

STATES OF JERSEY
OFFICIAL REPORT
TUESDAY, 10th JULY 2018

COMMUNICATIONS BY THE PRESIDING OFFICER.....	10
1. Ruling in relation to the asking of questions to Ministers	10
The Deputy Bailiff:	10
QUESTIONS.....	10
2. Written Questions.....	10
2.1 THE CONNÉTABLE OF GROUVILLE OF THE MINISTER FOR INFRASTRUCTURE REGARDING ROAD SAFETY PROJECTS AGREED BY THE ROAD SAFETY REVIEW PANEL: [WQ. 100/2018]	10
2.2 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOUSING REGARDING A REVIEW OF THE CURRENT HOUSING QUALIFICATIONS: [WQ. 101/2018]	13
2.3 SENATOR S.Y. MÉZEC OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING THE REVIEW OF THE HONORARY POLICE: [WQ. 102/2018]	14
2.4 SENATOR S.Y. MÉZEC OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING PEOPLE WHO HAVE BEEN PERMITTED TO VOTE AT AN ELECTION DESPITE NOT BEING ON THE ELECTORAL REGISTER: [WQ. 103/2018]	16
2.5 SENATOR S.Y. MÉZEC OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING THE BREAKDOWN BY GENDER OF MEMBERSHIP OF THE PARISH ROADS COMMITTEES: [WQ. 104/2018]	18
2.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION REGARDING THE PROVISION OF EARLY YEARS LITERACY SCHEMES: [WQ. 105/2018]	18
2.7 DEPUTY OF ST. PETER OF THE CHAIRMAN OF THE STATES EMPLOYMENT BOARD REGARDING LOCAL RECRUITMENT TO STATES OF JERSEY JOBS: [WQ. 106/2018]	20
2.8 DEPUTY R.J. WARD OF ST. HELIER OF THE MINISTER FOR EDUCATION REGARDING THE USE OF CONSULTANTS BY THE DEPARTMENT OF EDUCATION: [WQ. 107/2018] The answer to this question was reissued following a ruling by the Deputy Bailiff under Standing Order 12.	20
2.9 DEPUTY R.J. WARD OF ST. HELIER OF THE MINISTER FOR EDUCATION REGARDING THE OUTSOURCING OF SERVICES BY THE DEPARTMENT OF EDUCATION: [WQ. 108/2018].....	22
2.10 DEPUTY R.J. WARD OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE HORIZON DEVELOPMENT AT THE WATERFRONT: [WQ. 109/2018].....	22
2.11 DEPUTY R.J. WARD OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE FUNDING OF PUBLIC SECTOR PAY AWARDS FOR 2018: [WQ. 110/2018]	23

2.12	DEPUTY C.S. ALVES OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING TENANTS UNDER-OCCUPYING THE PROPERTIES IN WHICH THEY LIVE: [WQ. 111/2018]	24
2.13	DEPUTY C.S. ALVES OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING ACCESS TO PERSONAL MEDICAL RECORDS: [WQ. 112/2018]	25
2.14	DEPUTY C.S. ALVES OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE REHABILITATION OF PATIENTS BY THE DRUG AND ALCOHOL SERVICE: [WQ. 113/2018]	26
2.15	DEPUTY C.S. ALVES OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING OFF-ISLAND ADVERTISING OF JOBS IN THE HEALTH SECTOR: [WQ. 114/2018].....	27
2.16	DEPUTY R.J. RONDEL OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING TRADE CREDITORS OF THE PORTS OF JERSEY: [WQ. 115/2018].....	27
2.17	DEPUTY R.J. RONDEL OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING WORK ON THE SUMMERLAND SITE: [WQ. 116/2018].....	28
2.18	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINSITER FOR EXTERNAL RELATIONS REGARDING THE SECTOR-BY-SECTOR ASSESSMENT OF ECONOMIC SUBSTANCE BY THE OECD FORUM ON HARMFUL TAX PRACTICES: [WQ. 117/2018]	29
2.19	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE FUNDING OF A NEW INCOME DISTRIBUTION SURVEY: [WQ. 118/2018]	29
2.20	DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR INFRASTRUCTURE REGARDING VACANT STATES-OWNED PROPERTIES: [WQ. 120/2018]	31
2.21	DEPUTY G.P. SOUTHERN OF THE MINISTER FOR INFRASTRUCTURE REGARDING THE OUTSOURCING OF SERVICES BY THE DEPARTMENT OF INFRASTRUCTURE: [WQ. 121/2018].....	31
2.22	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING FARMERS IN RECEIPT OF MULTIPLE GRANTS OVER THE LAST 20 YEARS: [WQ. 122/2018]..	33
2.23	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING OFFICERS OF THE STATES OF JERSEY POLICE AND CUSTOMS AND IMMIGRATION WITH SECOND JOBS: [WQ. 123/2018].....	34
2.24	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE CURRENT BALANCE OF THE CRIMINAL OFFENCES CONFISCATION FUND: [WQ. 124/2018].....	35
2.25	DEPUTY M.R. HIGGINS OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE STRUCTURE AND WORKFORCE OF HIS DEPARTMENT: [WQ. 125/2018]	37
2.26	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE RECORDS OF THE INDEPENDENT JERSEY CARE INQUIRY: [WQ. 126/2018]	40
2.27	THE CONNÉTABLE OF ST. BRELADE OF THE MINISTER FOR THE ENVIRONMENT REGARDING NOTICES UNDER THE WEEDS (JERSEY) LAW 1961: [WQ. 127/2018]	40

3.	Oral Questions	41
3.1	Deputy L.B.E. Ash of St. Clement of the Minister for the Environment regarding green field sites in St. Clement: [OQ. 88/2018]	41
	Deputy J.H. Young of St. Brelade (The Minister for the Environment):	41
3.2	Deputy K.F. Morel of St. Lawrence of the Minister for External Relations regarding preparations being made for the eventuality of a ‘hard Brexit’: [OQ. 89/2018]	41
	Senator I.J. Gorst (The Minister for External Relations):	41
	3.2.1 Deputy K.F. Morel:	42
	3.2.2 Deputy G.P. Southern of St. Helier:	42
	3.2.3 Deputy G.P. Southern:	42
3.3	Connétable J.E. Le Maistre of Grouville of the Minister for Infrastructure regarding the funding of road safety projects: [OQ. 85/2018]	43
	Deputy K.C. Lewis of St. Saviour (The Minister for Infrastructure):	43
	3.3.1 The Connétable of Grouville:	43
	3.3.2 Connétable D.W. Mezbourian of St. Lawrence:	43
	3.3.3 Connétable D.W. Mezbourian of St. Lawrence:	43
	3.3.4 Deputy J.M. Maçon of St. Saviour:	44
	3.3.5 Deputy M. Tadier of St. Brelade:	44
	3.3.6 The Connétable of Grouville:	44
3.4	Deputy R.J. Ward of St. Helier of the Minister for Treasury and Resources regarding Income Tax provisions in place to assist those people who faced significant drops in their income: [OQ 92/2018]	44
	Deputy S.J. Pinel of St. Clement (The Minister for Treasury and Resources):	45
	3.4.1 Deputy R.J. Ward:	45
	3.4.2 Deputy M. Tadier:	45
	3.4.3 Deputy G.P. Southern:	45
	3.4.4 Deputy R.J. Ward:	45
3.5	Deputy J.H. Perchard of St. Saviour of the Chairman of the States Employment Board regarding an action plan to address the recommendations of the HR Lounge report on bullying and harassment: [OQ. 94/2018].....	46
	Senator T.A. Vallois (Chairman, States Employment Board):	46
	3.5.1 Deputy J.H. Perchard:	46
	3.5.2 Deputy L.M.C. Doublet of St. Saviour:	46
	3.5.3 Deputy G.P. Southern:	47
	3.5.4 Deputy G.P. Southern:	47
	3.5.5 Senator S.C. Ferguson:	47
	3.5.6 Deputy R.J. Ward:	47
	3.5.7 Deputy J.H. Perchard:	48
3.6	Deputy S.M. Ahier of St. Helier of the Minister for Treasury and Resources regarding the prospect of re-introducing marginal relief for non-resident pensioners: [OQ. 102/2018].....	48
	Deputy S.J. Pinel (The Minister for Treasury and Resources):	48
	3.6.1 Deputy S.M. Ahier:	49
	3.6.2 Deputy M. Tadier:	49

3.7 Deputy G.P. Southern of the Minister for Infrastructure regarding the standards of service providers of cleaning and gardening outsourced by the Department of Infrastructure: [OQ. 98/2018]	49
Deputy K.C. Lewis (The Minister for Infrastructure):	49
3.7.1 Deputy G.P. Southern:	50
3.7.2 Connétable M.K. Jackson of St. Brelade:	50
3.7.3 Deputy M. Tadier:	50
3.7.4 Deputy G.P. Southern:	50
3.8 Deputy R.J. Rondel of St. Helier of the Minister for Infrastructure regarding the situation in respect of land at St. Catherine’s that had been advertised for sale: [OQ. 86/2018]	50
Deputy K.C. Lewis (The Minister for Infrastructure):	51
3.8.1 Deputy R.J. Rondel:	51
3.8.2 Deputy R. Labey of St. Helier:	51
3.8.3 Deputy M. Tadier:	51
3.8.4 Deputy M. Tadier:	51
3.8.5 Deputy S.G. Luce of St. Martin:	52
3.8.6 Deputy C.F. Labey of Grouville:	52
3.8.7 The Deputy of Grouville:	52
3.8.8 Deputy R.J. Rondel:	53
3.9 Deputy M.R. Higgins of St. Helier of the Chief Minister regarding implementation of the recommendations of the Independent Jersey Care Inquiry: [OQ. 103/2018]	53
Connétable C.H. Taylor of St. John (Assistant Chief Minister - rapporteur):	53
3.9.1 Deputy M.R. Higgins:	53
3.9.2 Deputy M.R. Higgins:	54
3.10 Senator S.Y. Mézec of the Chairman, Privileges and Procedures Committee regarding implementation of the recommendations of the C.P.A. Election Observer Mission: (OQ. 97/2018)	54
Deputy R. Labey (Chairman, Privileges and Procedures Committee):	54
3.10.1 Senator S.Y. Mézec:	54
3.10.2 Deputy M. Tadier:	54
3.10.3 Deputy M. Tadier:	55
3.10.4 The Connétable of St. John:	55
3.10.5 Senator S.Y. Mézec:	55
3.11 Deputy C.S. Alves of St. Helier of the Minister for Social Security regarding legislation to allow people suffering from mesothelioma to obtain compensation: [OQ. 95/2018]	56
Deputy J.A. Martin of St. Helier (The Minister for Social Security):	56
3.11.1 Deputy C.S. Alves:	56
3.11.2 Deputy C.S. Alves:	56
3.12 Deputy K.G. Pamplin of St. Saviour of the Minister for Infrastructure regarding recycling levels: [OQ. 90/2018]	57
Deputy K.C. Lewis (The Minister for Infrastructure):	57
3.12.1 Deputy M. Tadier:	57
3.12.2 Deputy M. Tadier:	57

3.12.3	Senator S.C. Ferguson:.....	58
3.12.4	Senator S.C. Ferguson:.....	58
3.12.5	Deputy J.M. Maçon:.....	58
3.12.6	Deputy R.J. Rondel:	58
3.12.7	Deputy K.G. Pamplin:	59
3.13	Deputy M. Tadier of the Minister for Health and Social Services regarding the future of the Little Sisters of the Poor care home: [OQ. 91/2018].....	59
	Deputy R.J. Renouf of St. Ouen (The Minister for Health and Social Services):.....	59
3.13.1	Deputy M. Tadier:	59
3.13.2	Connétable K. Shenton-Stone of St. Martin:.....	60
3.14	Senator K.L. Moore of the Chief Minister regarding the appointment of a Minister for Children and Housing: [OQ. 100/2018].....	60
	Connétable R.A. Buchanan of St. Ouen (Assistant Chief Minister - rapporteur):	60
3.14.1	Senator K.L. Moore:.....	61
3.15	Deputy M.R. Higgins of the Chief Minister regarding the decision to allow High Value Residents to purchase and develop properties: [OQ. 104/2018].....	61
	The Connétable of St. John (Assistant Chief Minister - rapporteur):	61
3.15.1	Deputy M.R. Higgins:	61
3.15.2	Senator S.C. Ferguson:.....	62
3.15.3	Deputy G.P. Southern:	62
3.15.4	Deputy G.P. Southern:	62
3.15.5	Deputy R.E. Huelin of St. Peter:	63
3.15.6	Deputy K.F. Morel:	63
3.15.7	Deputy M.R. Higgins:	63
3.16	Deputy R.J. Ward of the Minister for the Environment regarding the support available for businesses undertaking green initiatives: [OQ. 93/2018].....	64
	Deputy J.H. Young (The Minister for the Environment):.....	64
3.16.1	Deputy R.J. Ward:	64
3.16.2	Deputy M. Tadier:	65
3.16.3	Deputy R.J. Ward:	65
3.17	Senator K.L. Moore of the Chief Minister regarding his key achievements and priorities: [OQ. 101/2018].....	65
	The Connétable of St. Ouen (Assistant Chief Minister - rapporteur):	65
3.17.1	Senator K.L. Moore:.....	66
3.17.2	Deputy M. Tadier:	66
3.17.3	Deputy M. Tadier:	66
3.17.4	Deputy K.F. Morel:	66
3.17.5	Deputy S.M. Wickenden of St. Helier:	66
3.17.6	Senator K.L. Moore:.....	67
3.18	Deputy G.P. Southern of the Chief Minister regarding the availability of data to assess people's ability to meet the Minimum Income Standard: [OQ. 99/2018]	67
	The Connétable of St. John (Assistant Chief Minister - rapporteur):	67
3.18.1	Deputy G.P. Southern:	67
3.18.2	Deputy G.P. Southern:	68
3.19	Deputy C.S. Alves of the Minister for Economic Development, Tourism, Sport and Culture, regarding investment in Jersey's cultural sector: [OQ. 96/2018]	68

Senator L.J. Farnham (The Minister for Economic Development, Tourism, Sport and Culture):	68
3.19.1 Deputy C.S. Alves:	69
3.19.2 Deputy G.P. Southern:	69
3.19.3 Deputy G.P. Southern:	69
3.19.4 Deputy K.F. Morel:	69
3.19.5 Deputy K.G. Pamplin:	70
3.19.6 The Deputy of Grouville:	70
3.19.7 The Deputy of Grouville:	70
3.20 Deputy R.J. Rondel of the Minister for Infrastructure regarding the installation of toilet facilities at People’s Park: [OQ. 87/2018]	71
Deputy K.C. Lewis (The Minister for Infrastructure):	71
3.20.1 Deputy R.J. Rondel:	71
3.20.2 Deputy S.M. Wickenden:	71
3.20.3 Connétable A.S. Crowcroft of St. Helier:	71
3.20.4 The Connétable of St. Helier:	72
3.20.5 Deputy M. Tadier:	72
3.20.6 Deputy M. Tadier:	72
3.20.7 Deputy R.J. Rondel:	72
4. Questions to Ministers without Notice - The Minister for Health and Social Services	73
4.1 The Connétable of St. Lawrence:	73
The Deputy of St. Ouen (The Minister for Health and Social Services):	73
4.1.1 The Connétable of St. Lawrence:	73
4.2 Deputy G.P. Southern:	73
4.2.1 Deputy G.P. Southern:	74
4.3 Deputy R. Labey:	74
4.4 Deputy K.F. Morel:	74
4.4.1 Deputy K.F. Morel:	75
4.5 Deputy S.M. Wickenden:	75
4.6 Deputy M. Tadier:	75
4.6.1 Deputy M. Tadier:	75
4.7 Senator S.C. Ferguson:	76
5. Questions to Ministers without Notice - The Minister for Education	76
5.1 Deputy K.F. Morel:	76
Senator T.A. Vallois (The Minister for Education):	77
5.2 Deputy R.J. Ward:	77
5.3 Deputy G.P. Southern:	77
5.4 Deputy C.S. Alves:	77
5.5 Deputy J.H. Perchard:	78
5.6 Senator S.C. Ferguson:	78
5.7 Deputy G.P. Southern:	79
5.8 Deputy R.J. Ward:	79
6. Urgent Oral Questions	79
6.1 The Deputy of St. Peter of the Minister for the Environment regarding the construction of the hospital catering facility at St. Peter’s Technical Park:	79
Deputy J.H. Young (The Minister for the Environment):	79

6.1.1 The Deputy of St. Peter:.....	80
6.1.2 Connétable R. Vibert of St. Peter:	80
6.1.3 Connétable J. Le Bailly of St. Mary:	81
6.1.4 Deputy R. Labey:	81
6.1.5 Senator S.C. Ferguson:	81
6.1.6 Senator S.C. Ferguson:	81
6.1.7 The Deputy of St. Peter:.....	82
PUBLIC BUSINESS.....	82
7. Fields 85, 84 and 80, La Rue Carrée, St. Brelade: acquisition of land by the Public (P.78/2018):.....	82
7.1 Senator T.A. Vallois (The Minister for Education):	83
7.1.1 The Connétable of St. Brelade:	84
7.1.2 The Connétable of St. Ouen:.....	85
7.1.3 Deputy R. Labey:	86
Mr. R.J. MacRae, H.M. Attorney General:	86
Senator S.C. Ferguson:	88
7.1.4 Senator L.J. Farnham:	88
7.1.5 The Connétable of St. Saviour:	88
7.1.6 Senator S.C. Ferguson:	88
LUNCHEON ADJOURNMENT PROPOSED	89
LUNCHEON ADJOURNMENT.....	89
7.1.7 Deputy J.H. Young:	89
7.1.8 The Deputy of St. Martin:	90
7.1.9 Senator S.W. Pallett:	90
7.1.10 Deputy K.C. Lewis:.....	92
7.1.11 Deputy G.J. Truscott of St. Brelade:	93
7.1.12 Senator T.A. Vallois:.....	93
8. Draft International Co-operation (Protection from Liability) (Jersey) Law 201- (P.54/2018).....	95
8.1 The Connétable of St. Ouen (Assistant Chief Minister - rapporteur):.....	95
8.1.1 Senator K.L. Moore:	96
8.1.2 Deputy J.H. Young:	96
8.1.3 Deputy K.F. Morel:.....	97
8.1.4 The Connétable of St. Ouen:.....	97
9. Draft The Law Society of Jersey (Amendment No. 4) Law 2017 (Appointed Day) Act 201- (P.58/2018).....	99
9.1 The Connétable of St. John (Assistant Chief Minister - rapporteur):	99
10. Draft Companies (Demerger) (Jersey) Regulations 201- (P.59/2018).....	99
10.1 The Connétable of St. Ouen (Assistant Chief Minister - Rapporteur):.....	100
10.1.1 Deputy K.F. Morel:	101
10.1.2 Deputy G.P. Southern:	101
10.1.3 Deputy S.M. Wickenden:	101
10.1.4 Deputy D. Johnson of St. Mary:.....	102
10.1.5 The Connétable of St. Ouen:	102

10.2	The Connétable of St. Ouen:.....	102
10.2.1	Deputy J.H. Young:.....	102
10.3	The Connétable of St. Ouen:.....	103
11.	Draft Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 12) (Jersey) Regulations 201- (P.69/2018).....	105
11.1	The Connétable of St. Ouen (Assistant Chief Minister - rapporteur):.....	105
11.1.1	Deputy G.P. Southern:	105
11.1.2	The Connétable of St. Ouen:	106
12.	States of Jersey Development Company Limited: re-appointment of Non-Executive Directors (P.72/2018)	108
12.1	Deputy S.J. Pinel (The Minister for Treasury and Resources):	108
12.1.1	Deputy K.F. Morel:	109
12.1.2	The Connétable of St. Brelade:	109
12.1.3	Senator S.C. Ferguson:	109
12.1.4	Deputy R.J. Ward:	109
12.1.5	Deputy G.P. Southern:	109
12.1.6	Senator S.W. Pallett:	110
12.1.7	Deputy S.J. Pinel:	110
13.	Draft Income Support (Amendment No. 18) (Jersey) Regulations 201- (P.73/2018) 111	
13.1	Deputy J.A. Martin (The Minister for Social Security):.....	111
13.1.1	Deputy G.P. Southern:	112
13.1.2	Deputy J.A. Martin:.....	112
14.	Draft Proceeds of Crime (Amendment No. 3) (Jersey) Law 201- (P75/2018)	115
14.1	The Connétable of St. Ouen (Assistant Chief Minister - rapporteur):.....	115
15.	Draft Referendum (Presidency of States Assembly) (Jersey) Act 201- (P.76/2018) ..	116
15.1	Deputy R. Labey (Chairman, Privileges and Procedures Committee):	116
15.2.	Draft Referendum (Presidency of States Assembly) (Jersey) Act 201- (P.76/2018): amendment (P.76/2018 Amd.)	117
15.2.1	The Connétable of St. Lawrence (Chairman, Comité des Connétables):.....	117
15.2.2	Deputy M. Tadier:	118
15.2.3	Deputy J.M. Maçon:	119
15.2.4	Deputy S.M. Wickenden:	119
15.2.5	Senator S.C. Ferguson:	120
15.2.6	Deputy R.J. Ward:	120
15.2.7	The Connétable of St. John:	120
15.2.8	Deputy M. Tadier:	121
15.2.9	Connétable L. Norman of St. Clement:.....	121
15.2.10	Senator S.Y. Mézec:.....	121
	Mr. M.H. Temple Q.C., H.M. Solicitor General:	123
	Deputy J.H. Young:.....	123
15.2.11	The Connétable of St. Saviour:	123
15.2.12	The Connétable of St. Martin:.....	124
15.2.13	Deputy L.M.C. Doublet:	125
15.2.14	Deputy J.A. Martin:	125
15.2.15	Deputy K.F. Morel:	125

15.2.16	Deputy L.B.E. Ash:.....	126
15.2.17	Deputy K.G. Pamplin:.....	126
15.2.18	Deputy J.H. Young:	127
15.2.19	The Connétable of St. Ouen:.....	127
15.2.20	Deputy G.C. Guida of St. Lawrence:	127
15.2.21	Deputy G.P. Southern:	128
15.2.22	The Connétable of St. Helier:	128
15.2.23	The Connétable of St. Brelade:	128

15.3 Draft Referendum (Presidency of States Assembly) (Jersey) Act 201- (P.76/2018) - as amended..... 130

15.3.1	Deputy J.M. Maçon:.....	131
15.3.2	The Connétable of St. Helier:.....	131
15.3.3	Deputy S.M. Wickenden:	132
15.3.4	Deputy J.H. Perchard:	132
15.3.5	Senator S.Y. Mézec:.....	133
15.3.6	Deputy G.C. Guida:.....	134
15.3.7	Deputy K.F. Morel:	134
15.3.8	Deputy M. Tadier:	135
15.3.9	The Connétable of St. John:	137
15.3.10	Deputy R.J. Renouf:.....	139
15.3.11	Deputy R.J. Ward:.....	140
15.3.12	Deputy G.P. Southern:	140
15.3.13	Deputy J.H. Young:	141
15.3.14	The Deputy of St. Peter:.....	141
15.3.15	Deputy T. Pointon of St. John:.....	141
15.3.16	Senator S.C. Ferguson:.....	142
15.3.17	Deputy R. Labey:	143

ADJOURNMENT..... 145

[9:30]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

1. Ruling in relation to the asking of questions to Ministers

The Deputy Bailiff:

The Bailiff has asked that the following ruling in relation to questions to Ministers be brought to the attention of Members. Members will hopefully have a copy of that written in front of them, which should have been handed around a short while ago. The ruling is this: although there may have been exceptions in the past, a convention has arisen in which Ministers do not ask questions of other Ministers in written or oral questions. Nor do Assistant Ministers ask questions of their own Minister. There are good reasons for such a convention, which include the purpose of formal questions in the Assembly and Standing Orders is to seek information, or seek official action. Both these purposes are directly achievable by Ministers by direct interaction with ministerial colleagues, or in the Council of Ministers and by Assistant Ministers by direct interaction with their Ministers. Furthermore, Assistant Ministers are able to obtain information directly from the civil servants in their department. Question time is also an important parliamentary tool in holding Ministers, and thus Assistant Ministers, to account. If Ministers are permitted to ask questions of Ministers, that practice will reduce the time available to Members, who are not Ministers, or Assistant Ministers, as the case may be, to hold Ministers specifically and the Government, in general, to account. Indeed, it would theoretically be possible to load the time available for oral questions with questions posed by Ministers, which would prejudice the ordinary scrutiny of Government and Ministers by non-Executive Members. It is also to be noted that the recent changes to the States of Jersey Law, albeit not yet in force, would also suggest that such questions are inappropriate. Under the new legislation, Ministers are part of a single Government of the Island and presumably, as members of the corporation aggregate, either have the information already, or are able to obtain information directly from ministerial colleagues. The Bailiff believes the matter should receive consideration by P.P.C. (Privileges and Procedure Committee), in consultation with the Chief Minister, but in the interim proposes to act in and conduct approval of questions in question time in accordance with that established convention. Accordingly, the ruling of the Bailiff is that until such time as Standing Orders are amended explicitly to permit them to do so, Ministers may not ask questions of other Ministers and Assistant Ministers may not ask questions of their own Minister. **[Approbation]**

QUESTIONS

2. Written Questions

2.1 THE CONNÉTABLE OF GROUVILLE OF THE MINISTER FOR INFRASTRUCTURE REGARDING ROAD SAFETY PROJECTS AGREED BY THE ROAD SAFETY REVIEW PANEL: [WQ. 100/2018]

Question

Will the Minister provide a list of current road safety projects, including pedestrian crossings, that have been agreed by the Road Safety Review Panel and the proposed time frame by which each will be delivered; and will he include in the answer the location of each project and the likely cost of each one?

Answer

Before proceeding to the answer to the question, it is important to set out the context as to how road safety requests are analysed and assessed by the ‘Road Safety Review Panel’. This process was presented at a briefing led by the previous Minister in February of this year for States Members and Parish Authorities. The event will be re-run for the benefit of new members and those who were unable to attend.

All road safety requests received, whether from individuals, local campaign groups, Parish Authorities or States Members, are reviewed at a monthly meeting by a professional panel of qualified engineers trained and experienced in road safety using an evidence-led approach. Factors such as traffic data, accident history, road geometry, accessibility and use by vulnerable road users, such as the elderly, young and infirm, are considered.

The appropriate response to the safety issues raised do not always involve highway engineering, often it can be more effective to use enforcement or education. In these instances, the request will be taken forward collaboratively to the Police, Road Safety Officer, the Parish or DVS to act.

Regardless of the response, the requester is kept informed of the progress of their enquiry throughout the process and whether any action is being taken forward. Those requests that merit further engineering consideration are moved onto a list for detailed investigation and feasibility assessment.

The timescales required to investigate, develop an engineering proposal, undertake the necessary road safety audit process, consult stakeholders and, if appropriate, obtain land and planning consent and move the project from procurement to implementation, in coordination with works on the roads, is generally at least a year.

Given that the Road Safety Review Panel receives between ten and fifteen requests per month, it has, of course, to also prioritise its investigations and make recommendations to the Minister on priority for projects. More than 175 requests have been reviewed since the beginning of 2017.

When schemes are added to the list they are prioritised and given an indicative timescale. Where schemes are given a high priority this may change the timescale for schemes of lower priority already on the list, which need to be delayed so the high priority scheme can be included.

For this reason, development of the programme is a continuum, works are continually added and reprioritised as requests are received and road accident statistics reviewed.

The funding for 2018 has been committed to the following schemes, which are in the process of being delivered:

Scheme	Description	Estimated Budget	Implementation
Longueville Road Improvements	Junction and crossing improvement scheme	£250k	2018
Speed Limits Signage	Speed Limit Review	£30k	2018

SSSAP ¹ - Bagatelle Lane	Virtual footpath and junction improvements	£250k	Under development with Parish for 2019
SSSAP - Grainville Cycle Track	Path adjacent to Deloraine Road	£50k	2018
SSSAP - Part-Time 20mph	Extend part time 20mph limits near schools	£40k	2018
La Neuve Route, St Peter	Junction improvements.	£130k	Develop scheme with Parish for 2019
La Moye Safe Routes to School and Le Creux facilities	Les Creux / La Moye Crossings development	£60k (requires additional funding 2019)	Scope and cost under review 2019
Crossing on Gorey Coast Road at Margaret Terrace (Welcome Slip)	Improved crossing facility	£70k	Combine with resurfacing project in 2019
Janvrin Road Pelican / Zebra	Formal crossing near Springfield Stadium	£50k	2018
Route du Fort Pedestrian Refuge	Island at Cleveland Road junction	£25k	2018
WCR ² - Improved signage and segregation between pedestrians and cyclists	Sea Front sections	£50k	2018
WCR - Improved Crossing at Pont Marquet	Improved Crossing facility	£70k	Consultation Required 2018
Harbour cycle ways	Continue 2017 Scheme	£300k	Autumn 2018
Grande Route de St Pierre / Mont Fallu Junction	New bus stop and junction visibility improvements	£100k	Timing subject to developers planning permission Autumn 2018

¹ St Saviours Schools Action Plan

² Western Cycle Route

Bus Shelters	Provide additional bus shelters	£40k	Ongoing 2018
West Park Bus Improvements	Improved waiting facilities	£70	2018

The schemes highlighted in green are schemes that originated from external requests to the Road Safety Review Panel. The remaining schemes originate from ongoing work to deliver the Sustainable Transport Policy and the Road Safety Action Plan.

The intention is to deliver the projects within the calendar year. However while funded in 2018 some schemes will need to be delivered over the 2018/19 period, with the capital being carried over as provided for by States Financial Directions. This can be due to many factors, such as the need to combine budgets, waiting for land transactions to be completed or awaiting third party planning permissions, where the improvement is dependent upon an adjacent development site proceeding.

Necessarily, the 2019 programme remains under development. However, examples of the types of scheme that already have a place in this programme include the delivery of the La Moye / Le Creux crossings, Longbeach Crossing at AA box, the St Aubin's Road / Bellozanne Road Crossing, St Ouen's Village crossing improvements and St Helier accessibility improvements.

2.2 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOUSING REGARDING A REVIEW OF THE CURRENT HOUSING QUALIFICATIONS: [WQ. 101/2018]

Question

Will the Minister explain –

- (a) what consideration, if any, was given to reviewing the current housing qualifications (in particular for the rental sector) during the term of the previous Minister;
- (b) if it was not reviewed, why this was not included in any such review; and
- (c) what plans the Minister has to review the rationale, effectiveness and fairness of the current housing rules?

Answer

The former Minister for Housing identified the need to address the current system of housing qualifications in the 2016 Housing Strategy.

The Minister was, in particular, concerned about the affordability, standard and security of accommodation for households with 'Registered' residential status, and the housing needs of key workers.

The Minister, therefore, commissioned the Objective Assessment of Housing Need Report ('OAHNR') to determine Jersey's future housing requirements across all categories of tenure for the period 2021 to 2030 – this includes both non-qualified and key worker accommodation.

When the OAHNR is published this autumn, it will help to inform policy development in these areas.

The commitment to address the housing needs of non-qualified residents will also be considered as part of the Migration Policy (P.70/2018). This includes a proposal to review how policies affecting new migrants and their children, such as access to services and housing, could be changed in order

to deliver greater consistency across services, enhance social inclusion and improve community integration.

The Migration Policy is currently scheduled for debate by the States Assembly in September and, if adopted, the outcomes of the review will be published in 2019.

The new Minister for Housing fully supports this work and is committed to improving the fairness and the effectiveness of the rules governing residential qualifications, particularly in relation to access to housing.

It should be noted however that any decisions regarding the present system of housing qualifications is a matter that is the responsibility of the Chief Minister and would need to be considered following wider consultation with the Housing and Work Advisory Group and the Council of Ministers.

2.3 SENATOR S.Y. MÉZEC OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING THE REVIEW OF THE HONORARY POLICE: [WQ. 102/2018]

Question

Further to the response to my oral question at the last States sitting (OQ.73/2018), in which the Chairman referred to a workshop being held on 14th July 2018 to begin reviewing the Honorary Police, will she confirm the following details –

- (a) when it was decided to hold this workshop;
- (b) who has been invited;
- (c) what specific subject areas will be covered;
- (d) how contributions made at the workshop will be recorded;
- (e) whether the findings of the workshop will be reported on, and if so, to whom; and

will the Chairman commit to holding more public workshops / consultation to obtain the views of others who may not have been invited to the first workshop?

Answer

The oral question on 26 June 2018 (OQ.73/2018) asked whether I would commit to holding a review of the honorary system to determine what can be done to improve recruitment to the Honorary Police and secure its future as an important part of our community. Certainly all suggestions to strengthen the Honorary Police and to improve their effectiveness are to be welcomed and will be considered. But the Honorary system as a whole is not under review. It is a community organisation which, like the parish system, is at the heart of island life. The contribution made by the Honorary Police to the delivery of local justice is essential and has been praised by independent reviews.

For example, the 2002 Review of Criminal Justice Policy in Jersey by Andrew Rutherford said in its conclusions and recommendations:

“The Parish Hall Enquiry is one of the most remarkable institutions to have evolved on the Island. It has no close parallel elsewhere. Long pre-dating the formal criminal justice process, the Parish Hall Enquiry developed as a core ingredient of the honorary police service. The Parish Hall Enquiry, in modern parlance, seeks the localised resolution of criminal events outside the formal process.”

Similar remarks were made in the 2008 Report of the Howard League for Penal Reform, which conducted a review of the Jersey youth justice system. The Howard League said:

“5.16 We were able to observe a PHE in action. We saw four young people dealt with through this system, none of whom were referred for prosecution. The enquiry was held in an exemplary manner with an excellent balance of firmness, combined with a friendly sensitivity to the circumstances of the young person and their family, and the circumstances leading to the offence.

5.17 In general terms we believe the PHE is an excellent method of dealing with children and young people in trouble with the law, and clearly has the potential for diverting the great majority of children away from the youth justice system, in a positive and constructive manner. We agree with Rutherford that the rôle of the Centenier “in appropriately diverting cases away from the criminal justice process, is one that should be consolidated.”

Furthermore the powers of the Centenier both at the Parish Hall and to present cases in the Magistrates Court were scrutinised by this Assembly as recently as this year and confirmed in Articles 12 and 23 of the draft Criminal Procedure (Jersey) Law passed in March 2018, which is now waiting for Royal Assent.

I mentioned that the workshop being held on 14 July 2018 would include considering recruitment to the Honorary Police and the involvement of the wider community in its work.

The workshop was first mentioned in this Assembly on 7 June 2018 by the Minister for Home Affairs when answering questions on his appointment. The Minister explained the workshop would include a discussion of ways of improving the relationship between the States of Jersey Police and the Honorary Police.

In relation to the specific questions:

- (a) The suggestion of a joint meeting to ensure that the Honorary Police are prepared for current and future challenges was first raised by H M Attorney General at a meeting of the Comité des Chefs de Police on 19 February 2018 and, at the meeting held on 16 April 2018, it was decided to hold a ‘workshop’.
- (b) The Comité des Chefs de Police is organising the workshop and has invited H M Attorney General to chair the event, which the Chefs de Police and the Deputy Chief Officer of the States of Jersey Police will attend. That Comité has also invited representatives of the Comité des Connétables and the President and Vice Presidents of the Honorary Police Association to attend.
- (c) The agenda has not yet been finalised but it is proposed to cover a range of strategic and operational policing matters. Examples of the subject areas are:
 - communications and the use of technology
 - checks of licensed premises
 - traffic and patrols
 - recruitment and training
 - policing of events, community policing and joint patrols.
- (d) For each subject area it is anticipated there will be a brief explanation of the current policing approach of each of the Honorary Police and the States of Jersey Police followed by discussion with a view to identifying any areas for improvement. A written record will be prepared to summarise the discussion.
- (e) Proposals and suggestions arising from the workshop may require further action such as a change to operational policing arrangements or, perhaps, to legislation. Depending upon the outcome the findings are therefore likely to be reported to other bodies or groups. Any legislative changes would need to be considered by the States Assembly.

Accordingly, the focus of this workshop is operational policing and how this is delivered by the Honorary Police of each parish and by States of Jersey Police. Whilst there are no plans, at this time, to hold public workshops, members of the public may, at any time, contact the Chef de Police of their parish or the Jersey Police Authority/States of Jersey Police about operational policing issues. All suggestions designed to improve arrangements are welcome. Each Connétable is responsible for the efficient and effective policing of his/her parish and parishioners are always welcome to raise with us any issues, suggestions or concerns relating to the Honorary Police of their parish.

I will also arrange a briefing for States members on the Honorary Police, which is a unique system and an important part of our community. I also believe we can do more to ensure the wider community is aware of the huge contribution made by the Honorary Police.

2.4 SENATOR S.Y. MÉZEC OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING PEOPLE WHO HAVE BEEN PERMITTED TO VOTE AT AN ELECTION DESPITE NOT BEING ON THE ELECTORAL REGISTER: [WQ. 103/2018]

Question

Further to my written question at the last States sitting on the accuracy of the electoral registers (WQ.87/2018), in which it was revealed that 77 voters who were not on the electoral register (due to an administrative error) had been permitted to vote in the recent elections, will the Chairman request the following information from the Judicial Greffier –

- (a) a breakdown by Parish of the people who were permitted to vote despite not being on the electoral register;
- (b) a comparison with the previous 5 elections on the total number of people permitted to vote after such an administrative error had been proven;
- (c) a breakdown of the number of voters who claimed they were not on the register due to an administrative error but who were either unable to prove it or who indicated they would not challenge the position because of any inconvenience it would cause to them; and
- (d) an explanation of how such administrative errors can happen?

Answer

(a) and (b) ‘administrative errors’ by parish for 2018 and the previous 5 elections for Senator:

Parishes	2008	2010	2011	2014	2016	2018
St Brelade	14	7	3	5	0	5
St Clement	9	0	1	1	0	2
Grouville	0	2	2	5	3	2
St Helier	19	10	20	7	31	28
St John	1	0	4	4	3	1
St Lawrence	0	2	3	5	1	11

St Martin	4	0	2	1	2	1
St Mary	2	0	3	11	2	2
St Ouen	9	0	1	0	0	2
St Peter	1	0	0	4	0	2
St Saviour	5	3	4	1	0	14
Trinity	0	0	1	0	1	7
TOTAL	64	24	44	44	43	77

(c) No record is kept of those who claim they are not on the register due to an administrative error but whose names are not added to the register. The decision to refuse to add a name is only taken after an examination of the relevant application form(s), if any, to show that the person has not made an application.

An ‘application form’ in the form of the ‘annual statement’ is sent each year to every unit of dwelling accommodation in accordance with Article 7 of the Public Elections (Jersey) Law 2002. It is the duty of each person ordinarily resident in that unit of dwelling accommodation to check that the statement lists the names of all persons who are eligible as an elector and to sign and return the statement to the Parish. The annual statements were last sent out in autumn 2017 for return by 1 December 2017.

Every unit of dwelling accommodation also received, in March 2018, a ‘Notice of Registered Voters’ in accordance with Article 7A of the law. The notice contained the names of the persons (if any) whose names were included in respect of that unit of dwelling accommodation on the electoral register for the electoral district; and explained where and how to inspect the electoral register and when a person is entitled to be registered and how to register.

A person may apply to register as an elector at any time if they meet the eligibility criteria set out in the law. An application may be made using the paper or online forms.

(d) Article 3 of the Public Elections (Jersey) Law 2002 permits a person to vote if the person’s name does not appear on the electoral register or supplementary electoral register (if any) for that district, but the *Autorisé* (or *Adjoint*) in charge of the polling station is satisfied –

- from a declaration by the person in such form as the States may prescribe by Regulations; and
 - after consulting the electoral administrator or such other officer, or such employee, of the relevant parish as he or she considers appropriate,
- that the name has been omitted from the register as a result of administrative error.

The person must therefore have made an application to register as an elector on or before the date at which the electoral register, or the supplementary register (if any), closes for a particular election. The person must also be eligible to have his or her name added to the electoral register for the electoral district.

An error can arise where an application has been received but the elector’s name has not been added to the register, for example –

- i. an elector's name is omitted by mistake though it is listed on an application form, or
- ii. evidence is received to show that the application was delivered by the closing date though a Parish had initially considered it not to have been received by the deadline.

2.5 SENATOR S.Y. MÉZEC OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING THE BREAKDOWN BY GENDER OF MEMBERSHIP OF THE PARISH ROADS COMMITTEES: [WQ. 104/2018]

Question

Further to the response to Written Question 42/2018, will the Chairman provide an updated breakdown by gender of who currently serves as elected members of the Parish Roads Committees; and will she also provide a further breakdown by gender of who has served in this capacity over the last 20 years?

Answer

WQ.42/2018 asked for the number of women members on the Parish Roads Committees across the 12 Parishes.

This question asks for the breakdown by gender of the current elected members of those Committees. This response therefore relates to the 'principals' who are elected by each Parish Assembly.

The Parishes do not request the gender of those nominated for office at a Parish Assembly but, from the titles and names used by those elected, the breakdown is as follows:

- a) Current elected members by gender – all male.
- b) Elected members by gender over the last 20 years (July 1998 – June 2018) – all male.

For information: the Parish Roads Committee membership is set out in the Loi (1914) sur la Voirie:

- St Helier Roads Committee is the Connétable, Rector and 5 principals of the parish
- In the other 11 parishes the Roads Committee is the Connétable, Rector and 3 principals of the parish.

2.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION REGARDING THE PROVISION OF EARLY YEARS LITERACY SCHEMES: [WQ. 105/2018]

Question

Further to her response to Written Question 92/2018, in which the Minister stated that "*it was decided investment would be better utilised to develop alternative provision [to the Jersey Early Learning Literacy Years clubs]*", will the Minister explain –

- (a) whether this means that the two schemes ('Making it REAL' and 'Triple P') used to run alongside the J.E.L.L.Y. clubs initiative, or were both replacements for those clubs;
- (b) what funding has been allocated annually for these early literacy schemes since the commitment by the previous Council of Ministers to the 1,001 Days Programme;
- (c) how much was spent in particular on engaging parents with children between 6 months and 3 years of age, those of nursery age (3 to 5 years) and those at school (5 years plus) and how many parents were involved;
- (d) to what extent delivery of these schemes takes place in schools (rather than other settings), especially when directed at Jersey Pupil Premium children;
- (e) to what degree the principles of J.E.L.L.Y. clubs and those of 'Making it REAL' are shared;
- (f) what evidence is used to measure the success of these schemes; and

(g) what a “*population level approach to supporting parents*” is?

Answer

- (a) REAL was not implemented as a replacement for the J.E.L.L.Y. clubs initiative. Both initiatives did run alongside each other for a period of time. Since the introduction of REAL, the initiative has been expanded to include REAL for Parents and Making Maths REAL and its reach is far greater than the J.E.L.L.Y. clubs initiative. Further training is being made available in September 2018 for any school not already benefiting. Triple P is also not a replacement for J.E.L.L.Y. clubs but focuses on a range of common areas parents often ask for support with, including managing behaviour, promoting resilience and reducing family conflict.
- (b) There was no central funding allocated for J.E.L.L.Y. clubs. Funding was derived from income generation through charging to parents and schools. For the REAL programme resources have been prioritised by the Education Department to commit staffing to support the joint delivery of training with the National Children’s Bureau. The REAL initiative is part of the Early Childhood Development Programme funded by UBS Optimus Foundation and delivered through their implementation partner the National Children’s Bureau. In addition to REAL, further early literacy initiatives are supported by the Department, for example Wellcomm Tool Kits (a scanning and screen tool for identifying early language and literacy needs) for use in private sector nurseries. Schools are able to use Jersey Premium funding to purchase these resource packs. These packs cost £350 and to date 13 have been purchased. It is not possible to provide actual staffing costs from the department who support these programmes as budgets are not defined in this way.
- (c) Costs for the Triple P parenting programme included a one-off set up cost of £137,000 in 2017. This paid for the necessary resources, training, consultation and support to begin delivery and roll-out. Ongoing costs for the delivery of the Triple P programme have been absorbed into current staffing budgets. This programme is delivered to parents with children aged 0-19 years and has worked with over 340 parents. It is not been possible to break this down by the age groups requested. The programme costs for REAL are funded by the UBS Optimus Foundation and are supported through current staffing budgets. This programme is delivered to 735 children, 611 parents and delivered over 28 settings. The programme is delivered to 3-5 year olds in the nursery and reception year.
- (d) Triple P is delivered in collaboration with schools and predominantly in school settings. REAL has been offered to all schools and private sector nurseries. If an early literacy initiative is funded by the school’s Jersey Premium funding then this will be delivered in the school.
- (e) Both programmes use the ORIM framework as guiding principles with a view to achieving co-production between parents/practitioners and recognising parents as partners in learning. ORIM stands for opportunities, recognition, interaction and model and uses the strands of early literacy, early writing, environmental print, books and oral language.
- (f) REAL is measured by participation rates, practitioner evaluation, parent feedback and confidence levels, levels of engagement, the number of practitioners trained, the number of REAL champions trained, the number of parents attending and the number of new library members. Further measurement is done through data analysis of our profile data in early years within the three prime areas of learning: communication and language; personal social and emotional development; and physical development. These are key indicators of children’s further learning capacity. Triple P is an evidenced based programme and success is measured through various evidenced based tools for example Strengths and Difficulties Questionnaires [SDQs].
- (g) A ‘population approach’ to parenting means an approach to reaching as many parents as possible with messages about positive parenting. By offering a range of different levels of parenting support including one off seminars, one to one work and in-depth group programs, more parents

are able to access these programmes. Research indicates through a broad approach more parents will be reached, reducing stigma and enabling all those who need support to be included.

2.7 DEPUTY OF ST. PETER OF THE CHAIRMAN OF THE STATES EMPLOYMENT BOARD REGARDING LOCAL RECRUITMENT TO STATES OF JERSEY JOBS: [WQ. 106/2018]

Question

What process, if any, is in place to ensure that all States job vacancies are filled locally before they are advertised in the U.K. and elsewhere; what checks and balances are in place to ensure that such a local search has been done thoroughly; and what is the Chairman's assessment of the robustness of this process?

Answer

Where possible, we should seek to resource our public service locally, but the States of Jersey has a longstanding approach of securing specialist and senior resource from outside Jersey where necessary. The private sector operates on a similar basis.

In particular, given the complexity of some senior roles in front line departments, the importance of quicker improvement in areas such as mental health services, and the urgent need to boost capability and take action in critical areas, the appointment of experts from the UK is necessary, in order to protect and improve services to Islanders. This is also the case in areas such as the recruitment of nurses, doctors, teachers and social workers from overseas.

At the same time, as an employer we need to invest in developing the skills of established residents in all these areas, and support career progression in our public service.

As to the robustness of processes, all senior appointments, whether permanent or temporary, have been made in accordance with States Employment Board policy and overseen by the Jersey Appointments Commission. The States Employment Board receives half yearly briefings from the Chair of the Jersey Appointments Commission, and the Commissions annual report of its activities and quality assurance role is lodged with the States. A link is provided to explain its role more fully.

<https://www.gov.je/government/departments/chiefministers/chiefministerssections/jerseyappointmentscommission/Pages/index.aspx>

An early meeting is being arranged between the Chair of the SEB and the Jersey Appointments Commission as part of the new Boards induction.

As the new Chair, I will raise this issue, so we can support local appointments in our public services, and training, wherever possible and appropriate.

2.8 DEPUTY R.J. WARD OF ST. HELIER OF THE MINISTER FOR EDUCATION REGARDING THE USE OF CONSULTANTS BY THE DEPARTMENT OF EDUCATION: [WQ. 107/2018] The answer to this question was reissued following a ruling by the Deputy Bailiff under Standing Order 12.

Question

Will the Minister advise –

- (a) how much has been spent on education consultants since January 2015 by her Department;
- (b) what the breakdown is of spend on individual consultants;

- (c) how the effectiveness of this spend is monitored;
- (d) what the projected spend on consultants is for the coming 2 academic years; and
- (e) what process is used to determine the suitability of employment of such consultants?

Answer

(a) & (b)

All consultancy costs incurred by the Education Department have been included below. The definition used to determine consultancy costs is taken from the document “Guidance on Accounting for Consultants” and is referred to in “Financial Direction 5.6 - Management of Consultants”.

The use of this definition of consultancy is consistent with a previously answered States written question on this matter by the then Deputy of St John to the Chief Minister on 8th March 2016 (1240/5).

Year	Service Area	Consultant	£
2015	Highlands	Sara Mogel	5,985.15
2015	Highlands	Sally Cracknell	3,676.97
2015	Highlands	Ian Rimmington	4,650.49
2015	Highlands	AA Projects	1,565.55
2015	Lifelong Learning	David Andrews	1,556.40
2015	Total		17,434.56

Year	Service Area	Consultant	£
2016	Highlands	Frier Associates	1,074.06
2016	Highlands	Longhouse Business Services / Sara Mogel	8,938.06
2016	Highlands	Ian Rimmington	144.06
2016	Highlands	Moorfield Business Services	3,345.99
2016	Highlands	AA Projects	3,660.00
2016	Total		17,162.17

Year	Service Area	Consultant	£
2017	Highlands	FE Associates	1,549.92
2017	Highlands	Ian Rimmington	683.14
2017	Highlands	Robert Sibley	489.96
2017	Highlands	Longhouse Business Services / Sara Mogel	6,179.89
2017	Highlands	Moorfield Business Services	4,556.99
2017	Highlands	AA Projects	20,553.72

2017	Lifelong Learning	University of Exeter	20,425.00
2017	Lifelong Learning	TCB Consulting	420.03
2017	Total		54,858.65

- (c) There is no set department method for assessing the effectiveness of consultants employed across the different areas of the Education Department. The effectiveness of consultants and their suitability for future engagement is delegated to line managers who have the appropriate budget responsibility and authority to engage such consultants. Expenditure is monitored by the Finance Team with regular meetings held with budget holders.
- (d) The projected spend on consultants for the next two years has not been calculated at this time.
- (e) There is no set process used in the department to assess the suitability of consultants employed across the different areas of the Education Department. This is delegated to line managers who have the appropriate budget responsibility and authority to engage such consultants.

2.9 DEPUTY R.J. WARD OF ST. HELIER OF THE MINISTER FOR EDUCATION REGARDING THE OUTSOURCING OF SERVICES BY THE DEPARTMENT OF EDUCATION: [WQ. 108/2018]

Question

Will the Minister advise –

- (a) what services of the Department of Education, if any, were outsourced during the last term of the States and to which companies;
- (b) what savings were made, if any, in each tranche of outsourcing;
- (c) how much of any such savings were dependent on a reduction in wages or staffing levels, or a change in working terms and conditions; and
- (d) how many of these outsourced contracts involved the use of zero-hours contracts?

Answer

- a) No services of the Education Department were outsourced by the Education Department during the last term of the States.
- b) No Services were outsourced so this answer is £0
- c) No Services were outsourced so this answer is £0
- d) Not applicable.

2.10 DEPUTY R.J. WARD OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE HORIZON DEVELOPMENT AT THE WATERFRONT: [WQ. 109/2018]

Question

Given that the Horizon development at the Waterfront is currently advertising that 70% of the first phase is sold, will the Minister, as shareholder representative, state –

- (a) the proportion of these sales which have gone to buy-to-let purchasers;
- (b) how many of the sales are to off-Island individuals or company investors;
- (c) what the Government's definition of affordable housing is and, on that basis, how many of the homes for sale would be considered affordable housing?

Answer

Information provided by the States of Jersey Development Company (SoJDC) in respect of parts (a) and (b) is as follows:-

- a) 84 of the 108 units in phase 1 and 18 of the 88 units in phase 2 have now been pre-sold in the Horizon development. A total of 66 units have been sold to buy-to-let investors (just under 65 per cent of the number of units sold).
- b) Of the 102 units sold, only 3 have been pre-sold to off-island individuals to date. There have been 6 purchases made by Companies, all of whom are locally qualified (Entitled or Licensed).

In respect of part (c):-

The Government's definition of 'affordable housing' is set out in the revised 2011 Island Plan. It is defined as residential accommodation that meets the needs of persons with a median income or below who would otherwise experience financial difficulties renting or purchasing in the open market. Any units of accommodation should be made available to eligible households registered on the Affordable Housing Gateway and remain designated as affordable housing in perpetuity.

As the Horizon development was not identified in the revised 2011 Island Plan as an affordable 'Category A' housing site, no units of affordable housing will be delivered on the site that meet the Government's definition.

SoJDC advise that they are, however, offering an incentive to First Time Buyers by allowing such purchasers to pay the required 10% pre-sale deposit over the period of the build rather than upfront.

2.11 DEPUTY R.J. WARD OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE FUNDING OF PUBLIC SECTOR PAY AWARDS FOR 2018: [WQ. 110/2018]

Question

Given that public sector pay awards for 2018 were due in January 2018, will the Minister advise –

- (a) what funding has been made available for these awards;
- (b) what income has been earned from monies put aside for pay increases, given the repeated late pay awards in preceding years;
- (c) what pay offer has been made to workers' representatives for 2018; and
- (d) when it is envisaged that the 2018 pay award will be made?

Answer

- a) A provision was made in Central Contingency of £12.293 million for Pay and Workforce Modernisation. From this, £4,766,784 was allocated by public ministerial decision in MD-TR-2018-0090 to Departments for the recurring effect of the 2017 pay award. All pay awards for 2016-2019 have to be funded from within the total expenditures limits agreed by the States. This funding provided for a programme of workforce modernisation and pay restraint consistent with the delivery of £77 million of efficiencies and savings required to deliver balanced budgets.

- b) The balance on the States Consolidated Fund, its “current account”, is invested according to the agreed investment strategy. However, any investment returns additional to those forecast or budgeted for do not increase the funds available for this MTFP period.
- c) A pay, terms and conditions of service offer for 2018/2019 has been provided to Nurses and Midwives. Discussions around a potential 2018/2019 pay agreement are ongoing with other Unions.
- d) Unions have been advised that firm offers will be made for the 2018/2019 pay review soon after the States Employment Board meet to discuss public sector pay. The first meeting of the new Board is scheduled for Monday 23 July 2018.

2.12 DEPUTY C.S. ALVES OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING TENANTS UNDER-OCCUPYING THE PROPERTIES IN WHICH THEY LIVE: [WQ. 111/2018]

Question

Will the Minister indicate how many tenants currently live in properties which have more bedrooms than are required to meet their needs?

What percentage of those tenants would see their rent increase if they moved to a property with fewer bedrooms, due to the new contract they would have to sign?

Answer

Andium Homes and the housing trusts do not record figures in relation to the number of their tenants who live in properties with more bedrooms than are required to meet their needs (under-occupation). However, the Affordable Housing Gateway waiting list shows that there are currently 128 activate applications from households who wish to downsize to alternative accommodation.

Where a household receives assistance with its rent through Income Support, the household is required to notify Income Support as soon as its composition changes. This might arise, for example, where an adult child has moved out. When this happens, the household is put in contact with the Housing Gateway and given up to twelve months to find a new property.

If the household has chosen not to move in that time, the element of Income Support that goes towards its rent is reduced. If the household is unable to access a suitable property, perhaps because a member of the household requires a property adapted for disabilities, the twelve month period can be extended.

It is not possible to say what percentage of existing tenants registered on the Housing Gateway waiting list would see an increase in their rents if they were to move to a property with fewer bedrooms.

The rent that a tenant is required to pay will be set in line with social housing rental policy agreed by the States in 2013. This sets the rent at 90% of the market value of the property which takes account of factors such as the size, location and condition of the property to which they move.

Tenants who are in receipt of Income Support will not be affected by any change in their rents when they downsize. The housing component of Income Support for social rented accommodation is set according to the rent charged by a social housing provider, which must comply with the 90% rents policy. The full cost of a tenant’s rent will, therefore, be met through Income Support irrespective of whether or not a tenant’s rent increases or decreases when he or she downsizes.

Andium Homes has confirmed that, over the last 18 months, of the 18 households who have downsized to smaller properties during this period, none would have seen a change in the contribution

towards their rent, either because they are in full or partial receipt of Income Support or because the rent on the property is lower.

The Minister for Housing recognises that there is an opportunity to review the current rents policy in order to ensure that it remains an effective policy.

2.13 DEPUTY C.S. ALVES OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING ACCESS TO PERSONAL MEDICAL RECORDS: [WQ. 112/2018]

Question

Will the Minister advise, with regard to access to personal medical records –

- (a) how many requests have been received from individuals for the audit trail of access to their medical records since January 2008;
- (b) how many requests have been approved;
- (c) how long it took in each case for the applicant to be provided with the requested information; and
- (d) if a request was refused, the reasons for the refusal?

Answer

a)

Year	Number of requests for access to audit trail of medical records	Comments
2018 (to 04/07)	0	
2017	0	One request for audit trail of access to GP record and information system referred to applicant's GP Surgery
2016	0	One request for details of those information was/is shared with
2015	1	One request for details relating to access to the TrakCare information system
2014	Information not held	Records of requests destroyed in line with retention schedules
2013	Information not held	Records of requests destroyed in line with retention schedules
2012	Information not held	Records of requests destroyed in line with retention schedules
2011	Information not held	Records of requests destroyed in line with retention schedules
2010	Information not held	Records of requests destroyed in line with retention schedules

2009	Information not held	Records of requests destroyed in line with retention schedules
2008	Information not held	Records of requests destroyed in line with retention schedules

Please note that HSSD has defined ‘audit trail of access to their medical records’ as specific requests to the Information Governance function for details of the personnel that had access to:

- TrakCare and/or Care Partner– the HSSD information systems
- The paper medical record, the movement of which is administered through, and recorded in, TrakCare

b)

From the records we hold, one request has been approved.

All requests will be approved and processed once the identity of the applicant has been verified.

c)

The request in 2015 was received one day prior to the information being made available.

Any request for an audit trail would be processed within 30 days, the timescale as defined in the Data Protection (Jersey) Law 2018. The 30 day limit would begin once the identity of the applicant had been verified.

It is likely that any historical requests, where requests may have been made but records are no longer retained, will have been processed within 40 days, the timescale as defined in the previous Data Protection (Jersey) Law 2005.

d)

There is no record of any refusal to process a request of this nature.

However, whilst it is highly likely that a request of this nature would be processed in accordance with the Data protection (Jersey) Law 2018 and provided without the use of exemptions, it cannot be stated that there would be no circumstance when an exemption, as applicable in law, may apply.

2.14 DEPUTY C.S. ALVES OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE REHABILITATION OF PATIENTS BY THE DRUG AND ALCOHOL SERVICE: [WQ. 113/2018]

Question

Will the Minister advise, in relation to the Drug and Alcohol Service –

- (a) how many patients have been treated for over 10 years by the Service, either consecutively or in total, without successful rehabilitation;
- (b) how many of these patients have been discharged and subsequently referred back more than once to the service within this period of time; and
- (c) what percentage of patients have been successfully rehabilitated in the last 10 years?

Answer

- a) The Alcohol & Drug Service began capturing data on Care Partner in 2006. Since then 3,035 individuals have been supported by the Alcohol and Drug Service. Of these, 83 individuals have

been either been continuously involved with the service for 10 years or had multiple involvements that totalled more than 10 years.

Alcohol and drug treatment aims to keep people alive and thus safer until they are ready and able to come off their substance of misuse, even if this can take years to recover fully. Because they remain in treatment does not mean they are unsuccessful as they are continuing to reduce the harms of their addiction.

- b) Of the 83 individuals described above, 48 had been discharged and re-referred more than once.

It is the Alcohol and Drug Service's policy to discharge individuals when they have either made progress and do not require or wish to have continuing involvement or where they have not engaged with the service available. It should be noted that the Alcohol and Drug Service operates an open referral system for all and is an all-age service, which aims to see individuals when they wish to be seen.

- c) Between 2006 and July 2015, a total of 2,405 individuals were discharged, of whom 1,584 (65%) had no further involvement with the service in the 3 years that followed which may be considered as evidence of successful rehabilitation.

2.15 DEPUTY C.S. ALVES OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING OFF-ISLAND ADVERTISING OF JOBS IN THE HEALTH SECTOR: [WQ. 114/2018]

Question

In the past 5 years, how many jobs in the health sector, if any, have been advertised off-Island but not on-Island; and what were the reasons for this?

Answer

The system used for recruitment is not configured in a way that it records this information, and we are unable to provide any statistical analysis in relation to the number of roles advertised and where.

However, it is standard practice to advertise all roles on the gov.je website and as such there are no geographical barriers as to who can view vacancies. In addition, some roles would also be advertised in appropriate specialist journals for key professionals.

The recruitment of nursing and midwifery staff is also undertaken through a separate internet site, which is available to everyone on-Island and off-Island.

2.16 DEPUTY R.J. RONDEL OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING TRADE CREDITORS OF THE PORTS OF JERSEY: [WQ. 115/2018]

Question

Further to the Ports of Jersey Report and Accounts 2017 (R.78/2018), which appear to indicate that there are trade creditors in the region of £8.5 million, would the Minister advise the Assembly how much of this amount has been due for more than three months and state whether any amounts are due to other States of Jersey departments?

Answer

The £8.5m stated is believed to be in reference to “Trade and other payables” of which Trade creditors forms a part. This is detailed in Note 19 to the Financial Accounts in the Ports of Jersey Limited (PoJL) Annual Report 2017, as follows:-

Creditors : amounts Falling Due within One Year	2017
	£,000
Trade creditors	1,065
Accruals and deferred income	2,437
Capital creditors	1,075
Due to parent undertaking	3,043
Corporation tax	695
Other creditors	171
	8,486

Trade creditors are quantified as £1.065m. As stated in Note 19, £3.043m of the £8.486m is in respect of amounts due to parent undertakings i.e. States of Jersey. Of the £1.065m, £12,000 relates to amounts due for more than 3 months, but this does not relate to SoJ departments.

Ports of Jersey (“POJL”) state that £3.043m is the value of monies due to the States of Jersey Treasury as detailed in the States’ financial system’s “Intercompany account”. During 2017, as PoJL utilised the SoJ financial platform and payroll system, payments are made on PoJL’s behalf in respect of creditors and payroll. PoJL then reimburses the States the following month. At the year end 2017 there were no values in the Intercompany account that were more than 3 months outstanding. PoJL initiated a standalone payroll system with effect from January 2018 and is scheduled to transition away from the States’ financial platform from 2019. These balances will therefore significantly decline in following years.

The breakdown of the Intercompany account is a follows:

	£,000
Payroll	1,300
Trade Creditor payments	3,047
Debtors – amounts owed to PoJL from other SoJ Departments	(1,330)
Other sundry	26
Total	3,043

2.17 DEPUTY R.J. RONDEL OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING WORK ON THE SUMMERLAND SITE: [WQ. 116/2018]

Question

Can the Minister advise whether, over the past few months, the work on the Summerland site in Rouge Bouillon has slowed down or halted and inform the States whether there are there any issues with the development?

Answer

Andium Homes has confirmed that work has not slowed, or halted, on the Summerland site.

Andium Homes obtained vacant possession of the site in July 2017, when the Police relocated to their new headquarters.

Demolition works have since taken place and the next phase, which is underway, includes works to stabilise and support a large wall to the south of the site before the final building structure can be removed.

Once enabling works are complete, construction of the homes will commence.

It is anticipated that the development will be completed by the end of 2020.

2.18 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINSITER FOR EXTERNAL RELATIONS REGARDING THE SECTOR-BY-SECTOR ASSESSMENT OF ECONOMIC SUBSTANCE BY THE OECD FORUM ON HARMFUL TAX PRACTICES: [WQ. 117/2018]

Question

Further to his statement on 26th June 2018, will the Minister assure members that he will bring a report to the Assembly detailing the sector-by-sector assessment of the OECD Forum on Harmful Tax Practices in respect of what 'economic substance' means; and will he do so in sufficient time for members to understand the analysis of this issue (involving both economic and political factors) before they are presented in the autumn with legislation required to meet the concerns of the OECD on economic substance?

Answer

The Deputy is, in the first instance, directed towards the work of the OECD Forum on Harmful Tax Practices and to the Scoping Paper published by the Code of Conduct Group on 22nd June 2018. These are instructive rather than comprehensive on the basis for any eventual solution that is brought forward by the Council of Ministers. In the meantime and throughout July, discussions continue with E.U. Commission Services and with the OECD / E.U. Commission Services Voluntary Group in order to converge on the greatest possible clarity that informs our future legislative amendments.

I remain committed to keeping Scrutiny and the States Assembly informed of material developments and to providing a report ahead of lodging legislative amendments.

2.19 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE FUNDING OF A NEW INCOME DISTRIBUTION SURVEY: [WQ. 118/2018]

Question

Further to his response to Written Question 91/2018, in which it was stated that that the additional source for funding of a new Income Distribution Survey had not yet been identified, will the Chief Minister –

- (a) advise whether that is still the case and, if it is, inform members when he plans to reach a decision on this issue;
- (b) state whether it is his assessment that the powers of Statistics Jersey to access data held by public authorities will enable detailed and useful examinations by Statistics Jersey of markers of inequality (such as health) and analyses by household or individual income or by electoral district / Parish; and
- (c) commit to examine the publication list of Statistics Jersey for the coming 18 months, and to discuss it with the Chief Statistician, to ensure that the impact of income data on such markers is included wherever the Chief Statistician considers it to be relevant?

Answer

- (a) The response to Written Question 91/2018 remains correct, a source of funding has not yet been identified. It would be highly desirable if this could be remedied by the end of the summer recess, enabling work to proceed this year.
- (b) The powers of Statistics Jersey to access data held by public authorities should enable detailed and useful examinations by Statistics Jersey of markers of inequality (such as health) and analyses by household or individual income or by electoral district / Parish.
 The Statistics and Census (Jersey) Law 2018 came into force on 23rd February 2018. This new law puts an onus on Statistics Jersey to re-use data already collected by the States of Jersey wherever possible, reducing the burden placed on businesses and people. The law provides a legal gateway for data held by public authorities to be accessed by Statistics Jersey for statistical purposes.
 From the perspective of individual and household income, under the auspices of this Law, Statistics Jersey has submitted requests for information held by the Income Tax and Social Security departments. Once access to the data has been facilitated, and its quality and coverage assessed, Statistics Jersey will conduct analyses of the resulting income distributions, in particular to produce and monitor indicators of income inequality.
 In time it is envisaged that a coherent approach based on such administrative data sources coupled with periodic surveys of households (such as the Jersey Opinions and Lifestyles Survey) will, in principle, enable:
 - provision of more frequent and timely measures of income inequality
 - breakdown by geographical area
 - examination of interrelationships between multi-factor determinants of inequality more generally.
- (c) Yes.
 The Statistics and Census (Jersey) Law 2018 requires the Statistics Users Group to publish a publication schedule each year for Statistics Jersey. The supplementary Code of Practice for Official Statistics in Jersey specifies that a timetable of statistical releases for the forthcoming twelve months should be published in December of each year. The publication schedule for 2018 was presented by the Chief Statistician to the Group at its meeting of 13th November 2017 and approved by the Group at that meeting.
 In drawing up each year's publication schedule Statistics Jersey engages with stakeholders, particularly from the perspective that official statistics should meet the requirements of informed evidence-based decision-making by government and the States Assembly as a primary user of official statistics. It is anticipated that the configuring of a more centralised policy function within the restructured States Departments will facilitate such engagement.
 A proposed publication schedule for 2019 will be presented to the Group by the Chief Statistician in December 2018. As for previous release schedules that for 2019 will prioritise the requirements of stakeholders within the resources assigned to Statistics Jersey.

As part of this, officers will consider and discuss the publication schedule with the Chief Statistician, in consultation with Ministers.

Finally, the Law requires the Statistics Users Group to publish a five-yearly program for Statistics Jersey. The inclusion of a household income and spending survey, run at approximately five-yearly intervals prior to 2014/15, sits naturally within such a program.

2.20 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR INFRASTRUCTURE REGARDING VACANT STATES-OWNED PROPERTIES: [WQ. 120/2018]

Question

Will the Minister advise how many States-owned properties (under Jersey Property Holdings) are currently vacant; state which properties they are and how long they have been vacant; and advise what percentage of the overall portfolio this represents?

Answer

Out of a total of 880 properties, there are 20 publicly owned properties (2.2%) that are currently vacant. The term “property” includes sites that contains a number of individual building units. The total of 880 properties comprises of freehold, flying freehold and leasehold ownership and, in some instances, form parts of sites.

This is a ‘snapshot’ of the current vacancies. This changes from time to time as buildings become void and are re-let, refurbished or sold.

Of the 20 currently vacant properties/sites:-

Four of those are void properties that are temporarily vacant awaiting new tenants following the vacation of the previous tenant.

Eight of the properties are vacant, or have partial temporary alternative use, pending future redevelopment.

Five of the properties have been identified for disposal. One of which is due to pass through the Royal Court imminently. Tenders have just been received on one other site.

The remaining three properties require extensive refurbishment prior to any re-letting; one is nearing completion and works on the other two are in hand.

Details of the vacant properties are not made public due to the potential for unauthorised access. The Department will provide the Deputy with this information in confidence should he wish.

2.21 DEPUTY G.P. SOUTHERN OF THE MINISTER FOR INFRASTRUCTURE REGARDING THE OUTSOURCING OF SERVICES BY THE DEPARTMENT OF INFRASTRUCTURE: [WQ. 121/2018]

Question

Further to the response to Written Question 82/2018, will the Minister state –

- (a) the number of staff employed before and after outsourcing, along with the grades of the employees and the hourly rates of pay involved;
- (b) whether any further changes to Terms and Conditions were involved, such as to overtime rates, bank holiday rates, sickness and holiday entitlements, pension payments and antisocial hours payments, and, if so, what any such changes were; and

(c) why there was a difference in the statement provided for savings arising from the outsourcing of cleaners, compared with the savings arising from the outsourcing of gardeners?

Answer

(a) *State the number of staff employed before and after outsourcing, along with the grades of the employees and the hourly rates of pay involved*

The figures below include staff transferred from DfI to other departments within the States.

Job Role:	Grade: *	Before Review / Outsourcing	Retained within the States after Review / Outsourcing
Manager	C/S 13	2	1
Assistant Manager	C/S 9	6	5 **
Chargehand	M/W 6	6	6
Chargehand	M/W 5	5	2
M/W Staff	M/W 5	7	3
M/W Staff	M/W 4	20	19
M/W Staff	M/W 3	42	10
M/W Staff	M/W 2	14	4
M/W Staff	M/W 1	38	2
Apprentices	App 1	2	2
Totals		142	54

* Hourly rates were as per the States pay agreements applicable at the time.

** Assistant Managers responsible for outsourced contract management as well as managing retained staff teams.

(b) *Whether any further changes to Terms and Conditions were involved, such as to overtime rates, bank holiday rates, sickness and holiday entitlements, pension payments and antisocial hours payments, and, if so, what any such changes were?*

No changes to States ‘Terms and Conditions’ of employment were involved. Departmental staff who continued to be employed within Parks and Cleaning Services did so on the same States of Jersey staff terms and conditions of employment as they did prior to the outsourcing carried out in 2016.

(c) *Why was there was a difference in the statement provided for savings arising from the outsourcing of cleaners, compared with the savings arising from the outsourcing of gardeners?*

It became clear through the formal tendering process that the largest savings related to areas of service where the costs mainly arise from staff costs and where non-staff costs such as vehicles, plant and equipment and materials are less significant.

In general terms the outsourced areas of cleaning mainly involve staff costs whereas the outsourced gardening areas include a greater element of non-staff costs.

2.22 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING FARMERS IN RECEIPT OF MULTIPLE GRANTS OVER THE LAST 20 YEARS: [WQ. 122/2018]

Question

Will the Minister provide details of all farmers who have received multiple grants from the States of Jersey over the last 20 years, setting out when they were granted, what they were for and what amounts were provided?

Answer

To the extent that the relevant information is publicly disclosable, details of farmers who have received grants in the years 2015 – 2017, together with the amounts and the purposes of the grant awards, are a matter of public record. The information can be found in the States of Jersey Financial Report and Accounts for those years, which are free to access online via the following link –

<https://www.gov.je/government/planningperformance/budgetaccounts/pages/statesofjerseyaccounts.aspx>

Relevant grant payments are recorded from page 269 onwards in the 2017 accounts. For 2016, grant payment data can be found from page 140 onwards in the principal accounts document and page 293 of the Annex. For 2015, payment data can be found from page 154 onwards in the principal accounts document and page 313 of the Annex.

In respect of earlier years, the Deputy is invited to refer to the answer to his similar written question concerning [grants to the agriculture, aquaculture and fishing sectors as tabled on 12th May 2015](#), the content of which remains directly relevant.

The policy basis on which direct and indirect support for rural sectors is currently provided is set out in the Rural Economy Strategy 2017 – 2021 ([R.19/2017](#) refers), which was presented to the States by the Minister for Environment. Support measures include –

- the Rural Support Scheme (£700,000 budgeted)
- the Quality Milk Payment, which continues at 2015 levels (£400,000 budgeted) until 2019

Additional indirect support is provided to farmers via a grant to Jersey Product Promotion Limited. This umbrella organisation encompasses the Genuine Jersey Products Association and the Jersey Export Group/Farm Jersey. It currently receives grant support from government in the sum of £150,000 to develop on and off-island marketing initiatives.

Further indirect financial support (£180,000) is provided by way of a contract with the Royal Jersey Agricultural and Horticultural Society (RJA&HS), which has been delivering an Artificial Insemination Service and a Milk Recording service to the dairy industry under successive Service Level Agreements (2003–2007, 2008–2013, 2014–2015 and 2016). In practice, the RJA&HS passes operational responsibility for these services to Jersey Island Genetics Ltd (JIG) a wholly owned subsidiary company of the Society.

The Rural Initiative Scheme (£50 – 100K p/a) provides funding for businesses to invest in training, precision application equipment (fertiliser placement), alternative cropping and continue supporting productivity, diversification, energy efficiency and rural innovation.

Government continues to fund (£40-90k) the cattle testing and surveillance programme 2017-2021 on the basis that the livestock sector must comply with international standards. The programme helps protect and enhances the Island's reputation for quality across all areas of the economy.

There have, from time to time, been questions or discussions in the States Assembly regarding the extent to which agriculturalists received subsidies to support greenhouse-based production of crops. For the avoidance of doubt, the 2005 Rural Economic Strategy replaced individual crop subsidies with a Single Area Payment per vergée. At that time, the protected crops sector (glasshouses and polythene tunnels) faced ongoing difficulties caused by rising fuel costs, high freight charges and cheaper southern European competition. Following consultation with the industry sector, a single one-off payment in 2006 was agreed based the average cropped areas planted in 2004 and 2005. This was to enable growers to –

- (a) adapt to the changing market,
- (b) diversify, or
- (c) leave the industry.

It was also agreed that after this ‘exit payment’ any further support would be under the Single Area Payment. 11 Growers received payments calculated at £17.17 per m² (£1,218,000.00 in total). Many remained in the sector and some continued to claim SAP in the following years. During consultations for the Rural Economy Strategy 2017 – 2021, there were new calls for additional support for the glasshouse industry. The industry was reminded of the terms agreed in 2006.

2.23 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING OFFICERS OF THE STATES OF JERSEY POLICE AND CUSTOMS AND IMMIGRATION WITH SECOND JOBS: [WQ. 123/2018]

Question

Will the Minister advise whether any policy is in place regarding officers of the States of Jersey Police and Customs and Immigration having second jobs or running businesses; and if such a policy is in place, will he provide a copy and state how many police officers and customs officers have second jobs and what the nature of those jobs is?

Answer

States of Jersey Police

Article 14 of the States of Jersey Police Force Law 2012 states:

“Restriction on police officers undertaking other activities

A police officer must not engage in any other occupation, profession or employment or in any undertaking or trade except with, and in accordance with the approval of the Chief Officer or, in the case of the Chief Officer, the Minister.”

Accordingly, the States of Jersey Police operates a ‘Business Interest Policy’. The policy can be obtained on request from the States of Jersey Police. An officer who undertakes an activity or intends to do so for which payment in cash or in kind is received, outside of his or her normal duties, should assume that it constitutes a business interest which requires it to be reported to the Chief Officer. It should also be noted that there need not be any form of payment involved.

All applicants to the Force are asked to declare details of any existing business interests. Each case will be considered on its merits.

The States of Jersey Police hold a register of all officers who have declared a ‘Business Interest’. This register includes the details of the business. All applications to continue this activity whilst being a member of the police service must be approved by the Deputy Chief Officer.

The States of Jersey Police currently have nine officers who have registered a business interest.

Jersey Customs and Immigration (JCIS)

The terms and conditions of employment for States of Jersey employees are set out in a contract between the States Employment Board and the individual employee.

Section 18 of this contract states that an employee “*must not, either directly or indirectly, be engaged or concerned in any other service or business whatsoever (whether paid or unpaid), or receive commission or profits of any kind, without the prior consent of the Employer or your Chief Officer/nominee (as appropriate)*”.

JCIS currently have ten employees undertaking voluntary work, with the consent of the employer, on the basis that any time spent in these areas does not affect their core duties of employment. In addition, one Officer assists in the running of a family business, again on the basis that any time spent does not affect their core duties of employment.

2.24 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE CURRENT BALANCE OF THE CRIMINAL OFFENCES CONFISCATION FUND: [WQ. 124/2018]

Question

Will the Minister provide the current balance of the Criminal Offences Confiscation Fund and list the payments made from the Fund over the last five years, detailing who received the money and for what purpose?

Answer

The available balance on the Criminal Offences Confiscation Fund (COCF) as at 30th June 2018 is £2,209,961.

The table overleaf provides a breakdown of payments made out of the Fund between 2014 and 2018 (to date).

All applications for funding from the COCF must be approved by the Minister for Treasury and Resources following consultation with the Attorney General and any other appropriate persons or bodies to ensure the proposed use is consistent with the purposes defined in Article 24 of the [Proceeds of Crime \(Jersey\) Law 1999](#).

Allocations out of the COCF over the last five years

Recipient/Use	2014	2015	Year 2016	2017	2018
Official Analyst Equipment	£240,000				
New Police Station	£14,775,677				
Home Affairs - upgrade CCTV	£389,485				
Home Affairs - body worn cameras and forensic software	£117,849				
Health - assessment of prisoners in UK	£714,000				
Customs - Custody Portacabin	£91,299	£26,491			
Law Officers Department - law revision	£500,000				
Home Affairs - Jersey Asset Recovery Task Force	£5,000				
Home affairs - prevention and detection of crime	£21,744				
Health - Parent's guide to drugs booklet	£10,000				
Health - opiate substitution programme	£120,000				
Health - needle bin disposal programme	£700				
Police - CCTV			£118,939		
Freedom for Life/Home Affairs		£215,000			
Home Affairs - CCTV equipment				£40,061	
Home Affairs - Phase 6 Prison Masterplan					£6,
TOTAL	£16,985,754	£241,491	£118,939	£40,061	£6,

2.25 DEPUTY M.R. HIGGINS OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE STRUCTURE AND WORKFORCE OF HIS DEPARTMENT: [WQ. 125/2018]

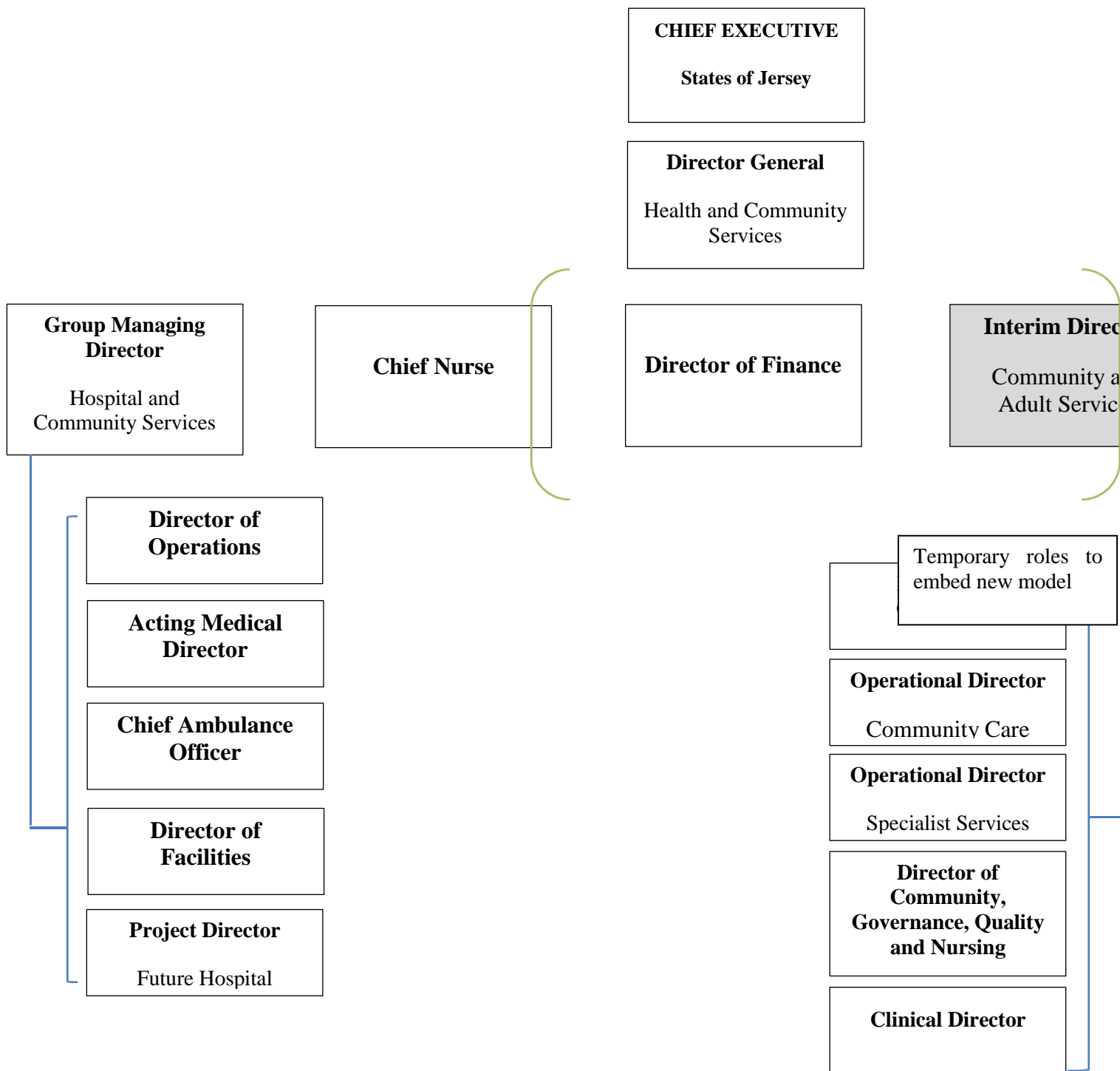
Question

Will the Minister produce for Members a current chart showing the structure of his Department and the number and grade of people working in each area?

Answer

The Health and Community Services Department is currently in the midst of major organisational change and the high-level structure diagram shows the current situation as it evolves in the transition to the new Target Operating Model.

Given the thousands of staff employed by the department, it has not been possible to further breakdown the number of staff by grade. However, if any States Member has a query about a particular area then we can seek to provide more specific detail in terms of an organisational chart and grades of staff.



HSSD – People in post at 1.7.18.

	Civil Servants	Doctors & Consultants	Manual Workers	Nurses and Midwives
Community & Social Services	181	12	4	317
Adults Services	162	9	1	190
Older Peoples Services	19	3	3	127
Hospital	434	151	33	656
Ambulance Emergency Services	22		13	
Clinical Support	242	18		45
Hospital	4			11
Medical Specialities & Emergency Care	23	50		224
Operational Support Services	99		2	31

Surgical Services	24	37		126
Theatres	7	22	18	93
Women & Children	13	24		126
Chief Executive's Office	18			
Chief Executive's Office	18			
Chief Nurse	37		4	7
Chief Nurse	37		4	7
Finance & ICT	83	1	342	
Facilities Management	34		342	
Finance & ICT	49	1		
System Re-design and Delivery	19	1		3
System Re-design and Delivery	19	1		3
Grand Total	772	165	383	983

2.26 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE RECORDS OF THE INDEPENDENT JERSEY CARE INQUIRY: [WQ. 126/2018]

Question

Will the Chief Minister advise whether all of the information provided to the Independent Jersey Care Inquiry by civil and public servants, including information contained in emails between Ministers and their subordinates, has been preserved and will be available for public scrutiny?

Answer

The Protocols that the Independent Jersey Care Inquiry drew up included details as to its processes around the categorization of all data it received. Such data includes all data provided by Civil Servants which includes emails between Ministers and their subordinates.

As part of its hand over, the Panel oversaw the archiving of the material held by it. During the handover the Panel transferred a vast amount of redacted information to the Jersey Archive, including witness statements and evidence.

This material is in the course of being fully catalogued by the Archive Service. Once catalogued it is uploaded and can be viewed by all members of the public, via the Jersey Archive online catalogue.

2.27 THE CONNÉTABLE OF ST. BRELADE OF THE MINISTER FOR THE ENVIRONMENT REGARDING NOTICES UNDER THE WEEDS (JERSEY) LAW 1961: [WQ. 127/2018]

Question

Will the Minister advise members when any member of the public or body corporate was last served a notice under Article 2 of the Weeds (Jersey) Law 1961; and will he also confirm the latest departmental policy with regard to Ragwort (*senecio Jacobaea L*)?

Answer

The last notice issued under Article 2 of the Weeds (Jersey) Law 1961 was issued on 15 August 2017.

Together with the Environmental Protection team, who administer the Weeds Law, I am committed to preventing the spread of injurious weeds, such as Ragwort. It is important to note that the Weeds (Jersey) Law 1961 is designed to prevent the 'spread', rather than eradication, of listed 'injurious weeds'.

The Environmental Protection team adheres to a defined 'Injurious Weeds Policy', to help ensure maximum effect and make best use of staff resources. Under the policy, if a complaint is received from someone who is affected by Ragwort, then an officer will undertake a site visit. The action taken to prevent the spread of the weeds depends on the severity and location of the infestation. This can range from advice and a pre-agreed timeframe of works to the issuance of a formal '7 day' enforcement notice. The policy states that all complaints of Ragwort on grazing land and land adjacent to grazing land will automatically be actioned in the same way and that officers have the discretion to apply the law outside of the policy framework if necessary.

In cases where no formal statutory action is deemed necessary, then an advisory letter and leaflet is normally delivered to the occupier of the land. The leaflet provides guidance on identifying the weed species and advice on various control methods. The Environmental Protection team has the expertise to advise land owners on the most appropriate measures to control ragwort and safeguard the environment.

Ragwort is not an ‘invasive’ species, and although it could pose a danger to animals in dry silage it has an important role to play in the island’s broader environment by being a valuable nectar source and supporting a large variety of insect species. Thus the objective is to reach manageable levels rather than total eradication. The Environmental Protection team is also aware that preventing large populations establishing will reduce the need for future pesticide applications and they encourage all land managers to employ a sustainable and integrated approach to controlling their injurious weed populations.

[9:45]

3. Oral Questions

3.1 Deputy L.B.E. Ash of St. Clement of the Minister for the Environment regarding green field sites in St. Clement: [OQ. 88/2018]

Does the Minister know of any new plans to build on the remaining greenfield sites in St. Clement; and if he does not, will he commit to informing Parish members immediately should he become aware of any such plans?

Deputy J.H. Young of St. Brelade (The Minister for the Environment):

As Minister, I am not in a position to control the aspirations of applicants and owners of land in the submission of planning applications. However, we do ensure that all those applications are advertised in accordance with the subordinate legislation; that includes a display of a site notice on the site, advertising the planning application in the *Evening Post*, and publishing the full details on the gov.je website, and the Planning register. I am sure the Deputy is familiar with that. To help him, I looked through last night, there were 70 applications in St. Clement last year; 7 of those are pending relating to residential sites, none of them are what you would describe as greenfields. They are within the built-up area. Obviously, we go further, that information is at the Parish Hall on all those applications and the public can subscribe. They can camp on and say: “I want to be notified about any application in the area” and the system will give them that. I am not aware of any pre-application discussion and that often happens. These are not formalised. The last thing I flag up is that there will be, in the new Island Plan, a full review of sites throughout the Island, and obviously the Members will have a full opportunity to take part in that. The next Island Plan will need to address, in my view, a spatial strategy for future housing. Whether, or not, that includes St. Clement, I think is for States Members and the public to decide.

3.2 Deputy K.F. Morel of St. Lawrence of the Minister for External Relations regarding preparations being made for the eventuality of a ‘hard Brexit’: [OQ. 89/2018]

Will the Minister update the Assembly on what preparations, if any, have been made for a “hard Brexit” in which the U.K. (United Kingdom) would leave the E.U. (European Union) on 29th March 2019 without any deal, or special arrangements, made with regard to the Island?

Senator I.J. Gorst (The Minister for External Relations):

Perhaps I could apologise to the Assembly for being slightly late this morning. Gatwick was somewhat congested. All of the Government of Jersey’s Brexit planning has been developed on the basis of a no deal, or hard Brexit, scenario since the U.K. referendum on E.U. membership took place in June 2016. We, of course, are aware of potential risk to the Island presented by a hard Brexit and have engaged in extensive contingency planning, to ensure that all government departments are prepared for and able to manage those risks. At the same time, we have recognised the importance of continuing to work closely with the United Kingdom Government, both to prepare for withdrawal

under a range of negotiated scenarios and to seek a positive outcome for our future relationship with the E.U.

3.2.1 Deputy K.F. Morel:

As part of your contingency planning, have you been making economic models of what may happen to Jersey's economy in the event of a hard Brexit?

The Deputy Bailiff:

Through the Chair, normally please.

Senator I.J. Gorst:

There are detailed contingency plans. They are sensitive, as the Deputy would appreciate. In the last Assembly, I invited Members to a high-level review and discussion about those contingency plans, and I have asked officials to arrange a subsequent briefing for new Members to this Assembly; existing, or old, Members are welcome as well, because we know this is a moving scenario. But we must remember, when looking at contingency plans and economic modelling, that for financial services, which is the bedrock of our economy, we are already outside of the E.U. We are not part of the E.U. and we already are a third country. Therefore, we should not be unduly concerned about that sector of our economy.

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

What progress has been made on the passporting of services, particularly financial services, to the E.U. on behalf of the U.K. and the City of London, in particular, which would impinge upon our activities and our status as a third country?

Senator I.J. Gorst:

I see what the Deputy did there. He was really trying to address a question to the United Kingdom Prime Minister and just at the end swerved in to see whether their negotiations might have any effect upon our financial services community. We know, do we not, that we work hand in glove with the United Kingdom. We give benefit to the United Kingdom. Billions of pounds are streamed to the United Kingdom, responsible for creating something like 250 jobs in the United Kingdom economy. If the City suffers, which I think is what the Deputy is trying to allude to, then there is potential for us to suffer as well. But we have to remember, for the last number of years, certainly for the last 6½ years, we have been building and growing our international business, and when we look at the statistics we see that that continues to grow. That facilitation of funds from around the globe, up into London, up into Europe, is not contingent on the strength of the City. It is contingent on the strength of our financial services here in Jersey. We can take comfort from that fact.

3.2.3 Deputy G.P. Southern:

Does the Minister for External Relations - I almost called him by his old title there - expect continued growth in the financial services sector in the Island, in place of growth in the City?

Senator I.J. Gorst:

We are stronger together. It is not about us competing with the City. The instruments, the services, the products that we offer here, as a small international finance centre, are complementary to the United Kingdom. We have introductions from the City, from professional advisers in the City, even if those funds originate elsewhere. It is not a matter of us competing with the City. It is a matter of us being stronger together and offering complementary services which, because of all sorts of economic reasons, the City cannot offer and yet we, together, can produce a stronger British Islands, or British family.

3.3 Connétable J.E. Le Maistre of Grouville of the Minister for Infrastructure regarding the funding of road safety projects: [OQ. 85/2018]

Will the Minister either seek extra funding, or prioritise funding from his existing budget, in order to bring forward any proposed road safety projects that have been identified by the Road Safety Review Panel but which have not yet been actioned; and if not, why not?

Deputy K.C. Lewis of St. Saviour (The Minister for Infrastructure):

Road safety has always been a priority for a highway authority. This is done through providing well-maintained roads and developing new and improved facilities. My priorities are set out in the department's highway maintenance programme, the States Sustainable Transport Policy and the Road Safety Action Plan, which I intend to review early in my term. The Road Safety Review Panel consider incoming requests; however, the programme is set by the strategic objectives in the previous mentioned documents. Requests, which come through the Road Safety Review Panel, are assessed against how strongly they support those strategic objectives. Where the requests support the objectives, they are likely to be included in the future programme. We need to spend £7.5 million on maintenance schemes to stand still and we allocate over £1.5 million on road safety schemes and improvements. I think this is a reasonable budget and strikes a reasonable balance within the needs and demands on States spending.

3.3.1 The Connétable of Grouville:

Will the Minister commit to ensuring that any measures that are in the pipeline, as highlighted by my written question today on the same subject, will not be put further down the list if other proposals are brought forward?

Deputy K.C. Lewis:

That is an excellent question. The short answer is no, not if it can be helped. If there is an emergency that comes up obviously we have to prioritise. But, as I say, everything goes through the Road Safety Review Panel, which is an internal panel within the Department for Infrastructure, which prioritises all construction and remediation of this kind. But unless something really drastic happens, I would agree with the Constable, so no.

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

The Minister referenced well-maintained roads in his response. Will he give us his definition of what "well-maintained roads" means?

Deputy K.C. Lewis:

Absolutely. We needed to spend more money on the roads, that is obvious. We are doing our best. As I just pointed out, we need to spend £7.5 million on maintenance fees. That is just to stand still. Basically, I think if the Constable is referring to the whole road system, as a whole, to bring the whole system up to date, I would need an extra, I think £7.5 million for at least the next 7 years, just to bring roads up to a good standard. But we are playing catch-up and we are doing the best we can.

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

I am trying to establish whether the Minister believes that spending money on ... he said £7.5 million, I think, to stand still. Does that mean resurfacing, just resurfacing, because we know our main roads under D.f.I. (Department for Infrastructure) are in bad condition, or does he mean engineering projects to improve the standard of the roads themselves?

Deputy K.C. Lewis:

We deal with both. Sometimes the road structure itself has degraded so far the whole thing needs to be dug up and re-laid, and sometimes we just need a covering on the road, just to give it another few years. We do have a product called Gripfibre, which is sprayed on the road, and that extends the life of that road for maybe another 10 years. We do have, periodically, a vehicle that comes from the U.K. with sort of ground penetrating radar that can see the actual substructure of the road and whether the whole road needs to come up, or not. The main roads are prioritised as they take the most burden of heavy traffic, but ongoing we are trying to maintain the roads in the best condition as we can.

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

Because this is about road safety projects, does the Minister agree that while there is a prioritisation process that to relook at the policy in schemes that are, for example, over 10 years old, which again constantly gets something else shunted in front of them, just start getting some extra points and to allow them to finally get up the priority list to finally get done, because we have some projects which have been rattling around for quite some time, which never get looked at? Does the Minister agree that that policy should be addressed?

Deputy K.C. Lewis:

We are playing catch-up, constantly. I think Deputy Maçon is referring to Longueville Road, which is scheduled for September. That will be done. There are several roads that have been suggested by other Members, namely Deputy Higgins came in to see us recently regarding the Inner Road. That is in the programme. I know Deputy Tadier had a road that he needed looking at. That is in the programme for 2019. All safety programmes are looked at and prioritised by the safety panel, but we will get to everything as soon as we possibly can.

3.3.5 Deputy M. Tadier of St. Brelade:

Does the Minister believe that Members, who support a low tax, low spend economic model, and also vote for budget cuts to all departments in this Assembly, including the Minister's own department, should expect to have roads, which are worthy of a higher tax, higher spend economy?

Deputy K.C. Lewis:

Straying slightly outside of the question there. We need sufficient to do the roads, so we are doing the best with the budget we have. We can always do with a bigger budget, that goes without saying, but I do not believe in putting taxes up any higher than we have. As I say, we do the best with what we have, and I think we are making headway.

3.3.6 The Connétable of Grouville:

Does the Minister agree with me that when States Members have new suggestions for new road safety measures that they approach his department and go through the proper channels, by using the Road Safety Panel, rather than bringing propositions to this Chamber?

Deputy K.C. Lewis:

Yes, indeed, I agree 100 per cent with the Constable. As I have just mentioned, with Deputy Higgins, I have an open-door policy if anyone has a particular project that they wish us to look at, we are more than happy to look at that. But, there is a process and a procedure to go through and I would be very grateful if Members would observe that.

3.4 Deputy R.J. Ward of St. Helier of the Minister for Treasury and Resources regarding Income Tax provisions in place to assist those people who faced significant drops in their income: [OQ 92/2018]

What provisions exist for members of the public, who face significant drops in income, to be able to manage their income tax liability, in particular, those facing retirement in the coming years with only the state pension as their income?

[10:00]

Deputy S.J. Pinel of St. Clement (The Minister for Treasury and Resources):

The Taxes Office routinely assists Islanders facing income reductions to manage their income tax liability. From 2006, most employees paid tax through I.T.I.S. (Income Tax Instalment System) on a current year basis; effectively pay as you go. So changes in circumstances are addressed immediately. However, many more still pay tax on a previous year basis, where they pay last year's tax liability this year. Approaching retirement is particularly difficult for people paying tax on the previous year basis, as they may have a large tax bill relating to their last year of employment in their first year of retirement. The Taxes Office provides helpful advice on the States website, gov.je, for those who wish to plan their income tax payments around retirement. This could involve an increase in the person's effective rate to accelerate tax payments, or help with setting up a direct debit to pay their tax once they retire. I can confirm that people, who are wholly reliant on the States pension, are well below the exemption threshold for paying income tax and, hence, do not pay it.

3.4.1 Deputy R.J. Ward:

The issue is that those who are going to work in their final year and then go into just a state pension, face a relatively small tax bill, but it still affects them because they have such a low income. So would the Minister consider a move to move those people to a P.A.Y.E. (pay as you earn) system as they approach retirement and take on the nominal loss in taxation?

Deputy S.J. Pinel:

This is already being done. Individuals who are nearing retirement are encouraged, by increasing the I.T.I.S. rate, to put themselves in the current year basis payment position.

3.4.2 Deputy M. Tadier:

Could I ask the Minister what assessment has been done on impact where a point in time be chosen to move people automatically from P.A.Y.E. to I.T.I.S. and would the Treasury be in a position to be able to take that nominal hit?

Deputy S.J. Pinel:

We are doing a consultation alongside this year's budget, 2018 Budget, to review how this can be done. We are, in the department, very keen to get as many people as possible on a current year basis.

3.4.3 Deputy G.P. Southern:

The Minister has just mentioned consultation. Who is being consulted in this particular aspect of transfer from last year to the present year?

Deputy S.J. Pinel:

It is a general consultation put out to the public, as are most.

3.4.4 Deputy R.J. Ward:

I just wanted to confirm: would you consider looking for those who are going purely on to state pension as to, in a way, writing off any liability they have not managed to overpay in the previous years? Because, some of the people affected, perhaps, are not particularly skilled in developing their own tax affairs in a way that others may be and just need that assistance. They are very small amounts of money, but large amounts for them on low income.

Deputy S.J. Pinel:

I am not convinced that we can simply write off debts, but what we do offer from the Taxes Office is very considered help and there is a way to defer the payment to help people out, to have a payment plan, but not to write off tax debts.

3.5 Deputy J.H. Perchard of St. Saviour of the Chairman of the States Employment Board regarding an action plan to address the recommendations of the HR Lounge report on bullying and harassment: [OQ. 94/2018]

Given the content of the HR Lounge report on bullying and harassment in the States, will the chairwoman inform Members when she plans to draw up a written action plan and timeline detailing how the States will work to change the bullying culture identified?

Senator T.A. Vallois (Chairman, States Employment Board):

I thank the Deputy for her question and I would like to firstly state how deeply saddened I am that our employees have had to endure this kind of behaviour and reinstate the fact that it is not acceptable and should not be acceptable within the public sector, or elsewhere within our Island. **[Approbation]** The States Employment Board is scheduled to meet for the first time under my chairmanship on Monday, 23rd July. The previous board accepted the recommendations and I have met with officers to discuss priorities and can confirm that they will be presenting an action plan and timetable, as requested by the previous board, for approval at the meeting. I am advised that this will cover a revised organisational framework for developing, or managing, future cases and it will include proposals for an independent whistle-blowing service among other initiatives. Once the new board has reviewed and approved the action plan, I undertake to publish the plan, on gov.je, to be accessible to both Members and the public.

3.5.1 Deputy J.H. Perchard:

Given the aforementioned report, will the Minister commit to including training for managers, as recommended, in order to change the bullying culture identified?

Senator T.A. Vallois:

If anything, I think our training needs to be reviewed. Our human resources provision for public sector employees needs to be an issue that is discussed at the States Employment Board about how we provide the right kind of training and the quality of training to ensure that we embed proper values and behaviour-led culture within our public sector and ensure that people all feel valued as part of the Island and the public sector going forward.

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

The chairwoman will recall, on the Education and Home Affairs Scrutiny Panel, we asked the previous Minister for Education to send a copy of the current bullying policy to all Education staff. This action, although committed to, was not carried out. Would the chairwoman commit to following up on this? Does she believe that all States staff should be directly communicated with and they should be sent the current bullying policy, and also the report that has just been carried out, and receive ongoing direct communication about this issue?

Senator T.A. Vallois:

I would like to check that the bullying policy is up to scratch first, to make sure that it is of quality that people understand. But also it is not just about sending out a policy to people. It is important that we embed those values in forms of training and ensuring that we are sharing that information. But I absolutely agree, every member of our public sector should be aware of the bullying policy and

the whistle-blowing policy, ensuring that they know their rights and their ability to take action when they feel it is necessary to do so.

3.5.3 Deputy G.P. Southern:

At this stage, does the Minister have any idea about how she might establish the independence of any board, which is going to receive grievances from employees and to ensure that that independence is seen throughout the service?

Senator T.A. Vallois:

Unfortunately, at this time I do not have an idea of how I am going to establish ... I mean I have lots of ideas how it could happen but I think it is important for the States Employment Board to meet first, discuss the report, ensure that we get all our ducks in a row first, ensuring that the action plan that goes forward is the appropriate one, so that we are not pulling at all different angles. But absolutely, the independence of a grievance board, the independence of that board, is absolutely necessary and important to ensure that people feel that they are being listened to and heard, and that the case is being dealt with in the appropriate manner.

3.5.4 Deputy G.P. Southern:

Does the Minister agree with the statement that there is a fine line between bullying and robust management in particular sectors, especially Education?

Senator T.A. Vallois:

Yes, I totally agree with that.

3.5.5 Senator S.C. Ferguson:

Will the Chairman - this is a generic title, not a sexist one - confirm that the S.E.B. (States Employment Board) will be following a policy of encouraging proper behaviour from the top down, from the very senior levels of the management? Will she also undertake that employees leaving with compensation payments should not be forced to sign a non-disclosure clause? Will she undertake to get non-disclosure clauses removed?

Senator T.A. Vallois:

In terms of the top-down approach, if the Senator read the legislation in terms of what our framework is, as a States Employment Board, we have responsibility with regards to codes of practice. It is something that I think we should be ensuring they are properly and quality framed in terms of ensuring that people understand them and that there is an appropriate accountability mechanism. We also have an independent adviser on the States Employment Board that can assist us, who is very experienced and very knowledgeable in terms of helping assist in best practice for dealing with these bullying and harassment issues. In terms of employees leaving with non-disclosure agreements, it is something that I am happy to look at and I can report back to the Senator from the meeting of the States Employment Board.

3.5.6 Deputy R.J. Ward:

May I ask the Minister to address, in any action plan that comes from the report, the legacy of those who left States employment because of bullying, an issue that was perhaps not addressed, but has been identified in this very extensive report?

Senator T.A. Vallois:

Sorry, I am not quite sure what the Deputy is asking me.

Deputy R.J. Ward:

Will you make sure that you address any legacy in terms of those who lost their jobs, left the States employment because of bullying, are now out of employment, but nothing has happened to it? We know about this bullying now so we have, as I say, a legacy of those employees, and that needs to be addressed.

Senator T.A. Vallois:

I thank the Deputy for his question. There are legacy issues. I am not sure how many there are. I am not sure whether everybody would want to come forward, because there is a certain fear of reprisal. I have been dealing historically in the last term with a legacy issue. I think it is extremely important that we handle this with care and people understand that we are moving forward in a different atmosphere, with different values and behaviour, and make them realise that this behaviour was not acceptable in the past, that we have moved forward in a new light, and that we do respect their commitment that they provided to the States when employed.

3.5.7 Deputy J.H. Perchard:

As the Bailiff said in his wonderful induction to us, words do matter and patronyms are, by their very nature, patriarchal; it is all in the name. My final supplementary is very simple: I was just wondering if the Minister intended to perhaps just remind the Employment Board to thoroughly read the report from cover to cover and perhaps make their own notes before attending this upcoming meeting and discussion?

Senator T.A. Vallois:

Yes, I would hope all members of the Employment Board will have read, or will read, all of the report to ensure that we have appropriate thought-out discussion and that the action plan that comes forward is properly tested and ensure that it is practical in terms of delivering.

The Deputy Bailiff:

Can I just mention to Members: one or 2 are showing some disappointment, because they have put their light on and I have not called upon them? There are obviously 20 questions within this. That is normally 6 minutes per question, although, of course, there is some flexibility built into that, and that is the reason why I need to be fairly clear. The answer is: if you really want to ask a question as part of this question, please put your light up sooner rather than later and that then improves your chances.

3.6 Deputy S.M. Ahier of St. Helier of the Minister for Treasury and Resources regarding the prospect of re-introducing marginal relief for non-resident pensioners: [OQ. 102/2018]

Will the Minister consider reintroducing marginal relief for non-resident pensioners in the next Budget?

Deputy S.J. Pinel (The Minister for Treasury and Resources):

Marginal relief for non-resident individuals was, effectively, removed in the Budget of 2016. The Treasury's analysis then, was that very few individuals would be adversely affected, because of the way other tax jurisdictions provide relief from double taxation. Most people should be paying no more tax as a result of the change, but they may be paying more tax to Jersey and correspondingly less to their country of residence. It was recognised at the time, however, that a small number of people overseas might be adversely affected, if they were living in a jurisdiction which did not provide such tax relief from double taxation. The Taxes Office believe that fewer than 25 non-residents may be in such a position. I am actively considering whether a scheme could be

developed to help the small minority of people, who are on a low income and also suffering double taxation on their Jersey-sourced income. If this requires new legislation, I shall aim to bring that forward in my first Budget.

3.6.1 Deputy S.M. Ahier:

Would the Minister confirm that the amount of revenue the Treasury has received and the removal of marginal relief has been insignificant in comparison to the hardship and distress its removal has caused to ex-pats in their twilight years?

Deputy S.J. Pinel:

I can see where the Deputy is coming from and the Treasury has saved £500,000 by removing this marginal relief.

[10:15]

As I mentioned in my opening remarks, the number of people adversely affected by living in a jurisdiction where there is not a unilateral tax relief is a very small number and we are addressing that small number because, obviously, the last thing we want is people to be in a situation where they cannot afford to live in their retirement.

3.6.2 Deputy M. Tadier:

Does the Minister have any information on what she calls the small amount of people that are affected but, in particular, the demographics and the socioeconomic status of those individuals? Do they tend to be lower? Can she be assured that some of these individuals may not be paying tax in the other jurisdictions that they live in and that double-taxation agreement may not even serve their purposes anyway?

Deputy S.J. Pinel:

Yes, of course we have the information, but I could not release it.

3.7 Deputy G.P. Southern of the Minister for Infrastructure regarding the standards of service providers of cleaning and gardening outsourced by the Department of Infrastructure: [OQ. 98/2018]

What measures, if any, are in place to assess and monitor the standards achieved by service providers of cleaning and gardening outsourced by his department? What provisions, in particular break clauses, are in place, should the requirements of any service agreements not be met?

Deputy K.C. Lewis (The Minister for Infrastructure):

Cleaning and garden maintenance contracts are monitored by the department contract managers. Regular meetings are held with each contractor to review performance and discuss and action any issues that may have arisen. The performance of each contract is monitored against a number of K.P.I.s (Key Performance Indicators) which are evaluated using the R.A.G. (Red, Amber, Green) indicators. My apologies for the jargon, the K.P.I.s Key Performance Indicators and the R.A.G. indicators are traffic lights, red, amber, green. The contract managers will also carry out a number of spot checks of each site. Where the department is dissatisfied with the performance of the contractor, they are notified and instructed to rectify any inadequate performance issues. Within each agreement there are a number of remedies for dealing with inadequate performance. These include, but are not limited to, deductions from the contract price, termination of parts of the agreement, or termination of the whole agreement.

The Deputy Bailiff:

The Connétable of St. Brelade. Sorry, I beg your pardon, Connétable. You did not put your light on, Deputy; I had assumed you did not want a supplementary, but if you want one do have one.

3.7.1 Deputy G.P. Southern:

I was a bit slow to rise. I was just looking at my figures. The answers to question 21, written question, reveal that some 88 staff were outsourced and removed from employment by the States, the vast majority of which were front-line staff, 80 of them in manual worker grades 1 to 3. How many of the staff employed by outsourced companies are now engaged in delivering these services?

Deputy K.C. Lewis:

I do not have that information to hand, but more than happy to get hold of that for the Deputy. I know there was quite a bit of redeployment, obviously before my tenure, but I will get that information for the Deputy.

3.7.2 Connétable M.K. Jackson of St. Brelade:

Would the Minister consider that the philosophy of outsourcing is better in terms of standards than the previous regime where these things were managed in house?

Deputy K.C. Lewis:

Into the lion's den. No. **[Approbation]** I am not a great fan of outsourcing, I am afraid. A lot of people lost their jobs. When I was last there - it was Transport and Technical Services - a lot of people maybe did not get the best start in life and had certain jobs, who will never work again and that is very sad. A lot of people had a good job, they had pride in their work and they were an asset to the community and many of which will never work again. But, quite a few were redeployed and in other departments quite a few got jobs with the new contractors. But, I think the bottom line is I am not a fan of outsourcing. **[Approbation]**

3.7.3 Deputy M. Tadier:

Based on the evidence that the Minister has seen - whether it is anecdotal or hard evidence - does he believe that the quality of services provided from outsourced work and workers has gone up, down, or stayed about the same in general terms?

Deputy K.C. Lewis:

In general terms I would say it is pretty mixed what I have seen at the moment. I think the Deputy needs to ask me this question in 6 months' time, when I have researched every aspect of the whole system properly. But, as I say, I am not a great fan of outsourcing, but some people are doing an excellent, first-class, job, others not. But, as I have mentioned in my original answer, this is being monitored and the key performance indicators there, they use a traffic light system, red, amber, green. We are where we are and I think some are doing a good job, some not so, but they will be pulled up.

3.7.4 Deputy G.P. Southern:

The Minister mentioned that, in certain cases, where standards have been breached, the payments could be suspended. Has that occurred, on any occasion, in the last 2 years?

Deputy K.C. Lewis:

Not to my knowledge.

3.8 Deputy R.J. Rondel of St. Helier of the Minister for Infrastructure regarding the situation in respect of land at St. Catherine's that had been advertised for sale: [OQ. 86/2018]

Will the Minister give an update on the current position of the land at St. Catherine's that was recently advertised for sale?

Deputy K.C. Lewis (The Minister for Infrastructure):

In response to the invitation to tender, the department by this stage has received 5 bids for the land; I am considering those bids. To better understand the protection the Island Plan provides to those fields, I am arranging to meet with the Minister for the Environment and Parish representatives this week. I expect to make a decision at my scheduled ministerial meeting on Friday and will report to the Assembly in accordance with Standing Order 168.

3.8.1 Deputy R.J. Rondel:

Has the Minister considered offering a very long lease to people such as the National Trust and maintaining the land for the public's benefit?

Deputy K.C. Lewis:

Everything is being considered at the moment. As I said, we are having talks.

3.8.2 Deputy R. Labey of St. Helier:

When the Minister says that he is going to make a decision, does he mean he is going to make a decision on the bids that have been received to purchase the land, or make a decision on whether the land should be sold off in this way?

Deputy K.C. Lewis:

Yes.

The Deputy Bailiff:

I am sorry, Minister, I do not think that was an answer, because the question was asked in the alternative.

Deputy K.C. Lewis:

The decision has yet to be made; all options are open. Basically, the Minister is not bound to accept this, or any offer.

Deputy M. Tadier:

Can I ask if ...

The Deputy Bailiff:

Yes, indeed. Yes, Deputy, it is your question now.

3.8.3 Deputy M. Tadier:

In terms of an efficiency of approach to his workload, is it not a strange scenario to go out to tender to sell a piece of land if one has not even decided whether that is the course of action the department wants to pursue?

Deputy K.C. Lewis:

Absolutely. This was well in train before my taking over of the department.

3.8.4 Deputy M. Tadier:

In terms of a logical approach, does the Minister think that he should decide, first of all, whether he wants to sell that piece of land and, once that decision has been made, decide who to sell it to, rather

than putting it out to tender and then deciding later on we do not want to sell, which wastes everybody's time?

Deputy K.C. Lewis:

As I said, I am taking advice from experts and I will be consulting with the Parish authorities in St. Martin on this.

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

The consultation with me is a bit of a surprise, but I will ask my question. The Minister has, in his power, the ability to make the decision. He has only had 5 tenders. Can he tell us how long it has taken him, thus far, to get to this stage?

Deputy K.C. Lewis:

It has taken until now. There is a set procedure involved and I am following that procedure; that I get a report from the agents, which goes to Property Holdings and they write a report to me, making several recommendations. That report is now in; I am considering it. I will consult with various parties and make a decision.

The Deputy of St. Martin:

The question I asked was: how long has the Minister had the tenders in his possession?

Deputy K.C. Lewis:

The tenders, I think, probably about a week and a half.

3.8.6 Deputy C.F. Labey of Grouville:

Yes, I believe the closing date was 7th July, from memory. Could the Minister expand, perhaps, on the reasons for putting the land up for tender, especially when they were let out and the States were deriving an income from the farmer farming the land?

Deputy K.C. Lewis:

My information was that the farmer had ceased farming the land. As I mentioned previously, the land was put up before my tenure at the Department for Infrastructure.

3.8.7 The Deputy of Grouville:

Yes, I realised it was before his time, but I wondered, while he is going through this process, if his department could have given him the reasons why the land was put up for tender, in the first place. The land was being farmed, but the farmer was given notice, not last Christmas, I believe the Christmas before, so that the States could put it up for tender.

Deputy K.C. Lewis:

I have obviously slightly conflicting information regarding the farming situation. But, as I say, this was in train for quite some time. Sorry, if the Deputy could repeat the first bit of the question.

The Deputy of Grouville:

I just wanted to know if he could expand on the reasons for putting the land up for tender.

Deputy K.C. Lewis:

Yes, I thank the Deputy. My information from Property Holdings, which is the department holding the property, that it did not provide sufficient return for maintaining the land. It was originally a laying-out area for, I believe, St. Catherine's breakwater, back in the distant past, and was no longer required.

3.8.8 Deputy R.J. Rondel:

Would the Minister agree that if it was let to somebody like the National Trust, it could be done on a very long lease, very little admin cost to Property Holdings and it would be totally managed by the National Trust themselves and have no burden on Property Holdings, whatsoever? [**Approbation**]

Deputy K.C. Lewis:

As I said, all options are being considered and a decision will be made and the States will be informed.

Deputy R.J. Rondel:

Just to confirm, that would be on Friday, would it?

The Deputy Bailiff:

I am sorry, Deputy, that was the supplementary question there. You could always ask the Minister in the coffee room, or something like that, afterwards.

3.9 Deputy M.R. Higgins of St. Helier of the Chief Minister regarding implementation of the recommendations of the Independent Jersey Care Inquiry: [OQ. 103/2018]

Will the Chief Minister advise Members whether it is his policy that the recommendations of the Independent Jersey Care Inquiry will be fully implemented and, if so, will he make that implementation one of his Government's priorities?

Connétable C.H. Taylor of St. John (Assistant Chief Minister - rapporteur):

This is a priority and it is one of the reasons for proposing that Senator Mézec's portfolio be extended to include the responsibility and well-being of children. In undertaking the work, the recommendations of the inquiry, the Government will listen to views of the public and, especially, the care leavers. This is why Haut de la Garenne will be kept, following consultations with both the public and care leavers. This is a key part of improving the trust between Government and Islanders, which, in itself, was one of the recommendations of the report.

3.9.1 Deputy M.R. Higgins:

I am going to have to read this afterwards, because it sounded less than wholehearted, believe it, or not. Difficult with the Chief Minister not being here, but can the Assistant Minister tell us whether the Chief Minister is also going to pursue the recommendation about the "Jersey way" and will he be supporting those things to try and remove the negative "Jersey way" from our Island, including will he be voting in the vote to retain the Bailiff, or not?

The Deputy Bailiff:

I do not think how the Chief Minister votes is a matter for which he has official responsibility in the terms of question time, but I think the Assistant Chief Minister could answer the first part, if he will do so.

The Connétable of St. John:

There are many, many interpretations of the Jersey Way: the Honorary Police, the honorary system of the Parishes, the Parishes themselves. If you want to get rid of those, well that is something, I think, that is a separate debate. Within the reports there are certain - it is recommendation 7 of the "Jersey way" - and the Chief Minister, and I do not want to put words in his mouth, but my understanding is that there are concerns surrounding that issue. But, this is why it is important to consult with the public and to consult with the care leavers.

[10:30]

We have already seen that the care leavers and the public do not want Haut de la Garenne to be knocked down and the recommendation was that we should do. Which do we follow? The recommendations of the Care Inquiry, or the wishes of the public of this Island and the care leavers? I know which way I go.

3.9.2 Deputy M.R. Higgins:

It just struck me: that was not a ringing endorsement of the Independent Care Inquiry, which we paid £23 million for. All I can say is that the Haut de la Garenne one, I was neutral on that and really if the care leavers supported ...

The Deputy Bailiff:

Deputy, it does have to be a question.

Deputy M.R. Higgins:

OK. In fact, I will wait until the Chief Minister is back and I will ask him again directly myself. Thank you.

3.10 Senator S.Y. Mézec of the Chairman, Privileges and Procedures Committee regarding implementation of the recommendations of the C.P.A. Election Observer Mission: (OQ. 97/2018]

Will the Privileges and Procedures Committee commit to implementing all of the recommendations made in the report from the C.P.A. (Commonwealth Parliamentary Association) Election Observer Mission and, if not, why not?

Deputy R. Labey (Chairman, Privileges and Procedures Committee):

The P.P.C. has not met since the publication of the C.P.A. E.O.M. (Election Observer Mission) report, but it is due to do so next week. What I can commit to, for the Senator, is that the committee will look at every single one of the recommendations and give them proper consideration and report back to the Assembly with recommendations accordingly.

3.10.1 Senator S.Y. Mézec:

Does the Chairman agree with me that while the recommendations made in the report are sound, in many ways they do not go far enough and there were aspects that do not appear to have been reported on, that could well have been reported on, such as the convenience of the process of voting for the actual voter? Would he agree that when the committee looks at implementing these recommendations that it should, in fact, look further at some of the issues that do not appear to have been considered in the report?

Deputy R Labey:

The committee is very much in listening mode with regards to this report. We would welcome representations from Members, either written, or to come and see us in person, with opinions such as that which we have just heard from the Senator. I do not want to offer opinions on the report just yet.

3.10.2 Deputy M. Tadier:

I do not want to solicit an opinion, but I would like to talk about matters of facts. The good thing about mathematics is that you have hard answers sometimes, so we know that 2 and 2 equals 4 and we know that the square root of 4 - in fact there are 2 square roots of 4 - which are minus 2 and 2. But I am not sure if electoral reform falls into that category. But, does the Chairman of P.P.C. agree

with the underlying findings of the election observers, which we already knew, which said that you cannot have fair elections if the Constables remain in the States Assembly by right?

Deputy R. Labey:

I am not sure that the report says it in exactly those terms, does it? But I have been on record as saying - I think twice now in this Assembly before the report - would it really tell us anything we did not already know? We have to get to grips with those things that we already know are difficult and not right and need reform.

3.10.3 Deputy M. Tadier:

How many times do we need to be told in this Assembly and with various reports that we have a completely, if you like, unintentionally but, nonetheless, gerrymandered electoral system, which is unfair and unrepresentative, that it needs to change, that we do not need 3 types of States members? How do we get to grips with that and what proposals will the Chairman bring to implement them?

Deputy R. Labey:

But, yes, it is absolutely up to the Assembly how many times it wants to receive reports that say exactly the same thing and something that they may know already. I think we both have made that point before. I have committed to bringing back to the Assembly, on behalf of P.P.C., a recommendation for electoral reform in the first year of this parliamentary session, so that we have got a chance to reform internally. If we do not manage to reach a consensus on that - because the *status quo* is not, in my opinion, an option - we will once again, perhaps, have to invite an outside body to recommend reform. But I am hopeful that we can bring something to the Assembly that the Assembly will be able to reach a consensus on and we can move forward.

3.10.4 The Connétable of St. John:

Could I ask the Deputy which is more important: the will of the people, who, in a referendum, asked to keep the Constables, or these numerous reports we have saying that perhaps they should leave?

Deputy R. Labey:

It is interesting, is it not? I wonder if ever it is stated how long a referendum result is active for. Is it in perpetuity, so that the Constables cannot be amended, or that that position cannot be looked at, at all? But it is an interesting question, is it not? It is one that we are going to be talking about later on in this sitting.

The Deputy Bailiff:

But it is not a question that you are inclined to answer, Chairman?

Deputy R. Labey:

I have just given my answer and I do not know if the Constable of St. John is unhappy with it, or happy with it.

The Deputy Bailiff:

I think it is perhaps impossible.

3.10.5 Senator S.Y. Mézec:

The report made recommendations on voter registration and how to improve that system. In an answer to a written question I posed to the Comité des Connétables about incidences where people were permitted to vote, despite having not been put on the electoral roll, at the recent election, which shows that there has been a massive spike in the numbers who are able to do that, does the Chairman agree that it would be sensible to not hold any public votes in Jersey, referendums I am thinking here,

until the issues with our voter registration system have been fixed, in accordance with the recommendations made in this report?

Deputy R. Labey:

That is a point of view. This train was set in motion and we should see it through if we are going to stay on schedule with this particular issue with regards to the dual role. It will mean that we go to, effectively, another public election, which will be a public referendum, without many of the changes that we might want to bring in, with regards to the C.P.A. E.O. Mission, but that is an impending matter for the Assembly to determine.

3.11 Deputy C.S. Alves of St. Helier of the Minister for Social Security regarding legislation to allow people suffering from mesothelioma to obtain compensation: [OQ. 95/2018]

Is it the Minister's policy position that Jersey should enact legislation similar to that already in place in the U.K. and France to allow people suffering from mesothelioma to obtain a nominal amount by way of compensation and, if so, will she commit to engaging with the Minister for Health and Social Services and the Chief Minister on this matter?

Deputy J.A. Martin of St. Helier (The Minister for Social Security):

I thank the Deputy for her question. I can confirm that the issue of providing compensation for workers suffering from asbestos-related diseases was raised by the Council of Ministers last week. I can also confirm that the ongoing major review of the Social Security scheme will include a review of the options available in respect of a compensation scheme for asbestos-related and other industrial diseases. Yes, I can confirm: I will commit to engage with the Chief Minister and any other Ministers on this matter.

3.11.1 Deputy C.S. Alves:

Is it not the case in the U.K. and other jurisdictions that sufferers are granted easy access to funds, given the short period of time between diagnosis and death?

Deputy J.A. Martin:

As I said to the Deputy, this needs to be looked at. The Deputy's question is on mesothelioma; and I could pronounce that earlier this morning. As I say, even the U.K. scheme says asbestos can cause many other diseases, so we need to look at what is best for Jersey, who it would affect. I am very pleased that the Social Security scheme - and this was before my time, before the question - was already going to look at this issue of compensation and how best, if we do it, it would work in Jersey.

3.11.2 Deputy C.S. Alves:

Does the Minister agree that it is appropriate to consult with the S.E.B., which should be reviewing its policy in light of concerns, especially raised by the N.A.S.U.W.T. (National Association of Schoolmasters Union of Women Teachers) of asbestos in schools?

Deputy J.A. Martin:

That is on the list to consult and that will be a way forward and what S.E.B. do to probably protect staff as of now. Maybe not so much looking back, but all these considerations will be undertaken in different reviews across the Council and with, of course, the States Employment Board; that is a must.

3.12 Deputy K.G. Pamplin of St. Saviour of the Minister for Infrastructure regarding recycling levels: [OQ. 90/2018]

Will the Minister provide the latest figures for recycling rates for glass and plastics on, and off, Island? Will he advise what he is doing to bolster recycling levels?

Deputy K.C. Lewis (The Minister for Infrastructure):

Last year we received 5,938 tonnes of glass for recycling; this represents 79 per cent of the Island's waste glass and there is a small increase on the amount of glass received the year before. While this is good, it is of concern that approximately a fifth of the Island's glass is being processed, as general waste, at our Energy from Waste facility. Glass causes severe mechanical problems for us, as during the incineration process it melts then sets and so has to be manually removed. We will very soon be launching a public engagement campaign that focuses on glass recycling. The main purpose of the campaign is to reduce the contamination of glass being received for recycling. But, we shall also be raising awareness about the importance of separating all glass. In regard to plastics, my department exports plastic bottles for recycling; last year we exported 103 tonnes. This may sound a lot, but we estimate that is less than 10 per cent of all plastics thrown away in Jersey. For this figure to increase significantly, recycling has to become more accessible for everyone. This means every Parish providing household recycling collections and businesses, who sell these single-use plastics, taking responsibility for their part in generating the waste. We are also working alongside colleagues and the community to achieve plastic-free Jersey status. This programme aims to reduce single-use plastics, such as plastic bottles and our public education and communications team is emphasising this message.

3.12.1 Deputy M. Tadier:

I am, once again, concerned to hear the very high rate of glass that ends up in the incinerator when we are told time and time again how much damage it does to the incinerator / Energy from Waste. Why is it that there are no glass bins in public places, by and large? If you go to the beach, do you leave your glass bottle on the beach, or do you put it in the bin, which takes it to the Energy from Waste? If you are in town, do you leave your glass on the street, or do you put in the bin, which, again, goes to the Energy from Waste? As a States, we seem to be encouraging people to put glass in the bin for general use and dispose of it, but not providing any ways for them to recycle. Is this something the Minister could give urgent attention to?

Deputy K.C. Lewis:

I would agree with the Deputy, but most glass waste comes from household waste, which is not separated, so that is something to be done. My own Parish of St. Saviour has a glass collection. I believe 6 or 7 Parishes do, but not every Parish and that is a problem. One can go to the Energy from Waste plant and watch the rubbish trucks tipping their waste and you can hear the clink, clink, clink of the glass as it comes out, which is from domestic waste. That is something we need to get over to people: to separate their glass and use the glass recycling bins, which are definitely in St. Helier and surrounding Parishes and several glass recycling centres throughout the Island.

3.12.2 Deputy M. Tadier:

How does the Minister get the statistics on the fact that most glass going into general waste comes from domestic, rather than public facilities? Is there some kind of separation that they do to count and weigh the glass, or is it just a guesstimation?

Deputy K.C. Lewis:

As I have just mentioned, I have been next to the domestic refuse as it is being tipped into the hoppers and you can hear the clinking of glass as it comes out, so we know that not all household glass is

being separated out. We urge people to do that. There are a number of glass recycling points around the Island, recycling centres for plastic bottles and glass, and we urge people to use these. But, obviously, we need to do more regarding separation.

3.12.3 Senator S.C. Ferguson:

Can the Minister confirm that his department knows exactly where all our recycling products go? For instance, can he confirm that none of our plastics are sent to the Far East?

[10:45]

Deputy K.C. Lewis:

Yes, I can confirm that. What we have got in the U.K. - especially China has ceased to import waste plastics at the moment, so we are sending stuff for various recycling centres - we do a lot of separation. We are quite fortunate, inasmuch as we rely on food shipments from the U.K., so we are getting lots of lorries coming in from the U.K., on a daily basis, delivering food and going back empty. We are taking advantage of those empty trucks to fill them full of old televisions, plastics, and whatever recyclables we can, to send them away to the U.K. I do have a list of a number of people here, who do recycle. Quite a bit goes to the U.K., paper received by Abbey Waste, the central paper mill in the U.K. Plastic bottles, received by Abbey Waste, are sent to a plastics recycler in England. Batteries exported to a specialist recycler outside of Birmingham. Light bulbs are exported to a specialist recycler in Belgium. That is just a snapshot of what we do; there is always room for improvement and we strive to do that.

3.12.4 Senator S.C. Ferguson:

Has anybody from the Minister's department gone with any of these loads to see where they went to and what happens to them? It is all very well to accept that 'we do this, we do that', with your product that comes to us. Has anybody checked?

Deputy K.C. Lewis:

I believe they have. These are major companies in the U.K. and abroad; they do this on a commercial basis for several countries, so I have no doubt they do it professionally.

3.12.5 Deputy J.M. Maçon:

I remember some time ago, 2008, the Senatorial hustings, where a T.T.S. (Transport and Technical Services) worker asked about whether States Members knew about what happened to recycled glass and asserted that all that happened in Jersey was that it was crushed and used for landfill, which was not necessarily the recycling that most of the public would understand recycling to mean. I wonder if the Minister could update us what is meant by how glass is recycled in Jersey. If he does not have that information to hand, would he be prepared to send that around to Members?

Deputy K.C. Lewis:

It is sent to La Collette, it is sorted, crushed and used as a liner for land reclamation, which has been going on for a number of years. There are experiments in other uses for the glass, possibly used for fine-grain sandblasting, *et cetera*. But that is the only use we have for it at the moment, crushing it and using it as a lining material, which does save importing aggregates for the same purpose.

3.12.6 Deputy R.J. Rondel:

Would the Minister confirm that there is a publicised list of all recycling glass collection points and how that is sort of publicised to the public and whether it is in Parish Halls, *et cetera*?

Deputy K.C. Lewis:

It is freely available on the internet. If any of the Members have been to La Collette they could see the level of recycling and reuse that we do. I am more than happy to take Members on a guided tour, at some point, of the La Collette facility. It is doing a wonderful job. As I say, all these details are freely available on the internet, should a Member wish to look it up.

3.12.7 Deputy K.G. Pamplin:

My supplementary questions were picked off by other Members, but I think the message is clear. Would the Minister agree what we are hearing from the public, which is why I brought this question in the first place, is the reassurance that the recycling is happening and the glass, which seems to be a big issue, is being used proactively; that maybe there is a way we can go to the public and find plans that can really help the Island further, that encourage people to separate and reassure that we can do this together?

Deputy K.C. Lewis:

Absolutely. If anyone was listening to Radio Jersey this morning, getting ready to come to the States, they would have heard our recycling manager explaining exactly what has happened to all the materials. We do have several programmes in train to encourage people with more separation, utilising all the recycling points around the Island. Again, that should be available in Parish Halls. It is certainly on the internet; a quick Google search, or go to the gov.je site will locate that; all the facilities, where the recycling points are and I urge people to use them whenever possible. There is always more work to be done and we are heading in that direction.

3.13 Deputy M. Tadier of the Minister for Health and Social Services regarding the future of the Little Sisters of the Poor care home: [OQ. 91/2018]

What talks, if any, has the Minister, or his department, had with Little Sisters of the Poor and the Parish of St. Helier with regard to securing the future of their care home?

Deputy R.J. Renouf of St. Ouen (The Minister for Health and Social Services):

The head of Professional and Care Regulation was advised of the announcement by the Little Sisters of the Poor that they were planning to withdraw from Jersey in a letter that was hand-delivered on 27th June. In a telephone call later that day with the head of Professional and Care Regulation, the Mother Provincial gave an assurance that they were committed to their residents, they were looking for an organisation to continue to run the Jeanne Jugan Residence as a care home. It was said that they were very much at the beginning of negotiations and there were no immediate plans, or dates, set. Furthermore, the Order gave an assurance that the sisters will continue to manage the home until such time as a suitable alternative provider is found and they will ensure that any transition is made as smoothly as possible. Following the announcement, one of the officers from my department has visited the home and the team will continue to monitor. The Little Sisters have also assured us that they will keep the department informed of any developments. I, as Minister, have also since received a letter from the Little Sisters of the Poor, repeating all of that and offering the same assurances. As to the question whether talks have taken place with the Parish of St. Helier, there have been none.

3.13.1 Deputy M. Tadier:

I am sure the Minister and Members might wish to join me in saying that Little Sisters provides an excellent service [**Approbation**] both in terms of the Order that has been running it for a long time and also, of course, the civic staff who run that on a daily basis. It is a community and not simply just another care home. Particularly, on the last point, with the discussions with St. Helier, does the Minister agree that we also have some very good examples in Jersey of care homes that are run by Parishes and should it be in need of securing a future to an appropriate organisation to take that over?

Would the Minister encourage and discuss with St. Helier, given the fact that they have had some of their care homes in the Parish closed recently, whether they might be an appropriate organisation to take over the running of that home?

Deputy R.J. Renouf:

First of all, I would absolutely concur with the Deputy's opening remarks: the Little Sisters of the Poor have been a very valued part of our community in the Island and have looked after some very vulnerable and special people, as members of our community grow older and we are immensely grateful to them. We are sad to see them go, but we understand the reasons they have expressed. If the Parish of St. Helier has an interest in taking over, or negotiating, the acquisition of the home, then I can assure the Deputy that my department will engage wherever necessary. The Parish is, of course, a registered provider already, insofar as it provides a residential and nursing facility at St. Ewolds, so there is a good track record there. But, it is for the Parish of St. Helier to make contact with the Little Sisters and my department will give whatever support may be necessary, bearing in mind it will also need to, perhaps, support other parties who may be interested. It will take an even-handed approach, I am sure.

3.13.2 Connétable K. Shenton-Stone of St. Martin:

I was not sure whether the Minister and the Deputy are aware that a very robust committee has been formed with the Little Sisters to preserve the amazing work that they do, so it may be worth contacting them. The chair of the committee is Ben Shenton, my brother. But, anyway, it is a very robust committee and they have some very good people on it. I just was not sure if you were aware.

Deputy R.J. Renouf:

I am grateful to the Connétable and I am now aware and we will pass that on to the officers concerned.

The Deputy Bailiff:

Final supplementary, Deputy Tadier?

Deputy M. Tadier:

No, I do not, but just to thank the Minister for his ongoing concern in this area and I look forward to hearing back.

3.14 Senator K.L. Moore of the Chief Minister regarding the appointment of a Minister for Children and Housing: [OQ. 100/2018]

Following the announcement that the Chief Minister intends to appoint a Minister for Children and Housing, will the Chief Minister explain whether he considered, instead, appointing a Minister for Family and, if not, will he explain why not?

The Deputy Bailiff:

You are standing for the Chief Minister, all right. I was not quite sure.

Connétable R.A. Buchanan of St. Ouen (Assistant Chief Minister - rapporteur):

Yes, I am standing for this question. I thank the Senator for her question. By the very nature of the responsibility of the Minister for Children, he would be interested in representing the interests of families as, I think the Senator would agree, a family with children in it is probably a happy outcome for some children in this Island, so it is very much a part of the role. It is an integral part of the role. I think the question is also about focus; the role could have had a number of titles. I think the work undertaken for children is of more importance, perhaps, than the title.

3.14.1 Senator K.L. Moore:

I thank the Constable for his answer. Perhaps a title is simply a title and it is a matter of focus, so I appreciate that he is in a difficult position in not being the Chief Minister, himself. However, it would be helpful for the Assembly to understand how that is anticipated, because we cannot simply take that on face value.

The Connétable of St. Ouen:

Sorry, could I just ask the Senator if she could just, perhaps, explain the question? I did not quite understand what she was getting at.

Senator K.L. Moore:

Of course. I would simply like the Constable to explain how it is anticipated that that vision will be employed by the future Minister.

The Connétable of St. Ouen:

I thank the Senator for her question. Unfortunately, I cannot speak for the Minister himself, so I will ask the Minister and get back to you with a response.

The Deputy Bailiff:

Did you wish to have the final supplementary, Senator?

Senator K.L. Moore:

No, thank you.

3.15 Deputy M.R. Higgins of the Chief Minister regarding the decision to allow High Value Residents to purchase and develop properties: [OQ. 104/2018]

Will the Chief Minister advise Members, what evidence was used to justify the Ministerial Decision to relax the policy and the Control of Housing and Work legislation to enable high-value residents, i.e. those with entitled status under Regulation 2(1)(e), to purchase and develop properties in the Island?

The Connétable of St. John (Assistant Chief Minister - rapporteur):

We want people to come to Jersey and to invest in Jersey, this is why high-net worth individuals have come and this is what they would like to do. This is why the last Government made the change that enabled them to acquire unoccupied and unsold properties to support the supply chain and to help the local population. As a new Assistant Minister, I am perfectly content to discuss this issue with other Members and take the matter further, should you wish to do so.

3.15.1 Deputy M.R. Higgins:

The Assistant Minister did not really answer the question. I was asking about what evidence, what consultation? There was no consultation. I think the question I am going to ask now is: will high-net worth individuals pay a fixed rate of tax, £145,000 a year and one per cent of their income? Yet, if any other person bought properties and developed them, they would have to pay tax on their rental income, if they did rent them out. High-net worth clients do not. Where is the economic benefit from high-net worth clients?

The Connétable of St. John:

Much of the investment is made through local companies, that they set up to use as a vehicle to develop these properties and, therefore, those companies will pay the tax at the full 20 per cent.

[11:00]

We, at the moment, have a severe housing shortage and, therefore, this is a way in which additional housing can be created and by using the investment money available from the high-net worth individuals, hopefully, we will get more housing available for locals as homes.

3.15.2 Senator S.C. Ferguson:

Given the problems generated in Sark with such a policy, is pursuing such a policy in Jersey entirely sensible? The Assistant Minister mentions housing, but how can you be sure that it is going to be housing for locals and not luxury housing? I really question, as Deputy Higgins does, the evidence for bringing such a policy in being entirely sensible for the Island.

The Deputy Bailiff:

What is the question, Senator?

Senator S.C. Ferguson:

I am sorry, I did ask. Is pursuing such a policy entirely sensible?

The Deputy Bailiff:

You said: “I do question whether pursuing such a policy is entirely sensible”, which is a statement, rather than a question, if that is the question.

Senator S.C. Ferguson:

It kind of wandered round a bit. I am sorry, I apologise.

The Deputy Bailiff:

No, no, it is perfectly all right, but now we understand the question.

Senator S.C. Ferguson:

But does the Assistant Minister not agree that, without proper evidence, such a policy is not entirely sensible?

The Connétable of St. John:

I am glad you were as confused, as I was. At this stage, I have not had the opportunity to examine all the evidence and, as I have said earlier, I am quite happy to do so. This is a legacy that we have and we have continued it but, obviously, everything is being examined in the course of time.

3.15.3 Deputy G.P. Southern:

The point I wish to address through the Assistant Minister is that surely he said: “This is to assist with housing of ordinary people in Jersey”, when there is no limit, or no restriction, to affordable homes developed this way but they could and probably will be luxury homes and of no use to the local population. That is the case, is it not? There is no limit on development to restrict it to affordable, or even social rental homes.

The Connétable of St. John:

I understand there is no restriction, but high-net-worth income individuals have always been able to purchase property and to renovate it. This change in the law really allowed them to keep it, whereas, previously, they had to sell it after a 2-year period. As for the quality of housing they are going to build, as to whether it is for affordable homes, or whether it is for better-off local individuals. All the properties do have to then be sold to locally qualified individuals.

3.15.4 Deputy G.P. Southern:

Does the Minister not regret that such a limitation was put on these types of developments, so that we would, in fact, benefit ordinary residents on the Island?

The Connétable of St. John:

If you look, at the moment, in the local newspaper, you will see a large number of houses that are for sale and they require development; at the moment they are not being developed. I think we should examine ways of finding how these houses could be developed for the benefit of local individuals.

3.15.5 Deputy R.E. Huelin of St. Peter:

I would like to bring up the subject of trickle-down economics and enquire as to whether there has ever been a study, in the Island, of the benefits of high-net worth individuals to the Island looking at it from a trickle-down economics standpoint.

The Connétable of St. John:

Yes, I understand that study has been done, but I do not know how updated it is but, yes, that study has been done in the past.

The Deputy of St. Peter:

May we request that it is updated?

The Connétable of St. John:

Certainly.

3.15.6 Deputy K.F. Morel:

Would the Assistant Chief Minister tell us what evidence there is that high-net worth individuals are setting up companies that employ people in Jersey and bring the benefits that he claimed earlier?

The Connétable of St. John:

I am sorry, I do not have that evidence with me, but I will endeavour to get it to the Deputy.

Senator L.J. Farnham:

In an attempt to be helpful, can I just say that Locate Jersey produce figures every year ...

The Deputy Bailiff:

No, I am sorry, this is question time. I apologise, Senator, you simply cannot. The final supplementary, Deputy.

3.15.7 Deputy M.R. Higgins:

First of all, the Assistant Minister said that these individuals formed companies and paid 20 per cent tax; that is providing they draw from those companies. The vast majority of these 2(1)(e)s have got vast sums of money, do not draw from it, but when they wind up the company they will take the profit they have made with nothing going to the taxpayer, so I correct the Minister on that, first of all. In fact, it has been alleged, for example, that one 2(1)(e) resident ...

The Deputy Bailiff:

Deputy, can you please ... it is a supplemental question and you have already spent a good 30 seconds correcting something, without asking a question. I wonder if you could ask a question.

Deputy M.R. Higgins:

OK. Does the Minister accept that, as was alleged by the Planning Inspector, that those with the sums of money that the 2(1)(e)s have, get what they want when it comes to planning, to the detriment of ordinary individuals who cannot afford the consultants and the lawyers to take on planning?

The Connétable of St. John:

I think the Deputy asked 2 questions, I will, therefore, answer the first one. If you set up a local company that developed property, that company is liable for the 20 per cent tax at source. To say that that company does not pay tax and tax only gets paid when you withdraw the money is incorrect. If you have a development company, you pay tax of 20 per cent on all the profits at source, so the Deputy is misguided in his first statement.

3.16 Deputy R.J. Ward of the Minister for the Environment regarding the support available for businesses undertaking green initiatives: [OQ. 93/2018]

What support, if any, is available for businesses who undertake green initiatives, such as compostable coffee cups?

Deputy J.H. Young (The Minister for the Environment):

I thank the Deputy for an excellent question. I will try and focus the answer on the specifics. The department has run, for 9 years, a very successful, but a low-budget, eco-active programme. That is thought successful, as 100 local businesses participate in it, to improve their performance. Those accredited businesses can get free training provided by the department and specialist support. Becoming part of that programme they join a network of organisations that, in fact, benefit together; recent events, training sessions and briefings on plastic waste and sourcing alternative solutions. The department sees this very much as a win/win. The Island gets environmental benefits and obviously the businesses concerned gain in reputation and efficiency and ultimate savings. On this particular, that the Deputy mentioned, compostable coffee cups, that programme, and the prison are working together to investigate a trial with businesses who use compostable kitchen consumables. There are complications with that, technical complications, but the aim will be for that trial to establish how items like such compostable cups can be composted effectively and extended more widely. I must mention, the Minister for Infrastructure has mentioned already the importance of the plastic-free Jersey campaign where Jersey and the eco-active team are seeking to win the recognition of this nationally-recognised programme, which is done by the Surfers Against Sewage. I am hopeful that, by the autumn of this year, the very extensive criteria that the Island will be able to endorse that and then that is all the small parts of the programme. It is about the strategy of that team ...

The Deputy Bailiff:

I must ask you to bring that answer to a close. The normal time allocated for an answer from a Minister is one minute 30 seconds and you were just about at 2 minutes there. Supplemental question?

3.16.1 Deputy R.J. Ward:

I recognise the good work that the eco-active team and the project team take on. The issue is a very simple one: companies are investing more money and spending more money on compostable cups and there is nowhere to take them, because they will not be accepted at the green waste site. Is it not a simple solution just to make a space at the green waste site so they can simply be composted?

Deputy J.H. Young:

Yes, I think this does require further work by my department and the Infrastructure Department. I think it is an open secret that I think that waste management cannot be done separately by our

department and we need changes there. I think very much I should be working with the Minister for Infrastructure and so will my team to try and achieve solutions to these practical problems. In the meantime, what we are trying to do is to persuade people to change their behaviours and they will need further support, no question.

3.16.2 Deputy M. Tadier:

I hope the Minister will take the opportunity to reinforce the message about reducing and re-using before, of course, the third 'r' of recycling comes into play. Does he believe that, fundamentally, what needs to happen here is for monetisation and for the ownership of plastic waste, or other types of waste, to be taken by those who import it and who sell it? For example, if we were to all leave our packaging at the shop at the point of purchase and say: "There you go, you can have all that", or bring it back to the shop, does he think that would facilitate, or catalyse, a type of change in behaviour that might otherwise take a longer time to achieve?

Deputy J.H. Young:

My personal opinion is, in principle, we do need to be prepared as we develop policy for using financial measures to encourage behaviour. But I think it is important that anything we do is co-ordinated with other jurisdictions. At the British-Irish Council, a conference I attended, the U.K. are actively working on this. We are consumers, so we are not in control of our own destiny. But, very much, we are going to meet again and bring back co-ordinated programmes between jurisdictions and that may involve, if that is in accordance with, such programmes. In principle, I would not rule them out.

3.16.3 Deputy R.J. Ward:

May I have a timescale on the facility being produced for compostable material, so I can go back to the businesses that I have been speaking to and say: "This is the time you are looking at, before you can undertake what you want to do on that."? Otherwise, they may well stop this really positive initiative.

Deputy J.H. Young:

I have not got that information to hand. I undertake to get back to the Deputy and circulate that information, if that is acceptable.

**3.17 Senator K.L. Moore of the Chief Minister regarding his key achievements and priorities:
[OQ. 101/2018]**

What has been the key achievement of the Chief Minister's first 30 days in the role and what are his priorities for the next 60 days?

The Deputy Bailiff:

Who is answering that question on the Chief Minister's behalf?

The Connétable of St. Ouen (Assistant Chief Minister - rapporteur):

Yes, it is me, I understand I am stepping into the lion's den for this one, but here we go. I thank the Senator for her question. There are a number of achievements that the Chief Minister can highlight from his first 30 days in office. He has appointed a First Policy Development Board to review the hospital site, bringing together Ministers and Back-Bench States Members to ensure he can move quickly with a greater degree of consensus than previously. The Council of Ministers, under his chairmanship, also ensured that the Care Inquiry response continues to be prioritised, as evidenced by the recent decisions made regarding Haut de la Garenne and a lasting memorial for those who

have suffered abuse in Jersey. In addition, the Channel Island Political Oversight Board has been established and has agreed priority work streams, supporting new partnerships to improve our public services in both Bailiwicks and reducing the cost to taxpayers. For the next 60 days, the Chief Minister will be focusing on finalising his strategic plan.

3.17.1 Senator K.L. Moore:

Does the Chief Minister intend to publish a statement of priority, as the Minister for External Relations has?

The Connétable of St. Ouen:

Thank you for the question. The Chief Minister set out his priorities in his statement when standing for office in June. I do not think he intends to add to that at the moment.

3.17.2 Deputy M. Tadier:

The Assistant Chief Minister cited the creation of policy boards, which included Executive and Back-Bench Members as one of the successes of this current Government. Does the Assistant Chief Minister believe that there is a tension there and also how would it interact with the Troy Rule, which has the clear demarcation between Scrutiny and Executive functions?

The Connétable of St. Ouen:

Yes, I thank the Deputy for his question. We have considered the Troy Rule in setting up these boards and have tried to avoid any conflicts in that respect.

3.17.3 Deputy M. Tadier:

Could the Assistant Chief Minister explain what steps have been taken to avoid that conflict? For example, would there be limitations on Scrutiny members joining boards of ministerial departments that they might be scrutinising?

[11:15]

The Connétable of St. Ouen:

Yes, there have been restrictions set on Scrutiny members joining those boards, where they have a direct interest in the subject, so I believe that, perhaps, answers the question.

3.17.4 Deputy K.F. Morel:

Would the Chief Minister accept that the list of priorities given in his speech, before taking office, is not a substitute for statements of priorities created subsequent to taking office and would he endeavour to provide us with the statement of priorities in the coming days, or weeks?

The Connétable of St. Ouen:

I thank the Deputy for his question and I understand exactly where he is coming from for that; things do develop as time goes on. I will discuss this with the Chief Minister and, if necessary, we will get back to the Deputy with a response.

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

Would the Assistant Minister please confirm that these policy boards are being appointed, rather than being open for people to apply, therefore not really what we would call crossing the floor? Would the Chief Minister make a promise to open these policy forums for people to apply to them, who are interested rather than appointing people and friends?

The Connétable of St. Ouen:

In response, the policy boards are broadly appointed by the Council of Ministers and I will put the Deputy's second point to the Chief Minister and get back to him. I obviously cannot answer directly, as he is not here today, unfortunately.

3.17.6 Senator K.L. Moore:

I would like to thank the Assistant Chief Minister for answering questions, on behalf of the Chief Minister, today. But I do think it would assist the Assembly if he could explain why the Chief Minister was not able to return from the Jersey Day celebrations that were held last evening where most Ministers, who were in attendance, were able to attend the Assembly today?

The Deputy Bailiff:

I am sorry, Deputy, I have to rule that question, as popular as it might have been, out of order, because it is not within the parameters of questions asked.

The Connétable of St. Ouen:

I can provide a response.

The Deputy Bailiff:

No, I have ruled it out of order, so if you wish to notify other people then it is outside of question time.

3.18 Deputy G.P. Southern of the Chief Minister regarding the availability of data to assess people's ability to meet the Minimum Income Standard: [OQ. 99/2018]

Given reports in the U.K. that, despite an increase in the U.K. national minimum wage, in excess of inflation, the ability of workers on low hourly rates to meet the minimum income standard has worsened over the past year, will the Chief Minister advise whether up-to-date data exist for similar analyses to be made in respect of low-earning Jersey households and, if so, will he undertake to instigate such analyses?

The Connétable of St. John (Assistant Chief Minister - rapporteur):

The question I found a little confusing, because it is difficult to determine where he talks about the U.K. and where he talks about Jersey. But, I thank him for his question and I believe this information should be available from the Minister for Social Security who, as I believe, delegated this responsibility to her Assistant Minister.

The Deputy Bailiff:

Well I think the answer is you have already had the information, but you are perfectly entitled to ask a supplementary, Deputy.

3.18.1 Deputy G.P. Southern:

This is news to me that I have been delegated for any responsibility, whatsoever. I have been wandering around saying I do not have a job yet. So, I will repeat the question, and I do believe it is appropriately directed at the Chief Minister. Does the Minister believe we have up-to-date information on the relative position of Jersey in respect of the U.K.? For example, we have a minimum wage now, which is below that in the U.K., does he still accept the at-least 6 year-old figure that the cost of living in Jersey is 20 per cent higher than in the U.K. on average? What data does he have about relative low income in Jersey at the moment?

The Connétable of St. John:

Good policy requires good data and our income and expenditure information is too old to tell us just how lower-income households are managing in recent years. I accept this position and the Council will be looking to improve those statistical figures.

Deputy G.P. Southern:

If I may?

The Deputy Bailiff:

You have a final supplementary, I think you have already asked a supplementary, Deputy. I think you have a final one coming up ...

Deputy G.P. Southern:

Well I have a final supplementary, have I not?

The Deputy Bailiff:

Sorry?

Deputy G.P. Southern:

If nobody else wants to ...

The Deputy Bailiff:

Yes, you certainly have another one. I am just looking to see if anyone else wants to ask a question before you. Final supplementary, then.

3.18.2 Deputy G.P. Southern:

I was ahead of myself. In the response to the written question 19, submitted by me, the response says that a source of funding has not been identified for a fresh income distribution examination survey. Will he press the Minister to do so, at the earliest possible opportunity, so we can find out exactly where we are in terms of relative low income on this Island?

The Connétable of St. John:

Yes, I will press the Chief Minister.

3.19 Deputy C.S. Alves of the Minister for Economic Development, Tourism, Sport and Culture, regarding investment in Jersey's cultural sector: [OQ. 96/2018]

Further to the issues highlighted in the open letter, published by Jersey's States-funded cultural organisations on 13th May 2018, what action, if any, is the Minister taking to address the "chronic underinvestment" which they have said exists in Jersey's cultural sector?

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

My department carried out a strategic review of culture, arts, and heritage, in conjunction with BOP consultants. The strategic review sets out the findings of an extensive programme of research and consultation on Jersey's culture, arts, and heritage. It makes 20 detailed recommendations, which set out how the extraordinary potential of culture and the whole sector can be realised. The report was finalised in February of this year and, among other things, did find that culture, arts, and heritage, in Jersey, the spend was lower with comparable jurisdictions. For example, the E.U. average is one per cent and in Jersey we are at approximately 0.7 per cent. The report also sets out an ambitious vision for the sector, as an integral part of the overall ambitions for the Island's future and, as I have said, includes 20 recommendations to make the vision a reality. The report has been submitted to the Corporate Strategy Board and implications arising from the recommendations are being actively

considered by senior officials, in consultation with the stakeholders. It is the intention of the department to publish the report, once it has been shared with and discussed by all of the stakeholders in the culture, arts and heritage, sector.

3.19.1 Deputy C.S. Alves:

When does the Minister envisage the well-publicised capital and budget shortfall for the Opera House and Jersey Arts Centre will be resolved?

Senator L.J. Farnham:

These are discussions that are ongoing, but I would say, and I have said it previously, that although I do not believe there is chronic underinvestment in the sector, there is underinvestment. For example, the budget for supporting Jersey Heritage, Jersey Opera House, the Arts House, the Art Centre, is running at about £4 million a year and has been fixed at that since 2016. So, in real terms, taking into account inflation, we are reducing funding in the arts and that is something that has to be addressed. Deputy Tadier has been appointed as an Assistant Minister at Economic Development and at Education. I am not quite sure where culture will end up, but I look forward to working with Deputy Tadier, in the meantime, to make sure we get on and start addressing some of these important issues.

3.19.2 Deputy G.P. Southern:

The Minister said that the report had been completed back in March. It is now 4 months on. Can he give a proper reason why he should be holding this report secret?

Senator L.J. Farnham:

It is not particularly secret. As I explained in my answer, it is with the Corporate Strategy Board and also it is being discussed with all of the arts organisations. We may well, as a result of that, refine the report. But I think it was only courteous to the sector to make sure we discuss the findings of the report with them, before making it public. Having said that, I will discuss it at our next ministerial meeting with Deputy Tadier and we will consider releasing the report. It is a very good and very interesting report and highlights the importance of culture, arts, and heritage and gives very good reasons why we should be doing more and investing more in it.

3.19.3 Deputy G.P. Southern:

I do not think he attempted to answer the question again, but can I ask when he anticipates that we will all be able to see this report, in all its wondrous glory?

Senator L.J. Farnham:

I would hope by the autumn at the latest.

Deputy R.J. Ward:

My question has been asked.

The Deputy Bailiff:

I can take another one then, so I shall add you to the list.

3.19.4 Deputy K.F. Morel:

Would the Minister, or does the Minister accept, that cultural investment produces wider benefits than the purely economic and that it is, therefore, vital, and it is vital for education and community building, in particular, and will he ensure that the report, when published, does show this?

Senator L.J. Farnham:

Yes. Jersey's distinctive cultural assets make it an exceptional place to live and are an integral part of the high quality of life enjoyed by all residents. Much is done by the heritage sector and also we see huge benefits for the economy and for tourism, so that is a priority.

3.19.5 Deputy K.G. Pamplin:

As part of the report and going forward, will the Minister look at the impact of the loss of the Cultural Development Officer, Rod McLoughlin, who is no longer in post? However, his position is still on all our States of Jersey websites, as he is seemingly still in position. That, obviously, sends out a message of unsurety, I believe, to members of the cultural societies. So will he, as part of the report, look at the impact of the changes and the loss of this role?

Senator L.J. Farnham:

Yes, I will seek to confirm clarification of that as soon as possible.

3.19.6 The Deputy of Grouville:

Will the Minister make culture a priority, because it has been woefully neglected? The panel members and trustees that give their time freely are on the verge of leaving, because they can no longer perform, or see anything through, because the organisations are at breaking point. The budget, the monies allocated, are used to repair leaking roofs and such like and, as Deputy Pamplin has just referred to, the cultural officer has retired and there has been nothing done about finding a replacement and I think that symbolises exactly how culture is regarded by this department. Can he make culture a priority, because it is important, it is the glue that holds us all together and we ought to be celebrating our heritage and advancing cultural activities in this Island? Can he make it a priority?

Senator L.J. Farnham:

My department has been and is making it a priority; I would say more so than it had been in the Education Department. The States of Jersey has a responsibility to provide access to culture for individuals. The responsibility is delivered by the 4 key arts organisations, who are in very constructive consultation and working closely with my department. The culture is delivered by skilled professionals, using an arm's-length approach with these models; they are autonomous, the arts bodies. The model is cost effective, albeit we are underfunding them. They offer a diverse and engaging range of programmes. But, what has happened is that over the years the States and the Government have not effectively integrated culture into its policy-making process and I, and a number of other Ministers and Assistant Ministers, intend to ensure that culture takes an important, if not a leading, role when we work together to deliver the new Strategic Plan.

3.19.7 The Deputy of Grouville:

So, we learned today that this report is going to be released in the autumn. What timescale does the Minister have for updating the cultural strategy that is more than 10 years old - probably about 14 years old now - and what plans does he have for writing a creative industries strategy?

[11:30]

Senator L.J. Farnham:

Those are discussions we are yet to have within the department. We have produced this new report, which I will make public sooner than the autumn if possible; I would like to discuss this with Deputy Tadier, but the Deputy and the Assembly can rest assured that culture, arts, and heritage, is a high priority for our department but, ultimately, it is going to be this States Assembly that will decide on its funding.

The Deputy Bailiff:

Final supplementary, Deputy Alves?

Deputy C.S. Alves:

No thank you. Thank you for your answer, Minister.

3.20 Deputy R.J. Rondel of the Minister for Infrastructure regarding the installation of toilet facilities at People's Park: [OQ. 87/2018]

Given that People's Park is being increasingly used by the public, including many schools, and that a new children's play area is currently being installed for use by disabled as well, will the Minister provide the necessary funds and install desperately needed toilet facilities?

Deputy K.C. Lewis (The Minister for Infrastructure):

I am delighted to hear that the park is seeing more use by the public, who are enjoying the play area installed by the Parish. This is an important green lung for St. Helier and provides amenity space for both parishioners and visitors alike. Those parishioners, the public as owners of the schools, the pupils, and families, pay rates to the Parish. Commuters and other visitors using the facilities support the economy of St. Helier, providing businesses with the footfall that contributes to their continuity and success. St. Helier is not unique in providing such services; other Parishes manage their parks and open spaces and, in some cases, provide toilets. The scale is different for St. Helier, but so is the amount of rates the Parish receives. If additional toilet facilities are required, then I believe it should be provided, managed and funded, by the Parish.

3.20.1 Deputy R.J. Rondel:

Would he not agree that, because it is being used widely by the general public, toilets are urgently, desperately needed? I watch people go there, they have got small children, and they are having to go in the woods surrounding nearby. It is totally unsatisfactory. Why should it be for the Parish to provide this, where they do not in other very large parks similar to this?

Deputy K.C. Lewis:

I believe that toilets are provided, I believe, in St. Martin and definitely at the Elephant Park in St. Brelade, by the Parish. I was under the impression that there was a toilet there already, a toilet block, directly in front of Victoria's Monument, which, I believe, is owned and operated by the Parish.

Deputy R.J. Rondel:

Just to be clear, that toilet is by the Grand Hotel, they have to walk some 200 yards across the park, across a very busy road, to get access to it.

The Deputy Bailiff:

That is something by way of a speech and you will have a final supplementary question, so we will move on to Deputy Wickenden.

3.20.2 Deputy S.M. Wickenden:

I would just like to ask the Minister if his department does provide toilet facilities and support them in other Parishes and, if so, how many?

Deputy K.C. Lewis:

I do not have a list of toilet facilities, but I am sure we can fetch that for the Deputy.

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

Would the Minister not agree with me that his answer today is completely at odds with the answer he gave when he stood for his position and he said that he would look into the inequity that is involved in the Parishes having to provide, or the Parish of St. Helier having to provide, facilities where the States provides public toilets in the major parts of the Island, such as Millbrook and Winston Churchill Memorial Gardens? He said then he would look into it; today he is saying it is up to the Parish to pay. Which is it to be?

Deputy K.C. Lewis:

We need a mixture of both; we cannot just build toilets everywhere. I am just curious as to why the original block had been closed down originally in front of the monument statue, it is on the other side of the road but people have to cross the road to get to the park, so it works both ways, but more than happy to have a discussion with the Constable.

3.20.4 The Connétable of St. Helier:

Would the Minister further agree that examining this issue was part of the previous Council of Ministers' Strategic Plan; it was never looked at, and the new Chief Minister has promised that he will look at it? Will he be working with the new Chief Minister to address this essential inequity in the provision of public services?

Deputy K.C. Lewis:

I was not part of the previous Council of Ministers; I am part of this one, so more than happy to look at anything that comes across my table. I will take it up with the Chief Minister and my department.

3.20.5 Deputy M. Tadier:

Does the Minister believe that 13 different authorities, with the provision of things such as roads, recycling, police, parks, gardens, and toilets, is sufficient and that maybe we need to look to create some other authorities, to add to that 13?

Deputy K.C. Lewis:

I think we have enough authorities; we have the 12 Parishes, plus we have the States and we have 12 police forces as well plus the States and that is the way this system works in Jersey. If someone has a better idea, more than happy to listen to it.

3.20.6 Deputy M. Tadier:

Does the Minister believe that, first of all, there needs to be a consistent approach taken across all of these issues, whether they are provided by the States, or the Parish, and secondly, does he believe that, if and when the States end up finally paying their rates bill to St. Helier, then, maybe, St. Helier will be able to afford to put their own toilet in what is essentially their own park?

Deputy K.C. Lewis:

I think the Deputy is directing that question to the wrong Minister. I am the Minister for Infrastructure; I do not control the rates. I did not get the last bit.

The Deputy Bailiff:

I do not think that was a question; I think that was just an observation.

3.20.7 Deputy R.J. Rondel:

I would ask the Minister to put his hat on as if he had 2 young children playing in that park and they do need to use the facilities, whether disabled, or not, and it is unsatisfactory not to have those facilities there. Would he commit, perhaps, to put temporary, portable, toilet facilities there in the meantime, like they have done outside where the ducks are?

Deputy K.C. Lewis:

Disability was not mentioned originally in the original question as written, but I do not believe portable toilets are really suitable for the disabled, so either we build one, or we do not.

4. Questions to Ministers without Notice - The Minister for Health and Social Services

The Deputy Bailiff:

That brings questions with notice to an end. We now come to questions to Ministers without notice. The first question period is for the Minister for Health and Social Services.

4.1 The Connétable of St. Lawrence:

We learned yesterday that a new board has been established to review the hospital site decision and we learned this morning from the Assistant Chief Minister that the establishment of that board is considered, by our Chief Minister, to be an early achievement of his. The Chief Minister has assured this Assembly that his policy is to be inclusive. Will the Minister for Health and Social Services advise us, therefore, why the composition of this board is exclusive? There are no female members on it.

The Deputy of St. Ouen (The Minister for Health and Social Services):

I think the Connétable raises an important point. I will refer that back to the Chief Minister. The chair of the board is present in the Assembly today; I have no doubt he will wish to consider it also.

4.1.1 The Connétable of St. Lawrence:

Will the Minister for Health and Social Services advise the Assembly how the composition of the board was decided upon? We have heard today that I think the term “friends” was used to describe the composition. There were, certainly, no back-bench Members on it. So, I would like to know, from the Minister for Health and Social Services, how the board was decided upon and whether he agrees that an exclusive range of members is an achievement?

The Deputy of St. Ouen:

I have to tell the Connétable I have no direct knowledge of how the membership of the board was set up. My understanding is that they were appointed by the Chief Minister, no doubt in consultation with the proposed chair. But, the membership does include back-benchers, so the press release yesterday details the membership as Connétable Taylor as chair, myself, Deputy Trevor Pointon, Deputy Rowland Huelin and Connétable Richard Buchanan and also the comment is that other Members may be invited, so there are at least 2 back-benchers on there. As to my view of the board, Members may know that it does not seem to reflect the consensus of opinion that was in the last Assembly, which debated the siting of the hospital, in that several members of the board have expressed strong views on the decisions made in the last Assembly. But, we are going in there clearly under the terms of reference are to consider the available evidence. So, we will be looking closely at the evidence, challenging each other about our views of the evidence, but it is to be evidence-based and we are going to have to hold to that.

The Connétable of St. Lawrence:

May I apologise for my comment regarding back-benchers, which was inaccurate.

4.2 Deputy G.P. Southern:

Last week I asked the Minister whether he had any plans, strategic plans, to reduce the unacceptably long waiting lists in certain disciplines and he said that was a problem with figures attached to

recruitments and retention. So, I will ask him again, when will he come to the House with a strategic plan to eliminate unacceptably long waiting lists in Jersey hospitals?

The Deputy of St. Ouen:

I hope the Deputy might understand it is very early days for me to be able to give a date as to when I will bring strategic plans; and indeed whether one can ever say there is a solution in which all waiting times will be reduced to nil, because waiting times are, perhaps, a feature; one has to manage waiting times and ensure that urgent cases are seen, but I think let us accept in any public health service there is likely to be always some waiting involved, the question is: what can we do to reduce that and give people better health outcomes? So, that is always under review and I will be looking at that very closely and will endeavour to come forward with such solutions as are possible.

4.2.1 Deputy G.P. Southern:

Will the Minister commit himself to organising a strategic review on this particular topic within the year and return to the House with a plan?

The Deputy of St. Ouen:

May I commit myself to discussing it at high level with the Director General and officers to see the best way of tackling this? Members may understand that there has been a significant change at the highest level of management in the Health Department and myself, as Minister, and the new officers appointed have much to do in setting forward the way we would want to proceed.

4.3 Deputy R. Labey:

I do not want to put the Minister on the spot - I am not trying to catch him out and I know he is just in post and will not necessarily be across this issue - but it is one I feel it is important to raise just now. It is to do with the weight of evidence that seems to suggest that departments, within the service, are still not able to talk to one another digitally, or electronically. One case I heard about very recently was a patient under referral to both oncology and the memory clinic and neither department knew how that patient was being medicated by the other, until some side effects started to show up. So, this is potentially dangerous and not ideal and is it not the sort of thing that the Health Service I.T. (information technology) project, started some 10 years ago, was supposed to solve?

The Deputy of St. Ouen:

I am sorry to hear about the incident that the Deputy reports and, yes, there is much work to do in ensuring that records are accessible across the service and across primary care and all other health-related activities and that work is going on; it has been slow, it would seem, but all involved do want to address it and pursue it. I was speaking, just yesterday, with one of the persons involved in the programme and that the next matter to come forward is that requests for radiology and other such tests, which are initiated by G.P.s (general practitioners), are presently initiated by paper, which is then sent from their building to the hospital and the test results come back all on the paper-based basis.

[11:45]

That is the next element that is due to change in that those requests and results can be dealt with electronically and I understand that by quarter one next year all that will be in place. So, progress is being made and I will want to remain abreast and try and do what I can to press ahead with things.

4.4 Deputy K.F. Morel:

Would the Minister confirm whether he is aware of the Icelandic Young Persons Drug Prevention model, which has been operating under the name Youth in Iceland, and whether he is aware of its history of success, since being launched 20 years ago? The model takes an evidence-based approach

to preventing use of legal and illegal drugs and it has seen smoking among teenagers fall from 23 to 3 per cent, drunkenness fall from 46 to 5 per cent, and cannabis use fall from 17 per cent to 7 per cent.

The Deputy of St. Ouen:

That sounds extremely interesting and valuable work. I was not personally aware of it until now and it may be that officers in the Health Prevention Unit are. I would be very interested to learn more and if the Deputy wishes to meet me, or meet officers from the Health Prevention Unit, to discuss that research that he has found then we can certainly arrange that. I am grateful to the Deputy.

4.4.1 Deputy K.F. Morel:

Thank you for your offer, because my second question was to ask whether the Minister would commit to appraising the Icelandic model and working with his ministerial colleagues to decide upon its suitability for use in Jersey.

The Deputy of St. Ouen:

Certainly, I would like to find out more about it and, yes, whatever good things are in there we would try and take forward, I am sure.

4.5 Deputy S.M. Wickenden:

With a clear lack of priority being given to digital across the Council of Ministers right now, would the Minister endeavour to continue the good work that his department was doing alongside Digital Jersey in the e-health provision of services?

The Deputy of St. Ouen:

Yes, I would commit to that.

4.6 Deputy M. Tadier:

We are almost now a year behind on medicinal cannabis that, more than a year ago, the Minister for Health and Social Services at the time stood in this Assembly in May and said that by the autumn he expected to be in a position to bring forward legislation on this vitally important issue, yet every day that goes past all of our constituents, who have these particular issues, end up suffering an additional day. What new medicinal products has the Minister been able to reclassify from schedule one on to schedule 2 during his time in office and, if none, why?

The Deputy of St. Ouen:

I have not committed to reschedule any new products in the short time I have been in post. There are products that are coming forward - I refer to answers I gave in the last sitting of this Assembly to oral questions - that will be in place very shortly, I understand, by means of an Order to be made under the Misuse of Drugs Law that is being drafted and discussions about the technical aspects of the drafting are underway between the chief pharmacist and the law draftsman. Those products will soon be on board. I think, if the Deputy knows of constituents, who are suffering as a result of pain, they can discuss with their consultants whether those products would be of assistance to them. It is, ultimately, a question for those looking after the care of those patients.

4.6.1 Deputy M. Tadier:

If I may just quote from the previous Minister, who stood here, as I said, on 2nd May 2017, he quoted the Barnes report saying: "It is clear from this review that cannabis does have medicinal value and continuing placement of cannabis under schedule one of the U.K. Misuse of Drugs Act, which thus states it is of no medicinal value is inaccurate and misleading." So, the previous Minister, which I understand is a corporation sole and I think the department, unless policy has changed, is still

committed to this policy, is having potential medicines there, which are incorrectly being classified under the Misuse of Drugs Act, which is preventing people from accessing effective and very vital medicine that they could be using now and having to turn to much more risky forms of medicine.

The Deputy Bailiff:

Could you focus this into a question please, because there are a lot of people who would like to ask questions?

Deputy M. Tadier:

What is preventing the current Minister from just signing a Ministerial Decision to allow these products to be put onto the correct schedule?

The Deputy of St. Ouen:

The Deputy's question is to allow "these products" to be put onto a schedule, but he has not listed any particular products. There are products, which I listed at the last Assembly meeting, broadly involving Bedrocan and associated products and Tilray products that are going onto the schedule; that are to be made available. There is also a licensed medicine, which is different from a cannabis product, but a specific medicine by the name of Sativex, which is now being made available on free prescriptions, if it is prescribed appropriately. I, of course, have to take advice. The advice has been that the products that are coming forward are those that are suitable for medicinal purposes. There are any number of cannabis-based products on the market, of differing qualities, but one must remember that we are a public health service that will be prescribing products and, therefore, they have to be tested to a certain extent and have a quality assurance. Not every product on the market will have that assurance and, therefore, may not be safe to be added to the list, or indeed effective. So, in all these things, advice is taken and that is how this matter has proceeded.

4.7 Senator S.C. Ferguson:

Prior to taking up his post, the Minister has never seen evidence of a culture of bullying within his department. Now he is in post, has he made any effort to investigate this, following the HR Lounge report? Has he looked at complaints files, staff turnover, spoken with union representatives, or looked at the number of tribunal hearings? Will he acknowledge that the comments that have been made about bullying are not unsubstantiated remarks?

The Deputy Bailiff:

You have 10 seconds, Minister.

The Deputy of St. Ouen:

I have spoken with the interim H.R. (human resources) director. I have received many complaints, which I have sent for investigation, and it is a matter that I wish to get to grips with, the question of culture, motivating staff and avoiding any of those issues the Senator has referred to.

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

The Deputy Bailiff:

That brings question time with this Minister to an end. The next question time is with the Minister for Education.

5.1 Deputy K.F. Morel:

I make no apology for asking the same question of the Minister for Education. Would the Minister confirm whether she is aware of the Icelandic Young Persons Drug Prevention model operating under

the name of Youth in Iceland and its history of success since being launched 20 years ago? The model takes an evidence-based approach to preventing the use of legal and illegal drugs and has seen drug use fall dramatically, while simultaneously seeing success and encouraging engagement with schools, families and cultural activities. For instance, the percentage of 15 and 16 year-olds reporting spending time with their families at weekends rose from 23 per cent to 46 per cent and participation in after-school activities has increased significantly, as a result of the programme.

Senator T.A. Vallois (The Minister for Education):

I would like to confirm I had not heard of it until today, so I thank the Deputy for bringing it to my attention and the Minister for Health and Social Services' attention. I would be happy to sit down with the Minister for Health and Social Services to discuss that cross-departmentally and how we can look at the evidence from that research and see whether it fits in and whether it works for Jersey going forward.

Deputy K.F. Morel:

Thank you for pre-empting my second question.

5.2 Deputy R.J. Ward:

May I ask the Minister for the reasoning behind the increase in Highlands College foundation and full and part-time degree fees ranging from 11.4 per cent increases to 23.3 per cent increases this year alone, so the reasoning behind that?

Senator T.A. Vallois:

I recently signed a Ministerial Decision to go to the Minister for Treasury and Resources' department with regards to increasing of fees for degrees at Highlands College. The purpose behind this was so that the costs of the fees was passed on into the terms of the course, the higher education funding establishment that we have made now. Although not perfect, it needs to be tweaked and dealt with appropriately, it was recognised that passing on the correct course cost of those courses onto the higher education funding budget, that we have just agreed, was the appropriate method to move forward.

5.3 Deputy G.P. Southern:

I return to written question 107 in which the use of consultants is itemised for Highlands College and for life-long learning, but for nowhere else. Does this infer that the Minister considers that there is no use of consultants elsewhere in the education service?

Senator T.A. Vallois:

I have to say, at this point, it is an oversight in my respect and I apologise to Deputy Ward for the answer that has been given, because I need to clarify and check with the department that the appropriate information has been provided forward in terms of how the accountability issue was raised in terms of bringing in consultants as well, which has raised - I think it is part (c) of the question - but I asked officers. I sent an email immediately this morning, on direction from the Bailiff, asking to confirm absolutely all consultancies within the Education Department. I recognise that this is an issue, as previously I have raised concerns over consultants' use across the States, so I want to ensure that what we are spending on consultants, we are using the right consultants for the right reasons to develop the right policies for the Island. So, I will be coming forward, as the Bailiff has instructed, in terms of by 9.30 a.m. tomorrow morning to make sure that we have all that information for Deputy Ward.

5.4 Deputy C.S. Alves:

As I am sure the Minister is aware, parents of children from First Tower School have raised concerns regarding the recent appointment of a new head teacher. What action, if any, has the Minister taken to ensure that their concerns have been taken on?

Senator T.A. Vallois:

This was raised with myself only last week with regards to the head teacher. Of course, the appointment happened before my appointment as Minister for Education and also because I am Chairman of the States Employment Board I want to ensure that the process was properly carried out, independently processed and ensure that we can give some reassurance to the parents that the way that this was conducted was in the appropriate manner. So, I have asked the officer to the States Employment Board to request the Jersey Appointments Commission to independently audit that process that was carried out, to give me the reassurance and the parents' reassurance that it was the correct and robust way of achieving that result.

5.5 Deputy J.H. Perchard:

I do not know if the Minister is aware of this and she may well not be, but teacher contracts state that teachers work 25 hours a week and, of course, anyone who knows a teacher, or has lived with one, knows that is a gross underestimate; 25 hours is the number of contact hours a teacher has including their prep time in school, whereas you will find that they tend to work about 50 hours a week on average and I still think that is a conservative estimate. I was wondering if the Minister would commit to, maybe, carrying out some sort of study, or survey, into the number of hours actually worked by teachers and consider reviewing this part of their contract?

Senator T.A. Vallois:

I thank the Deputy for her question. I was not aware that was in the contract, so thank you for bringing it to my attention, but I think it is important that I make it clear, the Minister for Education is not responsible in terms of contracts and the appointment of teachers. But, as Chairman of the States Employment Board, I take on note what the Deputy has stated and I think there is a huge piece of work for the States Employment Board to do, not just with regards to teaching, but looking at how the processes and how things work going forward. But I will raise it with the Chief Executive Officer of the States, and ask whether he will consider looking at this more closely.

Deputy J.H. Perchard:

I apologise for my misdirection; I did not realise, thank you.

5.6 Senator S.C. Ferguson:

Would the Minister like to comment on the programme to ensure that primary school children are competent in coding, or programming for those of us who are a bit older, before they move up to secondary school?

Senator T.A. Vallois:

Yes, in my very short time, I have taken to try and meet with as many and literally almost everyone as I can in the last 4 weeks, trying to identify all the different projects and also the teachers and all the work streams that are going on in education at the present time.

[12:00]

This is a key issue for the ministerial team, in particular my Assistant Minister, Deputy Maçon, who is focusing on skills. But, I have met with a gentleman, that the Senator does know, in terms of the coding programme that they are putting on at St. John's School, so what I am trying to do is trying to piece this together about how it integrates in all other schools and how we can provide the right way of teaching. But, there are a number of projects that are going on at the moment in terms of

trying to upskill staff in schools and looking to develop a new I.T. strategy in schools along with Digital Jersey, because we believe that technology needs to be the core and used in all subjects.

5.7 Deputy G.P. Southern:

I refer to written question 108 asked to the Minister as a written question, which refers to the outsourcing of services and the answer seems to say there has been no outsourcing of services. Perhaps the question should say: what was the cost of the Danwood photocopying contract and print contract to Education and did this cost represent value for money and whether any assessment has been done of the value for money aspect in sourcing Danwood as the contractor?

Senator T.A. Vallois:

Thank you for the question, but I am sure the Deputy will appreciate that I do not have the finer details with regards to that Danwood contract. I am aware of it, because I have been in the States long enough to know what happened with regards to how that situation occurred. So, what I will do is state to the Deputy that I will take it back to the department. I will ask them to look at this and brief me in terms of how it is currently working and what the contract length is and whether it is providing the appropriate service to our schools, to our teachers and to the staff, in order to enable them to do their job appropriately.

5.8 Deputy R.J. Ward:

Can I ask the Minister to, as a matter of urgency, that any response to the HR bullying report, particularly in schools and education across the Island, is addressed at every level from senior management into schools themselves as there is a serious issue in schools with bullying and harassment of staff in a high-pressure environment and at times when they least need it?

Senator T.A. Vallois:

Yes, in terms of ensuring that we change the culture and the behaviour in terms of the public sector, particularly in schools, particularly in education, I completely agree with the Deputy that we need to change that culture and that behaviour and the way that things have been working historically. There is another report due to go to the States Employment Board about an issue in terms of education. I am very much on board with it; I am absolutely dedicated to making sure that we drive forward, in terms of changing the culture, but please bear with me, because it is a huge task and I want to make sure that we get this right and people feel valued; that there is the appropriate balance of accountability and that it is not recognised as just bullying and that we listen to those people going forward.

The Deputy Bailiff:

Are there any other questions for the Minister for Education? No, very well, that brings questions for the Minister for Education to an end and we now have an urgent oral question that the Deputy of St. Peter will ask of the Minister for the Environment.

6. Urgent Oral Questions

6.1 The Deputy of St. Peter of the Minister for the Environment regarding the construction of the hospital catering facility at St. Peter's Technical Park:

Is the Minister aware of concerns from the residents of Ville du Bocage, regarding noise and vibration disruption from the construction of the hospital catering facility at St. Peter's Technical Park; and, if so, what action has been and will be taken?

Deputy J.H. Young (The Minister for the Environment):

I am aware of concerns from the residents, regarding noise and vibration from the construction of the new hospital catering facility at St. Peter's Technical Park, both from comments made to me by residents and emails and from the Deputy and Constable, both prior to my election as Minister and subsequent. I have asked for a report from the Environmental Health Officer and officers from the Environmental Health have been involved in monitoring the construction work, including noise and vibration levels since it started and visited the site on numerous times. The team used sophisticated state of the art monitoring equipment and is very experienced and qualified in acoustics and noise. I, personally, visited the site and I have listened to the current stage of construction, which is piling work, which, I have to say, I found unpleasant and if I were to live there I would find it would be irritating, to say the least. But I have asked an opinion whether there exists a statutory nuisance under the Statutory Nuisance (Jersey) Law 1999 and, at the present time, I am advised that it is not considered that the noise meets that standard. Not to say that this issue is trouble free, because, previously, noise had to be stopped when the noise level did exceed those measures and, after some false starts with the contractor - I am told it has not been easy - the contractor did put in place some improvements in working practices, which will help.

The Deputy Bailiff:

Minister, I am going to have to ask you to bring that answer to an end, because it is overly long. Supplemental question from the Deputy of St. Peter at this time?

6.1.1 The Deputy of St. Peter:

The noise levels, that you mention, may be on or about acceptable standards, decibel levels, according to the standards that you mention, but what is the Minister's view on the effect of having a constant repetitive pile driving that, I think, has a similar effect to Chinese torture, or a dripping tap, that they are enduring for over 8 hours a day?

Deputy J.H. Young:

My personal view is I would find it very unpleasant. But I think, technically, I have questioned the team about this and they say that the noise assessment does take into account both the frequency and period of this noise. But they have pointed out to me that the only law they have available is the Statutory Nuisance Law and that in the United Kingdom there are other legislations, the Control of Pollution Law, which deals with construction noise and that we do not have and that would provide a more effective tool to deal with this situation.

6.1.2 Connétable R. Vibert of St. Peter:

I think the Minister has partially answered this one: what action will the Minister take regarding this development, to ensure that neighbouring residents only endure acceptable disruption, given that past assurances have failed to achieve this and can the Minister ensure that damage to the properties is made good at no cost to the residents?

Deputy J.H. Young:

I will take the last point first: I am certainly not able to deal with that point; this is a development, I remind the Constable, which is being run by the States. The States have entered into a lease, it is a States project, and they have appointed the contractor and if there is any damage, as a result of the works, then I would expect that both the contractor and the States would have in place insurance and they have some responsibility. So, the environmental side would not deal with that. But it is a fact that there are several stages of the work to carry on, which are likely to be noisy and on the programme I have seen will not be completed until the end of August. That will come as bad news, but the monitoring is going to carry on and the co-operation, which is going on with the contractor at board level, at the top level, will continue. But, of course, it is a States-owned project and I am going

to be relying very strongly on the D.f.I. team, who have commissioned this project, to work with the contractor. There is a limit to what can be done on the regulatory side here.

6.1.3 Connétable J. Le Bailly of St. Mary:

A lot of people are concerned that the catering facility is being built at this stage, especially when we have been told that the hospital site will be revised. Is this whole project already a *fait accompli*?

The Deputy Bailiff:

I am sorry, Connétable, I cannot allow that question. It is not to do with the noise and concerns from residents, it is to do with a much larger policy issue, which is not a matter for an urgent oral question. We have Deputy Labey and then Senator Ferguson, but then that will draw us to an end, because we will have reached the maximum time.

6.1.4 Deputy R. Labey:

Does the Minister know if the developer here is operating in contravention of any conditions, or restrictions, placed upon it at the time that the planning permission was granted to do with operating hours, *et cetera*?

Deputy J.H. Young:

I have looked back into the planning record and - as a qualified answer here - all of the development at St. Peter's Technical Park carries very strong conditions for the prevention of noise, vibration, *et cetera*, and limits the hours of use. That goes back to the decision of 1984, which, as far as I am advised, is still extant on the site. But I understand that when the consent was given for this work, which is to construct a building within a building, in 2018 that some of those conditions contained, but I think there was a variation to the hours of work. I understand, from the Environmental Health team, they are not aware of any breaches of the standard, which is set as a standard on all building projects under the Environmental Health Law for limiting the hours of work. I am not aware there is a breach there, but I cannot confirm that there is no breach of the original planning consent. But I have to say I looked at the files, they are that thick, it would take a lot of research to check that and probably legal opinion.

6.1.5 Senator S.C. Ferguson:

The Minister has said that he has no power under any of the existing laws to deal with this. Given the knowledge he has of the large piling project in St. Brelade's Bay, which peaked at about 91½ decibels, when it was in full swing, given this particular incidence and given the prospect, possibly, of extensive piling around the hospital, should he not review the legislation and bring in something, which covers situations like this?

Deputy J.H. Young:

I absolutely share the Senator's concern about the impact of such works. I have been advised by the department that including the missing piece of law - an equivalent to the U.K. Control of Pollution Act - has been on the list of law requirements for many years and has been assigned a very low priority. Unless something is done to move that priority I am afraid that situation will continue. I shall certainly campaign for that. But the reality is it will not be in time for this particular project, I am afraid; they have to be managed by the States, D.f.I. Department and the contractor, working in co-operation with the residents. It is the only solution.

6.1.6 Senator S.C. Ferguson:

Can I ask that the Minister includes, as a matter of course, in planning approvals, or recommends that it is included in planning approvals, that there should be a survey of the condition of properties prior

to approval of projects with such extensive pile driving and really unpleasant building construction implications?

Deputy J.H. Young:

I think that is a valid question, but it is one on which I would need to take legal advice, it is a question of whether, or not, such a condition would be within the scope of the Planning Law and I undertake to check that out with the Attorney General.

6.1.7 The Deputy of St. Peter:

I would like to thank the Minister for his efforts and concerns he shared with the residents of Ville du Bocage and Senator Ferguson's also assistance. However, I am looking at lessons to be learned and I think you mentioned statutory nuisance laws, or whatever. What urgency can we do to revise these, to ensure that other future developments, or neighbours of such future developments, do not have to suffer in the same way as the residents of Ville du Bocage and what urgency can be put behind that?

Deputy J.H. Young:

I think my shorthand on the law may have confused. I need just to highlight that the Statutory Nuisance Law is an effective law. It has dealt with 800 noise complaints, about 47 of which are related to construction industry.

[12:15]

It is a successful law, but it does not deal with the intermediate, short-term effects of construction. That requires a commitment to a Control of Pollution Act, which works elsewhere. I will certainly do my best to see that priority is given to that, because, as the Island gets more densely occupied and neighbours have to put up with such development close to them, its importance is even greater.

PUBLIC BUSINESS

7. Fields 85, 84 and 80, La Rue Carrée, St. Brelade: acquisition of land by the Public (P.78/2018):

The Deputy Bailiff:

Very well, that brings this question to an end. There was nothing under J and K. We, therefore, move on to Public Business. The first item is Fields 85, 84 and 80, La Rue Carrée, St. Brelade: acquisition of land by the Public (P.78/2018) lodged by the Minister for Education. I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion (a) to approve the acquisition by the Public of the land being Field No. 85, the majority of Field No. 84 and the majority of Field No. 80, La Rue Carrée, St. Brelade, measuring approximately 12.94 vergées, as shown cross-hatched on the drawing attached at the Appendix, at a fair and proper price, together with the payment of the owner's reasonable legal expenses, to be agreed by the Minister for Infrastructure; (b) to agree that in the event of it not being possible to agree a fair and proper price with the owner of the said interest referred to in subparagraph (a), the Minister for Education should be empowered, in exercise of the powers conferred by Article 63 of the Education (Jersey) Law 1999, to acquire the land by compulsory purchase, on behalf of the public, in accordance with the provisions of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961; (c) to authorise the payment, or discharge, of the expenses incurred in connection with the acquisition of the interests in land and any other interests

therein referred to in sub-paragraphs (a) and (b) and of the payment of all legal expenses, from the Capital Head of Expenditure “Les Quennevais School” (Business Unit FXA071); (d) to authorise the Attorney General and the Greffier of the States to pass, on behalf of the public, any contract, which it might be found necessary to pass, in connection with the acquisition of the said land and any interests therein.

The Connétable of St. Ouen:

Sorry, before the Senator starts I have to rise and declare a vested interest in this debate. My parents were the owner of Field 88, which is one of the ones that were purchased. I intend to speak, obviously, but I need to declare this interest before the debate starts.

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

Sir, I have to declare an interest as well. My family were involved.

The Deputy Bailiff:

You do not have spouses, or partners, who are current owners and have a direct financial interest?

The Connétable of St. Ouen:

My wife does not have a direct financial interest at the moment, Sir, no.

The Connétable of St. Saviour:

My grandson has a direct financial interest and so does my brother, but they were with the first sellers.

The Deputy Bailiff:

That is an indirect financial interest, in accordance with the rules; therefore, you have declared it, but you do not have to leave the Assembly.

The Connétable of Grouville:

I would just like to register the fact that my sister works at the school; she is a senior member of staff. That should not preclude me from taking part in the debate.

The Deputy Bailiff:

No, that does not preclude you at all. Thank you for making that declaration. Yes, Minister?

7.1 Senator T.A. Vallois (The Minister for Education):

I would like to open up this debate to firstly thank those Members who were able to join us at Les Quennevais School to see and experience how the school is currently functioning in what can only be described as a dire and inappropriate building. I would also like to thank the dedicated teaching staff, who not only guided us around the school, but also ably demonstrated how they managed the provision of education in a very testing environment. Of course, the arguments for a new school in the west of the Island have been made and discussions have been ongoing, for a period of time, about a new build. I am sure Members will forgive me for choosing to press for the need for a new build for Les Quennevais School. Being the Minister for Education requires a statutory responsibility to ensure every child in our Island is educated. I personally believe we have the responsibility to ensure that every child is able to reach the full potential in an environment that provides the appropriate space, resource and atmosphere to grow. We have a demographic bulge moving through the primary system and a new school is needed to help support these numbers. This particular school is one that is designated for children with physical difficulties in our Island. As Members will be aware, the process to build a new school has been going on for a while. Details of such are laid out in the report to the proposition. I am, of course, aware that some Members may find the procedure that I am asking the Assembly to adopt today, which is the use of compulsory purchase powers to acquire the

final parcels of land, to allow for the construction of the new school, a step too far for the Government to take. Arriving at this point has taken a great deal of discussion with all the landowners who have already sold their land to the public and with the owner of the land who is yet to sell. With a new Council of Ministers, the moving forward of this proposition has not been easy. The Chief Minister sought to identify a way forward, hoping that a need for compulsory purchase was not necessary. The reality is that although discussions have taken place more recently, as close to late afternoon yesterday, the risk to not agreeing a backstop of compulsory purchase by the States now is untenable. By not allowing this tool to be at the hands of the States, in this instance, would create delay and, ultimately, at least another school year lost for children in a fully fit-for-purpose facility. It is important for States Members to recognise that at no point has the owner of the land in question indicated they do not wish to sell their land. The renegotiation is about the landowner receiving what they perceive to be the appropriate value of the land. It is not about the public taking this land away from an owner, who does not wish to sell. The purpose of having a compulsory purchase law is to enable the public to acquire land in just these sets of circumstances. The decision is not taken lightly to use this tool. Hence, it is very rare for debates, such as this, to happen in the Assembly. If a landowner indicates that they are willing to sell the land to the public, but does not agree with the price which has been offered to them, then the compulsory purchase process is the right and proper mechanism to be used. This procedure ensures the correct value of land is established through an independent process and paid to the landowner. These are exactly the sets of circumstances that we find ourselves in today. We are not seeking to build houses, or offices, on this land, but a school; a school which is the only secondary provision in the west of the Island, serving 5 Parishes and a catchment for 6 primary schools. Ultimately, it comes down to the position of reasonableness and whether, in actual fact, the States are being reasonable by agreeing to this proposition today. I would like to reassure Members that although I have only been in position for just over 4 weeks, the briefings received from officers and the testing of their information gives me confidence that, in conjunction with the recent discussions, a more amicable working practice, that this is the correct route to secure an appropriately independent assessment for valuation and a reasonable conclusion. Although a number of valuations have been carried out and there was a position agreed, it is only right that the next step that is taken is for an arbitration board to determine the fair and proper price to be paid, should recent negotiations, which offer a change in approach from the Government not pan out. Members will also see the extremely helpful comments from the Attorney General - who I provide my thanks to - provides an example of how the compulsory process works. I am, therefore, confident that the use of the compulsory purchase powers is fair and necessary to provide the owner of the land with the reassurance that they will be compensated for the appropriate value of the fields. I therefore urge States Members to support this proposition, so we can complete work for the construction of the new Les Quennevais School, which we have promised to the public and the school community.

The Deputy Bailiff:

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

7.1.1 The Connétable of St. Brelade:

I speak with a degree of knowledge of this area in my Parish, particularly with regard to Field 87, which is the one bordering La Route des Quennevais, which I owned prior to its sale to the States by the St. Brelade's Rectorate, of which I am now a member, but was not at the time of sale. That said, I attended an Ecclesiastic Assembly in St. Brelade where it was proposed that the field be sold. It was made very clear to that Assembly that in the event of the Assembly not approving the sale, a compulsory purchase process would be put in place. It was quite clear that parishioners were far from content with this threat, which could be construed as bullying, but it was felt that as an owning authority we should support the improvements to school facilities in the Parish. This has subsequently been made very clear to me on a trip around Les Quennevais School, with staff and

other States Members, where it was made abundantly clear that the replacement school is absolutely necessary. There were concerns over the potential uplift in values in the event of the school development not proceeding and I gather that a clause was included in the contract to reflect that. I would add that the Rectorate originally purchased the field from the States some years ago, after what I might describe as a change of mind on a proposed previous project; so minds do change. I have tried to familiarise myself, not only with the need for replacing the existing school, but also the convoluted process, which has resulted in the proposition on our desks today. I certainly appreciate the comments of the Attorney General and this gives me the confidence to support this uncomfortable process, in that it clearly lays out a timeline. This is, I feel, essential in that increased project costs, by delaying this whole process, will simply risk the whole concept becoming unaffordable. It begs the question whether we should simply go back to plan B and redevelop the existing site. That is a route that, had I had earlier involvement, I would have probably encouraged. There is a view held by some that States coffers are bottomless, but surely we cannot continue to shell out seemingly without any controls being in place. How on earth can any accounting officer stand up and justify proposed figures which rail against professional advice, which I would expect them to have taken. I would urge, therefore, Members to support this proposition, so the urgent replacement of Les Quennevais School can be built without further delay. Thank you.

7.1.2 The Connétable of St. Ouen:

As I indicated earlier, I have vested interest in this; my parents were part of the process, having owned Field 88. I was involved in the advice to them during the negotiation process. I have concerns about this process as it was abrupt and in fact there was no real negotiation. They are both in their 80s; in financial services terms would be considered to be vulnerable clients. The attitude, throughout the whole negotiation process, was: "We are buying your land. We have compulsory purchase powers, which we will use." This land has been in my wife's family for several generations and has substantial hope value, as it is on the Quennevais housing corridor and is pretty much next in line to be developed, despite being in the green zone. All the affected owners were persuaded to sign the planning application on the basis that it would "enhance the value of their land". None of the landowners could be considered to be willing sellers. They were advised by the States representative that they would get full and proper value for the land, but they were not told what that was. Their adviser felt at the time they had been misled into signing the planning application. The suggestion of a land swap with the current Quennevais site was also dismissed. The first offer letter that my parents-in-law received, talked about compulsory purchase in the fourth and the first substantive paragraph and allowed just over 3 weeks to accept the offer. The final offer letter, in November 2016, threatened that the owners would receive substantially less through the compulsory purchase route - indicating that it would be agricultural value only - than the offer that they received contained. Given that they owned just under 2 vergées, possibly sufficient to build 3 houses for their grandchildren, they concluded that it was not viable to fight the offer and conceded reluctantly. By way of background for Members, the offer was £15,000 per vergée, which was an enhancement on the current agricultural value of £8,000 per vergée. However, in their minds, what they were giving up was land with planning permission, which currently sells for around £150,000 to £175,000 per vergée. So, I guess, in their eyes, they felt they had probably lost in the region of £200,000. In the process, there was no real recognition that the land had been rezoned for building. I have great sympathy for the current owners, who are under threat. Their land surrounds their farm. Compulsory purchase will seriously diminish the value of their home, moving it from the countryside to being right next door to a school playing field. They have only been offered some £58,000 for this process, which, in Jersey housing terms, is quite a small sum of money. The whole offer process was very blunt and very threatening. We are now proposing to take this away from them with no real recompense to what they have lost in their minds. With the threat that they will probably only get somewhere near agricultural value if compulsory purchase, with no real route of appeal which would

consider the factors they feel are relevant. The letter from the States of Jersey clearly states they will only get agricultural value if compulsory purchase goes ahead. They then lose the land immediately and will only get the money some time afterwards. However, I have to say, I have some considerable sympathy with Senator Vallois' remarks. I would not, in normal circumstances, be standing here to oppose the development of a new school, which is clearly and very badly needed. However, I have to say that I do not believe that we have exhausted all avenues with these owners and they see it as legalised theft.

[12:30]

I ask: is this the tone we want to set with the new administration? I do not really accept that, by delaying to negotiate with these people, that we will delay the school. I think we can find a way round this to get the school developed and to come to a reasonable settlement with the people concerned, without holding the gun of compulsory purchase at their heads.

7.1.3 Deputy R. Labey:

I will rise before the lunch recess, because I thought it might be helpful if we could ask questions of the Attorney General here at the beginning of the debate. I am sure he is going to provide very useful information to us. It might be that he needs the break, but probably does not, to get some of the answers. But, if I can kick off with the questions that I would like to ask the Attorney General. Is there a formula for the price of the purchase of land, in these circumstances, by the States of an individual? Is there a formula for once agricultural land has got development permit, is there a formula for how much that land is now valued at? Does what is going onto the land affect that value, or is development land development land? I am coming from a point of ignorance here, because I do not know a lot of the details of this case, but that is sometimes no bad thing in this Chamber, to ask stupid questions. If, for example, the agricultural land value is £10,000 a vergée and they are getting £15,000 a vergée now, because it is going to be development land, how does that compare with the price of the fields in St. Peter earmarked for development for housing, which we understand will net the landowner in excess of £3 million? I wonder how much that might have had an effect on this. The speech we have just heard from the Constable of St. Ouen is worrying. If negotiations were begun, as the Constable of St. Ouen claims, with the attitude that we can compulsorily purchase your land anyway, is that due process? Does that represent an acceptable due process? Finally, the evidence of the Constable of St. Ouen, which I have just heard, is that something that should be tested before a decision is made?

The Deputy Bailiff:

Attorney General, are these questions that you would like to address them now, or would you prefer to address them after the luncheon adjournment?

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

There were lots of questions. I think I had better have a go at answering as many as I can. If I do not answer any now, perhaps the Deputy could let me know if any are outstanding at the end of this answer, if that will be convenient to you.

The Deputy Bailiff:

Yes, very well.

The Attorney General:

The rules for assessing compensation are set out in Article 10 of the Compulsory Purchase of Land Law. I do not propose to read them all out, because it would take quite a long time to do so. The effect of those rules, in this case, is summarised at paragraph 13 of the note under the title "Compensation" that was circulated last week: "It is of note that no allowance can be made on

account of the fact the acquisition is compulsory, which means there is no ransom attributable to the fact that the land is needed as part of a scheme.” What that means, is the land is valued for the purposes of compensation as it is, with no allowance for the purpose, namely a school. The one caveat to that is that where the owner retains land adjoining the land in question, which is reduced in value by virtue of loss of part of his, or her, land, the value of that reduction shall be taken into account. That is clear in this case, from the report accompanying the proposition. For example, in the case of a small garden, on itself it may have almost no value, but if your garden was taken away then your property might substantially fall in value and you would be entitled to compensation on account of that. I hope that deals with the rules for assessing compensation part of the questions. In relation to the correspondence, referred to by the Deputy, as referred to by the Constable of St. Ouen, there is no particular provision set out pursuant to which the parties need to pay for themselves, or conduct themselves, prior to this law being triggered. As regards to the process itself, plainly, one can see from the chart set out on page 3 of the notes, at paragraph 9, there are various invitations and attempts to engage the landowner in the process, prior to the land vesting in the public and prior to compensation being referred to the board of assessors. There is an assertion at paragraph 19 onwards of the note, that the law is human rights compliant. I could certainly answer further questions on human rights if asked in due course. In short, on the E.C.H.R. (European Court of Human Rights) case law, it is clear that the key issue is: does a scheme offer a proper and independent method of assessing compensation? If it is, then the law in relation to compulsory purchase will be human rights compatible on the facts of this case where, of course, there is a willing seller and the only question is one of price. I hope that answers at least some of the questions I was asked.

Deputy R. Labey:

Yes, it does and I am grateful to the Attorney. Am I right in thinking then, once this process is triggered, it matters not what the development is intended for the land in question? There is no allowance for that; it could be a hospital, it could be houses?

The Attorney General:

Yes, that is right.

Deputy R. Labey:

In which case and I do not know if the Attorney has the details of this, I am interested to know what the comparison is with this transaction and the transaction proposed in St. Peter, for the village scheme in St. Peter.

The Attorney General:

I am not sure I can answer that question.

The Deputy Bailiff:

No. We are now at 20 to. I wonder, given that the Attorney may have questions to answer after, if there are other people who are keeping in their back-pocket questions for the Attorney in the course of this debate, perhaps it might be helpful to ask them now, so he has the lunch hour to consider his answers? No?

Senator S.C. Ferguson:

Yes, me. You keep missing me.

The Deputy Bailiff:

I do, Senator and it is no reflection on you, but it might be a reflection on the light. Yes, please, Senator, ask your question.

Senator S.C. Ferguson:

Given the example in that area of the sale of the Belle Vue land which, again, was a compulsory purchase for housing. Are there any aspects of that particular case where, as I understand it, the legal side ran on for years before they settled, that might be applicable to this one?

The Attorney General:

I have not studied the case in question, although I do understand that that was, as the Senator said, a lengthy process. I understand that it was made more complex by legal issues in relation to the definition of the scheme, which do not apply in this case. One would be optimistic that this process could be concluded in a matter of months and not longer, as occurred in that case.

The Deputy Bailiff:

We continue with the debate.

7.1.4 Senator L.J. Farnham:

I should first, just for the record, say that my daughter teaches at Les Quennevais and I was a former pupil there, a long time ago. I just wanted to draw Members' attention, following the speech of the Constable of St. Ouen and other Members, that this process is simply to agree that, in the event of it not being possible to agree a fair and proper price with the owner, that then this would proceed to compulsory purchase. That is important, because a month can make a whole difference to a school year. You can only move and open a school at the beginning of the school year. For those Members who have visited Quennevais recently, they will have seen first-hand the difficulties that are being faced by the staff and the pupils, especially the disabled and disadvantaged pupils, if I can refer to them that way. It is almost untenable. So, a year's delay, or even another year's delay, could be catastrophic for the school. I am very pleased that the owners and the Minister for Infrastructure have just recently put out a joint statement saying it is their will to come to an amicable conclusion. I just wanted to remind Members and I am sure the Minister will do when she sums up, that this is to allow a process to achieve a fair and proper price for the owners and to only invoke this process if that was not possible, which is important because of the timescales. I am not sure, but perhaps I might propose the adjournment at this stage.

The Deputy Bailiff:

It is a little early to propose the adjournment, I am afraid, Minister.

7.1.5 The Connétable of St. Saviour:

As I reiterated before, my family was involved in this. I am sorry that the Constable of St. Ouen's family and he felt threatened. We had many discussions. We never felt threatened, at any time. We were told that if there was a problem we could be compulsory purchased, but that was a route they did not want to go down. A lot of discussions were held. The price kept going up. At the end, when the price was paid - I do not know exactly what was paid, because I handed over my rights to my grandson - but I know at the time the contract also stipulated that if it went for housing and not for education, more money would be available, because of the cost of building land. As I say, at no time in the early stages of the discussions did my family feel threatened. We could ring up any time we wished to talk to anybody. We had maybe 5, or 6, different meetings in the early stages and, as I say, after that I relinquished my position and gave my half of the land to my grandson. After that, I was not that involved, but my brother and my grandson, obviously, did keep me in the loop. But there was never a time, I have to be honest, in the early stages and towards the end, did my family ever feel threatened. I am sorry that the Constable of St. Ouen's family felt threatened, because there was never once did we feel and they answered all our questions.

7.1.6 Senator S.C. Ferguson:

I am glad you saw me this time. It seems to me, from the tone of what I am hearing, that we need to be reassured that proper efforts will be made to reach an amicable agreement with the vendors. Personally, I am really quite uneasy about this infringement of personal property rights involved in compulsory purchases. As I say, I recall the protracted legal case relating to the compulsory purchase of Belle Vue. It is obvious that the valuation of land depends on the use for which it can be used. We had similar debates with Property Holdings when they wanted to sell land at Howard Davis Farm to the Dairy and it was called in by the then Deputy of St. Ouen and Public Accounts. I had been told that a condition of sale was that if, in the future, house building occurred on the land sold, then an additional payment would be due to the vendor. It appears this has been done. I do know a vendor of land, which has already been sold, where it was not until they involved a sophisticated local estate agent that they got a reasonable price. While it is in the best interest of the States and the taxpayer to keep the price down, we have to be fair. I was always told that if both parties to a sale were a bit unhappy about the cost of the sale, or the price of sale, then it was probably about the right price. It is just one of those things one picks up in life.

[12:45]

But I need reassurance that we are going to make proper efforts to reach an amicable agreement, because I do not like infringing personal property rights. If you take those away, what are we left with?

The Deputy Bailiff:

It is 12.45 p.m. is the adjournment proposed?

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

Very well, the States stands adjourned until 2.15 p.m.

LUNCHEON ADJOURNMENT

[14:16]

The Deputy Bailiff:

The debate is still open on P.78. Does any other Member wish to speak on the proposition?

7.1.7 Deputy J.H. Young:

I am going to support this proposition, but I have to say with reluctance. Compulsory purchase is always and should be a last resort. I think we have got ourselves here into a collective ... not a good situation with having a proposition upon which such a major and important capital project, the new secondary school in the west of the Island, which is a project which has been in gestation for several years and gone through at least, I think, 2 planning inquiries. To be in a situation where that depended on a successful number of land transactions, whereby we did not anticipate that there would be differences of view and approach between the various landowners and the possibility that whatever we fixed in our minds about a potential valuation framework for acquisition may not be negotiable in the final analysis before a transaction was passed through the courts. Therefore, I think there is a lesson learned for the future here. We are where we are on this one and I do not think we have any choice. A delay would potentially cause the secondary school to be delayed by, I understand, 12 months. There was discussion about what if the proposition was not decided in the December and we were told: "Well, I am afraid there is a full 12 months, the school can only open in September time, at the start of the school year and the whole timetable of construction is too critical to run that risk." We do not really have a realistic choice. A delay would cost us, even 5 per cent on building costs would cost us very substantial sums. My suggestion is that, in the future, we return to the policy

that I can recall as a civil servant many years ago handling major land transactions with compulsory purchase powers on major projects when it was always the practice, in those days, in the 1990s and possibly earlier, to seek what I would call reserve powers in the proposition. Reserve powers of compulsory purchase, which the intention would be is that they would only be exercised if and after a long period of negotiations and when the final choice came there was no choice, they would only be implemented. I think that was the practice and there are a very large number of major projects that have been successfully pursued on that, Haute Vallée School, Springfield sports facility, I think also the Girl's College and others, there were many major projects in those days. So, my suggestion is, in future, when we do major projects, rather than putting ourselves at the end of the line, at the eleventh hour having to seek these powers from the States ... and it is absolutely right and proper that the power of compulsory purchase can only be operated if the States specifically approve the transaction and there is a use of overriding public requirement which justifies that and we are in that. But I think the time to do that is earlier in the project and so that is my hope in the future that we avoid that, but I support the proposition.

7.1.8 The Deputy of St. Martin:

I just follow on from the Minister for the Environment and point out to Members, if they read the report, that this started in December 2015 when Property Holdings wrote to all the various party landowners expressing their wish to move forward. Heads of terms were eventually signed with the landowners on 7th December 2017, some 2 years later. So, there are 2 years that negotiations have gone on. A date was set for the public to complete but, unfortunately, it was not possible on 26th January, or 2nd February and on 9th February the owners advised that they were not going to complete again, pending a planning application in respect of other property that they owned. Then, on the 14th, the States receive a communication on their behalf, which was in effect to seek to renegotiate the major terms of heads of agreement, which had already been agreed between parties. So, I do believe, in this circumstance, we have had that time that the Minister just alluded to. This has been going on for some time now. This is not a last-minute transaction; this is something that people have known about for some time. It is referred to in the Island Plan and it should not be a surprise. I will be supporting this proposition.

7.1.9 Senator S.W. Pallett:

I am not going to go on too long but, clearly, a lot of the development work, or the work in preparation for this planning application was done while I was Constable. I think it was important that I said a few words. I was part of the Parish Rectorate when the decision was made to sell Field 87, which was part of the site. I think the decision that we took then, or the decision that was made, was based on the fact that we considered that for the use that was going to be used for it was fair and reasonable uplift and was in line with other owners. We certainly did not feel any threat, or any compulsion, to have to sell but, clearly, we felt it was in the best interests and long-term benefit of school children, teachers and parents that we did sell that field. I think the Ecclesiastical Assembly, at the time, was clear that ... I think they were clear that a compulsory purchase order was always going to be a potential possibility on a site like this, because there were so many owners. As it turns out, we have got to that point now. But, I think it is important that we ensure that there is no further delay, irrespective of any negotiations that are going on at the moment. I think it has been clear through the planning process that there is an amendment to the Island Plan, made in the last term, and it made it clear that this site could only be used for a major piece of States Government infrastructure. Again, I need to be clear, should the school for any reason not be built - and I do not think that is something any of us want to consider - that site should go back to green zone. It would not become a potential housing site; it would go back to green zone. There has been ribbon development all along Route des Quennevais and myself and, I think, the current Constable would not like to see that taken any further. Let us be clear, this site is specifically for a school, or another piece of really strategic

infrastructure. I cannot think what other piece of strategic infrastructure you would want to stick on that site. I think it is really important as well in terms of the decisions, or the support that I gave it was that a large proportion of the site will remain open amenity space through the playing fields and I think that is really important because, like I say, it is a heavily built-up area and there was always going to be tensions around putting any more building in an area such as Les Quennevais. The planning permission is for a school; it is not for anything else. I do get a little bit upset when people say compulsory purchase is legalised theft, because it is not legalised theft; there is a process to go through that is clearly set out, so we know the parameters, the arbitrators will have work through when they work through this. In terms of the land that is specific to this, the value of the nearby land, that was part of that farm complex, they have been offered compensation for that. I think the deal is fair and it is in line with other sellers. The other sellers have been taking absolutely the right attitude with this, that they know and they understand the need for a new school in the west of the Island and they supported that. There are words I could use that would ... I am not going to use here, because I do not think it is going to add to it, but what I say about the ones who have sold, they have done it for all the right reasons. It is a major piece of infrastructure. It is absolutely necessary, as we know, because I think that anybody who has been to the school recently will realise the poor state of the current school and the need to extend on it. We have to remember and I think it has been said today already, that the proposed school is fully within the green zone. It is in NE7. We are going to lose an important piece of green zone site here, but the necessity for it, I think, is without doubt. I want to go back a little bit, as well, to any alternative sites. This was probably one of the best pieces of public consultation that I have seen done in Government for a long period of time in regards to how we got to the point where we got to a preferred site. If we had done that with the hospital, we would not be in the current state that we are in, but that is for another day. It was a great piece of public consultation; I think it gave everybody an opportunity to give their support to what was going to be the right site. Mention has been made of the current site. The current site was too small and if it would have been considered, it would have led to the loss of a huge part of Les Quennevais School playing fields, just to give it enough space to be able to do it. So, we were taking it away on one hand and giving it away on another, so it was really important that not only did we come to the right conclusion, that people understood what the reasons were behind that reason and had an opportunity to take part in that. Like I say, that piece of public consultation, I cannot mention the lady's name that ran it, but there is a lot to learn from that particular piece of consultation. Following an interim review of the Island Plan, that took place in the last term, we have to remember there is a specific reference in that around strategic development and that includes now a new secondary school west of Island in the green zone. So, in terms of that particular site, there is reference to that in the Island Plan, so clearly that is the only use that I think this site could be used for. Trying to compare it to a housing development, when it comes to valuing the land, is irrelevant, it can only be used for a strategic use, such as a school. I say that, because there is current need for housing, but not on that particular site. Even if this fell through, not on that particular site. An airport extension, for example, might be termed part of a strategic need, but we may need to do that in other areas around the airport. But that is the type of level we are looking at when it comes to strategic need. What I just want to finish with is that as much as we have had an email today about the negotiations are going on, they are going on and, importantly, they are going on, and I support the Minister for Infrastructure in carrying in with those negotiations. But, they have been difficult, we know they have been difficult, and they are going to carry on being difficult, let us make no bones about that. I think that we should not, in any way, be putting the risk of knocking the opportunity to get the school up and running as soon as we can down the road, even for a year; we need to do this as soon as we can to make sure ... if we can make 2020 great, 2021 if absolutely necessary, but we do not want to be going any further than that. If we are going to get into a negotiation process that is going to keep knocking it back and back, we cannot afford to do that.

[14:30]

So, I think we need to support this proposition, we need to be clear that behind any negotiation lies the opportunity, if necessary, to go to compulsory purchase. I do not particularly like it, I do not think any of us do, but in this particular case this is so important - and the Minister for Education knows this is so important - that we cannot afford to take any risk on this. Let us make sure we are not having to come back ... if we do not do this today, we could end up coming back in 3, or 4, months doing this because negotiations have broken down. So let us just back up the Minister for Instructure with the stick, if he has to, with the opportunity to go into compulsory purchase order. I know we are not all comfortable with it, but please back the Minister for Education on this. Thank you.

7.1.10 Deputy K.C. Lewis:

I can say I agree wholeheartedly with the sentiments of Senator Pallett. The Minister for Education has set out the need for the school and why, sadly, we have no choice but to move to compulsory purchase. I do not intend to reiterate how we got here. I would, however, like to explain why it is essential that the Assembly approves this proposition today. My department has 2 roles in delivering the school. Firstly, as the body charged with managing the project, we are responsible for ensuring that the building is delivered on time and on budget. For us, this is business as usual. The department has a good track record of delivering high quality schools for the benefit of the Education Department and the Island as whole. We have engaged a local contractor, who has already commenced preliminary works on site, that is the land in ownership of the public. This was essential to ensure that the project is kept on programme to complete in the summer of 2020, in order that the school can be migrated over the holiday period. Secondly, we are also responsible for purchasing the land required for the development. As the Minister for Education has explained in her chronology of events, the department has sought to do this by negotiation and in good faith. We made early contact with all the landowners and following normal professional practice we have concluded all, but one, transaction. We certainly wanted to conclude the remaining purchase in the same way and without recourse to statutory compulsory purchase powers. Unlike some other jurisdictions, Jersey uses these powers rarely and as a last resort. For some time during the negotiations, the landowner in question gave us no reason to believe that we would need them. We had agreed terms and these had been signed off by both parties and their respective lawyers, contracts had been drawn up and court dates agreed. We expected that this last land transaction would be achieved in the same transparent manner as others. It was surprising that there was a communication from the owner's lawyers scrapping the agreed offer. The value we offered had been considered and agreed as appropriate by 3 of the Island's most experienced surveyors. These surveyors were not specified by us, they were, in fact, the ones that had been recommended to the landowner by their agent. The valuations have been accepted and set in a heads of terms document, signed by all parties, which was incorporated into a contract which is ready to transact through court. However, we invited the owner and his agent to meet and discuss had they considered this valuation to be reasonable. If this is not concluded soon, the programme will irreparably slip and the children of Les Quennevais School will remain in accommodation that is not fit for purpose for yet another school year. There have been accusations that this is the heavy hand of Government interfering with the rights of Islanders, but I do not see how we can resolve this matter without agreeing the use of compulsory purchase. I hope that with these powers in place, we will, in fact, be able to continue discussions with the landowner and their representatives and reach an appropriate agreement. Without agreeing the proposition, I cannot guarantee to Members that we can deliver the school on time and on budget. I believe Members have an easy decision here. If they believe that the children deserve proper and conducive places to learn and achieve their potential, then they should approve the proposition and get this replacement school built according to programme and as quickly as possible. If they agree that the landowner should get a fair price for

the land that is purchased for the public, then they should agree this proposition. Talks are going on as we speak, an offer has been made by myself today, which I hope will be accepted by the landowners. A very fair offer. But, should this fall flat at the eleventh hour, again, then, as I say, I cannot guarantee the school will be built on time. This is the final piece of the jigsaw and I hope that common sense will prevail and talks will be ongoing. We will go through the process of compulsory purchase but, hopefully, if everything is concluded, there is no need for it to go to court and everyone is in a win situation. I urge Members to approve the proposition, so it can move forward.

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

It was an election pledge to, basically, keep an eye on the Les Quennevais school project. I, too, am an ex-pupil of the school. In fact, you probably will not believe this, I remember the school being built back in 1964. Obviously, it was a very large paper round that I must have had. It is so important to get the school built. I do not know how many Members here took up the offer of the Minister for Education - or from the head teacher, was it not? - to go round Les Quennevais, the old school, just to appreciate what difficult working conditions that the teachers are having to teach in and the pupils are having to learn in. It is intolerable. The last time we had a major rainstorm, tiles were falling in on the main hall. Water was washing over the electrics. It is, without doubt, that we need a new school and there cannot be any delay. It is so important to get a backstop on this and I think that that the compulsory purchase would achieve this. I have been, as the Parish Deputy, working in the background and I have had discussions with the sellers, trying to understand where they are coming from. I have a degree of sympathy with their position. I think it is imperative - I have been in selling and buying all my life - to try and understand where people are in negotiations. One thing they were disappointed at is that they were promised a meeting, by the previous Minister and officers, while these negotiations were going on and it never materialised. I think the other important thing: they were accused of wanting £4 million for the actual project. That was never the case. Where it came from, I do not know, but I see that the Minister for Infrastructure has printed an apology - is it in the paper tonight? I am very pleased that that is being put publicly right. It is essential that we get the school built. We cannot afford a delay. Building indices, for example, are going up by the month. A year's delay would add many millions to the actual project. I think it is essential that Members back this proposition. I know they are willing sellers, I know they are going to be reasonable, I know negotiations are underway. As I say, I did have some background input on this. I got them to the table, I am a back-bencher, so they have now been negotiating with the Executive and I do hope for everyone concerned that those negotiations are successful. I urge Members, please, back the Minister with this proposition.

The Deputy Bailiff:

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

7.1.12 Senator T.A. Vallois:

I have to say thank you to everyone who contributed and provided their views, their experiences. Of course, this has been going on a long time, so I appreciate everybody, whether they support, or do not support, this proposition, for their contribution, because, I think, clearly, this Council of Ministers have to ensure that going forward in the way we deal with these projects, that we do it in the appropriate manner and that we respect all parties that are involved. The Minister for Infrastructure briefly spoke with regards to his position and, of course, his responsibility with regards to this particular position that we have. I recognise that some Members still may be very uncomfortable with the position that we are in. I can only apologise to the likes of the Constable of St. Ouen, who feels that their family was bullied, or threatened, in terms of how this process happened, but I would like to reassure him. He was with us at the Council of Ministers last week where we discussed this particular proposition; it was not the most comfortable of meetings I have ever been involved in.

There are serious concerns around compulsory purchase, but what we have to recognise here is that we cannot have a delay with regard to this school project. It is not appropriate, maybe, some of the things that have been going on behind the scenes. I recognise the conversations that people have been having. I appreciate the representatives of St. Brelade, who have been to speak to the people involved, but there is a process to go through and the Minister for Infrastructure has committed to having that negotiation in the process. This is a backstop. What I am asking the Assembly today is for a backstop, so that we do not incur further costs and further delays for our children and the future for our children in terms of their education development. So, on that basis, I would ask for Members to please understand the position that we are currently in. It does not give me any comfort, personally, as I have previously been uncomfortable with the role of compulsory purchase, but having the discussions, testing the information and the Council of Ministers engaging much more closely, now, in terms of the negotiations, I would ask the Assembly to please support me with regards to this proposition, understand that this is a backstop and have faith in the Minister for Infrastructure to ensure that we do this correctly and do this right.

The Deputy Bailiff:

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

POUR: 46		CONTRE: 0		ABSTAIN: 0
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.J. Rondel (H)				
Deputy of St Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

8. Draft International Co-operation (Protection from Liability) (Jersey) Law 201-(P.54/2018)

The Deputy Bailiff:

The next item is the Draft International Co-operation (Protection from Liability) (Jersey) Law, P.54/2018 and I ask the Greffier to read the citation.

The Greffier of the States:

Draft International Co-operation (Protection from Liability) (Jersey) Law 201-. A law to make provision for protection from liability against claims for damages, costs, and consequential loss in cases where a public authority provides assistance pursuant to a request made by a relevant authority of a country, or territory, outside Jersey, and for connected 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. Ouen (Assistant Chief Minister - rapporteur):

Good afternoon, Members. This law, if enacted, will protect a public authority in Jersey, who are carrying out regulatory functions, against claims for costs, damages, or consequential losses when acting in matters of international assistance. Protection will be provided in cases where assistance is being provided by a public authority in Jersey in response to a request made by a relevant authority of a country, or territory, outside Jersey. The law, if adopted, would ensure that public authorities in Jersey, acting at the request of other jurisdictions under international agreements, would not face adverse cost orders for acting in good faith. Protection would also be provided in respect of claims for damages, except for instances of acting in bad faith, or if there are human rights issues. Such protection for costs and damages is already covered in some parts of the statute book but not all and this draft law addresses these outstanding areas in our legislation. It is key for Jersey’s reputation as a good global citizen and, therefore, in the interests of our economy, that the Island provides assistance to other jurisdictions when requested. This assistance might include obtaining evidence, information, or assets, conducting investigations, or searches and providing assistance in legal proceedings. Assistance would usually be provided by the Attorney General, or other public office holders and bodies in Jersey, for example, the J.F.S.C. (Jersey Financial Services Commission) or Comptroller of Taxes. I hope Members will agree that any such assistance should not be constrained by considerations of risk to public funds arising from claims for costs, damages, or consequential losses. With regard to the limits on recovery of costs, there is already some provision that exists in our legislation. The International Criminal Court Law 2014 and the Criminal Justice International Co-operation Law 2001 being the main examples.

[14:45]

Both provide that no order for costs be made in proceedings that there are requests for assistance, or outside advice. However, the Investigation of Fraud (Jersey) Law 1991, under which much of Jersey's mutual legal assistance takes place does not include any provision to limit costs. The same is true of the proceeds of Crime Enforcement Confiscation Orders Regulations 2008. In terms of limiting liability for damages, again the 2014 International Criminal Court Law provides protection from claims for any loss of damages to receivers and officers involved in the seizure of assets, except in cases of negligence. The report, accompanying the draft law, includes details of other legislation where similar protections are provided and also where our current legislation falls short in this regard. The draft law ensures that authorities in Jersey would not face adverse cost orders for acting in good faith when assisting other jurisdictions, or claims for damages, or consequential losses and acting in good faith to assist other jurisdictions. As previously mentioned, the protection against claims for damages, or consequential losses, would not apply in respect of claims for damages under the Human Rights (Jersey) Law. Schedule 1 provides a lists of enactments that are covered by the law and under which a public authority would be protected from liability. Members will note that the law would not cover protection to, for example, the Channel Islands Competition and Regulatory Authority, the J.F.S.C., the Attorney General and the Comptroller of Taxes in tax information exchange cases. Schedule 2 makes some consequential arrangements to enactments which replace references to negligence with bad faith, meaning that it would now be necessary in cases of damages for claimants to prove bad faith on behalf of the public authority, as opposed to negligence. This is a relatively short, but key piece of legislation, which would allow public authorities in Jersey to continue to meet their international obligations with protections in place that are common in other jurisdictions. It will bring consistency throughout our statute book and should result in the Island being able to provide more assistance now that the threats of costs, or damages, against public authorities, who are simply trying to honestly do their job, are removed. I have letters in my possession from the J.F.S.C. and the Comptroller of Income Tax strongly supporting this legislation. I would be pleased to answer any questions and, having done so, hope Members will support the draft law. I move the principles.

The Deputy Bailiff:

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

8.1.1 Senator K.L. Moore:

Just, really, to update the Assembly, because Members will recall that a 2-week deferral was allowed for the Corporate Services Scrutiny Panel to receive a briefing on this proposition, which was duly done the following day. We also reached out to the Law Society, who had previously contributed to consultation on the matter and we have heard their views also. On balance, the panel has come to the conclusion that we are supportive of this proposition and we see it as a forward-thinking piece of legislation that provides new protections to Jersey authorities and also protection from a potential chilling effect that would persuade some from not taking efforts in certain situations and, therefore, we are supportive of this proposition and ask the Assembly to consider it positively.

8.1.2 Deputy J.H. Young:

I apologise if I am going to raise a procedural point, because, I think, it will probably affect a number of other propositions. I see in the report, paragraph 3, it talks about collective responsibility under Standing Order 21(3A). Of course, this is a legacy business from the previous Council of Ministers. Could I just have a comment either from the Constable, or perhaps from the Attorney General if it can be referred and have it confirmed that no longer applies, since the previous States decision?

The Deputy Bailiff:

Yes, that was the procedural requirement for the lodging of the proposition at the time this proposition was lodged, Deputy. Of course collective responsibility does not apply.

Deputy J.H. Young:

Thank you for that ruling, Sir. Can I just check: is 21(3A) still on the Standing Order book then?

The Deputy Bailiff:

I do not know the answer to that, but I am advised that there is a change coming through. Have you concluded your speech, Deputy?

Deputy J.H. Young:

I am sorry, yes. I just wanted to raise that procedural point.

8.1.3 Deputy K.F. Morel:

Just to speak directly in support of the proposition. When we first saw this on the Order Paper a few weeks ago, we were not sure whether it sat with Economic Affairs, or Corporate Services, so we took it upon ourselves to look at it as well. I am not speaking as a panel member, I am speaking for myself and this legislation, I feel, is really important if Jersey is to maintain its standing in the international business environment. Our law officers and other bodies, as the Constable referred, must be able to go about their business without threat of being taken to court, or threat of being sued by individuals and businesses, who have vast means, that the Island really cannot match. In this case, it is a very sensible piece of legislation which I urge the House to support.

The Deputy Bailiff:

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

8.1.4 The Connétable of St. Ouen:

I would like to thank Senator Moore for her words of support and also Deputy Morel. I would like to move the appel, please.

The Deputy Bailiff:

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

POUR: 43		CONTRE: 0		ABSTAIN: 0
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy J.M. Maçon (S)				

Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.J. Rondel (H)				
Deputy of St Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

The Deputy Bailiff:

Senator Moore, does your panel - I am sure I know the answer but formally I must ask you - want to ...?

Senator K.L. Moore (Chairman, Corporate Services Scrutiny Panel):

No, thank you.

The Deputy Bailiff:

How do you wish to propose the Articles?

The Connétable of St. Ouen:

I would like to propose the Articles be taken *en bloc*, if that is possible and Members are in agreement.

The Deputy Bailiff:

Very well, it looks like we have general agreement to *en bloc*. So you propose them *en bloc*?

The Connétable of St. Ouen:

Yes, I do.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Very well, does any Member wish to speak to any of the Articles? Very well, those in favour of adopting the Articles, kindly show. Those against? The Articles are adopted. Do you move the matter in Third Reading?

The Connétable of St, Ouen:

Yes, Sir. I am grateful to Members for their comments, although brief they might have been, and to the support of the Scrutiny Panel involved and I would like to move this Bill to Third Reading.

The Deputy Bailiff:

It is seconded? [**Seconded**] Those Members in favour of adopting the Bill in Third Reading, kindly show. Those against? The law is adopted in Third Reading.

9. Draft The Law Society of Jersey (Amendment No. 4) Law 2017 (Appointed Day) Act 201-(P.58/2018)

The Deputy Bailiff:

Very well, the next item of public business is the Draft Law Society of Jersey (Amendment No. 4) Law 2017 (Appointed Day) Act P.58/2018 and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Law Society of Jersey (Amendment No. 4) Law 2017 (Appointed Day) Act 201-. The States, in pursuance of Article 25 of The Law Society of Jersey (Amendment No. 4) Law 2017 have made the following Act.

9.1 The Connétable of St. John (Assistant Chief Minister - rapporteur):

Before I start, I hope Members have noted the addendum to this report. The addendum corrects a minor and technical error that was made regarding the dates on which the rules of the court and Law Society bylaws, both of which are made under this law, come into effect. Just briefly for Members, the 2 dates, one law was coming in before the other and so they did not match, so this minor adjustment just brings the alignment of the dates forward, I believe, to 2nd August. This was an unintentional mistake, which is regretted by the relevant officer, and I am pleased the clarification has ensured the record is now correct. This Appointed Day Act is to bring into force The Law Society of Jersey (Amendment No. 4) Law 2017. This amendment to the law was approved by the States on 2nd May last year, granted Royal Assent on 19th July 2017 and registered in the Royal Court on 28th July 2017. The law enhances and improves the procedures for dealing with complaints against Jersey advocates and solicitors. The opportunity has also been taken, in this amendment, to introduce a change to the legislation, to allow for the recognition of legal services bodies, which will be legal firms incorporated by limited liability partnerships. Under this Appointed Day Act, the law will come into force on the day after the day that the Limited Liability Partnerships (Jersey) Law 2017 comes into force. If Members approve the Appointed Day Act for this law, the amendment to the Law Society law will come into force on 2nd August 2018, along with the rules of court and Law Society bylaws, as stated in this addendum. As is set out in the report by the Appointed Day Act, transitional arrangements to the updated disciplinary procedures have also been provided for. So, I would like to move the proposition.

The Deputy Bailiff:

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition? Those Members in favour of adopting the proposition, kindly show. Those against? The proposition is adopted.

10. Draft Companies (Demerger) (Jersey) Regulations 201- (P.59/2018)

The Deputy Bailiff:

The next item of public business is the Draft Companies (Demerger) (Jersey) Regulations P.59/2018 and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Companies (Demerger) (Jersey) Regulations 201-. The States, in pursuance of Regulation 127GB of the Companies (Jersey) Law 1991, have made the following Regulations.

10.1 The Connétable of St. Ouen (Assistant Chief Minister - Rapporteur):

The Draft Companies (Demerger) (Jersey) Regulations 201-, which I will refer to as the Regulations, for obvious reasons, proposes the introduction of a demerger regime, to enable a Jersey company to split into 2, or more, Jersey companies. While alternative procedures were available, it is considered the introduction of demerger rules will strengthen the corporate law offering already available in Jersey and it is anticipated to provide additional flexibility and cost efficiency to those using Jersey companies. Industry representatives, co-ordinated through Jersey Finance Limited, have reported a commercial need for such a process, which enables a division in this manner and which might be simpler than the alternatives currently available, which still provide protections for other interested parties. The intention to bring forward such a proposal was heralded in Amendment No. 11 to the Companies (Jersey) Law in 1991, which I will refer to as the Companies Law, which introduced the demerger regime into the Companies Law and included an enabling provision for the States to make regulations to permit the demerger of Jersey companies. So far as is appropriate and relevant, in order to maintain consistency across the Companies Law, the Regulations mirror the approach taken in the merger provision set out in part 18B of the Companies Law. Previous consultation on Amendment No. 11 having established the introduction of demerger regime was supported in principle. A consultation on the actual draft Regulations took place in late 2017 and earlier this year, with input already having been received from the relevant subcommittee of the Law Society during the drafting process. The broad aim of the law is undertaking property rights and liabilities of the demerged company and divide them up to 2, or more, companies with assets and liabilities transferred by operation of law. Following a demerger, the original entity may cease to exist, exist with the business being continued by 2, or more, new entities, or the original entity may exist alongside one, or more, new entities. The company that is demerging is referred to in the Regulations as the demerging company and the resulting companies are the demerged companies. If the original company continues to exist, it is called a survivor company. Any company that is not a survivor company is defined as a new company.

[15:00]

It is anticipated that the Regulations might be used in varying situations and most typically whether a company wishes to separate out key business strands, thereby enabling the management of each new company to concentrate on the core business. Where the businesses have gone in 2 separate directions, which do not necessarily fit together any more, the value of each of the underlying businesses might be more fully recognised in the share price post demerger and investors might be able to analyse more easily the profitability and risk of such particular part of a business, once it is a separate company. A typical use is where a family business wishes to split assets, in order to enable succession planning. I should say at the outset that only certain Jersey companies will be able to use this procedure. The eligibility criteria is more fully set out in Regulation 2 but, in essence, banks and insurance companies, which already have a separate regime in place with greater consumer protection in those customer-led sectors, are not eligible for this regime. To summarise Regulation 2, companies have a liability to pay Jersey tax, or have shareholders with such a liability are not being able to demerger. It is intended to extend the regime to those companies once the consequential and somewhat complicated arrangements with the Jersey tax legislation have been developed. It may be useful to set out a summary of the procedure for a demerger. Firstly, the demerging company must prepare a demerger instrument, a key document in this process, which sets out how the demerger will be effected and, in particular, must identify the assets and liability of the company and where they will end up after the demerger is completed. The proposed constitutional documents, more commonly known as Memorandum and Articles of Association, of the demerged company must be

attached. This document is available to the shareholders, creditors and the employees of the company, although certain redactions for sensitive material are permitted. The directors of the demerging company must pass a resolution that the demerger is in the best interests of the demerging company and sign off a solvency statement. The proposed directors of the demerged companies must also certify that, in their opinion, the demerged companies will be solvent for the 12 months after the demerger. As currently drafted, the companies, which have a liability to pay Jersey tax, will not be able to demerge. It is envisaged that, at a future date, such companies will be able to demerge, but only after the necessary arrangements were made with the tax associations and the Taxes Office. Those necessary arrangements may take some time, so it is thought best to introduce the demerger regime in advance of them, so that other companies may benefit from the regime in the meantime. There will be some benefit to the finance industry where the corporate law instructions have been eased. I reiterate the desire to extend the demerging capacity to tax-paying businesses and a commitment to helping such businesses by improving the Companies Law, a process the Regulations significantly contributes to. To be clear, further amendments to these Regulations to remove taxpayers to carve themselves out were made by Regulations before the Assembly. The Chamber of Commerce has also mentioned Regulation 15. Regulation 15 provides that if the relevant contract of employment includes an obligation to pay a contribution to a retirement scheme on behalf of the employer, that that obligation to make a contribution is transferred to the new employer. Terms of the particular retirement scheme may prohibit the transfer of the actual scheme, so it is only possible to ensure that the obligation is transferred. Overall, I thank the Scrutiny Panel and the Chamber of Commerce for their input and I will be glad to clarify the position. I propose the principles.

The Deputy Bailiff:

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

10.1.1 Deputy K.F. Morel:

I thank the Constable for mentioning the work of the Economic Affairs Scrutiny Panel. As a panel, we spent time scrutinising these Regulations and while we decided not to defer them any longer, I would like to bring Members' attention to the following points, because we believe they are of importance. Regulation 14 deals with the continuation of employment and Regulation 15 was retirement schemes and, therefore, they do have a direct effect on the lives of employees of Jersey companies. This is not just a financial services-type piece of legislation; it is one which does affect people's lives directly. While these Regulations do not currently affect companies that pay income tax in Jersey, as the Constable said, officers have been open about the fact that the aim is to ultimately include all Jersey companies. This means that these Regulations will provide the model for the treatment of businesses that employ Islanders. As such, Members should be aware of the wider potential impact of these Regulations and that our constituents will be affected by them. I advise Members to read the attached comments paper before voting and I would also like to thank the Chamber of Commerce for providing their input as well. We went to a number of organisations, but the Chamber of Commerce were very proactive in coming back to us. So, as a panel, we believe they can go forward, but I just want Members to be aware of what they are voting on here. It is not a simple financial services piece of legislation. Thank you.

10.1.2 Deputy G.P. Southern:

I was just in the coffee room thinking about the way this was being presented and a thought came to me that the question somebody should be asking is: how many companies are we doing this for? Is it one company, is it 20 companies? What is this trend to demerger and why the necessity to do so? So the question to the presenter is: how many companies are we operating this for?

10.1.3 Deputy S.M. Wickenden:

I thought I would just quickly ask the proposer how this protects data protection rights for employees that are demerging?

10.1.4 Deputy D. Johnson of St. Mary:

In answer to Deputy Southern's query and to help the Constable, because he perhaps was not at the presentation, we asked the same question and the answer is: no one knows at the moment. There are a few possible demergers out there, but the number is not known. It is a question of what the future holds for those particular companies.

The Deputy Bailiff:

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

10.1.5 The Connétable of St. Ouen:

I thank the Deputy of St. Mary for his assistance in the matter. My response to Deputy Southern is much the same, this is a new piece of legislation, which has been requested largely by the finance industry and largely by the trust company businesses. We do not know what the demand is going to be, but I suspect, given the pressure that we have been under, it will be reasonable. As far as data protection is concerned, all the companies involved in this process will be covered by the Data Protection Act and, as such, they will pick up the same obligations as the company that is doing the demerging, so I do not have any particular concerns over this. Also, I thank Deputy Morel for his kind and helpful comments. We have taken on board the point about pensions and I believe now employees' rights will be protected with this legislation. I move the principles.

The Deputy Bailiff:

Very well. Those in favour of adopting the principles, kindly show. Those against? The principles are adopted. I am sure I know the answer but, Deputy Morel, your committee does not want to call this in, does it?

Deputy K.F. Morel (Chairman, Economic Affairs Scrutiny Panel):

No.

The Deputy Bailiff:

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

10.2 The Connétable of St. Ouen:

These Regulations are technical in nature and, as Members will have seen from the pack, numerous. If it is agreeable to the Assembly, I would not like to take them through one by one but, however, I respect their view on this. I would like to propose that they be voted on *en bloc*.

The Deputy Bailiff:

Very well. So you propose them *en bloc* and presumably will be available to answer whatever questions may come up on individual Regulations?

The Connétable of St. Ouen:

Yes.

The Deputy Bailiff:

Very well. Are they seconded *en bloc*? **[Seconded]** Does any Member wish to speak to these Regulations or any individual one of them?

10.2.1 Deputy J.H. Young:

I think it may be a question of just clarification, and I apologise if I missed it, but can I just ask the Constable to confirm that the effect of Regulation 14, about employment, is not to disadvantage, from the point of employment rights, any person who is transferred unless they do not wish to be transferred? On 15 as well, there does appear, if he could confirm, there seems to be protection under 15 for accrued pension rights. Could he just confirm those points?

The Connétable of St. Ouen:

Yes, I confirm these ... sorry.

The Deputy Bailiff:

Sorry, I will just see if anyone else has anything they wish to say first and give a response at the end. Does any other Member wish to speak in Second Reading?

Deputy G.P. Southern:

I am not sure whether it should be in Second Reading; however, I wish to ask a general question. Shall I save it until Third Reading, rather than Second Reading?

The Deputy Bailiff:

Well Third Reading is limited to a debate on whether the piece of legislation should be adopted, or rejected, as a whole, based on the form that it ends up in in Third Reading after various things have been debated in Second. So, if it relates to a specific Regulation, or a collection of Regulations, then it may be worth raising it now, otherwise wait until Third Reading, Deputy. It is a matter for you, I think.

Deputy G.P. Southern:

I think I will just sit down. [Approbation]

The Deputy Bailiff:

I am always heartened when I have brought clarity to the situation. [Laughter] Does any other Member wish to speak in Second Reading? I call upon the Connétable to respond.

10.3 The Connétable of St. Ouen:

In answer to the Deputy's question, it is intended to protect employees' rights into the transferring-out companies in the same way the legislation is designed to protect their pension rights. If the pension scheme, the original pension scheme, is not transferrable to the demerging companies, then there will be no obligation on the company, that is doing the demerging, to transfer the individual member's rights, either to a choice of their own scheme, or to a new scheme that the demerged company would set up. I would like to ask for the appel on the Second Reading, please.

The Deputy Bailiff:

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

POUR: 45		CONTRE: 0		ABSTAIN: 0
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				

Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.J. Rondel (H)				
Deputy of St Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

The Deputy Bailiff:

Do you propose them in Third Reading?

The Connétable of St. Ouen:

I would like to propose the law in Third Reading and I will obviously endeavour to answer any Members' questions they might have.

The Deputy Bailiff:

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

11. Draft Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 12) (Jersey) Regulations 201- (P.69/2018)

The Deputy Bailiff:

The next item is the Draft Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 12) (Jersey) Regulations, P.69/2018, and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 12) (Jersey) Regulations 201-. The States, in pursuance of Article 2 of the Public Employees (Retirement) (Jersey) Law 1967 and Articles 2 and 4(3) of the Public Employees (Pensions) (Jersey) Law 2014, have made the following Regulations.

The Deputy Bailiff:

Connétable? I was bound to be right, was I not?

11.1 The Connétable of St. Ouen (Assistant Chief Minister - rapporteur):

You are just moving too fast for me; I cannot get the papers out quick enough. P.69 relates to an amendment requested by the Committee of Management within the Public Employees (Pension Scheme) (Transitional Provisions, Savings and Consequential Amendments) (Jersey) Regulations 2015. The Scheme Actuary has identified that, due to a technical change contained within the legislation, some difficulty and some unfairness has been created, regarding the additional costs of the scheme of paying V.E.R. (Voluntary Early Retirement) benefit under Regulation 8. This was one of several sets of Regulations simultaneously introduced, whose primary purpose was to create the new career-average scheme P.E.P.S. (Public Employees Pension Scheme), which came into effect on 1st January 2016, but the opportunity was taken to tidy up a number of detailed provisions relating to the final salary scheme P.E.C.R.S. (Public Employees Contributory Retirement Scheme) at the same time. Although the various sets of Regulations were reviewed, on behalf of the Committee of Management, by the Scheme Actuary and the fund's legal advisers at a high level by the Employer's Actuary, the implications of this particular technical change were not picked up. Following consultation with the Committee of Management, the Scheme Actuary and the Employer's Actuary, it was agreed that the Regulations should be amended. The change to the Regulations will require the Scheme Actuary to calculate the cost of the V.E.R. in a manner that is actuarially cost-neutral to the fund. This change will overcome the unfairness inadvertently introduced and will future-proof the way these capital costs are calculated. It is proposed to make this amendment to the legislation retrospective to 1st January 2016, when the original change was implemented. The Law Officers' Department has advised that this should not cause any difficulty, as the change will not impinge on any individual member's rights, but rather related to the amount that passes between the employer, who is the States and the fund. I move the proposal.

[15:15]

The Deputy Bailiff:

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

11.1.1 Deputy G.P. Southern:

I am so excited by this stuff, I cannot contain myself, really. This only refers to exchanges between the fund and the States and not to individuals and my question would be: does this make the sum exchanged between the States and the fund more, or less?

The Deputy Bailiff:

Does any other Member wish to speak on the principles? I call upon the Connétable of St. Ouen to respond.

11.1.2 The Connétable of St. Ouen:

I thank the Deputy for his question and, I have to say, I would be disappointed if he did not ask a question, particularly on this subject. Given the way that these things are calculated, it will naturally increase the cost borne by the employer, because the cost of early retirement is always greater than if you run to a normal retirement date. So there will be an increased cost going back to 2016 brought forward on the States, rather than the fund itself. In my mind, that is entirely fair, because the fund, essentially, is the property of the members and they have been bearing this cost unfairly for some time. So, in that respect, I would support this piece of legislation and I ask for the appel.

The Deputy Bailiff:

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

POUR: 43		CONTRE: 0		ABSTAIN: 0
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.J. Rondel (H)				
Deputy of St Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				

Deputy of Trinity				
Deputy of St John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

The Deputy Bailiff:

Senator Moore, does your panel wish to call this in?

Senator K.L. Moore (Chairman, Corporate Services Scrutiny Panel):

No, thank you.

The Deputy Bailiff:

So how do you wish to deal with the Regulations, Connétable?

The Connétable of St. Ouen:

I would like, with the approval of Members, for these to be taken *en bloc*.

The Deputy Bailiff:

Very well. Are they seconded? **[Seconded]** Does any Member wish to speak to any of the Regulations? All those in favour of adopting the Regulations, kindly show. Those against? The Regulations are adopted in Second Reading. Do you propose them in Third Reading, Connétable?

The Connétable of St. Ouen:

Yes, I would like to propose the Third Reading of this and commend it to Members and ask for the appel.

The Deputy Bailiff:

Very well. Are they seconded? **[Seconded]** Does any other Member wish to speak in Third Reading? You called for the appel, Connétable; I invite Members to return to their seats. I ask the Greffier to open the voting.

POUR: 41		CONTRE: 0		ABSTAIN: 0
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				

Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.J. Rondel (H)				
Deputy of St Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				

12. States of Jersey Development Company Limited: re-appointment of Non-Executive Directors (P.72/2018)

The Deputy Bailiff:

The next item of public business is the States of Jersey Development Company Limited: re-appointment of Non-Executive Directors, P.72/2018, lodged by the Minister for Treasury and Resources and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion (a) to re-appoint Mr. Paul Masterton as a non-executive director of the States of Jersey Development Company Limited, in accordance with the Memorandum and Articles of Association, for a further period of 3 years, to take effect from the delivery to the company of the notice referred to in paragraph (b) below; (b) to authorise the Greffier of the States, for and on behalf of the States, to deliver a notice to the States of Jersey Development Company Limited, in accordance with Article 21(b) of the Memorandum and Articles of Association, to give effect to such appointments.

12.1 Deputy S.J. Pinel (The Minister for Treasury and Resources):

I stand to recommend to the Assembly that it agree to re-appoint Mr. Paul Masterton, as a non-executive director of the States of Jersey Development Company Limited, for a further 3-year period, commencing on 12th July 2018. Paul Masterton was first appointed to the board in July 2012; he was then re-appointed by the States, through P.45/2015, for his current term. I feel as there are many new Members in the Assembly, it would be useful to set out some background on Paul Masterton's career. He was appointed as chairman of a start-up business, Digital Jersey Limited, in

2012, with the task of appointing a board of directors, including a chief executive; indeed, he spent part of that time as its chief executive. Digital Jersey is a 100 per cent state-owned company, which was established to promote Jersey as a jurisdiction for I.C.T. (Information and Communications Technology). From 2008 until early 2013, he served as Chief Executive of Durrell Wildlife Conservation Trust. Before joining Durrell, Paul had a successful career in the printing industry, including being President of the European operations for RR Donnelley, the world's premier global printing provider. Paul Masterton has wide commercial experience and has gained a strong knowledge of Jersey and its economy. This is combined with his 6 years' experience as a board member of the States of Jersey Development Company over what has been a challenging period for the company, which has now seen a real step change with the successful delivery of I.F.C. (International Finance Centre) 1, I.F.C. 5 office developments and the College Gardens residential development. Paul Masterton sits on both the Audit and Risk Committee and the Remuneration and Nomination Committee. His experience at this time in the company's development is something that will benefit the board, the company, and the States. The board have a successful plan in place and this re-appointment is an integral part of that, ensuring continuity and the right balance of experience for the board. I have no hesitation in recommending his re-appointment to the Assembly and would make the proposition.

The Deputy Bailiff:

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

12.1.1 Deputy K.F. Morel:

I just wanted to say that I am pleased that the proposition, as we see it today, shows that this is the third and final term for these 2 appointees. That is nothing to do with the appointees themselves; it is just that when it comes to non-executive directors, they perform a function of oversight on the companies whose boards they sit on, so having a length of term, which is open, is dangerous for the oversight that they perform. The Higgs report of 2003 makes it clear that, in terms of best practice, non-executive directors should not be appointed for a period of more than 2 terms of 3 years and to serve for longer than that renders them no longer independent. Now, I am not trying to stop this at all; I will be supporting this proposition, but I would like to urge the Minister to, perhaps, look at all States of Jersey-owned companies and ensure that they all fit within the remit of that Higgs report and that all non-executive directors serving on boards of States of Jersey-owned companies only serve for the maximum 2 terms of 3 years. Thank you. [**Approbation**]

12.1.2 The Connétable of St. Brelade:

I wonder if the Minister would confirm whether, or not, the Appointments Commission have any input either at the initial appointment of these 2 most credible individuals, or on their re-appointment. Thank you.

12.1.3 Senator S.C. Ferguson:

Has the Minister consulted with the Appointments Commission as to the sort of parameters of the post of non-executive directors and what we would expect of them when they are appointed to a wholly-owned States subsidiary?

12.1.4 Deputy R.J. Ward:

Given the accountability of public money, can the Minister let us know whether the contract, which is just £22,000 for a minimum of 15 days, whether the attendance is 15 days, or significantly more than that, so that we know, if you like, what we are getting for our money? Thank you.

12.1.5 Deputy G.P. Southern:

Just to support Deputy Morel in his reservations about this situation. It is absolutely vital that non-executives keep their independent status and independent authority in a company and in this case 2 times 3 years should be the practice and longer should not be the norm. I am tempted, myself, to vote against this, rather than support it, because I do think it breaches that general rule of thumb.

12.1.6 Senator S.W. Pallett:

As much as I want to support the comments made by Deputy Morel and by Deputy Southern as well, I just want to put a slightly different slant to it. I think we are extremely fortunate to have people like Mr. Masterton take up these roles. I have dealt with him in various guises, certainly on Digital Jersey, and also with the Hockey Club and he is extremely professional and brings all sorts of skills in regards to the positions he takes. We should be supporting this. As you say, there should be limitations on the amount of time people serve. I know we see the same names coming up time and time again. That has been a criticism within the House, but when it comes to people of this calibre, I think we need to get behind the Minister and make sure this appointment goes ahead. But I certainly take on board what Deputy Morel ... and I think he is very astute in some of his thinking and very wise. But, let us get behind this and support it, even if it is going to be his last term in this particular role. Thank you.

The Deputy Bailiff:

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

12.1.7 Deputy S.J. Pinel:

I thank the Members for their questions. I was quite aware of Deputy Morel's concern over the 3 years; he had the courtesy to speak to me beforehand. To answer quite a few questions in one go, a lot of these non-executive director appointments are for 3-year terms, because a lot of these companies were set up 10 years ago. So, to get any continuity it has had to be 3 years, but I take on board the concerns as to whether they should be reduced to 2, 3-year terms, so a maximum of 6 years, to reduce them to that. I think that is what the Deputy was asking, yes. The 3-year, or 9-year term then, if you like, accords with the principles of the U.K. Corporate Governance guide. The other appointment is a ministerial appointment of Ann Santry; it does not come before the Assembly. Senator Ferguson asked about the Appointments Commission. I have not personally met them yet; there has not really been an awful lot of time, but I, obviously, will go to advice if we are going to try and reduce the terms. Deputy Ward asked about the amount of time worked for the money paid. I think the money is set at £22,000 and I am quite sure that the time worked is considerably more for no extra cost. So, I move the proposition.

The Deputy Bailiff:

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

POUR: 40		CONTRE: 2		ABSTAIN: 1
Senator L.J. Farnham		Deputy G.P. Southern (H)		Deputy J.H. Young (B)
Senator S.C. Ferguson		Deputy C.S. Alves (H)		
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				

Connétable of St. John				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.J. Rondel (H)				
Deputy of St Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St John				
Deputy M.R. Le Hagarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy K.G. Pamplin (S)				

13. Draft Income Support (Amendment No. 18) (Jersey) Regulations 201- (P.73/2018)

The Deputy Bailiff:

The next item is the Draft Income Support (Amendment No. 18) (Jersey) Regulations, P.73, and I ask the Greffier to read the citation.

The Greffier of the States:

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

13.1 Deputy J.A. Martin (The Minister for Social Security):

These Regulations were proposed by the previous Minister and lodged on 9th April this year and I am very, very pleased to be here to support them as my first job as the new Minister for Social Security. They are very straightforward proposals and I am proposing to increase income support in 2 ways: from 1st October, most of the income support components will be increased by 3 per cent and you will find all the actual rates and money on page 4 of the proposition. For example, the adult component will rise from £94.85 a week to £97.72. The second increase is to provide extra help to families, and I am proposing to increase the component for the first child as from 1st January 2019 by £5.04 a week.

[15:30]

There is not much more to say about that. So, hopefully if people have any questions, I am happy to answer them. Thank you.

The Deputy Bailiff:

So, you propose the principles?

Deputy J.A. Martin:

Sorry, yes, I propose the principles.

The Deputy Bailiff:

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

13.1.1 Deputy G.P. Southern:

It is with some reluctance that I speak about this legacy piece of legislation, which has been bequeathed to us by the previous Minister. While I will, obviously, support this in its increase in income support components and its addition to support families which, obviously, is an important factor, I believe we may, in the longer term, have to return to this particular piece of legislation. Because, when one examines the net result, the net impact of inflation since income support was commenced back in 2008, what you find is that, while it is laudable to increase the adult component, for example, to £97.72, if we were to examine the inflation rate during that 10 years, we find that the adult component could be, should be, £113.11 to match what has happened to inflation. So, effectively, over the 10-year period, people in receipt of this benefit are not as well off as they were at the beginning of the process when we first set income support rates to give a certain level of support to people; it has been eroded away. So it may be, in the longer term, we will have to return to this and examine to see what the proper level for income support is, its interaction with house prices, house rents, with income tax and with inflation. While it is a good move, I think there is more that could be done in the longer term.

The Deputy Bailiff:

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

13.1.2 Deputy J.A. Martin:

It is good to hear observations from my Assistant Minister on where he thinks we are on this proposition, but there will be discussions. I take on board what he is saying but, to me, the place to discuss this now is in the ministry. I was going to make a joke earlier. David Davis and Boris Johnson were seen leaving Number 10 with their red folder last night; maybe the Deputy would like one too. **[Laughter]** But we are where we are. I think the recommendations ... I feel where the Deputy is coming from. We also have to remember, these all have to be paid for. We are collecting money off the taxpayers and hard workers of Jersey to pay, rightly so, for people who are falling on hard times. You have to keep the balance and we are where we are; the rates are all going up. So, I maintain the Regulations and I ask for the appel.

The Deputy Bailiff:

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

POUR: 38		CONTRE: 0		ABSTAIN: 0
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				

Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. John				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy R.J. Rondel (H)				
Deputy of St Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

The Deputy Bailiff:

This is a matter covered by the Health and Social Security Scrutiny Panel; Deputy Le Hegarat, does your committee want to call it in?

Deputy M.R. Le Hegarat of St. Helier (Chairman, Health and Social Security Scrutiny Panel):

Yes, the Scrutiny Panel had a comprehensive input from Social Security and we were satisfied with the Regulations and we are fully supportive. Thank you.

The Deputy Bailiff:

Very well. How do you wish to propose the Regulations, Minister?

13.2 Deputy J.A. Martin:

Yes, as I say, I have already explained them and I would like to propose them *en bloc*. There are only 3; I have explained really the 2 and the third gives the title of these Regulations and provides the date for them to come into force. So, obviously, again, if anybody has got any questions on individual Regulations, I am quite happy to answer them. Thank you.

The Deputy Bailiff:

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

Deputy J.A. Martin:

Yes, thank you.

The Deputy Bailiff:

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

POUR: 39		CONTRE: 0		ABSTAIN: 0
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. John				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy R.J. Rondel (H)				
Deputy of St Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				

Deputy K.G. Pamplin (S)				
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14. Draft Proceeds of Crime (Amendment No. 3) (Jersey) Law 201- (P75/2018)

The Greffier of the States (in the Chair):

We now move on to the Draft Proceeds of Crime (Amendment No. 3) (Jersey) Law, P.75, lodged by the Chief Minister. We did quite a bit of this at the last sitting but got stuck on Third Reading and there was a move to next business. So, what I suggest is that it is proposed again by the Constable of St. Ouen in Third Reading.

14.1 The Connétable of St. Ouen (Assistant Chief Minister - rapporteur):

Members will recall that this draft law was halted in the Third Reading, when the States were last assembled, on the grounds of an error identified in the draft. First, a speech on the principles of the law was given by the Minister for External Relations and explanatory notes indicate the draft law at Articles 2 and 3 respectively had 2 clear purposes: to abolish the requirement for 2 qualifying offences and to amend the definition of “criminal property”. The purpose of the first amendment is to remove the requirement for the defendant to be sentenced for 2 qualifying offences, or have previously been sentenced to another qualifying offence in addition to the one he is now being sentenced for within the relevant period, i.e., the previous 6 years. A qualifying offence is one which carries a maximum sentence of one year, or more, imprisonment. The first amendment will have the effect that where a defendant is being sentenced for a single qualifying offence, the law can make assumptions under Article 5 of the Proceeds of Crime Law on whether, or not, he has benefited from criminal conduct and on the amount of such benefit. This is an amendment, which has been recommended by MONEYVAL and indeed is in line with propositions adopted in all other countries. It follows that the provision in respect of 6 years, being the relevant period, is no longer required for the purposes of identifying qualifying offences. However, due to the drafting of the Proceeds of Crime Law, the definition of “relevant period” is still required for the purposes of how far back the Court may look in terms of what property has been transferred to the defendant, prior to a proceeding being instituted against him. Removing Article 5(3) and the reference to “relevant period” in Article 5(5) would have had the unintended consequence of extending the assumptions under Article 5 to any property that the defendant has ever received in his life. As well as the practical difficulty of investigating this, the effect would be disproportionate. This effect was not intended. It is not what the Assembly was told that the draft law achieved. It is, therefore, considered to be an error, admittedly made by oversight and the drafting law went too far. I have taken advice from the Attorney General on this and he has confirmed that the error can be corrected by deleting Articles 2(b) and 2(c) of the law and, if necessary, removing the reference to (a), but not the content of the text which follows. Accordingly, the oversight, or error, can be corrected by the Assembly agreeing to the above proposal. Pursuant to Standing Order 75, an amendment to the draft law may be proposed during the Third Reading if it is a clerical error, or oversight and with the permission of the Presiding Officer. I should note that I have been advised by the Attorney General that it would be proper, on this occasion, to refer to the definition of “oversight” in the Shorter Oxford English Dictionary. It is defined as follows: “The action, or fact, of omitting, or failing to see, or notice, something, an instance of this, an inadvertent mistake.” I am confident, therefore, that the Assembly can reasonably today decide that the draft law may be proposed during the Third Reading, with the omissions I propose above. I propose the amendments to the draft law and wish that it be adopted in the Third Reading.

The Greffier of the States (in the Chair):

Is the Third Reading seconded? **[Seconded]** Does any Member wish to speak on Third Reading? If not, I am prepared to accept the correction of the oversight. I would ask those Members in favour of Third Reading to kindly show. Those against? The draft law is adopted in Third Reading.

15. Draft Referendum (Presidency of States Assembly) (Jersey) Act 201- (P.76/2018)

The Greffier of the States (in the Chair):

That brings us to the Draft Referendum (Presidency of States Assembly) (Jersey) Act 201-, P.76, which was lodged by the Privileges and Procedures Committee and I ask the Greffier to read the Act.

The Assistant Greffier of the States:

Draft Referendum (Presidency of States Assembly) (Jersey) Act 201-. The States, in pursuance of Articles 6 and 10(4) of the Referendum (Jersey) Law 2017, have made the following Act.

15.1 Deputy R. Labey (Chairman, Privileges and Procedures Committee):

In November 2017, the Assembly adopted P.84, the Chief Minister's proposition, Elected Speaker and Deputy Speaker of the States Assembly: selection and appointment. It was amended so that a referendum could be held on the Bailiff's role as President of the States. In accordance with the Referendum (Jersey) Law 2017, the Referendum Commission has undertaken its work and duly reported; thus we have the Referendum Act before us today. We have the wording of the plebiscite and we have the date of Saturday, 20th October, debate about which is forthcoming because of the amendments. Just to repeat to Members that to get the referendum happening in October, around that date, we have to pass the Act today, otherwise we lose that window, because there has to be 3 months between the passing of the Act and the referendum happening. So, if we do not pass that today, it will push it later into 2019. If it is a referendum in favour of change, we will miss the target for enacting that in January 2019, which is part of the original proposition and we will have to go to the spring because, obviously, we do not want to hold a referendum, or a poll, in the winter months. The Referendum Law provides that the Referendum Act may apply provisions of the Public Elections Law to the referendum in question. So, basically, the referendum can ape a general election, or the elections that we are used to and most of the Articles in the Act refer to this, adopting the same principles that are in the Public Election Law to the Referendum Act, things to do with costs, with the administration, the *Autorisés*, the *Adjoints*, polling stations, registration, postal and pre-poll voting, the count, *et cetera*. The Referendum Commission report I think was published on 10th April, which was the day that the starting pistol was fired for the last general election. It may have fallen under the radar of Members, but it is obviously the first time that they have reported to this Assembly and I do urge Members to have a skim through it, if they have not already done so. As I mentioned, they have decided on the question to recommend to us which will be: should the Bailiff, as President of the States Assembly, be replaced by a Speaker, elected by States Members? That is their recommendation over the wording of the original proposition which was: should the Bailiff remain the President of the States? The report does more than just select the question. The commission tell us that they went through a period of focus groups to get at the correct question.

[15:45]

It seems, reading between the lines on the commission's report, that there were and are an awful lot of confused people in our Island about exactly the role of the Bailiff. The commission is at pains to point out that it is incumbent upon us, if we are to pass this Act, to do some education in the run-up to the referendum, otherwise it is not going to be as meaningful as it should be. Of course, there are people in the Island who are intimate with the workings of this Assembly and the role of the Bailiff, but there are an awful lot who are not. So, it is important for us to take our responsibility seriously in that matter. If we are going to have this referendum, then I hope that Members will participate in educating the public, so that they can make an informed choice on this issue. I move the Act.

The Greffier of the States (in the Chair):

Is the Act seconded? [Seconded]

15.2. Draft Referendum (Presidency of States Assembly) (Jersey) Act 201- (P.76/2018): amendment (P.76/2018 Amd.)

The Greffier of the States (in the Chair):

There are a couple of amendments, which have been lodged in relation to the Act and the first one, lodged by the Comité des Connétables, I will ask the Greffier to read the amendment.

The Assistant Greffier of the States:

Page, 19, Article 3 - In Article 3, for the words “Saturday, 20th October 2018” substitute the words “Wednesday, 17th October 2018”. Page 21, Article 8(3)(a) - In Article 8(3)(a), for the words “Saturday, 13th October 2018” substitute the words “Wednesday, 10th October 2018”. Page 21, Article 9(2) - In Article 9(2), for the words “Friday, 14th September 2018” substitute the words “Wednesday, 12th September 2018”. Page 22, Article 9(4) - In Article 9 omit paragraph 4.

15.2.1 The Connétable of St. Lawrence (Chairman, Comité des Connétables):

This amendment is straightforward. It is just asking the Assembly to agree that the referendum should be held on a Wednesday, rather than on the Saturday, as is proposed by P.P.C. For a number of reasons, the Comité believes if the referendum is held on a Wednesday there will be a better turnout. Members know that the Island relies on many volunteers to enable any polling day to run smoothly; however, we know from experience that a lot of those, who do volunteer, are retired, or do not work and, although willing to assist, it is often easier for them to give time on a weekday, rather than at the weekend. From a purely administrative perspective then, we consider it is likely to be easier for Parishes to find volunteers, who are willing to assist on a Wednesday. Voters are used to voting on a weekday. When elections are held on a Wednesday, many vote on their way to, or from, work but, of course, will not do that if voting is on a Saturday. We also have to consider those who have family commitments at the weekend and who may be less likely to vote because of them. There are also a number of practical difficulties in holding a poll on a Saturday, which may impact on the arrangements for electors and the ease and convenience of their voting. I have already mentioned volunteers but, of course, there is no guarantee that Parish staff will be available to work on the Saturday, but they and our volunteers will be required to work, not only during the day on the Saturday, but also into the evening to undertake the count. Staff will also be required to work on the Saturday before the poll, as the cut-off for a person to have their name added to the electoral register is midday on the day 7 days before the date fixed for the holding of the referendum. Members can see that in Article 10 of the Referendum Law. Additionally, some polling stations are not on Parish property; for example, they can be in schools, churches and sporting premises. If those premises will otherwise be closed, it is likely that, again, staff will have to be in attendance to open and close the buildings and costs for this will be incurred as well as, of course, the inconvenience for those staff. P.76 states that some Members were of the view that the referendum should have been held on the same day as the elections in May, but for various reasons that was not feasible. P.P.C. consulted with the Connétables on the feasibility of holding the referendum on the Saturday and the concerns I have mentioned were addressed in our response to them. We know, also, that P.P.C. consulted with the Jurats at the Royal Court, although their response is not known. Now, clearly, P.P.C. has taken an opposing view on this to that of the Connétables in that they consider, by holding the referendum on a Saturday, it could encourage voter participation. The Connétables accept that their views have not been heeded on this but, more importantly, we are disappointed to note in P.76 that P.P.C. state that holding a referendum in Jersey on a Saturday would be experimental. Now, we have just heard from the Chairman of P.P.C. of the work that the Referendum Commission undertook and we know that

this is the first Act to have been lodged under the Referendum Law. The commission did a great deal of work before presenting their report to the States. We know that they researched the principles underpinning the holding of referenda, they looked at the Code of Good Practice on Referendums and they also sought guidance on how the United Kingdom's Electoral Commission had approached the holding of referenda. Their report told us how important it was to test public understanding of the issues involved in the referendum and, as such, again as we have heard from the Chairman of P.P.C., and I am glad he is supporting my comments, focus groups were held and their views heard on what material should be given to the public to enable them to make an informed decision on this vital, constitutional, question. The commission's own intensive research and discussions, as well as the results of the focus groups, informed its recommendation to this Assembly on the wording of the referendum question. A primary consideration for the commission was to ensure that the question and what was at stake within the question, could be clearly understood by voters. No doubt this Assembly will recognise the weight given by the Referendum Commission to this matter. We will also recognise that it is our duty to do all we can to encourage the voice of the electorate to be heard, again, as the Chairman of P.P.C. has just told us. The Connétables suggest, with respect, that the day upon which this important referendum is held should not be, as in the words of P.P.C., 'experimental'. The Jersey electorate are used to voting on a Wednesday so, as I said at the outset, this amendment is straightforward. It asks the Assembly to agree that the referendum should be held on a Wednesday, rather than on a Saturday, for the reasons I have given. I ask Members for their support. Thank you.

The Greffier of the States (in the Chair):

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

15.2.2 Deputy M. Tadier:

I am reading through part of the American history on my iPad and I am drawn to a few paragraphs, which talk about the difficulties in the Deep South. While slavery might have been abolished, there was still a great oppression of black minorities. In fact, there were not always minorities in certain areas; they were the majorities. But, still, it was really unconscionable for many of the white supremacists in those areas who dominated the power base to allow their technically-free, former slaves, to get anywhere near the polling booths, because who knows what that might have done for democracy. It says: "The most formidable barrier put into place in a state constitution was the literacy test. It required a person seeking to register to vote to read a section of the state constitution and explain it back to the county clerk who processed voter registrations. This clerk, who was always white, decided whether a citizen was literate, or not." It then goes on to say: "The literacy test did not just exclude the 60 per cent of voting-age black men (most of them ex-slaves), who could not read. It excluded most black men, because the clerk would select complicated technical passages for them to interpret. By contrast, the clerk would pass whites by simply picking simple sentences in the state constitution for them to explain." Now, why do I raise that? Obviously, such a brazen example would never, ever, happen in Jersey politics, but it has been suggested that we might find, or some might try and find, more subtle ways to purge the electoral ballots. It is not as if, in Jersey, we have a majority who vote; we have a minority who vote at election times. I accept the fact that we may be arguing about angels on pinheads, to a certain extent here, because, obviously, the real debate to be had is whether, or not, we have a referendum on this subject anyway, and that will no doubt be arrived at in due course. So, of course, we cannot try those brazen attempts to get people off the register, or even not to turn up. But an alarm bell did ring when I heard from the Comité des Connétables and one can always rely on the reactionary instincts of the Comité to never fail us when it comes to this regard, when they said: "Those who are used to voting are used to voting on a Wednesday." Well, I would suggest that is exactly the problem. Those who are used to voting and those who do vote might well be used to voting on a Wednesday. I can assure the Connétable that those who are used to voting on a Wednesday will make sure that they get to the polling station on a Saturday, as well,

because they are used to voting. It is not the fact that it is on a Wednesday that makes them get out there. It happens to be the same day that B&Q have their 10 per cent discount, incidentally, for over-65s. I am sure they in fact manage to ... **[Interruption]** over-60s, is it? I am sure they manage to factor that into their day. They may even plan a trip to B&Q if they are of that age and work out a way to get to the polling stations. They may even use the pre-poll facilities before. But what would happen if we had voting on a different day? It might well be that those who are not used to voting on a Wednesday think: "I have a lot more free time on a Saturday and I would like to try it for once." It may well be that the people who volunteer, who would like to volunteer, on a Wednesday at the count but they cannot because they are working 9.00 a.m. to 5.00 p.m. jobs, or, invariably, 8.00 a.m. to 6.00 p.m. jobs in the Jersey context, think: "Not only am I going to vote this time, but I would like to get out there and offer my services voluntarily to the parish to act in the count" and we might get a re-invigoration, not just of democracy in those who turn out to vote, but those who come and assist in the count. I really do not see where this amendment is coming from, from the Comité. I do not think the Saturday voting, any of the issues that have been suggested, are insurmountable, if indeed they are genuine issues. I think that if it does go ahead, this referendum and that is a big if, of course, because we need to make sure that it is properly resourced and that there are budgets for education, and both the Yes and No campaigns need to be properly funded, *et cetera*, to be compliant with the Venice Commission recommendations, but if we do go down that road, then I do not see why we should not do it on a Saturday and aspire to something better than perhaps a 50 per cent turnout at this election.

15.2.3 Deputy J.M. Maçon:

Members might be interested that, some time ago, along with Deputy Martin and a few other Members, we did review the Public Election Law. We went out and we did a consultation with the public. We asked the specific question: when should voting day be? We asked them: should it be on a weekend? OK, the sample size was not huge and it was people who chose to respond of their own volition, but the evidence that we received back from those individuals was that they were very comfortable with it on a Wednesday and they did not want to change to weekends. For me, I found that very bizarre, because I would have thought, naturally, we would have had more time on a Saturday, or a Sunday, to engage in voting but, again, we have to do things based on the evidence available, not on just a straw poll: "I think this; I think that." So, in light of the fact that we do not really have any evidence to suggest that a Saturday would be better and being aware of the previous evidence that I have put forward, I would be minded to support the amendment of the Constables. But, of course, please do not forget that we have a 3-week election voting period. You do not have to leave it to the last day. **[Approbation]**

[16:00]

Pre-poll voting will be open for about 3 months and as they say in America: "Vote early and vote often." Thank you. **[Laughter]**

The Greffier of the States (in the Chair):

Not sure that is strictly legal, Deputy, but, Deputy Wickenden.

15.2.4 Deputy S.M. Wickenden:

I think we talk a lot about productivity in the workplace at the moment. I know people are having to work longer hours to keep productivity up in their jobs; maybe that they produce the number of staff but increase the amount of workload on other people, which is why I think that weekends ...

Senator S.C. Ferguson:

Would the Deputy pause for a moment, please? There is a nasty hum. I think ...

The Greffier of the States (in the Chair):

I think that is the Deputy. [Laughter]

Deputy S.M. Wickenden:

I think my batteries are running low. It is productivity based. I think that people, in professional life, now go into work earlier and we certainly are seeing a problem now with longer queues to even get into work for 9.00 a.m. in the morning, if not 8.00 a.m. Why not try this Saturday, where people are not required to go and work on their 9.00 a.m. to 5.00 p.m., so they can come in throughout the day, rather than having to try and rush through the morning, or not work late? I do not see the reason why Saturday is such a bad idea. I think it will help people from professional life in turning out and working, so I am not going to support the amendment.

15.2.5 Senator S.C. Ferguson:

The Connétable makes great play of the fact that they are worried about being short of volunteers. Well, we have 49 people in this Assembly and I see no reason why they should not be helping with an election at the weekend. They might find it interesting to be an *Adjoint* for a change.

Deputy M. Tadier:

But would we have to step down, in order to do that?

Senator S.C. Ferguson:

No. If you are not involved in the election, then I believe you are allowed to be an *Adjoint*. Anyway. Certainly, with the youngsters I know and from what I hear from my son, who is just about a youngster at the moment, I think he would much prefer a Saturday voting date, because days of the week he is very often out starting work at 7.45 a.m. and he is working late. I do wonder why we have not even considered moving it to a Sunday, like they have in France. Those that are on the way to church could vote on the way to church and the others could go and vote after brunch. I wonder.

15.2.6 Deputy R.J. Ward:

There were a number of points, I think, about the day of voting which occur to me, as a newly elected Member, and somebody who is very keen that democracy works on this Island and particularly with young people, because the young people are the future of this Island and it will affect young people into the future with a lasting legacy decision. First of all, the devil is in the detail in terms of any research that is done on the success, or not, of a Wednesday, or a Saturday, or a Sunday and if you have a very small sample size you cannot draw upon that data to give you valid information. So, therefore, we have no information on that, whatsoever. Also on the Saturday, contrary to the ideas that have been put across, I would suggest that schools are available to be open throughout the Island and therefore could be used as local places that would encourage people to vote, because many people go to schools every single day and it has become second nature to them to go to them and therefore it would be an ideal place for them to be voting. So, there are huge benefits of a Saturday. Also, people do not have to come away from work and workdays can be very long. They are not taking, necessarily, children to nurseries and they are not in school and they are not in college and, therefore, young people may have more time to exercise the vote. So, I would say that Saturday would be a much better day, if we are genuinely going to increase our democratic representation on the Island.

15.2.7 The Connétable of St. John:

I think I take enormous comfort from what Deputy Maçon said and that was that a review was done and Saturday was the day. For us to use our personal opinions and go against collected data I think is wrong. So, a Wednesday is clearly the right day for an election. Speaking as a Constable, I would like to reiterate some of the points made by the chair of the Comité des Connétables in that the

resources are vital. We must have those resources. I took the time and trouble at the last election to ask some of my 28 free supporters, *Adjoints*, who were there, without any benefits for themselves. They came. They gave their day up. They were happy to be there. They were there from 8.00 a.m. until midnight. It is a very long day and it is a very big ask and they overwhelming said: "Sorry, cannot do it on a Saturday." So, if you want to find me 28 volunteers and, preferably, youngsters, because I have been appealing to youngsters for the last 3 years: "Come and join the Honorary Police. Come and join this. Come and join the committees that I have." I have had: "Oh, no, I am busy working at the moment. Perhaps, when I retire I will look at it again." When I first sat down in the big chair as Constable, I asked: "Who were the volunteers in the Parish?" because we had the Queen's birthday to celebrate and we were having a party. I was handed the list of volunteers and it was the same list of volunteers that helped the Parish build the Recreation Centre in 1980. So, in 34 years it was the same list of helpers, bar 2, or 3, who, unfortunately, are no longer with us. This is an important issue and if you can find the helpers, who will come and help on a Saturday then I am prepared to do that but, I am afraid, as far as St. John is concerned, we do not have the resources and we will not be able, I believe, to carry out a referendum on a Saturday. It is all very well saying: "Oh, I think this can be done and that can be done." I have spent 3 years trying to get some youngsters in the Parish and I have not succeeded yet and I do not believe I shall in the short term. If we are to have this referendum, I would urge Members that we should have this referendum, but we do so on a Wednesday, when it can be properly resourced and properly done in a correct and proper manner.

15.2.8 Deputy M. Tadier:

I have got a question for the Solicitor General, if I may and it does not need to be answered immediately, but I think it is germane to this debate to ask: who decides how many voting stations there should be in a referendum and particularly in this referendum and how many there should be and where they should be?

15.2.9 Connétable L. Norman of St. Clement:

I think, possibly, almost certainly, there would be some merit in moving our election day from a Wednesday to a Saturday, not only Saturday but at the weekend, because that, in many ways, will bring us into line with most of mainland Europe, but I say: not on this occasion. Why is that? The P.P.C.'s report indicates and says quite clearly: "That moving to a Saturday would be experimental." Now, if you are going to experiment with something, you want to learn something from that experiment. I suggest that by moving a referendum to a Saturday and particularly this referendum, we are going to learn absolutely nothing, because we already know from the report of the Referendum Commission that interest in the subject among the great Jersey public is very low. We know that understanding of the subject is very low. So, I suggest - I suggest very strongly - to Members that whatever day we have this election, turnout is going to be very low. Now, if we do move it to a Saturday and the turnout is 10 per cent, 20 per cent, 30 per cent - well, dream on, 40 per cent - what have we learnt, because we have got nothing to compare it with? We have learnt absolutely nothing. If we are going to learn something, we have got to compare like with like; therefore, I suggest that if P.P.C. want to try to have an election at a weekend, to see if it is a sensible move for the future and they want to experiment, quite rightly, then let us do it if we have a by-election, or a Senatorial by-election, then we would be able to compare what happens at a weekend with what happened when Senator Ferguson was re-elected a year, or 2, ago. Or, perhaps, if there is no election, perhaps, next time we can think about having a general election at a weekend, then we would be able to make comparisons with what happened a month, or 2, ago compared to then. But, just to move it to a Saturday, with all the difficulties that the Chairman of the Connétables has indicated, to learn absolutely nothing, I think is wrong, and I think we should accept this amendment.

15.2.10 Senator S.Y. Mézec:

To the new Members of this Assembly, you will often find yourselves sat in this Chamber wondering what on earth is going on and you will be feeling that you might need to pinch yourself to make sure you are awake and you are hearing the arguments that you are really hearing. I can tell you that after being in this Assembly for 4 years I still get that and today is one of those moments. I cannot believe we are wasting our time arguing over what day the referendum will be held and to hear some of these spurious arguments, frankly, about how somehow this process will be better if it is on an inconvenient weekday when ordinary Jersey people have got more important things in their lives to be getting on with. I think it is utterly spurious and I cannot believe we are wasting our time here. We have had it said to us that there will be higher turnout on a Wednesday. I am sorry, this is utterly ridiculous and it is not reflective of how ordinary people on this Island live their lives. Polling stations open at 8.00 a.m. Most people begin work at 9.00 a.m., but a large proportion of people are taking care of their kids before going to work, making sure their lunch is prepared, getting them to school, so no time for them to do it then. After work there is, of course, all the traffic. People will be going home, wanting to get their kids fed, put them to bed. It is often very inconvenient for most people to get to the polling station on a weekday when they have got all these other things to be doing. I found this on election day, itself, recently. I stood on King Street and I spoke to loads and loads of people going past and I was having people come up to me to say: "I would like to vote, but I cannot vote today, because it is just not possible for me to get home with the car at the right time, help my partner, look after the kids, get there: just too inconvenient." So, this idea that, somehow, Wednesday is the right day for it is utterly ludicrous. The weekend is, clearly, a better time for it. You have much more flexibility, most people, not all, some of course will be working on a Saturday and you know there is never going to be a perfect time for everyone, but it must surely be the case that when most people work 9.00 a.m. to 5.00 p.m. Monday to Friday that Saturday will be more convenient. I honestly cannot believe we are even having this debate. The phrase twice was used: "Voters are used to voting on a Wednesday." Well, I have got news for you; most Islanders are not used to voting at all. The abstention rate, even on a good turnout in a general election, is 70 per cent. Seventy per cent of the public are used to not voting at all. It is not habitual. It is not a cultural thing for many of these people. They just do not do it. So, this idea that we put the vote when it is most convenient for the people, who are already most likely to vote, no matter what the circumstances are, is also an absurd argument. We should be aiming to reform, not just the date of the elections, or referendums, but also the locations in which people can vote. Some of the polling stations we use are absolutely ridiculous; the lack of parking provisions, traffic problems and everything that goes around with it. But, the other part of this argument that irritates me is this point about the volunteers, or about struggling to get staff to work for this period. Well, some people are not going to like me saying this, but I have to say to those who administer the elections, or referendums, is that: it is not about you. It is about the people who turn out to vote and sometimes, when you are not just in public service, but when you work in the private sector, sometimes work is inconvenient. Sometimes you are working in a shop, you have got to do your stocktake, or whatever, that can be inconvenient. You work hours that you are not used to. Work in the private sector, sometimes your business ends up facing an emergency that you have got to deal with. You work the extra hours. That is called life. Sometimes inconvenient things happen and you just deal with it if it means you get the right outcome at the end of it. So, I think that it is absolutely obvious that we should hold this on a Saturday. I do not buy this idea that: "Now is not the time to experiment." The Constable of St. Clement said: "A general election would be the more appropriate time to do this." Well, I am happy to bet any money that if we have that argument in the run-up to the next election, people will still put their hand up and say: "Now is not the time to do it." So, if now is not the time to do it I am afraid it never will be and I also do not buy this idea that some Parishes simply are too impoverished to be able to put a vote on a weekend. Democracy should not come with a price tag attached to it. You pay what you need to get what you need done. Sometimes democracy costs money, sometimes it is inconvenient, you get on with it, because it is the right thing to do.

[16:15]

I honestly cannot believe we are even having this debate. Of course we should have it on a weekend when it will be more convenient for the majority of Jersey people.

The Connétable of St. John:

A point of clarification. The *Adjoints* are honorary and unpaid. Is the Senator recommending that the *Adjoints* are paid?

The Greffier of the States (in the Chair):

Well, that is not really a clarification of his speech. That is a debate on point and you have had your go I am afraid, Constable.

Mr. M.H. Temple Q.C., H.M. Solicitor General:

In relation Deputy Tadier's question. Article 26 of the Public Elections Law provides that the Electoral Administrator for the Parish, where the poll is held, shall provide one, or more, polling stations in such a way that the *Autorisé* is satisfied that all persons have reasonable facilities for the exercise of their right to vote. So, in this case, the electoral administrator for the Parish is the Constable, but from the wording of Article 26 his provision of one, or more, polling stations has to be in a such way as the *Autorisé* is satisfied that all persons have reasonable facilities to exercise their right to vote and that is echoed in paragraph 8(d) of the proposed draft Act for the referendum. So, while I am on my feet, the *Autorisé*, just to be clear, is a Jurat, or a public official, not an elected Member of the States.

Deputy M. Tadier:

Is it a requirement that there must be a polling station for the referendum in every Parish, in every electoral district?

The Solicitor General:

Yes.

The Greffier of the States (in the Chair):

Is this a question to the Solicitor General?

Deputy J.H. Young:

Yes, it is. Is it open to the authorities, where the Parish is to recruit generally, to establish a pool of volunteers and the whole Island level is open under that legal provision for them to do that, rather than call upon the traditional Parish-based volunteers that we know about?

The Solicitor General:

That is probably an administrative matter for the Constable, but I am not aware of any provision in the Elections Law, or the Referendum Law, which would prohibit that course.

15.2.11 The Connétable of St. Saviour:

We are forgetting the people - and Senator Mézec has touched on it - the people at the Parish Halls who administer work in the Parish. Now, they are going to be expected if there was anything like ... well, it will not be quite as busy as last time, but they started at 5.00 a.m., or 6.00 a.m., to get everything ready for 8.00 a.m. so that everything was *in situ* and we were still there at 3.00 a.m. counting and we still had to open up the next morning, on the Thursday, to be able to have the Parish Hall running as normal. Now, if you have it on the Saturday it means that the staff are working from Monday through until Sunday morning, or Sunday. Everybody says they want to vote, that is not a problem, but you have the Parish Hall staff, who are doing most of the administration and do the

counting and they carry everything and the Honorary Police do everything. It is not just a case of coming out to vote. I think, maybe, Saturday we should try, because we lowered the age limit for the youngsters to come and vote. They still did not turn out on a Wednesday and yet we were open from 8.00 a.m. until 8.00 p.m. so, maybe, if they are open during the day on a Saturday on their way back from the nightclubs they can come and vote. **[Laughter]** No, seriously. Listen, I have just been to France and danced until 2.00 a.m. in the streets, so if I can do it at 73 they can. They can do it on their way back and give it a whirl. Maybe we will get the youngsters to vote, because at this moment in time people are knocking the voters and, yes, they are the people in the country Parishes that come out to vote. At this moment in time they seem to be the only ones that are interested in what is happening in the Island. There was not a great turnout in St. Helier, although we lowered the vote to encourage the youngsters to come out so, maybe, if we ... we have now lowered it and we can get them there on a Saturday maybe that will try them. Maybe they will be interested, but at this moment in time, bless their hearts, they are not bothered and if they are listening to the radio today I can quite understand why. We are fighting among ourselves, again, over one day and it is down to the fact that there is a minority, or a small, or large minority, in this House who do not want the Bailiff and do not want the Constables and this is what we keep fighting for. We have been told today that the referendum is not binding for any length of time. So, what will happen? We will have this referendum and in a couple of years' time, when they have not got what they want, they will bring it through again. We keep having these referendums. The majority of the Islanders, who vote, voted to keep the Constables and that aggravated a few people, so we have brought it round again. If you ask the people if they want the Bailiff to stay, the majority of the Islanders want the Bailiff to stay, but that does not please a minority, so here we go again. I gather the referendums can keep going for ever and for ever. This is my last year, because I will be nearly 80 at the end of my 4 years, so I am not going to bother again, you are on your own but **[Laughter]** ... no, I shall sit home. I will not even listen to the radio. But, in fairness, you cannot just keep bringing referendums around until you get what you want. At the end of the last sitting we were working here from 9.00 a.m. until 9.00 p.m. and I have to be honest, in the end, I was pushing the button because I wanted to get home to the dog and have a cup of tea and put my feet up. A lot of what we pushed through should never even have appeared. That should never happen, but it happened.

The Greffier of the States (in the Chair):

We have strayed quite a long way off the date of the referendum.

The Connétable of St. Saviour:

Yes. I do apologise, but it is all knotted into the same thing. Let us have a Saturday, let us see if the youngsters come out like the minority in this House want and see if it happens. But I would like some of you to come help my Parish Hall staff, who will be working 6, or 7, days on the trot because the parishioners ... and I do not call them constituents, because they are not. I do not live in England. I live in Jersey. They are parishioners and my parishioners will expect my Parish Hall to be open, ready for everybody to work and on Thursday morning we opened up at 10.00 a.m. instead of 9.00 a.m. and all hell broke loose, because it is a place that the parishioners expect everybody to be working as normal. So, let us try the Saturday. Let us get the kids out to vote, or back from their parties to vote and see what happens and if it does not work out the minority will think of something else.

15.2.12 The Connétable of St. Martin:

With all due respect to Senator Mézec, I also know a huge number of very hardworking people and all the people I have spoken to would like to keep the referendum to be held on a Wednesday. I also know a huge number of young people, who do play a part with politics. They are engaged. They do vote. I have spoken to them. They were quite happy to have it on a Wednesday, as well and in

support of my Parish Hall I have very hardworking staff there. I would rather they were happy in their work and they kept it on a Wednesday. I have very good *Procureurs*. The Wednesday just works much better in the Parish of St. Martin. I am going to my Rates Assembly next week. I am trying to keep my rates level. If I have to start paying for extra staffing maybe my rates will go up, I would rather that did not happen and I think that is across the board.

15.2.13 Deputy L.M.C. Doublet:

I wanted to clarify ... I am not sure if it would be the chair of P.P.C. that could tell me this and forgive me if I have missed it elsewhere, but the pre-poll voting for this referendum, will there be a town venue open on a Saturday that is more accessible, because I believe there was not a Saturday pre-poll in town and what dates will the pre-poll be for the referendum please?

15.2.14 Deputy J.A. Martin:

I will try and be brief. I wanted to speak because Deputy Maçon spoke of me and we did do a lot of work on the Election Law back, probably 6, or 8, years ago, and this was a surprise. For a bit of information and history I was on the last P.P.C. and around the table ... this went to 3 for a Saturday and 3 for a Wednesday and I had not cast my vote. So, in the interests of yes, possibly, let us have an experiment, I said OK. Not knowing everything that the Constable of St. Lawrence has told us today and the history. Now, just cast your minds back to the general election on 15th May. If that had been the Saturday, it was one of the hottest days of the year and there happened to a royal wedding, how many would have turned out? I mean ... and I was like that with the structure. Senator Mézec talks about the hardworking family. Now, for me, I had young children and a teenager, the Wednesday was always better, because on a Saturday I, literally, did not have the structure that I had already had in place for childcare, where I knew where I was going to be. I was doing my Saturday work while my husband was taking care of the children and there was not ... he would not have been able to vote, because he was not going to take 2 young children into the polling station. So, that was always in the back of my mind and then the research we had ... as you say, we literally ran out. It was a cross section and I do have concerns about where are these people coming from for the count. I have to listen to the Constables, because we just had a general election and - I am sorry I think it was St. Lawrence for the Senatorials - was only ½ an hour in front of St. Helier and the number of votes being counted, because they did not have the number of people. I am not knocking them. The people who did it voluntarily were there to 2.00 a.m., or 3.00 a.m., very hardworking, but where are they being replenished? I had one person at my hustings come up and I directed them to the person in the Town Hall, they were about in their 40s, who were always interested in the St. Helier count; directed them there and I am not sure if they got the job, or not. You know, they will have to pass a few questions, but it is all right in an ideal world saying: "Sort it, they will come. Pay them, they will come. Move it to a school, they will come" and, again, it goes back to what the Constable of St. Clement said: "If you really want to experiment with the data you have got to move it to the next general election if you want a Saturday." The referendum, I am sorry, it is going to be very low turnout, anyway, so if you really want a Saturday and you get a very low turnout, have you won your argument to move it permanently? No, definitely not. So, if you really think Saturday, or Sunday, voting is good for the future, do not try it for this experiment on a low turnout, that you know it is going to be a low turnout for a referendum. It is not on the same day as a general election and I do not care how much you pay the yes and no camps, you are still not going to get the people out, so do not use it to experiment. You let the Constables not have a Wednesday this time, you want to try it for an experiment you might as well then ... it will go for 20 years down on a Wednesday because your experiment will be so low.

15.2.15 Deputy K.F. Morel:

I believe the Constables may well be making life more difficult for themselves, because this amendment demonstrates a “can’t do” attitude that is typical of inflexible bureaucracies. Yes, staff will be pushed, but if the Parish Halls want to demonstrate their relevance in a modern democracy and I sincerely want them to, then these tests of their flexibility are vital to prove that relevance. In a world where Islanders are asked to work longer and more flexibly, the fact that Constables cannot show that same flexibility is, in my view, a fine way to shoot themselves in the foot. If the Constables want to end a call for their right to sit in this Assembly, then they must show that they are willing to meet the demands of a modern democracy. To do otherwise will invite accusations of being anti-democratic and calls for an end to their time in this Assembly will certainly grow louder. I believe it is in the interests of the Constables and the Parish system, itself, that this amendment is defeated.

15.2.16 Deputy L.B.E. Ash:

To start off with, I am not in favour of this referendum, anyway, [**Approbation**] so I think we were elected here to take difficult decisions and if at the first time we are asked to take a difficult decision we run back to the people and ask them to take it, it is not a great message to be sending. As for the excuses we are getting about why it should be on a Saturday, or a Wednesday, Deputy Martin said the royal wedding; well tomorrow night, which is a Wednesday, I believe, England are playing in the World Cup semi-final, so I do not think there will be a great turnout there. The other thing that a lot of people have ignored when they are saying about the work that is involved; the work in a general election involves the Senatorial count, which is a very complicated count. You have got Vallois, Mézec, Stevie Ocean and you have got to sort out every single person. This is a simple yes, or no. It does not take very long to count it up.

15.2.17 Deputy K.G. Pamplin:

I have heard a lot of talk about stats and facts and I am a stats and facts person, so I would just like to share some with you. Many elections around the world now are held on different days: Australia, Saturday; Belgium, Sunday; Austria, Sunday; Albania, Sunday; Canada, Monday; Columbia, Sunday; Cyprus, Saturday; I could go on.

[16:30]

I draw your attention to the U.K. Most U.K. elections, referendums, have been on a Thursday, going back decades. Historically, the supposed reason for this is that most people, back in the day, got paid on a Friday and so, by having the election on a Thursday, people had the least amount of money, were less likely to be out at the pub and so were more likely to be able to vote. In the Netherlands, primary schools are out at 1.00 p.m. on a Wednesday. These primary schools are often used as voting locations, so doing it on a Wednesday is, therefore, the least taxing on voting locations. So, what we are looking at here is when, historically, decisions were made, it was at the time ... and I heard America being mentioned earlier. The reason, in America, for Tuesday being the election day in America; this is about when farmers would traditionally bring their goods to town, meaning it is when the most people would have been close to polling places. So, the decisions are made, historically clearly, to suit the people, to get people voting. We are, obviously, in 2018 and I think many messages have been getting across that we live in a very different time to those days. I think it is a good sign for the public to hear that we are debating now on something that affects them and it would affect the future of this Assembly, as well, so I think the stats show that the rest of the world have looked to the future and to ensuring that everybody has access to voting. We have to mention also Saturday is a busy working day for a lot of people as well, in shops, in towns, in places and organisations. My daughter goes to a swimming club on a Saturday, so every day is a busy day for families, for senior citizens, you name it. So, whatever day we choose people are going to be busy. The point being really, I suppose, is the way we go about the future debates and I think the message

sent out that this is a positive step forward. If Australia can hold their election on a Saturday - I know it is a very big place, they have a very complicated system - it does prove that it can be done. So I, therefore, believe that, would it not be great if this was a success and we can increase turnout in public engagement for future elections and also may I make the key point that the polling stations are accessible for everybody with a disability and anybody who can access them, because that is a key complaint that came out of the recent election, as well. So, I just wanted to share that information and I will continue to hear the rest of the debate.

15.2.18 Deputy J.H. Young:

I hesitate to prolong the debate. I was at that point of proposing under Standing Order 84, but I will not, because I am not allowed to speak. So, as a paid-up member of the B&Q over-60s club ... I like the comments of the Deputy, I think there is a climate of change. Personally, I find that is a wrong thing to just say that age group would not be adaptable to change. I am not going to dismiss and it should not be dismissed, the points made by the Connétables, the practical difficulties, but I think there are solutions to them. For example, I do think it is possible if the count cannot be done on the Saturday evening, do it Monday morning. Why not? You know, we do not need to know it straightaway, the result and also I think it is possible to recruit volunteers, as the Solicitor General told us it was possible. So, I am very hopeful that this States now is ready for change. I sense the public are ready for a climate of change. We are in such an uncertain world and I think part of that is about accepting the facts. We are doing something anyway. We are looking at the potential of changing the States Assembly. Frankly, it is a toe in the water, the referendum anyway, and I have got reservations. If we get on to that debate later I will say some things but I think just saying: "Well, we are just going to follow the same mould", is not the way forward. Be bold. I would support the change.

15.2.19 The Connétable of St. Ouen:

I will not keep Members too long because I am sure they are already fed up with hearing my voice. Now, firstly in response to Deputy Morel, I think, perhaps, he is misunderstanding the comments of the Constables here. It is not that staff are unwilling to do it, or will not do the work. I know my staff and I know staff from other Parishes, they most certainly will respond if asked to and will make the effort to make sure the election happens. I think it is a mistake to think there is not the devotion in Parish Halls. There certainly is and they will support this House if they decided to run the election on a Saturday. I think the challenge from the Constables is more around whether having it on a Wednesday, or a Saturday, is a valid option, or whether moving it to a Saturday is going to produce a different result, because if you move it to a Saturday, as we have made the point quite clearly, there is a lot of inconvenience in that for us. However, if we can demonstrate, and I have not heard anything yet that demonstrates to me that moving it to a Saturday is going to substantially increase the turnout for this and as such I have yet to feel I can support that. I think we are missing the point. The real point is we need to engage with voters to engage with this proposition and I would commend the work of the Greffe at the last election on that subject. They did a great job of making people aware of what is happening. I think the real point is if we are going to have this referendum, we must make sure that we work with the Greffe again and make sure that everyone on the Island knows that the vote is on, what it is about and encourage them as much as we can, all 47 of us, to get out and vote, because it is a very important subject because if people do not vote then they only have themselves to blame. So, I think rather than worry about the day I think we should worry about the method of engaging voters on this particular proposition and, as such, I think that is probably the important part of the debate.

15.2.20 Deputy G.C. Guida of St. Lawrence:

Sorry, my blood is still boiling from some of the exchanges here. As somebody who has been a volunteer for the Parish and has worked for free for the Parish, I would probably appreciate an apology from people who think that we should make the life convenient for them. You want an experiment and you want 300 people in this Island to just change their practice and make life easier for you, because you think that maybe 2, or 3, per cent will go your way. Just to make a point; you are talking about £50,000. If we do not show up, because Saturday is a little bit less convenient for us than Wednesday, you are going to have to pay £50,000 to get this referendum going.

15.2.21 Deputy G.P. Southern:

Here we are. We have just received a highly condemnatory report from the Commonwealth Observers, suggesting that the combination of low turnouts, the lack of contested elections, boundary issues, put the entire democratic tradition in this Island at risk. So, what do we do? We do exactly the same again. Let us try but try harder this time, keep the Wednesday and see if we can get more people turned out. Is that likely to succeed? Is that an appropriate response to what the Commonwealth Observers said? It is not. Let us do the same again but try harder, as Einstein I believe put it, that that was a sign of madness. Let us just try harder. I do not believe it is the appropriate response to the Commonwealth Observers. We should be, at least, trying to do things differently, to improve turnout. If Saturday proves that to be so, at least we will have tried. I think we cannot go with this Wednesday as usual "Jersey way".

15.2.22 The Connétable of St. Helier:

I wish that the previous speaker was right when he said that the report of the Electoral Observers was contingent, really, on us voting a particular way, whether it is a Wednesday, or a Saturday, for this referendum. However, I fear that their conclusions go far deeper than that. The fact of the matter is, certainly for St. Helier is, not really about Wednesday or Saturday. This is the wrong month to be holding the referendum anyway. The Parishes, and particularly St. Helier, are being hit with a rates surcharge, with the bulk renewal of driving licences; it is probably the busiest month of the year and it makes no sense at all to us to try and hold a referendum, whether it is on a Wednesday, or a Saturday. I, like Deputy Guida of St. Lawrence, regret some of the suggestions and inferences that have been made about implications that have been made about the unwillingness of Constables, the unwillingness of volunteers, to embrace change, because that is entirely wrong. If some of the Deputies, who spoke about this bold new world we are moving into on Saturday voting, had been with me at 3.00 a.m. in the Town Hall - as we tried to clear up after the day's voting and volunteers were still there who had been there, as someone said before, practically before sunlight - they might think again about suggesting that these people were not willing to help. We have a tremendous tradition of voluntary service in Jersey and I do not believe [Approbation] that we should make life any more difficult for our volunteers than it is at the moment. There is no question from the Parish of St. Helier's point of view whether from our staff's requirements, or from our volunteers' requirements, that Saturday will impose a greater burden on their personal lives, than a Wednesday. I am not going to support this referendum, but this debate is about the lesser of 2 evils. If we have to have it, let us have it on a Wednesday, but let us move on and have the debate about whether we have to have it at all, because that is the important one.

15.2.23 The Connétable of St. Brelade:

Briefly. I do not think there is one person in this Chamber that does not want voter turnout to increase. So, we are all aiming for the same goal and the question mark is: how do we do it? I think Deputy Doublet made the point and maybe others too as well, the pre-poll voting, I think, is key and by proposing a Wednesday election and perhaps focusing heavily on pre-poll voting, which I would ask the Greffe to do, I think we are covering all bases. I think we will get the best result from a large Parish management point of view, but there is no question about it, there is an increased burden on

the staff and I do not think it is going to show any advantage. Realistically, to get more people out let us get the people out pre-poll voting on the Saturdays before and get them in to vote in the normal way on a Wednesday, then we are covered.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on the amendment? If not, I call on the Constable of Lawrence.

15.2.24 The Connétable of St. Lawrence:

May I make a recommendation to all new Members that, perhaps, they may want to learn from my mistake and when they stand up to make a proposition in future they do not say: "This is a perfectly straightforward matter" because, clearly, it has not been straightforward for Members and I would like to thank all of those who have spoken and just try to address some of the points that have been raised. It is clear that there is no evidence to support the benefit of a Wednesday poll, or a poll being held on a Saturday. There is no evidence, because we have never held a referendum on a Saturday before. Those that have been held were held at the same time as public elections, which were held on a Wednesday. Just to clear up why public elections are held on a Wednesday; it is not at the whim of the Connétables but, rather, many years ago the Assembly itself decided that Wednesday was the best day to hold an election in Jersey and maybe Senator Mézec would just like me to repeat that because, clearly, chatting to Senator Ferguson he may not have heard me. So, Senator Mézec, elections are held on a Wednesday because the Assembly, many years ago, made that decision. Although there was a debate on potentially changing the election day to a Saturday, but an amendment by the Connétable of St. Clement, at the time, was supported and the elections remain on a Wednesday. So, certainly it is not at the whim of the Connétables but, no, I admit the Senator did not say it was at the whim of the Constables. There is some evidence that by holding an election on a Wednesday there is, as I said, in proposing the amendment, those people who travel to and from work do take the opportunity to vote either before they go to work, or upon their return. I can certainly vouch for that happening in St. Lawrence in the election in May because we had queues outside of the Parish Hall door at the start of the election and at the end of the election as well. That is why the Jurats are able to make a decision that cut-off time for the election can extend beyond 8.00 p.m. if there are people in the queue wishing to cast their vote and that certainly happened in my Parish. Thank you for the comments of Deputy Maçon and Deputy Martin, who have given us some evidence that they held consultation on this matter and the preferred date for this was a Wednesday, but I do not want to spend too long on this. I think it has, probably, taken more time than anything else today.

[16:45]

What I would like to remind Members is what I said when I spoke earlier and that is that the Connétables accept that their views have not been heeded on this. That is democracy. Someone said earlier: "That is life." Yes, that is life. We have made comments to P.P.C. and we have given our views and we have said: "For these reasons we think that a Wednesday is preferable from a volunteer position", and I think the volunteers, maybe, have more weight than Parish staff, because Parish staff, of course, are paid to do the job. But what we wanted to give weight to was the importance placed upon this by the Referendum Commission and I mentioned the background work that they have done leading up to the report that they presented to the States and they have stressed the importance of the question for this referendum. It is a straightforward matter. Do we continue with the poll on the Saturday, as proposed by P.P.C., or do we move it to the Wednesday, as proposed by the Comité? And the Comité, apart from being concerned about the volunteers, are very cognisant of the relevance of the question that is being asked and the role that we all, in this Assembly, have to play in encouraging members of the public to take part in this referendum. We were concerned that we have been told by P.P.C. that to move the poll to a Saturday is 'experimental'; that is their word. Based on the evidence that we have of the successive polls being held on a Wednesday, we have proposed

the amendment. In conclusion, I believe it is straightforward: it is either to hold the referendum on the Saturday, as proposed by P.P.C., in its experimental phase, or to retain it on the Wednesday. I am happy to propose the amendment.

The Greffier of the States (in the Chair):

Do you call for the appel?

The Connétable of St. Lawrence:

I do, Sir.

The Greffier of the States (in the Chair):

The appel is called for. I ask Members to return to their seats. The vote is on the amendment proposed by the Comité, and I ask the Greffier to open the voting.

POUR: 26		CONTRE: 21		ABSTAIN: 0
Senator L.J. Farnham		Senator S.C. Ferguson		
Senator S.W. Pallett		Senator T.A. Vallois		
Connétable of St. Helier		Senator K.L. Moore		
Connétable of St. Clement		Senator S.Y. Mézec		
Connétable of St. Lawrence		Deputy G.P. Southern (H)		
Connétable of St. Saviour		Deputy of Grouville		
Connétable of St. Brelade		Deputy K.C. Lewis (S)		
Connétable of Grouville		Deputy M. Tadier (B)		
Connétable of St. John		Deputy M.R. Higgins (H)		
Connétable of Trinity		Deputy R.J. Rondel (H)		
Connétable of St. Peter		Deputy L.M.C. Doublet (S)		
Connétable of St. Mary		Deputy S.M. Wickenden (H)		
Connétable of St. Ouen		Deputy of St. Mary		
Connétable of St. Martin		Deputy J.H. Young (B)		
Deputy J.A. Martin (H)		Deputy L.B. Ash (C)		
Deputy J.M. Maçon (S)		Deputy K.F. Morel (L)		
Deputy S.J. Pinel (C)		Deputy S.M. Ahier (H)		
Deputy of St. Martin		Deputy J.H. Perchard (S)		
Deputy of St Ouen		Deputy R.J. Ward (H)		
Deputy R. Labey (H)		Deputy C.S. Alves (H)		
Deputy G.J. Truscott (B)		Deputy K.G. Pamplin (S)		
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St John				
Deputy M.R. Le Hegarat (H)				

The Greffier of the States (in the Chair):

Constable, there is a second amendment, but my understanding is you will not be moving that?

The Connétable of St. Lawrence:

That is correct, Sir. That falls away now that the Assembly has adopted the amendment. Thank you.

15.3 Draft Referendum (Presidency of States Assembly) (Jersey) Act 201- (P.76/2018) - as amended

The Greffier of the States (in the Chair):

We now return to the debate on the main Act. Does any Member wish to speak on the Act as amended? Deputy Maçon.

15.3.1 Deputy J.M. Maçon:

“Wishing to speak” is perhaps too strong a term. Just to explain my position, it is a long-held one, I have stood up many a time in the Assembly expressing concern over voter turnout and whether that leads to a valid result, or not. My understanding is you put something to a referendum because you want to understand what the people think of a certain issue. The bone of contention, which I have always had, is if you do not have a critical mass of the public engaging in that, how can you possibly turn around and say: “Here, we have a valid result of what the people think”? I know not everyone in the Assembly agrees with me. If it was the case that a poll was opened and one man and his dog turned up, that would be it: there you go, that is the referendum result, because that is the critical mass that decided to engage in that poll. Not where I come from. In this Referendum Act there is no critical threshold to say that there should be a voter participation threshold. We know, for example, in many polls and many unions, there is a voter participation threshold in order to say that: “This is a valid result” for whatever it is. That is not here within this Act and, for me, it has been a longstanding principle that I believe if you want to say: “This is the will of the people”, you need enough people to engage in order to do that. For the record, I would make voting compulsory, if it was just for me, if anyone wants to ask me about that, because I think these things are our duties, really, to engage in the issues of running the Island, which we have the right to do. If you want to abstain on the day, that is absolutely fine. As has been said, because we know we are going to get a low voter turnout on this matter, I am deeply concerned about the cost that goes with it and I would much rather we ask a much better question to Islanders, whether it is about assisted dying, or whatever; something that would engage the public, rather than this really dry subject. I know some people will say: “This is a deep constitutional issue.” Most people live their lives in this Island and have absolutely nothing to do with the Bailiff and who sits in the Chair really makes no difference to their lives, one way or another. That is the honest truth of it. Some people feel really strongly on that position and that is absolutely fine, but I think we just need to be a little realistic and we should really choose a much better subject to put to the public, rather than this particular one and that is why I will not be supporting this particular proposition.

15.3.2 The Connétable of St. Helier:

I have already mentioned to Members that the choice of month for this referendum could not be a worse month to hold a referendum, from the Parish’s point of view. If I could just correct something that Deputy Ash mentioned in the last debate, where he said that really it is much easier, because it is just a yes, or no, decision. I am reliably informed by my staff that the administrative work required to hold a referendum is similar to that of a full public election, albeit the count is simpler - people have to just make 2 piles instead of 20 - the administrative work, the back-office work, is just as great. When you are processing thousands of driving licences and probably thousands of rate surcharges, although we probably do those with a slight smile on our faces, then, clearly, to have a referendum, as well, is asking a lot. I suppose, if it was a really important referendum then it might not matter, but, as Members know I think, I and others have grave reservations about whether this is an important referendum, or if it is not a wrecking motion, designed to frustrate change and progress. When I was listening to my colleague from St. Saviour talking earlier very passionately about dancing in the French streets until 2.00 a.m. - an interesting one - she was really castigating those and she called them a “minority”, who keep coming back with propositions. She is saying that if this referendum is adopted, if we have the referendum and if the majority want to keep the Bailiff as President of the States, that irritating minorities, like me, will keep coming back trying to change the system. I was thinking: “Funny, what would have happened if Wilberforce had given up on trying

to stop slavery? What would have happened 100 years ago if people had felt that women really did not need the right to vote?" I am sorry, but if this referendum is held and if a majority of the people in the predominantly rural Parishes decide that they do not want to "get rid of the Bailiff" and who would blame them, put like that, and that is how it will be put, then I will go on campaigning and I will bring this matter back every single session to the States, because I believe it is a matter of equity. It is as important, in terms of fairness, as slavery and the right for women to vote. One thing that came across to me loud and clear from the electoral observers was that the system they were describing is broken, it is not fair. I have called it in the past "gerrymandered" and I was pleased that Deputy Tadier used that word this morning. Interestingly, when I asked the Chief Minister, a couple of weeks ago, whether he believed our system was gerrymandered, he said he did not think it was. Show me a system of electing parliamentarians where the Parliament in office has wilfully refused to adjust the boundaries to make sure that people have the same voting power and tell me that is not gerrymandered. That is what we have done in Jersey. We have a system, which is about to go into a referendum, which does not work in terms of democratic accountability and equity. I cannot support a referendum based on a system such as we have. We need to reform the way we vote, we need to make sure that everyone has the same voting power, no matter which Parish they live in. We need to make sure that more people turn out to vote in all Parishes, but particularly in the urban ones. We need to really engage with our voters. That may involve moving to a Saturday, and let us hope it does; I think that will probably work, but what we do not need is a referendum on the role of the Bailiff. We do not need it now, it is not going to help us towards having an elected Speaker; it is simply going to encourage people, who think that the *status quo* ought to remain, to carry on believing that. I am strongly against holding this referendum. I believe that the P.P.C. has a lot of important work to do, so that in 4 years' time all of the Constables are in contested elections, if, indeed, they are in the States at all. The only way that is going to happen is if P.P.C. can focus on getting our democratic system into good shape, so that we do not have the embarrassment of another election where C.P.A. observers come over and say that we have not put our house in order. This is too important an opportunity to waste, and I urge Members to reject the referendum.

15.3.3 Deputy S.M. Wickenden:

I think it was very telling when Deputy Ash there said that he does not believe that this referendum should be happening and there was much feet-stamping from this Bench when many of the Members voted for this referendum in the first place. I voted against the referendum. I believe, the same as the Constable of St. Helier: that this was a wrecking motion, in the first place, to stop the Assembly from making the decision that we are all put here to make anyway. I was going through the voting figures as it was and there are 16 Members who voted about the referendum, about whether we should be having it, or not, who are no longer in this Assembly. Of those who voted in favour of having a referendum, 11 are no longer here and 5 voted against it who are no longer here. We might be in a different place today when it comes down to the decision of whether we have a referendum. I do not think that the people of Jersey really care who sits in this seat; I think they feel that it is in an internal matter. I know the Referendum Commission asked that very question of the focus groups they had and the response they got was they do not think it is their - the people of Jersey's - decision. It is an internal matter, it is a process for ourselves to make the decision and we should have made that decision last time. It got wrecked, it got through to this idea that it would have to go to a referendum. I do not agree with that. I will be voting against this and I think we all should too.

15.3.4 Deputy J.H. Perchard:

My late grandmother, Anne Perchard, was a member of the review panel on Clothier; she was the only woman on the panel, which is completely irrelevant, I apologise, but her legacy, I hope, lives within me and it fills me with great pride to stand here and be able to say her name in this room in this context. She was a traditionalist, a Jersey girl through and through and I dread to think what her

and my Constable got up to in their younger years together, but I know they were friends. I would like to read something to you from the Clothier report, which I think is very important to be reminded of: “Neither the underlying principles, nor the volume of evidence can, in our opinion, be ignored any longer. For these reasons we recommend that the Bailiff should cease to act as the President of the States, or to take any political part in the Island’s Government and that the States should elect their own Speaker.” My grandmother is a key part of this report, and when it says “our” I very much imagine her to be part of this voice and I very much consider it an honour and a legacy of mine to continue that voice of hers and of this report. For that reason, I think we should absolutely kick out this Act. [Approbation]

[17:00]

15.3.5 Senator S.Y. Mézec:

I am pleased to follow the speech from the previous speaker; I think she spoke very well and I agree with her wholeheartedly. Here is the problem: referendums give you results, they do not give you answers. The 2 things are different. We will have a referendum in October and, as I think it was the Constable of St. Saviour who said: “It will not stop the minority from complaining.” Let me tell her that I am in that minority and I will carry on complaining. She accepts that and I admit that here. The reason I would keep complaining is because the separation of powers is sacrosanct; it is a fundamental principle of democracy and I do not believe that you can use referendums to artificially undermine those principles of democracy, or infringe upon the rights of minorities. The example I always give is: what if we had a referendum on taking away the vote from left-handed people and a majority of right-handed people came out to vote and said: “Yes, we are going to take away the vote from left-handed people” would that process be democratic? Even though you have had a vote and there is a majority and there is an answer, would that process be democratic if it legitimises the illegitimate at the end of it? Of course, the answer to that is no. It is my view that, even if we have a referendum on the separation of powers and the public, or a very small number of the public, as Deputy Maçon I think rightly predicted, would come and vote to endorse the lack of separation of powers, that would not change, in my mind, one bit the issue that is underpinning this. I think I have an added advantage on that in that, in my election manifesto, I was absolutely clear on this issue, I said: “I support the separation of powers, no ifs, no buts.” When I vote, I am voting in accordance with the mandate the public gave me personally, which I consider to be more important to me than a referendum, which I would not agree with being held anyway. It is fundamental that the different branches of government must be able to hold one another to account and that means you have to have a degree of separation between them to do so. The court, which sits just over there, must have the power to hold this Assembly and the Government to account and it simply cannot do it when its chair sits there from time to time. It simply is conflicted and cannot do it. There is this idea that the Bailiff must remain as Speaker of this Assembly, because it is fundamental to his position as Guardian of the Constitution. This, I am afraid to say, is a naive view on this, and it shows a lack of understanding of how constitutions work. It is not just Jersey that has a Guardian of the Constitution; lots of countries do. In America, they have a Guardian of the Constitution; it is very topical at the moment because President Trump is about to nominate somebody to their Supreme Court. The Guardian of the American Constitution is the Chief Justice of the Supreme Court; it is not the Speaker of the Senate, or the Speaker of the House of Representatives. In the United Kingdom they have a Guardian of the Constitution as well; it is the Chief Justice of the Supreme Court. It is not John Bercow M.P. (Member of Parliament), the Speaker of the House of Commons, or the Speaker of the House of Lords. The guardian of the constitution is the Chief Justice, the person who presides over the court. As long as our Chief Justice sits in this Assembly, he is prevented from being the true Guardian of the Constitution: able to hold us to account, so that when this Assembly makes mistakes, as sometimes it will do, when it sometimes passes laws that are not written properly, that have mistakes

in them, that are contradictory, that court must be able to hold us to account. When this Assembly undertakes actions which infringe upon the inalienable rights of people in this society, the court must be able to overrule us, send it back here and make us do a better job. The fact that threat exists will inspire us to do a better job. We lack all of that and that is bad for Jersey. It is because I care about this Island so much and its history and traditions that I want to see us reform. I want to see this Island have a proper democratic process in play, so that every person on this Island lives in a free and fair democratic society, not just in theory, but in practice as well. The reason that I will be voting against this referendum is because it will not get us to that position. While in the previous debate on the amendment, I may have found myself against the Constables. I want to try and bring us back together on this and say that I know that many of them disagree with a large amount of what I have just said about the dual role of the Bailiff and the separation of powers and that is fine; they are entitled to their opinion, but if they, as supporters of the *status quo*, of the current system, want to see that carry on, I say to them: why bother having the referendum, then? Vote against the referendum and you get what you want. You will not shut up annoying people like me, but then you also will not do that with the referendum, either, and that will have cost £50,000, so why not go for the cheaper option there and say: "Let us not have the referendum, because it is not going to accomplish anything." It is, I think, going to irritate the public that we will have shown a lack of leadership, as an Assembly, by not dealing with this issue one way, or the other, by putting it to them at a cost to them, when I think the vast majority of them have got much more important things to be getting on with in their lives: taking care of their families, working hard, making a living. That is what matters to them and they want to see this Assembly talk about doing things that will make their lives easier. This is a side show; it is a distraction. The Island has nothing to gain from it, whatsoever. I say to Members: whatever side of the fence you are on when it comes to the separation of powers, we must surely all recognise that this is not a sensible way forward for our community, so let us cast it to the scrap heap, where it belongs and get on with more important things.

15.3.6 Deputy G.C. Guida:

I have a couple more questions, Sir; one of them is for you and one of them is for the Senator. I have heard a lot about the separation of powers and of international standards of governance, principles of democracy. If I remember well from my own studies, one of the most important points of the separation of powers was to have a distinct executive and legislative. Before we get rid of what represents, probably ½ per cent of the Assembly's power, maybe we need to have 21 of us stand and leave the room, because we are all ministerial, we are all executive and we should not have a vote. You want to talk about separation of power; let us do it the French way, let us do it the proper way, right? That is one thing, before we go about the tiny problems that are really inconsequential. The second thing and this is a question for the speaker: I remember when I was elected coming into the court and swearing to protect Jersey. I would really like to know which part of Jersey I was sworn to protect, because it seems that everything that makes Jersey, everything that is Jersey, is being questioned and being got rid of as fast as we can. **[Approbation]** I do not understand that. I came to this Island only a decade ago and it has changed beyond recognition; only here, not the Island itself, but this and I do not understand it. What are we protecting? What was I voted in to protect, if everything that makes Jersey, that is part of the history of Jersey, we are getting rid of? Do you think this Mace has an importance to us? Do you think this is completely inconsequential? It has been here for centuries. It is the Bailiff: we have him out of this room, this thing goes with him. How important is this for Jersey? But part of Jersey is this and I am sorry, I have sworn to protect it and I will help to do so.

15.3.7 Deputy K.F. Morel:

It is interesting, Deputy Guida spoke about the role of the Bailiff and so on and so forth. For me, this is not a question of the role of the Bailiff; Deputy Wickenden suggested this proposition for us is a

result of a wrecking amendment. For me, this is a question about referendums. The role of the Bailiff is to be the question of that referendum, but that is inconsequential, as far as today's proposition is concerned. The problem is: referendums are weak; they are not good tools of democracy. We have seen in the U.K. [**Approbation**] how a referendum has divided the nation: 2 years later, as Senator Mézec just said, no answers have been delivered in the U.K. from their referendum in 2016. They are still searching for answers and they will continue to search for them well past 2019, I am sure of that. We can flip to the other side, where you see referendums can be held, if they are given proper preparation and by "proper preparation" I mean years of preparation, not just a few months, holding them in an October when the Parish Halls will struggle. To have proper preparation you need to look at the Irish model for how to hold referendums. In Ireland, they have just held a referendum on the right to abortion: in a Catholic country, that is an incredibly divisive issue, yet they have managed to hold that referendum and find answers at the end of it. It is not today a divided country, unlike the U.K. and the reason is because Ireland prepares for its referendums. When it decided to hold a referendum, it then convened a committee of 99 people. Those 99 people, experts and lay people, all of them independent, then sat for a year, giving up their weekends to sit and go through the information that the referendum needed to have a look at. As a result of that, they then came up with recommendations. Those recommendations were then voted on in the referendum and a result was attained and the country came together afterwards and moved on. In the U.K., they just left it to the media to decide how to provide the information. As a result, the U.K. is now a horribly divided country. I am worried that, in Jersey, we will not provide the right information, we will not hold the requisite amount of preparation for this referendum and, as a result, the media will be left to take the running as far as provision of information is concerned. I am not criticising the media here, but it is not the right forum in which to do that. If you want a referendum, you need to put a lot more thought into it than just a few months beforehand and putting pressure on the Parish Halls. While Deputy Guida is absolutely right, in many ways, in his defence of Jersey and its history, I do not believe this is about the Bailiff; this is about a referendum and I do not believe that we are in a position to hold a proper referendum that will provide answers for this Island and help us move forward.

15.3.8 Deputy M. Tadier:

I must take partial responsibility for us being in this mess, because it was my proposition that we have this debate in the States Assembly. It is important to stand up in this Assembly and acknowledge when you have made a mistake and I certainly made a mistake, possibly, in thinking that it would get through. Although the wind was blowing, I think, with some consensus around this particular issue, my mistake was giving it to somebody else to take over and the then Chief Minister said: "Why do you not let me do this piece of work and I can lodge it in my own name, not even in the Council of Ministers' name?" Then, of course, the inevitable amendment comes to have a referendum, which was a wrecking amendment and it came from one of the Chief Minister's, at the time, own Ministers: it was Senator Bailhache, who put the inevitable amendment in. Of course, when it was agreed that we should have this change, subject to a referendum, then the Chief Minister could not pull it. That was the moment at which the DNA of the proposition became inherently changed. Of course, that is when I felt most aggrieved and betrayed because, had it been my own proposition, I would have then pulled it, said: "It is no longer the proposition that I brought and we do not need to waste anybody's time, we do not need to set up a referendum." Sadly, that did not happen and I think it should have. I have learnt a valuable lesson about when and whom to trust; not that I suggest there was any foul play, but just it was an incorrect decision, on my part, I should have kept that in-house rather than outsourcing it to a member of the Executive, but we live and learn. I am glad that we have got our first native French speaker in the Assembly and a French person who has clearly been naturalised British [**Laughter**] and I think, even more so, it is apparent that he has been naturalised Jersey; that is really great to see. Clearly, the oath of office is a personal one and we can all interpret that in different ways. I see very much the oath of office is not entirely clear in what it asks: it asks us to

uphold these often intangible concepts of what it means to uphold the auspices and privileges of the Island. To some people, that means we must keep the Constables in the States, we must fight for the Bailiff's right to remain in the Island. For others, it is a more nuanced matter about us being autonomous, or semi-autonomous and, certainly, autonomous when it comes to legislation and taxation, which I think is fundamental. In the modern era, it means you take an oath to make sure that we can set our own taxes and make our own laws. That is what we have signed up to, in a roundabout kind of way, but that does not mean that we cannot have different political opinions. I was hoping that we might get a lesson in Montesquieu, because, of course, it was Montesquieu, the great French philosopher, I think of the 18th century, so many centuries ago now, and that we could have got a good lesson in what he said.

[17:15]

Those great philosophers, who then took on the mantle, who understood the separation of powers, like Rousseau, Hobbes and, more recently and more locally, Perchard, of course, that great local thinker, who, even despite, perhaps, what has been said about her traditional roots and she was a true Jersey girl and appreciated what is best about some of the Jersey ways, she even realised that it is necessary to have these changes. It is a domestic matter for us, as has been said. This is not about getting rid of the Bailiff. What is apparent is that when you have a referendum and it needs to be the right referendum, at the right time, is that truth is often the first casualty of a referendum. We saw that in the U.K. with the National Health figures and the budgets being bandied around, which were ultimately proven not just to be false, but to be lies, in fact, to deceive and mislead the public. Of course, if you get the question, as the Constable of St. Helier said: "Do you want to get rid of the Bailiff?" you might get an answer that you are not looking for: "Well, yes, could do, I suppose. It is coming up to 14th July." "What do you mean by that, getting rid of the Bailiff?" when what we are talking about, in reality, is about who chairs this Assembly. It is a very internal matter and, of course, there will be those who seek to conflate the issues to make them constitutional matters, but unfortunately they are very dry matters about who sits in this chair. Is it the Bailiff? Is it the Deputy Bailiff? We have got a very strange scenario, at the moment, where we have a clerk sitting in our chair, Sir, with due respect; that is equally bizarre. You would not have that in any Commonwealth Parliament and I do not think you would even get it outside of the Parliament; possibly in Guernsey, you might. I am not saying that they should be the benchmark for democratic excellence, either, although they have got some things right. There is an issue there. If we talk about the education programme that needs to go round any referendum, that is fine, of course you need education, but you cannot educate the public on what are, essentially, very complex issues; the underlying issues can be very complex about the history, *et cetera*. They are essentially political issues. This needs to start very much about that. When we get back to the point about having a well-educated public and we talk about the education programme that we have in schools, we all think: "Yes, we need to teach more politics in schools" but that does not mean just getting pupils into the Assembly, telling them about the Mace, pointing to the flag, trotting out the same old platitudes about 1204 and how at the time Jersey allegedly chose allegiance to the Crown; this Crown that probably none of the peasants ever saw. That there was some deal done to say: "Well, let us just go that way" where we could have gone the other way, as if to put great importance on that fact, which was very historic and no doubt still has consequences to this day. We need to teach the basics, we need to be teaching the principles of politics and of philosophy, so rather than just teaching about how politics is done in this Assembly and then testing them as to whether they know our very strange and archaic system, we should be teaching them critical thinking about politics and how our system stands up to the ideals of democracy, equality, and human rights in the context of political and philosophical logic, *et cetera*. We should be teaching more about 28th September, when the public rose up and demanded the separation of powers. It would have been great. I am sure that if Deputy Guida, in his St. Lawrence manifesto, had stood on a proper separation of powers ticket, that is very radical and very different;

this is not what we are talking about today. That can still come in the future if he and others think it is very necessary, but certainly this is the start. We could talk about having a presidential-style system of democracy in the Island where we have a president, or a council of ministers, who make executive decisions on their own, but who are not Members of the Assembly, but that would obviously be a completely different system of democracy. That is not incompatible with us choosing to elect our own Speaker. What I would say is that the amendment has served its purpose and it has already served its function. The purpose of the amendment to the referendum was never to have a referendum; it was to not have a change. A person, who is no longer in this Assembly, has achieved that; the Conservatives who voted for that have already achieved what they wanted: another delaying tactic and it has achieved its purpose. Let us not go through the rigmarole and the charade of having a fake referendum that nobody ever wanted, because they do not want the change in the first place, on the hope and the gamble that it will return the verdict that the Conservatives want; let us just do it properly. I would add a note of encouragement, as I now make my final remarks: this should not be fatalistic in any way and I would encourage the Chairman of P.P.C. to look at other issues; indeed, all States Members. It does not mean that we cannot make these decisions just because the Bailiff remains currently President of the Assembly and when he is not here the Deputy Bailiff takes over and when he is not here the Greffier takes over and when he is not here the Deputy Greffier takes over. There is clearly a chain of succession. There is nothing to stop us deciding that we want to elect a Deputy Speaker from within our own number; we can do that now if we wanted to, the Chief Minister, the Chairman of P.P.C., a back-bencher; anybody could lodge that proposition tomorrow and say: "Let us establish a principle of having a Deputy Speaker, who deputises in the absence of the Bailiff when he cannot be here and on top of that, that individual will be responsible for outreach programmes going into the schools, that individual will still be able to vote, because he, or she, will not be chairing the Assembly for most of the time. Let us create an Office of Speaker, which is separate to the Office of the Bailiff, because we need to have transparency when it comes to the budgets and know what belongs to the other side, the other part of the States, which is still the court, and this Assembly." Just lastly, if, in taking that oath to this great Mace, which I hope maybe one day somebody will swing around like Michael Heseltine did in the House of Commons, who, no doubt, was a traditionalist but it still did not stop him swinging the Mace around, allegedly. Maybe, if we did take that oath and it means that we cannot go forward, I do not think that is what the oath of office means, to come back full circle. If it did, then we would be fighting for the traditions that we have already changed. We would be standing on a manifesto saying: "Please vote for me, I want to bring back the rectors. Please vote for me, I want to bring back the Jurats into this Assembly. Please vote for me, I want to repeal the Senators, because I do not think they are right and I want to make sure that only men can vote. I want to have a larger Assembly and I want to reunite it with the Royal Court, so that we can have a proper non-separation of powers." This is simply a legacy from the past that we have not had the guts, or the political willingness, to get rid of and it is something that we do need to address. This is about being a mature and well-respected Assembly, not just externally, but it is about how we show self-respect for ourselves and, by extension, our constituents. If this Assembly is not currently mature enough, or it does not have the appetite for that, it is not going to go away, it just means that we have to wait for another Assembly and be debating this 3 times, 4 times every term, until we can finally make the right and historically-inevitable decision.

15.3.9 The Connétable of St. John:

I have heard some rubbish in this Assembly and I think what I have just heard crowns the lot. "This is nothing to do with the Bailiff" is what the previous speaker said. This has everything to do with the Bailiff. I was very deeply saddened this morning, or earlier today, when I asked a question of the chair of P.P.C.: "Which is more important, foreign reports, or the will of the local people?" Not only did he hesitate, but he failed to answer the question. If I was asked that question, it would be an emphatic and unequivocal: "I am here for the people of Jersey." I do not take foreign reports ahead

of the will of our local people. Thank you; I am glad somebody agreed with me. The idea of this referendum has already been agreed; we are only here to agree what the referendum should say and on what date it should be. If we cannot agree that then what is the general public going to think about us? We have agreed, we are going to have a referendum, we have agreed we are going to consult the public on this very important issue, but: “No, we do not want to do that, because we might get the wrong answer.” Earlier, we heard Senator Mézec say it does not matter what the answer is, he is going to continue campaigning, regardless of what the people of this Island want. I am beginning to seriously question just why some people are in this Assembly. Is it for their personal gain, or is it to represent the wishes of the Islanders, who we are elected to represent? I urge Members to support this and to have the referendum and allow the people we represent to speak openly and plainly. We have heard about: “It is going to have a low voter turnout.” We have always had low voter turnouts, and therefore those people who are interested, those people who want to vote, must be given that opportunity, because, if somebody does not want to vote, why are we canvassing their opinion? It is quite simple: if you want to represent the people of this Island, let us have the referendum. Those who do not want the referendum clearly have their own agendas to follow and are not willing to listen to the will of the islanders that we are elected to represent.

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

Keeping an eye on the time, as I have, I have 2 other Members down to speak: the Deputy of St. Ouen and Deputy Ward. Does any other Member wish to speak, or do Members want to make a decision at this point whether to adjourn until tomorrow? The adjournment has been proposed.

Deputy J.A. Martin:

No. Madam, I was going to rise on that point, because we have not too much on the agenda tomorrow, but we do have a massive, I think, debate on the future hospital. For new Members, I would just point out, if you let this go until tomorrow, you will have another whole morning of debate on this. I will not speak now, just to keep the time short, but I propose we carry on, let us say for another 30 minutes and adjust it by then and see where we can get on this tonight. I am very wary that we go overnight on a debate like this.

Deputy M. Tadier:

May I just ask the previous speaker, she has not finished speaking yet, clearly, would she be interested in proposing the guillotine motion?

Deputy J.A. Martin:

Madam, you said you had 2 people down and I put my light on not to speak and yes, as I have not spoken in the debate, I do not mind proposing the guillotine motion, but I do not know if we have had enough people speak and exactly where we are. That would be 30 minutes, I think, from now.

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

Generally, if more than one hour has elapsed since we opened the debate on a proposition, then a Member who has not spoken can propose that the proposition be put to the vote to close the debate. We have had 9 speakers since we moved to the main debate, following the debate on the amendments.

Deputy J.A. Martin:

Madam, it has been over an hour and enough speakers. I have no problem in proposing the guillotine motion.

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

We only started the debate after the amendments at 4.51 p.m., so we have not had an hour of debate at this point.

Deputy J.A. Martin:

Then I just test the Assembly, Madam. I propose we sit until we finish this debate tonight, otherwise we might sit and finish the debate tomorrow night when there is something very important on at 7.00 p.m.

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

Is that proposition seconded? **[Seconded]** Very well, does anybody want to speak on that proposition? Then shall we go to the vote? Do Members want to show by standing if they are in favour of continuing for another half hour? Those who are voting against? I think that is clear then: we will continue for the next half hour. The next on my list to speak, I have the Deputy of St. Ouen.

15.3.10 Deputy R.J. Renouf:

I put my light on to speak when I saw Deputy Guida of St. Lawrence with his arm outstretched pointing at the Mace, asking: “What Jersey am I sworn to protect?” I thought I would like to answer that, because I believe we are sworn to protect a Jersey that exists and must move forward and prosper in a world which is ever-changing.

[17:30]

The Mace was given to Jersey at the conclusion of the English Civil War, at a time when the Royal Court ruled this Island and the States was in a most embryonic stage of its existence. It was given to the Bailiff, as a representative of the Island, to mark the defence of the privileges and freedoms of the Island. That was 350 years ago. In all that time since, the States has matured and gone through so much change and evolved as an almost modern legislature, but not quite. Perhaps the change that is most spoken of in recent times has been the change that occurred in 1948 when whole swathes of the States membership were changed: the rectorors were to be removed and the one that caused the most concern was the removal of the Jurats. They were seen as the Island leaders, the senior Members of the States, they were there for life. There was great anguish for losing all that wisdom and experience and replacing them with politicians who would be elected on a popular franchise. Now, would we want to consider a legislature in which Jurats formed our laws and set our policies? Of course not; we have changed, we have moved forward, we have developed as a society and so the States has changed with it. We must recognise that it is OK to promote change and to seek to direct change in a world where change is all around us. If we do not respond adequately to it we will be forced into situations where we are uncomfortable and I think there will come a time when our constitution, if you like, will come under examination and we might be forced into a position where we would need to change the situation where an unelected judge presides over our Assembly. So, let us do it ourselves, because we know that this does not meet modern standards. As to how we manage change, well, there is a division, is there not, among those who have an opinion. But most people do not really have an opinion as to how we conduct our affairs in this place. Most people do not know, really, who chairs our meetings here, or, perhaps, even if they know, they might not care whether it is the Bailiff or whether it is somebody that we choose to preside over our deliberations. I know I will receive opprobrium from the former Senator Bailhache, because he sincerely believes this is a constitutional matter for the Island. I have the greatest of respect for his views as a leading judge and experienced lawyer, but I cannot agree that it is a constitutional matter; constitution is something that sets out fundamental rights and freedoms. The issue of the Bailiff sitting in as a President of the States does not affect any fundamental rights, or freedoms, of any citizen of the Island. States business would continue in the same way as it always has, whether it is the Bailiff sitting in that chair, or an elected Speaker. I do fear the majority of people in Jersey will not participate in any referendum we hold; I think that is clear. Some will turn up out of loyalty, because they always vote, they always participate and that is good. But I think, overwhelmingly, there is a sense among the population of why can we not decide this for ourselves. Why is it an issue which

we have to put out there and we cannot take that decision? Why all this fuss over a rather esoteric question? So, I would not support moving to a referendum; I do not think this is the appropriate question to put to members of the public for the reasons I have given. Thank you.

15.3.11 Deputy R.J. Ward:

It is interesting when you talked about experiments earlier. I could not resist it and I thought is it best to speak early, or late and the conclusions are inconclusive, because there are too many extraneous variables, to be honest. So, I am going to just summarise by saying I agree with so many of the very valid, intelligent and very modern points that have been put about why this referendum is completely unnecessary. I was elected to make decisions. This is a decision for this Assembly, this is about our procedures and if we continually pass these decisions on to unrepresentative processes - and let us be straight about this, this referendum will not be representative of our entire community - we, therefore, are shirking our responsibilities and we must not shirk our responsibilities, because that is bad for democracy. One very key point: a low turnout and there will be a low turnout no matter how positive we are about this. A low turnout is bad for the Bailiff; it does nothing for the validity and for the authority of the Bailiff if a small proportion of the population vote for the Bailiff to be there. So, we must stop shirking our responsibilities and passing this on. There is, finally, the issue of cost. I had a cost of around £70,000 quoted and just to put that in the real world for people, a real context, that is the education of 900 secondary school students in science for a total of 8 years. That is the sort of budget we are talking about; 8 years of education for 900 students wasted on an unnecessary, unrepresentative and flawed process. Thank you very much. [Approbation]

15.3.12 Deputy G.P. Southern:

I shall be brief because I, too, agree with many of the criticisms that have surrounded the use of this referendum. As far as I am concerned, a referendum, as a method of governing, is the very worst way of governing, because it requires absolutely an informed debate. Those people who take part in the debate must be thoroughly absolutely grounded and informed as to what they are voting for and we have seen what happens otherwise. We have seen, in the U.K., an electorate offered a referendum, lied to absolutely outrageously, manipulated and voting for any number of reasons, mainly concerned with dissatisfaction with their lives and not to do with the issue directly in front of them on which many had no idea what the consequences would be. We are just learning about the consequences now in the U.K. So, yes, that information, with the best will in the world, is not going to be imparted and taken on board by our electorate, I do not think. That is not to denigrate the electorate in any way, whatsoever, but they may be voting for any number of reasons including tradition and yet here we are. Tradition can do 2 things: it can provide a rock-solid basis, or it can chain you to that rock-solid basis. It can chain you so you cannot move and, in fact, the loyalty that we owe is to our ability to adapt surely to changes. We have already seen, I think, a parallel to the speech of the Constable of St. John, who started to appeal to the will of the people. We have heard “the will of the people” in the U.K. *ad nauseam* for the last few weeks, conveniently serving the intentions of a group of Brexiters who talk about the will of the people. The will of the people: 52 per cent to 48 per cent on a referendum decided when one-third of the voting electorate did not turn out and vote. So, a third and a bit against a third and a bit is what we have got. So, no answers at all therein. I remind the Constable of St. John that we are a representative democracy, we are put here to vote with our consciences and not to blindly obey what might be popular out there. Shall we bring back hanging? It would be, I think, popular, it might win a referendum, absolutely, but that is part of the argument as to why referenda are not particularly healthy for the state of democracy. As some Members have said, this was a wrecking motion, put in deliberately to stall and stop any further debate on the role of the Deputy. Before I leave, with my final words, I would say let us look too at the costs of using a highly educated, highly honed legal brain, paid something like £350,000 a year, to sit in that chair and tell us when we break the rules of debate; is that really an efficient use of that particular person?

I do not believe it is. We should not be using them for that when it costs us to replace them in court, to get anything done in court. It makes no sense whatsoever in practical terms and I cannot support this referendum.

15.3.13 Deputy J.H. Young:

I will try to be brief and start by congratulating P.P.C. on one good thing. Well, they have taken what was a pretty useless piece of decision to have a referendum on the subject that, frankly, the public have no interest in. I know that, because I was not in the States when it was decided; I was astonished when I heard that that decision was made and I would expect, like everybody says, there will be an extremely low turnout. But I think the one good thing we have learnt from the last exercise with a referendum, when I was in the States and we got into a terrible mess with the Election Commission. We now know they have to have yes/no questions. Great, but of course it is the wrong question. I have never been in favour of piecemeal change and this is where I want to refer to the remarks of Deputy Perchard. That has been the root cause, a failure to listen to that local panel, which included local people with a tradition and passion for Jersey, recommended a suite of change that changed this Assembly, the way we do government; and our failure to deal with that is at the root cause of everything. So, I think this, what we have on the table now, is a diversion. I think we should let it go by and let P.P.C. concentrate their efforts on the big changes, because I cannot believe that we, this Island, will have to have an unreformed Assembly the next time we have elections when we have got all the evidence, overwhelmingly just how bad it is. So, the weight of evidence on this question of the Bailiff, it is an issue but it has got to be part, in my view, of that overall suite of changes; that is the right place to deal with it. So, I am going to vote against the Referendum Act.

15.3.14 The Deputy of St. Peter:

Crikey, a simple soul from St. Peter is totally confused. At the Deputy hustings, back in April, I was asked the question whether the Bailiff should continue to be the Speaker and my answer was: "If it ain't broke don't fix it" and until I am given definitive evidence that it is broken and it should be fixed then I reckon maintain the *status quo* and let sleeping dogs lie. But, I do not know whether that is the question that I have been asked; I think I have been asked the question about whether we need to have referendums *per se* and are they the right things for us. Deputy Ward says we have been elected to make decisions and I agree with that. So, I am totally confused about what am I voting for; am I voting for the Bailiff as a Speaker, or am I voting for referendums? I think we fuse the 2 together, which leaves no clarity in this Assembly. Sorry, if it is a simple soul from St. Peter not understanding what is going on, but I am totally baffled by this one. Thank you.

15.3.15 Deputy T. Pointon of St. John:

Not since Sunday morning have I heard so much passion about a subject and that passion was being expressed by the minister at St. Helier Methodist Centre when he was describing St. Paul's activities and the trials and tribulations that he had coping with his various maladies, but he kept faith. I can see there is an awful lot of passion here about keeping faith with a principle. I have been studying the news, of late, in relation to what is happening in Europe, in Poland in particular and that is that the Government in Poland has been moving inexorably toward seeking to control the judiciary. They are taking powers to appoint the judiciary, rather than leaving that process to the judiciary itself, as happens in all other democratic jurisdictions that I am aware of. Here we are with a situation in which we, many years ago, achieved what the Poles are currently trying to do. We have a Bailiff, who presides over the elected representatives in the States and I think it is, in any modern democracy, essential that there is a separation between the 2. We, as Assembly Members, have a duty, I think, for the future, to make sure that separation comes about. I do not think it is going to happen if we have a referendum.

[17:45]

We need to steel ourselves down the line to take that decision and to move us away from ... to separate us from the judiciary. It is not to say, as one of my parishioners said to me as I was canvassing: "You want to get rid of the Bailiff, do you not?" I do not want to get rid of the Bailiff, the Bailiff has a perfectly decent function in the Island as a head of the judiciary and they would continue to appear, on Liberation Day, on the rostrum and they would continue to represent Jersey in legal matters and they will continue to hold us to account. I do not think we need to take this matter to the public, we need to take this decision ourselves.

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

Does any other Member wish to speak? Deputy Guida, you have already spoken. Your microphone.

Deputy G.C. Guida:

Just a technical question. I agree with Deputy Huelin; what are we voting for? What will happen if we vote against the referendum, does that mean that P.84 is cancelled? [Aside] No, wait, I know that if we do not vote for the referendum we do not have a referendum. What about P.84, does it just come into action without a referendum, or do we have to start again from scratch?

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

No. What is being voted upon this afternoon is whether, or not, to put in place the Referendum Act, which would put in place a referendum later this year in the autumn. If you choose to vote against it then the matter is effectively lost and somebody else could bring back a new proposition to start from scratch, yes.

Deputy G.C. Guida:

Thank you very much.

15.3.16 Senator S.C. Ferguson:

Yes, I would perhaps remind our newer Members about the fact that we have one of these quirky little set-ups with our Bailiff and our sister island, Guernsey, has the same set-up. Now, some time ago - I forget the name of the case, the Solicitor General may be able to remind me - there was a case brought against the Bailiff by somebody in Guernsey; eventually it went to the Court of Human Rights. I am afraid my explanation may be a bit layman, rather than legal, but it was turned down on appeal and the reason for it was that the safeguards that were implicit in the way the role was conducted, did not undermine human rights. So, we have tested the human rights aspect of our legal system, or our Bailiff, in the highest court in Europe. There is also the question of who then becomes the civic head, is it the Chief Minister, or is it the Bailiff? You have got to think about these things when we are doing that.

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

Can I ask Members to be quiet while somebody is speaking, please, it is very discourteous?

Deputy M. Tadier:

Can I raise a point of order then? It is just obviously one allows some latitude but these points do not seem to be directed to the relevance of the subject. [Members: Oh!]

Senator S.C. Ferguson:

Oh, really? Oh, well, I shall just carry on and ignore him.

Deputy M Tadier:

If I could ask for ... it is a point of order.

Senator S.C. Ferguson:

No, I am sorry, when you are thinking about whether to throw out the referendum on this position of the Bailiff ...

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

Sorry, Senator. Senator, the point of order is whether or not the Senator's speech is relevant to this debate, which I think it is, because we are talking about a referendum which will be about the role of the presiding officer in the future. So, it does not seem to be too far away from the debate topic.

Senator S.C. Ferguson:

We must take these points into account when we are thinking about holding a referendum on whether to have a Speaker, elected by this Assembly; we do not know whether it is going to be somebody from outside the Assembly, or within the Assembly. There is a lot of *minutiae* connected with this, which nobody appears to have thought through, and so I think, at this point in time, we do need to have a referendum, we do need to listen to what the public are saying on this. Because I think there are a lot of people who thought that the Connétables should leave the States, then we had a referendum and you suddenly discovered that the public felt very strongly about it and they turned out to vote because of it. Therefore, I think you will be surprised how many people do turn out about this. If they do not then I shall just have to eat my words, but I think we will find quite a strong public reaction on this and obviously, as Deputy Labey has already said, we do need to educate the rest of the public who do not quite understand what the Bailiff does. Thank you.

Senator S.Y. Mézec:

Can I ask for clarification from the previous speaker? I might be stretching it here, but is she aware, given that she has asked questions relating to who would be the civic head if this is passed and how the Speaker would be appointed, whether it is a Member of this Assembly, or a member from outside the Assembly, is she aware that those questions have been answered by the fact that this referendum is a consequence of a proposition that was passed by the States that said it could be a Member of the Assembly, or a member from outside and said that the Bailiff would continue as civic head. Is she aware of that?

Senator S.C. Ferguson:

Yes, I am quite aware of it but very often the practice does not always follow with the theory.

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

Does any other Member wish to speak? Very well, I call upon the Chairman of P.P.C. to reply.

15.3.17 Deputy R. Labey:

Let us get this done by 6.00 p.m. But I must address the Constable of St. John, who has the privilege to sit on Privileges and Procedures Committee and can grill me in the committee room on my own feelings on these issues but has chosen to do so on the floor of this House; I suppose that is his prerogative. He asks whether I consider listening to the people of Jersey, or foreign voices, more important. I guess he is talking about the eminent Q.C. (Queen's Counsel), who we invited to form a panel to look at our electoral reform in the shape of Sir Cecil Clothier, or members of the International Commonwealth Parliamentary Association from all over the world, who we also invited to help us, to observe our elections and give us their thoughts in comparison with other democracies around the world. So, I do not regard them as foreign voices, I regard them as our guests and our visitors and I give their opinions due weight and consideration, as they deserve. It is an emotional issue. It is a matter of conscience, of course, for people and I know the Constable of St. John feels very strongly, as we have heard, so do others. We have to respect each other's point of view on this issue and we have to try and take the sting out of it. We have to be respectful of the post-holder and it is, obviously, we all know from the remarks given by the current post-holder at our swearing in,

we know his feelings on this and we know that he has implored us to carry on with the referendum, I think he was suggesting, in the hope that, for him, this might put the issue to bed; I just repeat that. I was not affronted, or offended, by his comments in the Royal Court to us, I know other people feel differently. I thought it was a perfectly reasonable thing for our Bailiff to say to us and I just wanted to represent his point of view here. Whether, of course, it is a false hope that this referendum might put an end to it and for how many years we do not know, but I think we should, whatever happens, be humane in our proceedings on this issue. I hope that Deputy Guida might speak more on Montesquieu, because I was listening to a programme *In Our Time* on Radio 4 recently, and I still think it is on the Radio 4 i-player, which was all about him and it was just like listening to, you know, the issues with Montesquieu promoting the idea of the separation of powers and looking at it in other jurisdictions and taking it back to France and it was so relevant still to today. He was a visionary and he promoted it and he could have been talking about us at some stages. The contribution from Deputy Morel is pertinent in terms of if we are going to do referenda we should do them properly. All I can say to the Assembly is if the Assembly votes to have this referendum then we, on P.P.C., will go for it hammer and tongs, we will do our best to educate, in the time available. I can think of debates that could be had, north, south, east, west perhaps with speakers in favour of the separation of powers, those speaking against. We could perhaps have a debate, hopefully it might even be sexier than the Senatorial hustings that we have just witnessed. I make that pledge that it has definitely got to be. So, we will go for it big time and with conviction as much as we can. I give that pledge that I will do it from a neutral position as chair of P.P.C. There are just so many contradictions, are there not? I remember the contribution from the Deputy of St. Ouen last time round, I wrote it down here. In fact he said: "I cannot support the view that this is a constitutional question. It seems to me that it is not altering the representation of the people, it is not altering the powers of this Assembly and it is not diminishing the rights and responsibilities of citizens." I thought that was a very neat way of putting it. Of course, Senator Bailhache, who proposed this and it is why we are here now, had a completely different point of view. So, we had 2 learned legal folk in the Assembly at complete odds. If the Chief Minister were here today he would absolutely say: "This is a constitutional issue and must be put before the Assembly." If his predecessor, the previous Chief Minister, was here today he would take a different point of view, so it splits people down the middle. I cannot say more than that. I maintain the proposition and I ask for the appel.

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

Very well. The appel has been called. I will ask those Members in the vicinity to return to their seats. If all Members are present I will ask the Greffier to open the voting.

POUR: 20		CONTRE: 26		ABSTAIN: 0
Senator L.J. Farnham		Senator T.A. Vallois		
Senator S.C. Ferguson		Senator K.L. Moore		
Senator S.W. Pallett		Senator S.Y. Mézec		
Connétable of St. Clement		Connétable of St. Helier		
Connétable of St. Lawrence		Connétable of St. Saviour		
Connétable of St. Brelade		Connétable of St. Peter		
Connétable of Grouville		Deputy J.A. Martin (H)		
Connétable of St. John		Deputy G.P. Southern (H)		
Connétable of Trinity		Deputy of Grouville		
Connétable of St. Mary		Deputy M. Tadier (B)		
Connétable of St. Ouen		Deputy M.R. Higgins (H)		
Connétable of St. Martin		Deputy J.M. Maçon (S)		
Deputy K.C. Lewis (S)		Deputy S.J. Pinel (C)		
Deputy R. Labey (H)		Deputy of St. Martin		
Deputy of St. Mary		Deputy of St Ouen		

Deputy G.J. Truscott (B)		Deputy L.M.C. Doublet (S)		
Deputy G.C.U. Guida (L)		Deputy S.M. Wickenden (H)		
Deputy of St. Peter		Deputy J.H. Young (B)		
Deputy of Trinity		Deputy L.B. Ash (C)		
Deputy M.R. Le Hegarat (H)		Deputy K.F. Morel (L)		
		Deputy of St John		
		Deputy S.M. Ahier (H)		
		Deputy J.H. Perchard (S)		
		Deputy R.J. Ward (H)		
		Deputy C.S. Alves (H)		
		Deputy K.G. Pamplin (S)		

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

The adjournment has been proposed. Those in favour? Then the Assembly is adjourned until tomorrow at 9.30 a.m.

ADJOURNMENT

[16:00]