming down on me hard and saying: “Well, you need to prove you have not got a T.V.” I said: “Well, that is fine”, I signed the statement, whatever it was that they needed. You can understand that they work on a percentage basis, they know if they send out a certain amount of letters they will get a certain amount of responses and that people, generally being risk averse but also being generally honest, will pay that licence. Even more so in Jersey where people do seem to be even more honest, if not risk-averse, which has got to be a good thing. But I would say to these people when I am doing the negotiations: “Well, hang on a minute, if you do not apply this across the board, well, maybe we will not enforce that. We have a different system so we are no longer going to enforce the T.V. licence. If you want to do it, that is your call, it can become a civil matter. We obviously have a Petty Debts Court in Jersey and, if you want to do that, you can do it.” Parliamentary privilege is, of course, something which we use with discretion and we use it where we can, but certainly, if I was an over 75 year-old, after today, if this does not get passed, and if the status quo remains the same that over 75s are being discriminated against in Jersey, I would simply tell them not to pay the T.V. licence, bring it on, see what the BBC do. Are they definitely going to crack down on Jersey and the Crown Dependencies in order to challenge some over 75s who are not paying their T.V. licence? I would encourage the over-75s community to get out on the streets, to protest this after today, because it will lose, we know the make-up of this Assembly is such ... is it a point of order?

The Deputy Bailiff:

Is it a point of order?

Senator P.F. Routier:

Yes, it is.

The Deputy Bailiff:

If it is a point of order then it is a matter on which I must make a ruling, Senator.

Senator P.F. Routier:

Is it appropriate, Sir, that a Member of our Assembly encourages people to break the law?

The Deputy Bailiff:

It is a matter that I do not think the Chair can make a ruling on. It is not a point of order. It is a matter that is, in my view, covered by parliamentary privilege. It is a matter for the Assembly as to whether what any particular Member says brings the Assembly into disrepute or not, and that is a matter for the Assembly to take its own action, it seems to me.

Deputy M. Tadier:

I cannot remember if it was Bertrand Russell who wrote a discourse on civil disobedience; I think it was Bertrand Russell, from what I can remember, I might be wrong. Was he a politician? I cannot remember that either, but I think there are clearly times when it is important, in the right circumstances, for appropriate civil disobedience to take place. I would ask the Assistant Minister who just stood up whether it is appropriate for a Member of this Assembly, whether it is appropriate for a Minister, to stand back when he sees a blatant inequality being imposed on Jersey

residents without standing up and fighting for their interests and asking to get a better deal for them. Certainly, the latter part, which I would encourage in the most strong terms, is that the over-75s population and those who have solidarity with them, should manifest, they should demonstrate at the appropriate time, and no doubt, add it to a long list of government litanies and government failures about this. Certainly, perhaps start off in the Royal Square and march to the BBC building just across from Parade Road. I think that might get some headlines and show that people in Jersey are fair, they are honest, that they do not want to have to break the law, and I am sure that they should not do that under normal circumstances, and that also they do take their rights very seriously. This was not just something I thought of, this is partly because I was lobbied and contacted by an elderly gentleman, who is still fit, but an elderly resident in the Les Quennevais area. He, strangely enough, had lived a significant part of his life in the U.K., he had moved to Jersey and made it his home. It is not an unusual story. He was both a U.K. taxpayer and licence fee payer to the BBC and now he has become, in later life, a Jersey taxpayer, a Jersey social security contributor and a Jersey resident. He, for example, is one of those individuals who is going to be caught out by this. I am not saying that, of course, there would not be a cut-off point, because you could have somebody who has lived in the U.K. 50 years and moves to Jersey for their retirement who is not entitled to a licence fee. There is not much we can do about that if we entertain the current proposals that are being put forward but, of course, these kinds of issues could be avoided if the BBC just applied a common sense duty of care and, moreover, if we asked our Ministers to request that of them. I will leave it there. I think the points have been covered. I make no apologies for using a robust argument when I saw that to be necessary, and no doubt other Members can get up and make speeches accordingly either for and against. I would just, in summing up, say that there should be no reason why we cannot support part (a), it is simply to say to the BBC, send a message that, in the view of this Assembly, they should not be applying a discriminatory policy across the breadth of the British Isles, especially when it affects such a minority, where it is well within their gift to do that. If we feel that the argument has been made and that on our balance of judgment we think perhaps there is merit in the Council of Ministers going back to the table, obviously I would envisage that being in discussion with Guernsey and the Crown Dependencies saying: "Look, I have been given a mandate now by the Assembly to reopen these discussions." We can do that. Perhaps the real issue here is that this has not been done with the consent of the Assembly. This is a way, effectively, for the Assembly to endorse the Ministers' proposals or to say: "We do not think this is the right thing to do." I understand that government gets given a lot of latitude and, increasingly, a large amount of latitude to negotiate on behalf of this Assembly and the people of Jersey in these kinds of issues. I would have hoped that before the Minister made his statement, made it as a *fait accompli* saying: "This is what is going to happen", he should have brought it back to this Assembly and said: "This is what I am proposing, this is what the BBC is suggesting. Are you okay with this as Members? If so, can I have your blessing, your consent and your mandate to go ahead with this?" That is the way that politics should be working in our Island, that has not been done, and this is an opportunity for Members to say, put on record, whether they are happy with the negotiations that have taken place or whether it is time to say: "Could do better. Please go back to the table and get a better deal for our over 75s in Jersey."

The Deputy Bailiff:

Is the proposition seconded? We are at 12.40 p.m. Does any Member wish to speak on the proposition?

Deputy M.R. Higgins:

Sir, could I just suggest, would it not be better that we adjourn for lunch and then people can come back if they wish to speak?

The Deputy Bailiff:

Yes. Standing Orders provide that at 12.45 p.m. I am to ask whether Members wish to continue. Up until that point, it is a matter on the proposition from the Assembly whether we move the adjournment.

The Connétable of Grouville:

Sir, before we adjourn, I have got a point of order on a different matter. This morning, Deputy Tadier pointed out that he had had 2 questions ruled out of order. He also pointed out that he had had a letter from the Bailiff explaining the reasons why that was the case. Is he at liberty to distribute those reasons, Sir?

The Deputy Bailiff:

Allow me to give some consideration to that over the luncheon adjournment and I will inform you when the time comes when I return.

The Connétable of Grouville:

Thank you, Sir.

The Deputy Bailiff:

Is the adjournment proposed?

Connétable C.H. Taylor of St. John:

I do not mind; I can speak before or after lunch.

The Deputy Bailiff:

It is open to any Member to propose the adjournment; otherwise I will open the debate.

LUNCHEON ADJOURNMENT PROPOSED

Deputy M. Tadier:

I think it has been proposed, Sir, and I would be happy to second the adjournment.

The Deputy Bailiff:

The adjournment is proposed and seconded. The States stands adjourned until 2.15 p.m.

[12:40]

LUNCHEON ADJOURNMENT

[14:16]

The Deputy Bailiff:

I think we are now quorate. Very well, before opening the debate on Deputy Tadier's proposition, I was asked to deal with a point of order. I understand that the letter in question has been circulated over the lunch hour, there being nothing to prevent their dissemination, so that is what we have done at the Bailiff's request. Does any Member wish to speak on the proposition? The Connétable of St. John.

7.1.1 The Connétable of St. John:

I would like to start by saying happy birthday Radio Jersey. Ten days ago I had the honour of attending the birthday party of Radio Jersey, and the Director General of the BBC was there. During his introductory speech he informed us that one of his priorities was to make local radio stations inclusive and to ensure fairness right across the BBC. I am confident that the intention is there to follow the fairness line. When I look at the proposition and I read it, I am quite content to support it but, when I heard the speech, I found it very difficult to support what was said in the

speech. I would never encourage people to go on to the streets and start protesting; there are correct ways of doing things and I do not think that is one of them. The proposition itself is simply to ask the Chief Minister and to get the BBC to agree to free licences for over-75s. I would like to hear from the Chief Minister and from the Digital Minister, who sadly is not here today ... sorry, I do beg your pardon; I am a little out of date on that ... to update the Assembly as to what progress has been made in this direction. I shall hold the way I vote until I have heard all the evidence.

7.1.2 Senator P.F. Routier:

Since the responsibilities of Senator Ozouf have been reallocated, I now have the dubious pleasure of having that responsibility, in which I have been, I have to say, ably supported by the officers who have been dealing with this all along. I have had an opportunity to look at and understand the negotiations that have taken place. At the outset, I should probably remind Members that we already have what is a longstanding means-tested T.V. licence for over-75s and this policy has not changed as a result of the new arrangements with the BBC, and there is absolutely no intention to change that. If we think about BBC's role in Jersey, I would just comment that the unfortunate comments that were made by the proposer of this proposition were misplaced, they were unwelcome and not deserving of being said in this House. We have freedom of speech in this House and people can say what they like, but I do not wish to be associated with any of those comments that were made. The BBC do provide us with local content and we are aware that, for a small jurisdiction, that local content is valued by our community and it does cost a lot of money to provide that service. The BBC do spend a lot of money ensuring that our local community has coverage, specifically with Radio Jersey and obviously the coverage of this Assembly, which are specific things to Jersey. There are other added services, which obviously are shared with our fellow Channel Islands, which do cost additional money for them, rather than a wider community which they serve in the U.K. It is on this basis that the policy of Jersey's current means-tested concession for over-75s was set. We have never had a universal concession in Jersey, although perhaps the Minister for Social Security may provide further comment on this later. To clarify, the U.K. Government has its own separate policy of providing universal concessions for over-75s and this also has not changed with the U.K. Government's new arrangements with the BBC. What has changed, however, is that the U.K. Government transferred responsibility for payment of this universal concession to the BBC at the time when it was renegotiating the BBC charter, which, Members will be aware, has been a long process and it will be coming to a position where, in 2020, things will be a lot clearer. The BBC are obviously going through a transition period for this short period between now and 2020, and they will be providing phased funding of the U.K.'s universal concessions until the BBC itself gains control over its own funding policy, at which point the licence fee model may well change. There was, at the time of the U.K.'s negotiations with the BBC, absolutely no intention to include any payment for the Crown Dependencies. That was the opening position from which the officers went in, and there was a comment about there should have been some political input into that; there certainly was. Senator Ozouf was heavily involved in supporting those negotiations so those negotiations have been across the Crown Dependencies, which is Jersey, Guernsey and the Isle of Man. So we are in a position today where, if we decide to perhaps want to renegotiate that, it could be upsetting the applecart for the other jurisdictions and we might end up in a place where we do not want to be, or perhaps in a worse position. The arrangements between the U.K. Government and the BBC do not apply to the Crown Dependencies. This is partly because the social security systems of our jurisdictions are separate and distinct but, because of this, the BBC has absolutely no obligation to provide any funding for Jersey's concessions. It is only because of the recent deal struck by the BBC by our officials, led by Senator Ozouf, that any elements of our means-tested concession are being paid for by the BBC. So we do have a good deal. I shall not take up Members' time with the detail of the arrangements that have been finalised with the BBC, because Deputy Tadier has included them in his proposition,

the detail of which was in Senator Ozouf's helpful explanatory email as an appendix to the proposition, if Members want to look closer at that. However, I will emphasise the fact that the BBC provides a hugely valuable service to the Island and so I thank all those that were involved at a political and official level in securing what is a continued provision of the services because, at the outset, it was not a foregone conclusion that those services would be continuing. As part of the securing of a contribution from the BBC for Jersey's means-tested T.V. licence concession for people over-75, we are getting, a third, the two-thirds and then the full amount in 2020. This has been achieved by what, I have to say, has been a really good working relationship that officers within the Chief Minister's Department and our London office, have built up with the BBC over the past year or so. I would also like to highlight the fact that the BBC has committed its intention, as I said, to contribute to the full cost in 2020 of our Jersey means-tested T.V. licence for over-75s. However, this point is subject to the BBC gaining full control of its own funding policy in 2020, at which point the licence fee model, as I say, may well change, but our understanding is that the BBC will, at this point, aim to treat all licence-fee payers equitably. Whatever revenue model that the BBC uses in the U.K. and any concessions that they decide to put in place, will be reflected in Jersey, Guernsey and the Isle the Man. In conclusion, a good deal has already been struck with the BBC and I hope Members will join me in warmly welcoming this outcome. Going back to the BBC at this point would be counterproductive and our priority is now on continuing to focus on what happens once the BBC is given control of its funding liability under the concessions in 2020, from which point we understand that, as I say, all fee-payers will be treated equitably. I should also add that, as the negotiations with the BBC have already concluded, the cost of providing a universal concession would have to be borne by the States Assembly. Members may be aware, as the Connétable of St. John has mentioned, the Director General of the BBC was in Jersey for their celebrations very recently, and I can assure you that the Chief Minister discussed this proposition with him and we were left in no doubt that the negotiations would not be reopened. Deputy Tadier's suggestion that this proposition has no resource implications is misleading. We have never had a universal concession in Jersey so there are no historical figures but, on the basis of the estimates that have been provided by the Statistics Unit on the number of households with over-75s in the Island today, it would be in the region of £1.45 million per annum.

[14:30]

Deputy M. Tadier:

Sir, that is misleading and I think a point of order is ...

The Deputy Bailiff:

Are you asking the speaker to give way so you can make a point of clarification?

Deputy M. Tadier:

Yes, I am, Sir, because it should be apparent from the wording of my proposition that I am not asking the States to meet that money, I am asking the States to talk to the BBC so the BBC can meet the full costs of all over-75s in Jersey. I am not asking for the Government to spend any money on extending that. The Chief Minister can speak in due course, but that is certainly not what I am asking for.

The Deputy Bailiff:

That is a perfectly proper point of clarification.

Senator P.F. Routier:

That is very welcome to say that the Deputy is not expecting that cost to be covered by this Assembly, but the fact of the matter is that whether it was us or the BBC to be covering that amount

that would be the cost that would be incurred. Also, the points that the Deputy was making about asking the Chief Minister to open renegotiations with the BBC; we were left in no doubt that it is not possible at this stage. No doubt in 2020, when the new charter is in place, there will be ongoing negotiations once that is going on. I would ask Members to recognise that we already have a social security provision for access to free T.V. licences for over-75s for all those people who do not pay tax. It is wider than those who are just on income support; talking to people, they were under the impression it was just for people on income support, but it is wider than that, it goes up to people who are not paying tax. So I would ask Members to reject this proposition because I do not think it is going to be able to achieve the outcome that the Deputy is asking for.

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

I thank the Assistant Minister for some of the responses that he has given this afternoon. Obviously he needed to give a good speech because although I, like the Constable of St. John, agree with some of the comments and disassociate myself with some of the comments that the Deputy made this morning, I can see where he was coming from. I prepared for a January debate, which we were going to get, and it is quite difficult to go over your notes for a debate and do them a second time. I also did it 2 weeks ago, ready for the debate, and again now I am on to a third. A lot has happened since 17th January: we have had the amendment from the Deputy, we have had the comments paper come through, we have had the presentation, except it was at very short notice. Only 4 Members of this Assembly managed to turn up and the Assistant Minister. So it is very difficult. I have changed my notes several times, maybe changed my views, and I think every Member must probably agree, there are compelling arguments on both sides of this one. I think there are. I have cut out some of my notes because I do not need them now. As we know, the outcome of the talks were briefly referred to by the Assistant Minister at the time in a statement that he made - not this Assistant Minister, the other Minister - on 14th December of last year. That was nearly 6 weeks after Deputy Tadier's proposition. The statement made at that time did not tell us anything, it was just a few lines. That was followed up by an email to Members and a press release late in the afternoon 3 days before Christmas. Again, that told us a few more things, but obviously raised more questions for the Deputy, that the Assistant Minister had accepted the proposal submitted by BBC after consulting with colleagues. He had accepted them. That formal letters of assurance had been exchanged by the then Assistant Minister; we did not have copies of those letters, we did not see that. That the BBC had assured the future of their services to the Island, and what was described as a "phased-in contribution towards the cost of means-testing for eligible citizens over the age of 75." There are 2 things there: "phased-in" and "means-tested." They did not explain what those were, that was it. Then it went on to say, and I think the Assistant Minister has just said, the BBC: "Gaining full control of its funding liability under the concession in 2020, at which point the concession model may change." So I am not sure really what that meant either; the whole thing could change again. Basically, what we heard and read was that there was a saving to the Island of £90,000 in the first year and £180,000 the second year but, in exchange for this, the Government were committing to retain the licence fee in Jersey "with a criminal deterrence." Those are the words that were there. So I can understand why Deputy Tadier brought his proposition then, and then obviously had to amend the proposition because what he was asking for had happened. I can tell you a little bit about criminal deterrence. 2004, 2005, 2009, 2010, I had reminders that I had not paid for my T.V. licence. I have had red letters, with efforts at spelling my surname; I do not know, it is not that unusual. There cannot be too many in Bristol where the BBC Licensing Authority is. I have had the black letters, threatened with court summonses to take me to court. I wrote to the Connétable of St. Martin at the time welcoming it. I do not mind, bring it on. The licence is in my wife's name. **[Laughter]** But it is. Examples that I have seen of the licensing thing, and I have mentioned it ... a very thing we had this week: I know someone who purchased a T.V. for a nursing home and the nursing home has got their T.V. licence, there are not just their

own; people have got them in different rooms. But that person received a letter from the BBC Licensing Authority asking them why they had not got a licence when, in fact, they did have a licence and so did the nursing home. Elderly parishioners contact me; one who had moved home and notified the authorities of her change of address, she had a reminder letter saying she did not have a T.V. licence. Another elderly person - and these are all situations I have come across, and I am sure other Members may have - getting a note, and she was so concerned that she did not have a T.V. licence, which she did, she bought a second one; she had to pay for a second one. These are the sorts of things. Maybe they are historic and things may have improved. From what I have read in the national papers, I do not think the BBC licence situation in the U.K. is that clear but that is only what I have read in recent months. Maybe it is improving. I hope I am not going off on a tangent, but I think it is because it seems all part of the deal that has been struck up with the agreement that has been reached. We talk about the policing, and maybe it still is, but the policing that the BBC Licensing Authority did was getting the voluntary services of the Honorary Police to accompany an inspector to go around to certain numbers of houses on the Island when they came over to Jersey. I think that was the policing; I do not know of any others. I have done some checks with Police Headquarters; I think there were 11 recorded incidents in 2008, 17 in 2010, 14 in 2014. Various start-up dates on that one; they were not all for that year. No one has appeared in the Magistrate's Court as a result of not having a T.V. licence, and there has been nothing reported, to my knowledge from the information I have received, from 2014 onwards. The second condition that we had from the Assistant Minister at the time was that we had to retain the regulations to ensure licence fees are payable to watch or download any programme within the on-demand programme service, and a third condition, a licence fee, which will also be updated in line with inflation, so there is a surprise there. Lastly, also required to enact legislative reform on the Island, reform that is still being considered by the Law Officers' Department. So there we have it. The talks that the Deputy requested had already taken place, the agreements had been accepted and signed-off, and some people, just some, will no doubt benefit. We do not know, well I do not, how the means-testing is going to work, but I think we have had a little bit of an explanation of that this week. It was really, it seemed to me, a "take it or leave it" scenario and with the implications that, should we not accept this, then there would be a withdrawal of some of the services on the Island. I certainly do not want that to happen because I am a Radio Jersey listener; I do not listen to 103, I am too old. Radio Jersey is very informative, with a whole range of programmes; my congratulations on the service that they provide to this Island. I can also congratulate them on their 35 years in radio; I also went to the celebration recently for the work they have done on this Island. The good news is that basically it appears the anticipated benefit to our Government will be some £270,000 over the next 2 years; not each year, but in total. That is a great news story for the Treasurer. The bad news, many elderly parishioners, 75-plus, are unlikely to benefit. Maybe that is not such a bad thing if you are a millionaire elderly person over 75 and you do not need a free T.V. licence, they might not have taken it anyway, but that is by the by. Secondly, we have got the costs of having to concede and make commitments to co-operation, and there seems this veiled threat that if we did not do it maybe it would be withdrawn. I have been given this time, I suppose, since January to now to recollect and think of your thoughts about what you were going to say the first time. Looking back now, the main thing is: why should Jersey residents be treated differently? That is how I see it now. Obviously it is a different scenario if the Jersey did not have to pay a T.V. licence. But they do, they have to pay the licence so why should the elderly residents be entitled to a free licence paid by the BBC at the magic age of 75 in the U.K. whereas our residents do not. Why is it the BBC authorities are only prepared to pay in stages, slowly and build up over 2 years, and then only to certain groups - it is going to be means tested in our case - and they have retained what looks like get-out clauses and demand for legislation remaining, a new legislation implemented. So I do not think this debate therefore should be one of the rights and wrongs of the over-75s and the means testing. I think the argument today really is why our elderly residents be

treated ... or not be treated the same as BBC customers in the U.K.? If they purchase a licence like any U.K. citizen, they pay the same fee and they watch the same programme. I was going to ask if someone would tell me, or tell those Jersey residents/customers, why they should not be entitled to the same concessions. The only thing now that has changed my mind, the Assistant Minister spoke a few minutes ago, and he said: "We cannot go back and discuss this now with the BBC." So what do we do now. How can we vote this afternoon for or against ... we have to vote against, we cannot go back ... I do not know if that can be cleared up by the Chief Minister or somebody else. If we cannot go back and discuss it with them, how can we vote to go back and discuss with them. I think I will leave it there. As I say, I am sorry that Deputy Tadier this morning made some comments and he probably did not mean to say them the way they came out, but I have sympathy for why he has brought this proposition. Thank you.

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

Yes, I think Deputy Tadier went off on a tangent and that is for Deputy Tadier to discuss with the BBC and we are where we are, as they say. But I really do need to give some of the Ministers and the Assistant Ministers and some of the Constables a little bit of a history lesson. It really got to me when I heard the Assistant Minister say: "Well, we have always been in support of a means tested T.V. licence for over-75s." No, go back to the Medium Term Financial Plan, only in 2015 the Minister found some money she could save and they were going. There was no question until I found some money, some little pockets of money in the Treasury and in the Chief Minister's Department totalling £194,000 so I brought an amendment. It was not an easy won amendment, I won it by one vote. So other than that we would have had no over-75s subsidised T.V. licence today. So it is about principle. I want to know, did you take your 'A' game, did he or anyone else of the Ministers take their 'A' game to the BBC because they did not believe that we should have T.V. licences for the over-75s, means tested or not. So who would I want representing me? Someone who really believes it, someone like the Constable of St. Martin has said: "Well, they get it in any other borough or whatever in the U.K." My 92 year-old mother gets it because she lives in Enfield. Do I want someone like that or do I want someone who actually stood up when the Deputy of St. John asked her question... and I asked the Assistant Minister, Senator Ozouf: "You do not really believe in a licence for over-75s." He said the cost is unsustainable whether it is means tested or not. So this is about the principle today. I really would have liked - as I just said to Deputy Brée - to have been a fly on the wall in those negotiations with Big Brother because if you go to them and say: "Well, we are only little Jersey, we are only asking for a little bit. We actually means test the majority of our population of over-75s, so you do not have to give us a lot of money." Or it will not cost you a lot of money. Then we have the idea that somehow, as of 2020, the BBC are going to be running the country and they are going to be making policies about who pays what.

[14.45]

This was ... the Minister, sorry the Chief Minister is nodding at me, he is not that politically naive. This was an election promise many, many years ago by both parties and some of the independents in the U.K. and they are not going to go back on it just because they have shirked it now to the BBC; you do not think the BBC is going to get away with coming back and saying: "We are pulling this. Now everyone has to pay over 75." I think it started over 85 when it was first brought in and you had to prove that the person who was over 85 ... it could be the oldest person in the house and all that. It has moved slightly and they do not means test because they say the actual means testing would cost them more than the actual savings they get to give it to people over 75. It is not the same here because we use our Social Security Department who knows what everybody has going in and coming out. If I had not probably done my history I do think, well, you know, should it be means tested, it is quite a generous means testing, but I wanted somebody, as I say, at that table

telling them we are no different. We do not have a reduced licence. None of our elderly people have a reduced licence but we are somewhere different and our over-75s do not count. I absolutely defend this again, I suspect very strongly that somebody around that table when they were talking to the BBC said that we do not want it all. We only want a bit, that will keep everyone happy. They never said this but the person that was negotiating on our behalf did not believe that all our over-75 year-olds should have a free T.V. licence and that I think is disgraceful. I think it is very upsetting and I would like to know who was there, what was said and why - because we have only heard from the Assistant Minister and I do not think he was round the table - the person who could tell us is not here today. But I want to know, did we ask for everything? Did we make the case? If not, why not? We should have done, we are no different, our elderly should be respected and please remember when you vote on this that the people who were negotiating for you do not believe it is sustainable or that people over 75 should have the T.V. licence fee.

7.1.5 Deputy S.M. Brée:

I have listened with interest to both sides of the argument on this one. I am concerned. Concerned on 2 points. Firstly, the question of equity. Equity among all licence payers. Whether you are in Jersey or whether you are in the United Kingdom, you pay the same fee. That is a fee that the BBC has determined you have to pay in order to get legal access to their programming. So to say that people in Jersey should be treated differently to those in the U.K. smacks to me of inequity in its true sense. Now, we then move on to the fact that we have been told by the Assistant Minister responsible for this area that: "Oh, we cannot enter into a renegotiation on this, it is closed. There is nothing we could do anyhow even if we wanted to." Well, coming from the world of finance and business, you can reopen negotiations at any point in time, whenever you like. It is not a case of we cannot, it is a case of there is no will among the Council of Minister to reopen negotiations. It boils down to the fact that while Jersey does look upon this as a means-testing scenario, the U.K. Government have instructed the BBC to ensure that all licence fee payers over the age of 75 are provided with a free licence. They will not get charged. It is not the BBC coming up with this out of the goodness of their own heart, it is they have been instructed by the U.K. Government that that is the government policy they wish the BBC to introduce in order for the BBC to maintain its charter. Yet, we have Council of Ministers who seem quite prepared to accept that despite the fact there is no reduction in the licence fee that a Jersey person will pay, we will accept a position of inequality to somebody living in the U.K. Well, I for one are not prepared to accept the fact that a Jersey person is not equal to somebody in the United Kingdom if you pay the same licence fee. If there were a discount offered to Jersey people to say: "Your licence fee will cost 20 per cent less because the BBC will not give free licence fees over 75" then we would accept it as a condition of the licence. To the best of my knowledge, there is no such condition attached to a licence provided to a person living in Jersey. So we are getting down to a principle here, which is if a licence fee payer is to be provided with a free licence over the age of 75, then it should not matter where geographically you are situated. This is what I find surprising because the BBC run an excellent service over here and do support the local community through many things. What was the opening gambit of our Council of Ministers when entering into discussions with the BBC? Was it: "Would you mind paying a small amount of extra money because we means test people?" or was it: "Are you going to honour your agreement with licence payers and extend that to Jersey?" Irrespective of how the Deputy presented the proposition in the first place, and he is a very passionate man about certain areas and I think we should commend him for that irrespective of whether or not we agree with every single word he says. Irrespective of that, we are being asked to vote on a principle but, if you read the proposition as amended, it is saying that basically we, as an Assembly who represent the people, are saying that the BBC should not charge over-75s living in Jersey for a T.V. licence in line with their proposed policy for U.K. residents. What is wrong with that? I have heard no arguments today to say that is wrong. So I think we can all agree with that. The second bit, and

obviously the original proposition is amended to request the Chief Minister to enter into renewed talks with the BBC. What is wrong with that? We are, as an Assembly, talking a principled stance and requesting the Chief Minister to enter into renewed talks. Why can we not support that? There is nothing in there that I cannot support. The thing that I cannot support is an unwillingness or an apparent unwillingness from the Council of Ministers not to see this through. That shows either a lack of leadership or a total lack of care about really the over-75s. It is one or the other and I think that we should send a strong message to the Council of Ministers and to the over-75s, we are listening, we have heard and we will do better.

7.1.6 Deputy S.Y. Mézec:

I am really glad to follow those last 2 speakers. I think Deputy Brée made the point very powerfully and made the point as simple as it is that this proposition is simply about taking this to the BBC and having that discussion with them, and who could possibly be against that. It is a very, very simple thing at the end of the day. I am looking forward to discussing the aftermath of this debate Friday at 12 o'clock on BBC Radio Jersey for their Hot Seat programme, which I have been invited to do. So tune in because that is guaranteed to be a good hour of good radio as it usually is on the BBC anyway. Now, the BBC itself, as we all know, is a treasured national institution. It is like the N.H.S. (National Health Service) or like the monarchy, or Vera Lynn, absolutely. As such, people I think respect the BBC for a whole range of reasons. I think the quality of programming they produce is excellent. The objective news service they provide, which some people may from time to time question whether it is objective or not but that is a good thing, the fact that people are thinking about it and trying to hold them to account, that attempt at objective news service is, I think, world class, especially when you compare it to things like Fox News, which are just absolutely atrocious. We are incredibly lucky to have the BBC, and for that matter I think we are also very lucky to have our other media outlets. ITV, I think, do deserve a good shout out because of the investment that they have made in the Island recently with their brilliant T.V. studios that they have moved to. Every single person who I have met and spoken to who works for the BBC I think have been incredibly professional, they have been really passionate about not just the institution that they work but about the profession of journalism as a whole and I personally have found all the ones I have spoken to to be very trustworthy, which as a politician I think it is important to have trust when you do speak to journalists, to be sure that you are going to be challenged appropriately and do get your message out in a way that you think is accurate. It is an interesting time for the BBC and that is why I think it is good that we are having this debate at this time because the BBC nationally is undergoing some changes at the moment. I believe that they have just decided that they are going to invest tens of millions of pounds in extra programming in Wales. I think they are also meant to be introducing a new T.V. channel in Scotland. So I think that emphasis on the constituent nations of the U.K. is a thoroughly good thing for those nations and I think also raises the question that we should be open to be having, as an Assembly, the Government and the BBC together about what can be done in Jersey to improve or increase the number of services that they provide here. It does have to be said that we are incredibly lucky with what we have from the BBC here compared to somewhere like the Isle of Man, for example, where they do not have many services there, they do not have a decent radio station in the way that we do, but there certainly is scope to improve that service in Jersey and when I have spoken to journalists for the BBC they have spoken about many of the things that they would like to be doing, about having more time on T.V. about having extra radio programmes they could do. I know that several of them are very keen on the idea of doing programmes like a Jersey Question Time style programme, to broadcast that and give it a wide audience. Of course, the problem that they will have with that is that they will struggle to get Ministers to appear on a platform because they usually run scared from any of the people who would challenge them, and that has certainly been my experience at the BBC and I know that is not the journalists' fault. But I think the real point

here is that we are a British Island; most people, I think, are very proud of that. We are an Island that values our relationship with the U.K. constitutionally but also the benefits we get from many of the services that are provided in the U.K. The BBC is one of them but also the N.H.S. is another that Islanders do often benefit from. I do not see why British people on a British island who pay the British Broadcasting Corporation licence fee should be treated as second-class citizens for that service when it is not just a United Kingdom service, it is a service for the British Islands and we surely count as part of that. The deal which has been boasted about, the former Assistant Minister used to boast about this deal and I could not help but imagine him getting off the plane and say: “In my hand I hold a piece of paper” and boasting as if it was some wonderful thing, when it is not at all. The agreement that they seem to have gotten is completely inequitable compared to what the people on the mainland U.K. are getting. I do not see how it could possibly be unreasonable to say: “We just want to be treated the same. We just want over-75s in Jersey to have the same rights to access a free T.V. licence on the same terms as people in the rest of the U.K.”

[15:00]

I think Deputy Martin was very right when she made the point that often these sorts of negotiations can go in one particular direction when people do not have their heart in it when they are on one side. We have seen this Government attempting to undermine access to free T.V. licences in the Island, which I thought was a shameful thing to do at the time because I think it says something about how we value people who have worked hard all of their life and deserve to retire with dignity, that we want to provide them with something like that free so that they can enjoy that service and enjoy life more widely as a result of that. I think to extend that on a basis that is equal to how it has now been extended in the U.K. is surely the right thing to do. We should surely be demanding much better than this, I think, shoddy agreement that they have managed to come up with with the BBC that treats Islanders as second class citizens. I simply cannot see how that can be uncontroversial and I hope that Members will show more of a commitment to our support for the BBC as an institution that performs an essential role in a democracy and in a civilised country and I hope that they will ... I hope that Members of this Assembly will force the Executive to stand up for Island residents who are over the age 75 and say: “No, we want you to be treated equally to counterparts in the U.K.” I do not see how they deserve anything less.

7.1.7 Connétable L. Norman of St. Clement:

There is much logic in the proposition and in the speeches that we have heard in support of it until I asked myself one question. The question I ask myself is why should we in Jersey expect the BBC to subsidise Jersey residents who we had decided it is not appropriate for us to subsidise? The U.K. taxpayer has subsidised all residents in the U.K. over 75 for their T.V. licence. Given them free television licences. That is their government’s choice. That is what they had decided to do, that is what they decided to spend their taxpayers’ money on. The BBC will be taking over exactly that liability. Exactly that liability. The liability already exists. They are not going to give the licence payers in the U.K. more than the U.K. Government is currently giving them, they are going to give them exactly the same. We in Jersey decided to subsidise only those that we believed needed subsidising and the BBC are going to take on that liability. They are going to remove that liability from us. They are not going to give us less, they are not going to give us more, they are going to give our licence payers in Jersey the same as we have been giving them. Now, if some Members think that is unfair, why have we allowed our pensioners, our over-75s, only those who are on income support, to receive a subsidy when in the U.K. everybody over 75 has been getting it. No one seems to have complained about that or brought a proposition to say that the Government should be paying that. What a cheek, when you think about it to go to the BBC and say: “Look, we have been giving some of our over-75s a free T.V. licence but now we think that you should give

all of our over-75s a free T.V. licence. I think that would be a cheek and we should not go down that road.

7.1.8 Deputy A.D. Lewis:

I just want to take a slightly different tack on this. I attended the briefing that the Assistant Minister ran last Friday, one of the 4, and also I have spoken to other Members about this. One thing I have not had much contact with is constituents complaining about the position the Government was taking on this. Those that have mentioned it have suggested that means testing is perhaps the right way to go so the money is directed to people who really need it. We have said this many times in this Assembly about other matters as well. I would like to take Members back to Senator Ozouf's statement that he made in the House a few months ago when he almost walked in ... it was the Chamberlain effect, he was almost waving the paper in the air and saying: "I have a deal" and he did. It was interesting because the BBC did not have to do anything at all and they have contributed, or it is suggested here, a £270,000 contribution when they do not have to do anything at all. I was also fortunate enough to meet with Lord Hall last week as well at a gathering at the Grand Hotel, and we discussed this briefly as well. Other Member that were there are nodding and may have had similar conversations with him. He was praising the broadcasting that was done in the Channel Islands and holding up as an example of how well it can be done in a very small place. What he also went on to say was that the amount of input that the BBC has technically and with people and resources in the Channel Islands is totally disproportionate to the population that we have. In other words, the amount of licence fee drawn from Channel Islanders is tiny in comparison to the output that we receive compared with anywhere else in the U.K. He almost - he did not go as far as this - was going to say: "And you should be grateful for that." He did not say that, he is too much of a Lord to say that but that is really what he was getting at. We do get an incredible service from the BBC. It seems vaguely ironic to be talking here on the BBC because they transmit our sittings, about the BBC's commitment to us in the Channel Islands, which is, I would urge Members to accept, considerable for what we pay. That is not to say that they do not have a social conscience too and we do as well. There is a proposition here that has been discussed in this Assembly on a number of occasions to ensure those that cannot afford it, i.e. those that do not pay tax, which is a reasonably high threshold, are receiving free T.V. licences. That is laudable for this Assembly to assist those people. I am concerned here that we might be kicking a gift horse in the mouth, if I am allowed to use that term of phrase, if it is not too unparliamentary because we have negotiated with the BBC, they are now regarded ... although they are quasi-public sector, they are now trying to run themselves quite successfully as a business so they are less dependent on any further government handouts other than licence fees. The BBC has been persuaded to invest more in technology and programming and other services, which they had to do or can only do if they are a successful business. Giving extraordinary per capita support to the Channel Islands simply would not be good business, whether we like that or not. So I believe - and I have some faith here in the Department for External Relations and others that have been involved in this negotiation - that I have been persuaded it is a good deal for the Channel Islands and I would urge Members not to kick that gift horse in the mouth because there is that real possibility that the BBC at any time in the future could say: "You know what, we are extraordinarily over-servicing the Channel Islands compared with anywhere else" because that is possibly what they are doing as a business. I would not like to see that happen because I think we do benefit hugely from that service. If I take a vaguely comparable jurisdiction of Gibraltar, it is not a Crown Dependency, of course, it has a slightly different status to us, it is going to be severely affected potentially by Brexit. They do not have a BBC there, they have something called the G.B.C. (Gibraltar Broadcasting Company) which is paid for entirely by their government and they kicked out licensing fees in their Parliament some time ago, so it is funded by commercial advertising. That is what you end up with if the BBC is not supporting you in the jurisdiction that we currently have ... or the regime we currently have. So

BBC does not exist in the same form in Gibraltar as it does here. I would hope that that would not happen here. It may be run on BBC lines and it is very professionally produced, but it is a very small jurisdiction and the BBC has not given them the same courtesy that we enjoy here. That is a real possibility that we could end up in a similar situation in the future if we do not negotiate in the way we have with the BBC, come back with the piece of paper saying: "Peace in our time, I have secured a deal." I remember an email going around from Deputy Tadier, as well intended it may have been, suggesting that it was not a good deal at all and we should be negotiating harder. I would like somebody perhaps from the ministerial benches to stand up and defend that negotiating and say: "Yes, we did absolutely negotiate as hard as we possibly could and this is what we have, and we firmly believe this is the best deal" and let Members know that that is the best deal because some Members are doubting that and I think they need to be reassured that you have negotiated the best possible deal. One what I am hearing you have. I would like all Members to be convinced that is the case and I would suggest that if that is the case that we firmly accept the BBC's offer, move forward and keep intact what fantastic services we currently have from the BBC and those that genuinely cannot afford it - i.e. those under the tax threshold - are subsidised in the way we are suggesting. But the BBC are more commercial now and they will look at Jersey and Guernsey and think: "This is a tiny place; do we need to do anything?" Actually, they do not. So I think we should gracefully accept. But I would like the Minister to persuade us, or assure us, that they have done everything they can to negotiate the best possible deal.

7.1.9 Deputy G.P. Southern:

I am just thinking about what the Lieutenant Governor will have to say when he goes back home tonight and his wife says: "How was your full day in the Chamber, Sir?" I think he might ... I doubt that his wife would address him as Sir. **[Laughter]** I do not think the relationship is that formal. Force of habit. Where was I? I think perhaps he is going to respond and say: "Well, it looked like a very straightforward meeting to me before I went in there but those people do not half react to 2 key words. One is independent and, 2, fairness." We have spent some time on the issue of fairness. I return to the words of Deputy Martin who pointed out: who did we send to negotiate? Who negotiated on our behalf and was his heart in it? The answer is: "Clearly not." The hearts, and I do not believe the minds either, of the Ministers are not in giving T.V. licences to anybody over 75. Just look down the roll who voted against the very reasonable, moderate proposal to at least do something when faced with scrapping free T.V. licences for the over-75s. The list starts with Senator Routier and continues, Senator Maclean, Senator Gorst, Senator Farnham, Senator Bailhache, Senator Green, ring a bell? Just the common factor there? Oh, they are all Ministers. Yes, so they are. Then continues, Deputy Noel, Deputy Pinel, Deputy Luce, Deputy Bryans, Deputy Moore. Again, the link? Remember me? Yes, more Ministers. The Ministers collectively did not want to give any free licences to anybody, under any circumstances. Who is missing from the list? Why, let us go to the bottom of the list, oh, Senator Philip Ozouf was not here for that debate as indeed has been often absent in the last 6 months. But why was Senator Ozouf not in this Chamber not with a piece of paper saying: "Peace in our time" but with a rather larger document justifying his decision to sign a document and a formal agreement with the BBC Governors and bring that proposal to this Chamber, because that is the way things normally are done? But, no, Senator Ozouf chose not to. What did this Assembly get? It got a statement on the 16th November in response to a proposal by my colleague, Deputy Tadier. It got a further statement on 14th December 2016 and, yet again, an email 3 days before Christmas on 22nd December: "It is all done and dusted, no debates, we have not brought it to the Chamber, just accept it. This is the best deal we can have and this is the best deal I can negotiate." Where was he in this Chamber saying: "This is the best we can do, I back it, please back it as well, Members." He was not here. Now, I am sorry about anybody else who misunderstands the role of this Chamber, it is not just about

debating, it is about issues and it is about deciding. Senator Ozouf could not bring himself to bring that proposition to us so that we could accept it and say: “We agree, it is the best deal we can do.”

[15:15]

What we are being asked now, and it is very straightforward, is to go back, that the BBC should not charge for over-75s living in Jersey for T.V. licences in line with their proposed policy for U.K. residents. Speaker after speaker has quite correctly identified that this is an issue of fairness. Why should our over-75s be worse off than those in the U.K., in Barking, or Ealing or Dagenham or wherever. That is what we are arguing about today and the proposal is that we go back and seek that fairness. I think that is the correct way to behave.

7.1.10 Deputy S.J. Pinel:

I fully agree with comments made by my colleague the Connétable of St. Clement. The T.V. licence benefit has always been provided as a means-tested benefit with an age restriction of 75 years. A T.V. licence is paid for if your household has someone who is over the age 75 and has income below the tax threshold. Other benefits provided to pensioners have similar conditions and we provide support with health and heating costs in this way. The BBC have said that they will not part fund a universal concession in Jersey, particularly when their revenue model is likely to change entirely in 2020. Providing a free T.V. licence to all households with somebody over 75, i.e. a universal benefit, would cost at least an additional £720,000 per annum. Last year the States agreed to provide a targeted Christmas bonus to pensioners with limited incomes and assets, having rescinded the previous law which provided a Christmas bonus to all pensioners, regardless of their income or wealth. This improved targeting released over a £1 million of budget that is now available to spend on priority areas such as health and education. It is important that tax-funded benefits are carefully targeted to low income people that need the support. Extending the T.V. licence benefit to a wider group would create an additional burden on tax-funded benefits which are already under pressure.

7.1.11 Senator I.J. Gorst:

Well, it has indeed been an interesting debate. I would just like to focus on what I think are a number of pertinent points. Let us start with thinking about the concept of negotiation. We have heard a number of interesting approaches to the concept of negotiation, not least of which was an interesting approach from the mover of the proposition. Negotiation, of course, is an art form. One should never go into a negotiation wanting to get one over on the person at the other side of the table or the organisation at the other side of the table. One should never go into a negotiation wanting to metaphorically leave the person at the other side of the table for dead, to beat them up. One should go into a negotiation trying to deliver - and I see people frowning - a win for both parties, because that is the only successful negotiation. I see people frowning because they think that a negotiation is about one person winning and one person losing. That was the implication of the mover's proposition. So one should go in looking for a win/win. One should also go in to a negotiation having a very good understanding of which party to the negotiation holds the trump cards. Which is the powerful party, which is the subservient party. Which party has the greatest amount of leverage and which will have to marshal their arguments carefully, intelligently and move quickly. One also should go into a negotiation roughly having an idea about where one's red line is, about what one might wish to achieve and yet also having a good understanding of what the other party may be prepared to agree and where their red lines may be. We have heard today that those should be cast aside. We have heard of a different form of approach to negotiation. I talk about negotiation because we have to remember that we in Jersey are a population of just over 100,000 and, as Deputy Mézec rightly said, the infrastructure that the BBC provides in Jersey is greater than a similar population size anywhere in the United Kingdom. I want to come back to

that point because others have suggested that we should be treated like we were resident in any borough, in any county, in any region of the United Kingdom and we should not be. I never want to be in a position of standing in this Assembly and making that particular argument. But we have, from the BBC, an infrastructure serving our population which is more impressive, which is greater, than a similar population level elsewhere. Deputy Andrew Lewis rightly pointed out to the infrastructure in Gibraltar. Other speakers have rightly pointed out about the infrastructure in the Isle of Man, they have a similar approach, the Manx Radio is paid for by the taxpayer, not provided by the BBC out of licence payer funds. So this equality, this universal approach is the one that we are seeking to match. We have to approach this negotiation from an understanding that in the United Kingdom the British Government decided that there was going to be a universal provision of licences for over-75s. Deputy Martin was absolutely right, it was a British Government position. But rather than in the past the taxpayer paying for that, at the point that the BBC was renegotiating its mandate, as it were, with the British Government, the British Government said: "You are going to take this liability on to provide U.K. residents with free T.V. licences if they were over 75." That was an obligation that the Government previously had provided for and that negotiation about renewing their charter and changing their mandate, that negotiation position, the British Government came at it from a position of strength. The BBC wanted its charter renewed. It wanted its mandate renewed. So, of course, in that negotiation the cards then were in the hands of the British Government. The BBC, of course, agreed that it would provide a universal concession to over-75s. No obligation in that transfer of that function by the British Government to the BBC to provide any concession whatsoever to any resident of the Crown Dependencies: not just any resident of Jersey, any resident of the Crown Dependencies. No obligation. So let Members remember that officers from Jersey, excellent officers - which I am pleased to hear the mover of the proposition praise in his opening speech - who went into that negotiation knowing that there was no legal obligation on the BBC to pay any money at all towards the concession for over-75s to get free T.V. licences. That was the position that officials could have left that negotiation table with intact, no obligation, despite what Members have suggested about residents in Jersey should have been treated exactly as residents in Barking or whatever area in the U.K. you might want to allude to. But they did not return to this Island with that position because they took the view that I take about negotiation. It was not that their hearts were not in it. If their hearts were not in it they would have come back with nothing. I think that some Members of this Assembly should think about apologising to those officials that went out and negotiated on our behalf. **[Approbation]** Never before has any Member of this Assembly suggested that the Assistant Minister whose responsibility this was did not work all out for the members of our community. Members come and complain to me, or did complain to me, about that Assistant Minister, that he is too tenacious, that he will never let an issue lie, that he goes on and on and on until he gets the result that he wants. This was the Minister that was responsible for this negotiation who would fight, I suggest, harder than virtually every Member of this Assembly. He was the right person to go into this negotiation and the officials that supported him and that he had oversight of came back not with nothing, which was what the BBC were under ... you could say that was their opening position. They approached the table from saying they did not have to give the Crown Dependencies anything but the negotiators came out with the package that is before Members and has been agreed. Not every Member will like that. Some Members have taken the opportunity to beat up Ministers and, by implication, beat up officials. That is what we expect in a legislative assembly. We also had some Members suggesting that in their experience there is nothing at all wrong with reopening a negotiation, nothing at all wrong with going back on an agreement. Of course that is a perfectly legitimate view to take. Anyone can go back on an agreement but I would suggest that is not an honourable course of action to take. Not only would it not be an honourable course of action to take, in reopening an agreement and a negotiation one opens oneself up to even greater downside risk. When you have achieved something, when you have got a proposal on the table that has been the subject of

negotiation that is better than what you know it could have been when you went into that negotiation, the risk of that being taken off the table, the risk of walking away with something worse than what you have got is heightened and it is heightened because the people negotiating with you do not believe they can trust your word.

[15:30]

They do not believe that they can trust the agreement that they might make with you in the future. But it is a perfectly legitimate position for any Member of this Assembly to take should they so wish to take that. Then I come to the Constable of St. Clement's point, and this is a point which is shared also by our colleague Crown Dependencies, that we currently ... and we could argue about whether this was right or wrong and Deputy Martin was right when she said - and Deputy Southern picked up on this point as well - that there was a proposal to take away even the means testing of over-75s. Deputy Martin raised an amendment to the M.T.F.P. and her amendment was successful. Therefore, the BBC have agreed that they will, over time, pay for the provision of a means-tested over-75s licence because that is what this Assembly has agreed in the past. We are really saying to them that even though they are spending more money on infrastructure per head of population than they would be elsewhere, that we are then going to go back and ask them to pay for something that we as a Legislature did not think was appropriate to pay for in the first instance. Sometimes I am absolutely amazed that we, as an Island of just over 100,000 people, achieve what we do, how we are regarded on the international stage, how we comply with international standards, how our officials go and speak at the I.M.F. (International Monetary Fund), at the O.E.C.D. (Organisation for Economic Co-operation and Development) and can hold their own and can be eloquent and can achieve for Jersey in a way that is far more and a far better way than we see much larger countries achieving. I think we can have confidence in those officials that went and negotiated this deal. We certainly can have confidence in Senator Ozouf and his tenacity to get the best deal possible. Of course Members will have to decide whether the deal is reasonable, whether that negotiation has produced a win/win for Jersey and also for the BBC or whether the option that the mover of this proposition is proposing is that I or Senator Routier go back ... and let us just be clear about this, he was quite clear, he will probably tone his words down in his closing speech but he was quite clear, and it came through in what he said, that he believes that our negotiating position is so weak that I have got 2 tactics to employ in going back to the BBC. The first tactic is to bang my hand on the table. In my experience, when you are sitting across from somebody and the only thing they can do is bang their hand on the table, you already know that you are about to get a good result for whatever side it is that you are working on because the only thing they can do is bang their hand on the table. That is not a reasonable grown-up, adult, governmental negotiating position but worse than that, not only does he think that our position is such that I should bang my hand on the table, he then thinks if that does not work I shall tell the BBC that I will encourage the citizens of Jersey to break the law. That is it. Our negotiating position is so strong to reopen this negotiation and he has said quite clearly in the public domain that the negotiating tactic that I should go back with, if Members ask me to do so, is to bang my hand on the table and to tell the BBC that I will encourage Jersey people to break the law. That is what we come down to. We have a choice, therefore, this afternoon - let us hope it is this afternoon - of thinking that the deal on the table is reasonable from a position where there was no obligation to a position where the BBC will pay to deliver the same benefit that we in this Assembly think is an appropriate benefit for over-75s when it come towards T.V. licences and them being means tested or to go back to the BBC to reopen an agreement to bang our fists on the table and to say that Jersey people are going to break the law. That is the choice that the mover has put before us. I ask Members to go with the proposal on the table.

The Deputy Bailiff:

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

7.1.12 Deputy M. Tadier:

I am glad to follow the Chief Minister. I will come to his comments in due course. He is trying to obviously rile me, which is good. It is a good bit of cut back and forth and I will address those comments in a moment, but first let us look at some facts because I think these are facts which are indisputable. To put this small amount of money and these few but important Islanders into context, of course we cannot necessarily expect the BBC in the U.K. to care about the 3,500 pensioners in Jersey who do not get a means-tested licence, who pay for it themselves, but I think we are concerned for them because they are within all of our constituencies. We will all have some of these individuals living there. Just to put some facts on the table, if they have not been put there already, in Jersey every year we give £5.4 million to the BBC to pay for licences, and those are just for colour T.V. licences. We do not have the stats about black and white. Presumably there are not that many black and white T.V.s out there anymore. Out of that we know that in Jersey we have, as I said before, 3,547 roughly, based on the figures that have been given from the Social Security Department ... that is the gap in funding, if you like, that is paid for currently by the user, so the user pays that themselves. There are some 1,520 individuals who are captured by the scheme. In the U.K. there are 4.36 million over-75s - let that figure sink in - and there are 4.36 million over-75 T.V. licences for which the over-75s do not have to pay directly themselves. Currently they are paid for by the U.K. Government but a new system will be implemented whereby that money will not need to be paid for because the BBC will no longer charge over-75s for a T.V. licence. That is no doubt a funding gap which the BBC have had to address and they have already and will be making their own preparations to be able to deal with that. But the situation will be that the policy of the BBC going forward from 2017 and after 2020 is that over-75s do not get charged for T.V. licences. There is not a charge for a T.V. licence from the BBC for those 4.36 million individuals except if you live in Jersey and except if you do not pay tax. That is a bizarre policy for the BBC to have. It might be fine for the Jersey Government to have that policy of means testing. It might be fine for the Jersey Government, the Council of Ministers... and we were reminded by Deputy Martin that the Council of Ministers do not even want a means-tested policy. They did not at the time and if it was not for Deputy Martin having brought her amendment to I think it was the Budget and the 21 other Members, ourselves included and other Members will know who they are, who supported that we would not even have a means-tested licence in Jersey and we would not have anything to go to the U.K., to the BBC with and say: "Could you perhaps at least meet this cost?" Thank you to Deputy Martin I think on behalf of the over-75 population and thank you to those Members who supported that because this Government does not believe even in a means-tested solution for T.V. licences for the most elderly population in Jersey. If we put those figures again in context, what percentage are we talking about those 3,500 in the overall viewership, the audience numbers of the British Isles and if we times it by 3, which we can do, Jersey has got the biggest over-75 population of the Crown Dependencies. Specifically looking at Jersey for now, it comes to 0.000814 per cent of the total over-75 population in the U.K. let alone when we put that in the context of the overall viewership and the audience numbers of the U.K. It is less than 100th of a per cent of the over-75s. That is a completely ridiculous policy for the BBC to have that we will have this blanket policy not to charge over-75s. They will be giving billionaires in the U.K. a free T.V. licence if they want it, they will be giving I will call them marginal earners in the U.K. a free T.V. licence if they are over-75s, yet people in Jersey who have paid in all their lives to the BBC through the system of T.V. licensing will not be accepted. It is not a sustainable position. It is not a tenable position for the BBC to have that, to maintain that, and of course we could have done better than that. My concern is that usually what happens ... and the Chief Minister talked about it would be bad form to go back and renege on a deal. Let us remind ourselves it is a deal that does not have the backing of this Assembly. This was never brought to the Assembly and the Executive know that whenever they make decisions on behalf of the Assembly ... was there a Ministerial Decision when this was made? I do not remember a Ministerial Decision being put out there. They

know that when they make any decisions on behalf of the Assembly that it is subject to recall, if the Assembly does not agree with it, within 15 days, whether that is when they are dealing with private companies or dealing with other bodies, and that the States Assembly can overturn those negotiations. That is why the first mistake that they made was that they did not bring this back to the Assembly for approval from the majority of us before they went ahead with these negotiations. I am sure if they had, or even put on a briefing so that we could have been told about the negotiations before they were signed-off, that many Members, not just myself, would have said: "Look, Minister, I have got some serious issues about this. I have had conversations with my constituents and they have got concerns about this. Are you sure we cannot do anything about this?" Of course we should not need to be in a position where we are banging our fists on the table. I would not want the Chief Minister to hurt his hand for a start. It is not simply a case of saying: "Well, do not pay your T.V. licence." That is, of course, an option but it would be much better if the Ministers had come to the table and the negotiations had started, back at the point when they were renewing the charter agreement with Jersey, saying: "Okay, well, let us look at what we currently do for you in Jersey. We know that you use our court system." We know that there has been an ongoing discussion in the U.K. about decriminalising of the BBC licence so if you do not pay it it is no longer a criminal matter, it becomes a civil matter. We are also looking at that. Did we ever negotiate on that? Did any Minister come to the Assembly and ask us for our opinion on whether or not paying the T.V. licence should be a criminal matter or whether it should be a civil matter? No, they did not. They simply went along with it, signed the agreement and said: "Look, we have got a good deal from the BBC. They might pull out." My concern is that from a ministerial point of view, from a Government who did not even want the means testing in the first place, their bar, their high aim, if you like, the highest aim that they would be willing to accept and aim for was to cover their own budget and, of course, why would it not be. They have got £220,000 of social security money going to pay for the T.V. licences which they do not want to pay anyway. The Assembly said: "No, you have to pay that." They are saying: "Well, look, will you take this over from us?" The BBC: "Okay, we will take that over from you. Are you sure that is all you want? You just want the £220,000? You are not worried about the other 3,500 pensioners? You do not want them covered?" "No, no, that is fine. We are okay with that, so long as you look after our money." The point is these individuals are going to pay for that. They will be the only ones in the British Isles, along with a few in Guernsey and the Isle of Man, who are going to have to pay for that and that is not something that we should accept and it is not something that the BBC should reasonably put up a fight against, I would suggest. We know presumably that people are listening to this debate not just in Jersey, I think in the Isle of Man, in Guernsey and in the U.K. because we know there is a great deal of interest in the BBC, in the future of the T.V. licence and the sustainability of the T.V. licence, and that people will be thinking it strange.

[15:45]

I would hope that we do not just get support from Ministers and Members of this Assembly, that we start to get questions asked perhaps discreetly in Westminster and in Whitehall, saying: "Why are you discriminating against this? Is it really worth it for the sake of 3,500 people?" Let us look at real people for a change. Let us look at the perhaps 4 different types of people that might exist and who could benefit or lose out from what is being proposed in its current form. You have a 75 year-old Jersey person who is a Jersey taxpayer, has lived in Jersey all their life and, let us say, they have paid into the T.V. licence for 50 years. Under the new system when it comes in they do not get their T.V. licences paid for either by the States of Jersey or by the BBC. You are an English over-75 taxpayer and you have lived there all your life. You will get your T.V. licence paid for you; Scottish, Northern Irish, wherever you might be on the mainland, so to speak. You are a Jersey person who has lived over here most of your life, you have retired, you get to 75 and you think: "I am going to move to the U.K. because my children have moved there. They cannot afford to live in

Jersey anymore, they cannot afford to buy a house, and the opportunities are much better in the U.K. so I am going to go and live with them. It makes sense for us. They can look after me.” You get a free T.V. licence. You have lived in Jersey all your life but the BBC will pay for that person to get a free T.V. licence. You get the U.K. person with family in Jersey who gets to the age of 75 and says: “You know what, I think I can no longer be cared for over here. I want to be near my family.” “Come and move over. We have got a nice little bungalow attached to our place. We can look after you.” They do not get their T.V. licence paid for them because they are a taxpayer. It is a complete nonsense. It does not make sense and so what I would hope is on the back of this debate, having put not just the ministerial position but the wider considerations of our community to the BBC in a way that we do not need to have the hands and the fists banging on the table, we do not need to have the threat ... and of course we all use rhetoric and one could understand entirely why an over-75 year-old would feel aggrieved to not do this. Of course these are not the first ports of call. We should rely on people to be reasonable and rational. We can reopen negotiations and I believe we should. Members will forgive me if I do not go through everything point by point. I thank the Members who have spoken in this. I think it has been a useful debate and I think it has put many of the issues into the public domain which would not necessarily have been there or would not have been given the publicity. We know now about who gets these entitlements. We knew but some members of the wider community did not necessarily know that in the first place. So I would ask Members to seriously consider supporting and the one speaker who perhaps I will single out would be Deputy Brée in front of me, normally in front of me, who I think got the idea very quickly. This is a simple matter of equality, of non-discrimination. There is nothing in part (a), I would suggest, that any Member of this Assembly should not be able to sign up to that the BBC should extend their duty of care to the wider British Isles and BBC community. We are all part of that community by virtue of being licence fee payers and when one comes to the age of 75 geography should not matter in that respect. I would also, of course, ask for the support of Members. Perhaps I do need to address the comments of the Constable of St. John and I know that the Constable has the ... is “largesse” the right word? Is that a positive word? I know he is a magnanimous man and he can note that I might have different ways of expressing myself, I might have beliefs that I put out here and which I feel necessary to address when I think that certain improvements can be made with the BBC, but I know that he votes on the wording of the proposition and I know that in his heart the Constable of St. John, like many other Members, I think, in this Assembly, knows that a better deal is out there, a better deal can be negotiated and that we do need to stick up ... somebody needs to be the voice of these 3,500 over-75s in Jersey who have been forgotten between our Government and the goliath, as it has been suggested, of the BBC. I do not think they need to be forgotten and I think if they are put into the spotlight a negotiation could be done hopefully very smoothly which will bring those minority of licence fee payers into the fold. I make the proposition. I maintain the proposition and ask for the appel.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats.

Deputy M. Tadier:

Can I take them in 2 parts as well, please?

The Deputy Bailiff:

You should take them in 2 parts, yes. Very well, Members have had the opportunity to return to their seats. The Deputy has asked that this is taken in 2 parts, so we will be voting on part (a) of the proposition and I ask the Greffier to open the voting.

POUR: 19		CONTRE: 22		ABSTAIN: 0
Senator S.C. Ferguson		Senator P.F. Routier		

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

The Deputy Bailiff:

The vote is now on part (b) of the proposition.

Deputy M. Tadier:

Sir, just for clarity, can we have part (b) read out again, please?

The Deputy Bailiff:

Yes. Greffier, would you read part (b) of the proposition, please?

Deputy M. Tadier:

In fact, can we read part (a) again and have another vote? **[Laughter]**

The Greffier of the States:

Part (b) is: "To request the Chief Minister to enter into renewed talks with the BBC to exempt Jersey residents who are aged 75 and over from the licence fee and to report back to the Assembly on his progress no later than September 2017."

The Deputy Bailiff:

Then I ask the Greffier to open the voting.

Deputy M. Tadier:

Sir, could I seek the leave of the Assembly to withdraw this part? **[Laughter]**

The Deputy Bailiff:

Deputy, firstly you are fined for the contribution of an electronic nature. I have asked the Greffier to cancel the voting. Do Members agree that the Deputy may withdraw this part of the proposition? Very well. Before we move on to the next item, I should announce that the following has been lodged: the States of Jersey Complaints Panel: appointment of members. It has been lodged by the Privileges and Procedures Committee.

8. Draft Referendum (Jersey) Law 201- (P.4/2017)

The Deputy Bailiff:

We now come to the Draft Referendum (Jersey) Law, lodged by the Privileges and Procedures Committee, and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Referendum (Jersey) Law 201-. A Law to provide for the holding of referendums for the establishment of a commission to advise on referendum questions and designate lead campaign groups, for the control of referendum expenses, and for related purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

8.1 The Connétable of St. Clement (Chairman, Privileges and Procedures Committee):

If approved, this draft law will replace the 2002 Referendum (Jersey) Law and it arises from a review of the Election Law we undertook after the last election. The Referendum (Jersey) Law, we suggest, needs to be changed so that it is in line with best practice as set out in the Council of Europe's Venice Commission code of good practice on referendums. One of the code's main recommendations is that referenda should be overseen by a permanent impartial body tasked with ensuring that referenda are fair and objective. I think no one can argue with that. Setting up such a body, the Referendum Commission, is the main purpose of this draft law. The commission we propose would have 5 members appointed by P.P.C. with recruitment, as you would expect, overseen by the Appointments Commission. Members of the commission would all serve in an honorary capacity. It would have 2 functions. First, it would advise this Assembly on the wording of questions asked in referenda and this is a key recommendation of the Venice Commission and I quote from that: "The question put to the vote must be clear; it must not be misleading; it must not suggest an answer; electors must be informed of the effects of the referendum; voters must be able to answer the questions asked solely by yes, no or a blank vote", in other words an abstention. It is proposed that a proposition for a Referendum Act may not be lodged unless the commission has published its opinion on the suitability of the wording proposed for the question. The commission is also required, if practicable, to publish its opinion on any amendment lodged to that wording before the Act is debated by the States. I should make it clear that the commission would be advisory only but its advice, I hope, would be considered very persuasive and quite rightly so. Secondly, the commission would undertake the delicate task of appointing lead campaign groups on either side of the referendum question. A lead campaign group must appear to the commission to be likely to be able to represent to the greatest extent those supporting the outcome they are campaigning for. This is important. Lead campaign groups would have access to the electoral register for campaigning purposes and would have official assistance in publishing campaign material. There are likely to be other advantages to being designated as a lead campaign group, for example in terms of increased media exposure and under the draft law lead campaign groups could spend more on a campaign than other groups. I maintain the principle.

The Deputy Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? All Members in favour of adopting the principles, kindly show. Those against? The principles are adopted. Deputy Le Fondré is not here. Deputy Brée, does your Corporate Services Scrutiny Panel wish to call this in?

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

No, we do not.

The Deputy Bailiff:

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

8.2 The Connétable of St. Clement:

I think if I could do it in parts and start off with Articles 1 to 5, which is parts 1 and 2, and then do parts 3 and 4 subsequently. Can I will say a few words on each? I will propose parts 1 and 2 which is Articles 1 to 5. Article 1 is the usual interpretation clauses. Article 2 sets out the rules on appointments. P.P.C. appoints the commissioners on the basis of recommendations from a panel comprising the Greffier and 2 other people nominated by the committee. The Assembly must be notified of an intention to make an appointment and has a 2-week period in which to object. Commissioners will serve 5-year terms. They cannot serve longer than 10 years. Members of the States or people working for the States or for a Parish cannot be appointed as commissioners. Article 3 establishes the principle functions of the commission which is to advise on the wording of referendum questions and to designate the lead campaign groups. A Referendum Act may confer supplementary functions on the committee. Article 4 makes it clear that the costs associated with a referendum are met by the States except for the cost of setting up in a Parish ... incurred for the holding of the referendum in that Parish which are met by the Parish. Article 5 provides for members of the Referendum Commission to be exempted from actions for damages in connection with their work unless they act in bad faith or do not act in accordance with Human Rights legislation. I propose parts 1 and 2.

The Deputy Bailiff:

Are parts 1 and 2 seconded? [**Seconded**] Does any Member wish to speak?

8.2.1 The Deputy of St. Ouen:

Referring to Article 2, the commission to consist of 5 commissioners. There are not qualifications set out to be held by the commissioners. I wonder if the chairman could tell us what qualities, attributes, he would be looking for in the appointment of commissioners and intriguingly, to my mind, P.P.C. can only appoint persons who have been recommended to it by a panel which comprises our Greffier and 2 other persons, so we know our Greffier well, but what sort of attributes would he be looking for in the 2 persons who are to sit with the Greffier as a panel to nominate the persons who might act as commissioners?

8.2.2 The Connétable of St. Martin:

Just a query on Articles 4(3), or 4(2) and 4(3). I wonder if the chairman can explain that the Parishes will be paying for the referendum taking place in their Parish. It is only really (b) and (c) of 2 that the cost would come from the States.

[16:00]

Parishes will be expected to pay for the referendum taking place in their Parish.

The Deputy Bailiff:

Does any other Member wish to speak on those Articles? I call on the chairman to respond.

8.2.3 The Connétable of St. Clement:

The Parishes would ... if I could go to the Constable of St. Martin first. The set-up cost in the Parishes would simply be that, opening the Parish Halls, the tables, the staffing that the Parish may require, but not paying for the referendum itself. That would clearly come from the taxpayer. Simply providing that the referendum is held ... the voting held in the Parish Hall as the Parishes currently do with an election. Nothing extra whatsoever. The attributes we would be looking for.

That is not put in there and that will be something for the committee to decide if and when the law is passed and when we advertise but certainly I think that one of the basic things we are looking for is people who are fair-minded, people who are interested in the democratic ... a permanent interest in the democratic system and loads and loads of common sense. We would certainly look to the Appointments Panel and to other groups for advice on who we should speak to and to try and appoint to make the appointments but what we are trying very hard to do is to remove this process as far as we can, as far as is practical, from the political process then there could be no political ... little interference from the body politic as possible. I am sorry I cannot be more specific or detailed than that but certainly, as far as I am concerned, common-sense and a great interest in Jersey and the political system in Jersey. I maintain the Articles.

The Deputy Bailiff:

All those in favour of adopting Articles 1 to 5 kindly show. Those against? Articles 1 to 5 are adopted.

8.3 The Connétable of St. Clement:

I move to part 3, Articles 6 to 11 which talks about the conduct of a referendum. Article 6 provides that, and I quote: “A proposition for a Referendum Act will not be lodged unless the commission has published its opinion on the suitability of the wording proposed for the referendum question.” Also: “That the referendum cannot be held less than 3 months after the making of the Referendum Act. This allows plenty of time for any amendments to the referendum question to be lodged and then considered by the commission which must report on such amendments if at all practicable.” Article 7 sets out the sort of groups which could be designated as lead campaign groups and also provides for loose informal groups to be designated as lead campaign groups if they can satisfy the commission that they have appropriate credentials, in particular links with the Island and means of being held to account. They could be so designated. The commission must appoint a lead campaign group for each outcome, ideally yes or no, or not appoint any lead campaign groups at all. Lead campaign groups must appear to the commission to be likely to be able to represent adequately those supporting the outcome for which that group is designated. Article 8 provides for the commission to assist lead campaign groups in publishing campaign material. Article 9 provides for lead campaign groups to be given access to the electoral register and Article 10 tidies up the law in respect of who can vote in a referendum. The 2002 law had not been amended to reflect changes in the Public Elections Law, particularly the introduction of the supplementary register and rules on advance registration of 15 year olds and the eligibility to vote of people omitted from the electoral register to protect their safety. This Article provides that the franchise for a referendum and an election are exactly the same. Article 11 reproduces Article 3 of the current law without change. It prohibits legal proceedings questioning the number of ballot papers counted or the answers given in a referendum. I propose those Articles.

The Deputy Bailiff:

Are Articles 6 to 11 seconded? **[Seconded]** Does any Member wish to speak on Articles 6 to 11? Those in favour of adopting Articles 6 to 11 kindly show. Those against? Those Articles are adopted.

8.4 The Connétable of St. Clement:

Part 4. I will do part 4 and part 5 together if I may. Part 4 is about campaign spending and adapts the Public Elections ... it is going to a Donations Law so that it applies in relation to referenda. Article 12 and the schedule provide for interpretation and also confirm that the interpretations may be varied in a Referendum Act. Article 13 provides that the rules on campaign spending can be altered in a Referendum Act although in making changes the Assembly is required to have regard to the significance of the referendum question. Article 14 sets out a lead campaign group's

maximum expenses. Article 15 sets out the third party referendum expenses for a referendum must not exceed in aggregate one half of the maximum that would be allowed to a lead campaign group in a referendum by virtue of the previous Article. Article 16 prohibits anonymous donations and 17 concerns a declaration of expenses which mirrors the procedures which apply to election candidates. Article 18 requires expenses to be verified by the production of receipts and so on. Article 19: whoever incurs or pays a lead campaign group's expenses must provide the campaign group with the information it needs to declare expenses. Article 20 provides for the responsible officer, usually the Judicial Greffier, to make expense information publicly available or to pass information to the Attorney General if he is of the view that an offence may have been committed. Article 21 is the 12-month expiration period for prosecution under this part of the law. Part 5 is simply the miscellaneous and final provisions. Article 22 deals with offences committed by a limited liability partnership or another corporate body. Article 23 repeals the 2002 law and Article 24 brings the law into force on the day after it is registered in the Royal Court. I propose those Articles.

The Deputy Bailiff:

Does any Member wish to speak on Articles 12 to 24 inclusive? All those in favour of adopting ...

8.4.1 The Connétable of St. John:

Article 16: "A campaigner must not keep an anonymous donation" and: "Any campaign who receives an anonymous donation must within 10 working days send it to the Treasurer of the States." It just concerns me because when you have a referendum sometimes people may be shaking a bucket in the street and trying to canvass support in which case the donations being put in the bucket would be considered as anonymous. Could the proposer please expand on that and if an individual makes a donation wishing to remain anonymous should the donation not be returned to them prior ... at least offered back to them before being given to the Treasurer of the States?

The Deputy Bailiff:

Does any other Member wish to speak on those Articles? I call on the chairman to respond. I am terribly sorry, my lights do not appear to be coming up here at all. I apologise.

8.4.2 Deputy M. Tadier:

I know that these Articles deal with the spending limits and the requirement for receipts to be presented or accounts to be presented so to speak. Could the mover say whether or not, apart from obviously election material which would be sent out by the Greffe presumably in the same way that it is during elections so that both sides have a basic amount of parity and a starting point for their campaigns, is any public funding going to be allocated to the groups? The reason I ask this is that the campaigns, of course, could be about any particular issue that the States considers to be worthy of a referendum. Indeed it could be a subject which is not worthy of a referendum anyway but the States still thinks is worth putting to the public but that said those campaigners will be doing a public service one way or the other and it should not necessarily be something for which they are out of pocket. So has consideration been given to what reasonable amounts of money could be given from central funds to each campaign group over and above what is already being provided by the Greffe centrally?

The Deputy Bailiff:

Does any other Member wish to speak on those Articles? I call on the chairman to respond.

8.4.3 The Connétable of St. Clement:

I thank the Constable of St. John, a very valuable member of the committee, who helped us draft this law for his question but the [Laughter] ... but the reality is I do not think that it is lawful for

someone to go round with a bucket up and down the precinct collecting money for referendum purposes. I do believe that the Bailiff's permission has to be granted for such activities. Now, if anonymous ... the Constable was concerned if someone, who was known to the organiser of a campaign group was given some money from someone who was anonymous if the campaign group knew who that person was they would therefore not be anonymous and therefore would be able to retain the money as far as I am aware. As is stated in the law to Deputy Tadier that the commission would assist with publicity as the Greffe does now in elections that the commission would do so in a similar way for the 3 lead campaign groups, depending how many questions you have got, but would assist in that way. But, no, the committee have not yet considered whether public funding should be made available to lead campaign groups in a referendum. That would be decided by this Assembly when they approve or not the Referendum Act. When all those sort of things would be put into the Referendum Act and it would be a matter for this Assembly not the committee.

The Deputy Bailiff:

All those in favour of adopting Articles 12 to 24 kindly show. Those against? Those Articles are adopted. Do you now wish to propose the schedule?

The Connétable of St. Clement:

I did propose the schedule I think under Article 12.

The Deputy Bailiff:

I think you mentioned the schedule. I am not sure you ...

The Connétable of St. Clement:

Well, in that case I formally propose the schedule.

The Deputy Bailiff:

Is the schedule seconded? **[Seconded]** Does anyone wish to speak on the schedule? All those in favour of adopting the schedule kindly show. Those against? The schedule is adopted. Do you move the matter in Third Reading?

8.5 The Connétable of St. Clement:

Yes, please.

The Deputy Bailiff:

Seconded in Third Reading. **[Seconded]** Does any Member wish to speak in Third Reading?

8.5.1 Senator P.M. Bailhache:

I am driven to speak in this Third Reading of the Bill really by the intervention of the Deputy of St. Ouen in relation to Article 2 of the Bill. As a matter of principle, a referendum is a very serious matter, not, I think, to be entered into too often but only in relation to matters which are of serious constitutional importance. A great deal of damage was caused to the reputation of this Assembly and to politics in general in this Island by the refusal of the Assembly, not this one but a previously constituted Assembly, to implement the recommendations of the electorate in the 2013 referendum. The Referendum Commission established by this law is an extremely important body. If I may say so, the Electoral Commission, which reported in 2012, adopted in practice much of what will now become statutory under this law and sought advice from learned people experienced in these matters when the referendum question was constructed. So Article 2(4) is a curious provision and I would like an assurance from the chairman in that connection. The P.P.C. will appoint 2 persons, together with the Greffier, to be a panel but this law tells us nothing about, as the Deputy of St. Ouen said, the qualifications required of this panel. The chairman said it would be a matter of

common sense. They were looking for people with common sense and indeed that must be right but it seems to me one would be looking for people rather more qualified than having common sense because the framing of a referendum question is a technical issue. It is difficult. It needs particular expertise.

[16:15]

I would like an assurance from the chairman that one of the first things that a newly constituted Privileges and Procedures Committee would do would be to appoint this panel under the Referendum Law. It would not be good practice, I suggest, for a Privileges and Procedures Committee to gather itself together to appoint a panel which would in turn appoint a commission on the footing that a referendum was in prospect. I hope that the P.P.C.s of the future will report to the States, although this is not set out in the law, and I think perhaps it should be, will report to the States as to whom they have appointed as members of the panel and why they have appointed them and to give an assurance that the appointors of the commission themselves have the kind of experience and background and knowledge which make them appropriate to appoint people to what is quite an important commission. I support this law obviously because it puts into statutory form good practice and I commend the Privileges and Procedures Committee for bringing it forward but I do have this reservation and I hope the chairman may be able to deal with it.

8.5.2 Deputy A.D. Lewis:

Just briefly. I would just like to very much welcome this law and I hope that it puts an end to debates that we have about reform where, if we have a referendum, Members then criticise the referendum and perhaps, in some cases, even use it as an excuse, not agreeing with the results of the referendum. That is what happened in debates in recent times so I do hope that this will stop that happening and I believe it will. The commission that came forward with the last referendum results, or the proposal, was constituted along these similar lines yet this Assembly ignored the results. I do hope that will not happen in the future and this will give even more strength to that and I believe that it will. It also states here in mid-paragraph on page 4 about the need for clear questions. I believe the last referendum was clear questions; there was just more than one of them and it was a yes/no question. So I welcome this law and I do hope that in the future, like I say, Members, when they have a referendum, accept the results and also it is not used unduly often. As an elected Assembly, we are elected by the people, to make decisions on their behalf and it should only be in exceptional circumstances when matters of constitutional, perhaps, subjects that we call referendums and I hope that it is not used too liberally because that is what we are elected here to do, make decisions on behalf of the public not put it back to them by referendum. So used wisely I think it is going to be a very useful tool of the future and governed well by a set of commissioners who I am sure will be suitably appointed.

8.5.3 Deputy M. Tadier:

I think it is important that whenever a partial or even, I would call it, a revisionist history of the referendum which I think ... was it 2013 now and counting, took place and we hear constantly about the malaise that took place following the non-implementation of the referendum result. I think it is important that we do remember the chronology and apply it to what we are debating here today because it was not simply the decision not being implemented which was the root of the issue. It was the fact that the subsequent States Assembly decided to rescind and change what was supposed to be an independent Electoral Commission in the first place, was voted for by a majority of Assembly Members and then put 3 politicians on it who already had an idea of what they wanted to see as the outcome and, of course, put 3 members of the public so that there was not a majority of them to overrule it. Then, on top of that, present not a simple yes and no question but 3 options; 2 for change, one for the same. You can either go for the radical option, you can keep things the

same, or we can steer a nice middle line which under the voting system interestingly used the alternative vote which we, as an Assembly, cannot even agree to use for our own elections even though the Electoral Commission knew that is what you had to apply to a 3-way race when it comes to the question to find one winner, and that did not even work anyway because so many people who voted Option C boycotted the second round because they found A and B to be both very unpalatable. That the overall winner of between A and B did not even secure 50 per cent of those who had bothered to turn out in the election. That is the truth and that does not change and despite what is said about this Assembly or the previous Assembly kicking out the result of the referendum. So it is easy to stand up and say: "Oh, if we have a referendum we must respect it", but we must make sure that every step of that referendum process is correct because if one part of that is weak and if one of those links is weak then the whole thing will not mesh. There are people out there and people in here who should be saying, it is quite right that the Assembly at the time in its wisdom kicked out that result because there were serious reasons for doing so and it is not popular to do that but it is important to say that there is a bigger history when it comes to that. But Senator Bailhache, I think, is right that we do need to have serious consideration about when and what kind of referenda that we have and I hope that the commission will ... along with these Regulations and Articles that we are passing here today provide constant discussion and update and guidelines as to what we should and what probably should be avoided in terms of the referendum. It is ironic, perhaps, that the first referendum that Jersey ever had was not to do with a constitutional matter. It is probably a slight stretch of the imagination to say that changing the time to European central time; it is of course an important issue, if we were going to do it it would have been an important issue and it might have been appropriate to put it to the public if we wanted to do it but no one was suggesting we did it in the first place, not realistically, and we put it to the public but of course that was no doubt a test run in terms of a referendum. So I think we all know that. I think it took place on Election Day and it will be interesting to monitor the progress of this new commission and I think it is something which we welcome for various reasons but it has got to be a step in the right direction.

The Deputy Bailiff:

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

8.5.4 The Connétable of St. Clement:

I thank Deputy Tadier and I thank Deputy Lewis for his report but I must ask him for the future to get his history right. The last referendum was not the 2013 referendum on reform of the States. It was a 2014 referendum which endorsed the position of the Connétables as **[Approbation]** ... when the Island voted overwhelmingly that they should remain in the States by virtue of their office. I agree totally with what Senator Bailhache had to say. This is important and the role of the commissioners is going to be ... it is really important and while I did say we should be looking for people with common sense I hope I said, or I should have said, that we should be looking for candidates with experience and knowledge, perhaps even experience on the electoral commissions in other places. Clearly, whoever, at the end of the day, is appointed, whatever commission, how it evolves, they will need to take advice from other places. I think that is clear. But I do remember a lot of work was done in this area when I served on Deputy Maçon's P.P.C., when we planned the serious referendum on reform, which was based on the Clothier proposals and we did a lot of work, a tremendous amount of work, in trying to get the question right and that was focus groups, getting advice from people elsewhere and we think we brought what would have been an ideal question, which unfortunately got scuppered and scuttled by an amendment by the then Deputy Green who ... what he did ... all he did was to endorse the position of the Connétable. But I would also say to Senator Bailhache that this is a standing committee and will be a permanent committee. It will not just be formed ... or the commission will be a standing commission and not just formed or reformed

when a referendum might be in the offer. If this law was passed I see no reason why preparatory work for the appointments could not start immediately and start in earnest once it has been approved in Council and been registered in the Royal Court. I would also remind the Senator that the reports, the recommendations of the commission, will also be advisory to this Assembly who would make the final decision on any Referendum Act but, as I said, I would hope that their experience and knowledge and advice would be so persuasive that it would not be possible, in reality, to overturn their advice. Well, it is also in the report and proposition and law that it is a requirement of a P.P.C. that any commissioners are appointed by P.P.C. but that their appointment is delayed by 2 weeks so that those appointments could be notified to the States and if any Member has an objection that could be considered by the Privileges and Procedures Committee and so the States will retain absolute control in the appointments and the decisions made by the commission. I maintain the proposition in Third Reading.

The Deputy Bailiff:

All Members in favour of adopting the proposition in Third Reading kindly show. Those against? The law is adopted in Third Reading.

9. Draft Employment of States of Jersey Employees (Amendment No. 8) (Jersey) Regulations 201- (P.11/2017)

The Deputy Bailiff:

Very well, the next item of Public Business is the Draft Employment of States of Jersey Employees (Amendment No. 8) (Jersey) Regulations from the States Employment Board and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Employment of States of Jersey Employees (Amendment No. 8) (Jersey) Regulations 201-. The States, in pursuance of Article 42 of the Employment of States of Jersey Employees (Jersey) Law 2005 have made the following Regulations.

Senator I.J. Gorst:

I would like to ask Senator Green to act as rapporteur please.

9.1 Senator A.K.F. Green (Rapporteur):

Members may recall that this Assembly appointed a new chairman to the Jersey Appointments Commission in September 2014. I am sure, or at least I hope, Members have observed the positive changes in the approach of the commission since that appointment. We have seen the lead role that the chairman has taken in moving the commission to a place where it exercises its independent responsibilities impeccably. We have seen that we have benefitted from very clear advice and guidance provided by the commission in discharging its duties. But in more recent times the chairman and the commissioners have focused on reviewing the way that the commission works and the processes that are in place and as a result the commission has looked to simplify its processes and provide greater clarity to its role. The commission have, for example, consolidated many of its previous guidelines into one set of guidelines and where possible streamlined the operational processes that support any recruitment. As Members will appreciate I am sure, and remain fully supportive of the core purpose of the commission, its core purpose is to provide independent oversight in the recruitment process of public employees. In so doing they are ensuring as far as it is practical that the recruitment of a person is as agreed in legislation; that it is fair; that it is efficient and conducted in line with best practice, principles and procedures and that at all times appointments are made on merit. That must be the overriding principle. There are, of

course, wider considerations in providing oversight that they support us in in maintaining a watchful eye on other core principles that go to the heart of government, namely equality, diversity and transparency. Members will have noted that the amendments being proposed to the regulations are tightly focused. The amendments are focused on where the commission is required to act outside their normal oversight role and to participate on an appointments panel. There is only one occasion when this is expected and that is for the appointment of the Chief Executive Officer role for the States of Jersey. This amendment makes that explicit. Other proposed amendments clarify the time that a commissioner may hold office. Currently the legislation is at odds with the commission's own guidelines. This proposal rightly corrects that position. Members will therefore note that the amendments proposed today all relate specifically to the Jersey Appointments Commission and the way it has been asked to discharge its duties as an independent body. As part of this process we have engaged with scrutiny who have provided very helpful comments and observations which we believe have been encompassed in the amendment. The Jersey Appointments Commission is and must remain independent.

[16:30]

That is core to their purpose of ensuring that there is proper rigorous oversight of the appointment of persons to the public sector and as such I make the proposition.

The Deputy Bailiff:

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

9.1.1 Deputy J.A.N. Le Fondré:

Very briefly, just to note that the involvement of the Corporate Services Scrutiny Panel... we obviously do support this proposition. I hope that Members did read the comments that we supplied. They were the result of a fair amount of activity on behalf of the panel at relatively short notice. The engagement was initially ... probably at our instigation. I do accept and welcome the willingness of the Chief Minister's officers and those of the States Employment Board to work and agree a position and obviously our position has been laid out in the comments at the very end on the conclusion. How we got there was slightly convoluted. There is room for improvement but where we are now is fine. I make the point that there is some work in the future for the panel on future versions of the pending legislation which is related.

The Deputy Bailiff:

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

9.1.2 Senator A.K.F. Green:

I thank the chairman of the Scrutiny Panel for his comments. I also thank them for their work and it was done at very short notice over the Christmas period, as I remember. The main point of this change is to ensure that we continue to have independent oversight; that we continue to appoint on merit; that we ensure there is equality, diversity and transparency and to be clear about the role of the commission in the recruitment of the Chief Executive Officer role. I make the proposition.

The Deputy Bailiff:

Those Members in favour of adopting the principle kindly show. Those against. The principles are adopted. How do you wish to deal with the Regulations in Second Reading?

Senator A.K.F. Green:

If Members ...

The Deputy Bailiff:

I beg your pardon, I have to ask about into Scrutiny. Deputy Le Fondré, do you wish to call this matter into scrutiny?

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

No, thank you.

The Deputy Bailiff:

Very well. Then how do you wish to deal with the matters ...

9.2 Senator A.K.F. Green:

If Members are happy I will do them *en bloc*, just run very quickly ... there are only 4 regulations. Regulation 1 amends the States of Jersey Employees (Jersey) Law. Regulation 2 amends Article 18 of the law so that the commissioner of the Jersey Appointments Commission can only hold office for a period of 9 years. Regulation 3 inserts a new Article in the law that applies where the recruitment takes place for the post of the Chief Executive Officer. Regulation 3 is that the Appointments Commission is required by the States Employment Board to nominate a commissioner to be involved in the recruitment including making decisions on which candidates are to be interviewed and which candidates are to be offered ... the candidate is to be offered the post. Regulation 4 sets out these regulations and provides that they come into force the day after they are made.

The Deputy Bailiff:

Are the Regulations seconded? **[Seconded]** Does any Member wish to speak on the Regulations? Those Members in favour of adopting the Regulations kindly show. I could ask that again. Those in favour of adopting the Regulations kindly show. There was not a ... those against. Very well, the Regulations are adopted. Do you wish to propose them in Third Reading?

Senator A.K.F. Green:

Yes, please.

The Deputy Bailiff:

Are they seconded in Third Reading? **[Seconded]** Those Members in favour of adopting the Regulations in Third Reading kindly show. Those against? The Regulations are adopted in Third Reading.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Deputy Bailiff:

That concludes the Public Business for the meeting and I invite the chairman of P.P.C. to propose the arrangements for Public Business for future meetings.

10. The Connétable of St. Clement (Chairman Privileges and Procedures Committee):

Yes, thank you. I propose the arrangements for Public Business as per the Consolidated Order Paper with the addition of 2nd May of projet 20, which was lodged today, the appointments to the Complaints Panel lodged by the Privileges and Procedures Committee. Other than that I would think that for the sitting of 18th April that we could anticipate that taking 2 days.

The Deputy Bailiff:

Very well.

10.1 Deputy J.M. Maçon:

We have heard from the Chief Minister today that in due course he is considering an in-committee debate when the Inquiry's publication comes out. Not today, but I wonder if he could give some thought to when that might be and advise Members just so we have it down in our diaries.

The Deputy Bailiff:

I suppose that must inevitably depend upon when the report is issued.

10.2 Senator I.J. Gorst:

I am happy to do so. I thought it was clear in questions that I intend to do so as soon as the report has been published and I expect to take the approach, if possible and timely, to see an extension to the next States sitting that is happening.

10.3 The Connétable of St. Helier:

I wonder if I might seek leave to move P.12, which is to do with the States paying rates, as Members will know, to 23rd May from the next sitting as the Minister for Treasury and Resources wishes to have more time to consult with my colleagues on the Constables' benches.

The Deputy Bailiff:

I think there is ... yes, I do not think you require the leave of the Assembly to do that, Connétable, I think you can withdraw it from that and it will then bounce on to the next one. Any observations on that, chairman, or ...

10.4 The Connétable of St. Clement:

Well, it has taken me a little bit by surprise because the Comité des Connétables have discussed the Constable of St. Helier's proposition and have no intention of presenting any comments or lodging any amendment so I am not quite sure what the Minister wishes to consult us about although, of course, we would be delighted to receive him.

The Deputy Bailiff:

Do Members agree with taking the order of business on the next occasion and future occasions as proposed by the chairman ... changed by the Connétable? Very well, the States stands adjourned.

10.5 Senator A.J.H. Maclean:

Sorry, I do not think you saw my light. If I may raise one other point with Members. The next sitting of the States is on the Tuesday immediately after, as Members will have noted, the holidays for Easter. I want to test Members' views as to whether they would feel it more appropriate to start the States business on the Wednesday, rather than a Tuesday, giving opportunities for Members to get back from holidays and such like. I want to know if Members would be prepared to consider that as an option.

The Deputy Bailiff:

There is no immediate indication of support for that. Do you want to make it as a proposition and give Members the opportunity of voting?

Senator A.J.H. Maclean:

Yes, I will do. Why not? I think it makes sense after the holiday. Personally it makes no difference to me. I am back on the Sunday but there are one or 2 Members who have mentioned to me that having had a holiday weekend for Easter that starting the States proceedings immediately after that gives no preparation time and therefore the Wednesday seems a sensible time to start. So I would make that proposition. It is up to Members whether they think it is a sensible idea or not.

The Deputy Bailiff:

Is the proposition seconded? [**Seconded**] Does any Members wish to ...

10.5.1 Deputy J.A. Martin:

Well, I stand to speak against the proposition. Just having paid £120 to get back on the Monday [**Laughter**] ...well, it is vested, but these days it was a shock. I had to look because I knew I was away and it is not normal but we are where we are. These dates have been in our diaries since well before last Christmas and unfortunately it is the day after Bank Holiday Monday of the long Easter weekend but I really think we cannot start moving States days ...we have got another one after the other Bank Holiday in May on 2nd May after the 1st so do we move that as well? No, I am not supporting it.

10.5.2 The Deputy of St. John:

I just want to raise a potential issue in terms of the fact that it is Easter Bank Holiday weekend and with the terms of trying to be productive in terms of getting appropriate answers, which I know some Members always complain that we do not get answers about, whether it would be more productive to have it on the Wednesday because of the way that the questions and the responses from the departments work. So in terms of productivity and getting the answers that other Members may wish to it may be more worthwhile to move it to the Wednesday.

The Deputy Bailiff:

Does any other Member wish to speak on this proposition? Do you wish to respond?

10.5.3 Senator A.J.H. Maclean:

No, it is in the hands of Members. I thought the objection of the Deputy of St. John was valid. There is very little, as I said at the beginning, preparation time due to the long holiday weekend. I have every sympathy for Deputy Martin. I am sure other Members have also had to make arrangements but from a purely practical point of view it does seem to me it will be a better functioning democracy if we have the ability to prepare that extra day before the sitting commences on a Wednesday but I will leave it entirely with the hands of Members.

The Deputy Bailiff:

Well, those in favour of the proposition, namely to move the start of that debate until the Wednesday...

Senator A.J.H. Maclean:

Could we have the appel, I think ...

The Deputy Bailiff:

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

POUR: 16		CONTRE: 18		ABSTAIN: 0
Senator P.F. Routier		Senator S.C. Ferguson		
Senator A.J.H. Maclean		Connétable of St. Clement		
Senator I.J. Gorst		Connétable of St. Mary		
Senator P.M. Bailhache		Connétable of St. Ouen		
Senator A.K.F. Green		Connétable of St. Brelade		
Connétable of St. Helier		Connétable of St. Martin		
Connétable of St. Peter		Connétable of St. Saviour		
Connétable of St. Lawrence		Connétable of Grouville		
Deputy J.A. Hilton (H)		Connétable of Trinity		
Deputy of Trinity		Deputy J.A. Martin (H)		

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

The Deputy Bailiff:

The States now stand adjourned until Tuesday, 18th April.

ADJOURNMENT

[16:40]