

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 1st MAY 2019

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[9:32]

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

**PUBLIC BUSINESS – resumption**

**1. Draft Access to Justice (Jersey) Law 201- (P.23/2019)**

**The Bailiff:**

The States now resumes debate on the Draft Access to Justice (Jersey) Law and I ask the Greffier to take the chair.

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

Excuse me, Sir, could I just say I have an appointment at 10.00 a.m. and so I will be out of the Assembly for about an hour.

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

Before you vacate the chair, could I ask why my request for an urgent oral question this morning, in relation to the failure of S.E.B. (States Employment Board) to resolve the teachers' strike was not allowed?

**The Bailiff:**

It has not been disallowed Connétable. I have not yet had an opportunity to consider it. I saw it at about 9.20 a.m. and [indistinct] I shall deal with it very shortly.

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

We now return to the debate on the Principles of the Draft Access to Justice (Jersey) Law 201-. I had 2 speakers on my list, one is absent on States business. Deputy Tadier, did you still want to speak? I will call you first, Deputy Tadier.

**1.1 Deputy M. Tadier of St. Brelade:**

I will just preface this, starting with the most important point first for me. I know I will not be the only Member in this Assembly, especially if other Members have been here a longer time than others, they will know that there has been quite a lot of correspondence over the years from constituents about the affordability and accessibility of legal advice. That, primarily, overwhelmingly, is when it comes to civil representation and to family matters. I have often heard anecdotal comments, such as you cannot get justice in Jersey unless you have deep pockets, or often you get there is no point in pursuing a lengthy divorce, or family dispute, because the only people who benefit from that are the lawyers. These are not necessarily absolutely fair comments, but that is how individuals have felt and they felt that it is one of those very costly areas and this is an area of interest for me. So, I will start by saying I am very disappointed and I made these comments categorically on our panel and I know they were echoed by other States Members, who were on that panel. I said, for my part, that I could not support any system, the guidelines coming back, if they were going to reduce the allowances, rather than increase them. We have to put this in context and I know this is not what is being proposed today, but it is important that any Members, who have yet to speak, send a clear message out to whoever it is who is coming back with the next iteration of the guidelines, to say that it is absolutely unacceptable to have a situation where the thresholds for qualification are going down, rather than going up. Remember, we have had, in the last 10 years, with the cost of inflation, if anything it should be keeping track with that. The suggestion that has come forward that we should have a lower threshold for qualification is, quite frankly, risible. But, of course, it is not funny; it is a very serious matter. We are talking about thresholds here, a maximum, which is being suggested, I hope which will not remain in place, of £35,000, not for individual income and this is gross income, but for household income. It says that over and above that you will not be eligible for income support,

notwithstanding the fact that there is always discretion, but of course discretion is cold comfort when you realise it is not guaranteed; it is not statutory and it is also bureaucratic to go through that process. £35,000 for a household, there are still many households in Jersey who would be eligible for income support at that level with a big family perhaps and with various allowances. We know the cost of legal advice in Jersey is very high and there is a fair comparison to be made with another basic human right, which is that of healthcare. We know Jersey has a unique system of healthcare; I would suggest it is not necessarily the most accessible, either, for many people who find it unaffordable and there is an issue there. What I would like to do next, is to turn to the oath of office, which is cited very early on in the main proposition and at some point I would probably be asking the Attorney General some questions on this and perhaps other parts. It says in part 2 of the report, 2.1, and it refers to the scheme, which says in the oath that Jersey advocates take, there is an obligation to act on behalf of the widows, the poverty-stricken, orphans and undefended persons. This essentially is being used as a basis for supporting the Tour de Rôle and the imposition on lawyers, Jersey advocates, up until now and still when it comes to civil cases, to provide their services free of charge. It has been suggested by other speakers and it has been suggested privately that lawyers earn lots of money and they do very well from it and it is not too much to expect that they should provide their services for free. But, what other professions are there in Jersey where we place that obligation to say that some of your work you have to do for free, do we do that for architects? We do not even do that for G.P.s (general practitioners) and we could set up a system whereby we say to G.P.s in the Island: “You are well paid, you earn quite a lot of money, we expect you to provide a free service for our Islanders who earn less than £35,000, or less than £45,000 a year.” What kind of reaction would you get from the G.P. profession if you did that? What kind of reaction would you get from architects, if you said: “If somebody is putting an amendment to their house, a conservatory up, or if they want to build a new house, but they do not have much money, you have to provide those services for free”, it would be laughed at and it probably would not be human rights compliant. So, I do not know and I have certainly heard lawyers say that this interpretation of the oath that is taken now, to justify the current legal aid scheme and the perpetuation of a similar legal aid scheme is not lawful and I would like to ask that of the Attorney General, perhaps, at some point later in my speech. I do not think that stands up. But, the other question is then, why have lawyers tolerated this? If it is so egregious that nobody else, apart from buskers, in Jersey would be asked to give up part of their income during the Christmas period for free, to work for free, why is it that lawyers accept that? That is clearly because, I suspect, in some cases it suits them. Some of the bigger law firms can quite happily accommodate that and perhaps they do not want to rock the boat. If the argument is that: “Lawyers, you do quite well, you can afford to take this hit”, if that is the argument, if people are saying lawyers earn too much money, then tax them more. If you think people earning, I do not know, £200,000, £500,000, or millions of pounds a year, that is too much money and we know that the Government has a commitment to reduce income inequality; I do not know how they are going to do that, if they do not have some kind of ideological shift, because you cannot bring down people’s wages, you cannot control what the private sector pay. The only way you can bring people’s wages down at the top is to tax them more. You can help people at the bottom through things like a living wage, which is higher than now, and you can give people benefits to bring them up, but the only way you can bring people at the top down is through taxing them more.

[9:45]

If you want to have a properly-funded legal aid scheme, if you want to have properly-funded public services in general, you have to raise the money, do it equitably and then pay for it. It would be interesting if we had that conversation with the legal profession and said to them: “We do not want to interfere with this, we agree that we have been using this oath of office for too long and it is not really the right thing to do, it does not really mean that because, in fact, you do not have to provide legal aid for widows; that is not the test.” You do not have to provide legal aid, or free work, for orphans, because there are some very rich widows in Jersey; there are, no doubt, some very rich

orphans and there are some very rich undefended people in Jersey. But that oath is not being interpreted correctly anyway and if we said to the legal profession: "We do not want you to do this anymore. Do not worry, we will set out our own scheme", we will employ our own lawyers and it will be funded in a particular way, which could either be through direct taxation or it could be through a levy on the legal profession, which was designed in order to raise a certain amount to pay for this scheme. At the end of the day, lawyers pay for it anyway; they pay for it directly, or indirectly, because they are giving up their work. Let us turn to this other idea of the Tour de Rôle. It is right that is being changed. If I was being facetious, I would say it does not matter whether you have a criminal lawyer, or a financial lawyer, or whatever other type of lawyer, representing you in a criminal case if it is just to tell you to plead guilty, because a financial lawyer can say: "Look, mate, just plead guilty, take the cop, it is going to save you a lot of hassle. I have other stuff to do anyway; I do not want to be wasting my time in my firm, which does not make its money through representing criminal cases." But, luckily, I am not a facetious person, so I will not be saying anything like that. I would also ask the question as to why there is a 15-year limit. Why do we say that only lawyers up to the 15 years have to provide legal aid? Would we do that to G.P.s? Would we say that a G.P. in Accident and Emergency is exempt from providing cover at A. and E. (Accident and Emergency) after 15 years, because we only want the least experienced lawyers in the Island to be dealing with the kind of people that will need legal aid? It does not send out the right message. We could turn it on its head and say: "You are exempt from doing legal aid for the first 15 years, then after that, when you are a bit more comfortable, you know the ropes, you are probably really familiar with court work, you can get in and out of there". You could probably get a really good deal after 15 years if you want an experienced negotiator and you know how the system works. We could say that only people after 15 years need to provide legal aid. Again, I do not know how that kind of *dicta* would go down with the system and the lawyers in place. But, we do have to question why that 15 years is there in the first place. I would like to ask, also, whether, or not, there is scope and I will probably get lynched for saying this outside by some Jersey advocates, but it is a question that has been asked legitimately: are there some areas of work that could legitimately be provided for and represented, even in court, by non-Jersey advocates? It seems to me that there are commissioners that serve on some tribunals and perhaps in family courts and the Attorney General can correct me if I am wrong and I understand that, also, non-Jersey advocates can have access to certain tribunals and to the family courts for representation purposes. It also seems that they would be quite able to represent, in certain cases. Often these people are doing the work behind the scenes in law firms anyway, they are preparing the cases, it is just that they cannot prepare and present in front of court. I know that, traditionally, lawyers will say: "Yes, but this is a Jersey court system and you need to be a Jersey advocate in order to present", but it seems to me, if we are bringing over commissioners often to hear cases from the U.K. (United Kingdom), so we have English lawyers in certain areas listening to cases, it seems ludicrous that we cannot have English-trained solicitors also presenting in the English language in well-established precedent cases that are not necessarily requiring Jersey advocates. So, those are just some thoughts and I perhaps would ask the Attorney General at this point, while I take a pause from my speech, if he could just clarify what are the instances where U.K. lawyers and commissioners can be used at hearings? What are the instances in terms of tribunals and courts where English solicitors can make representations and you do not need to be a Jersey-qualified advocate?

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

I am unable to give a full analysis in relation to the questions the Deputy has asked me, but in general terms he is quite right that Jersey advocates have exclusive rights of audience in the Royal Court and Court of Appeal and in the Magistrate's Court, save the laws amended there about 10 years ago to permit lawyers qualified in other jurisdictions to prosecute cases on my behalf. So, there is an inroad to the principle of Jersey advocates having exclusive rights to audience in the courts to that extent in the Magistrate's Court. The Deputy is quite right that there are many tribunals where non-Jersey lawyers have rights of audience, including the Employment Tribunal and other tribunals, too. I do

not have a full list in front of me, but I can provide one if given more time. I hope that answers the first part of his question. I also noted, in the course of his speech, he asked me to deal with various other issues. He drew attention to the oath, which goes back at least to 1771, which is the root of the obligation of Jersey lawyers to carry out work in our community for those of limited means. The Deputy is quite right to draw to our attention to the fact that the oath is limited to reference to widows, the poor and orphans. What has occurred, over the last 250 years, is the oath has been interpreted by the Law Society to take into account modern conditions and there are much more complicated and longer legal aid guidelines, which we do not have before us today, to cover all sorts of categories of work and now thresholds have been referred to and so on and tests for eligibility in civil and criminal cases. It was in 1904 that the Law Society resolved that they would discharge the members' obligations through a scheme and have been doing so since the scheme, which has evolved to the current scheme, the last hundred, or so, years. So, that is the history of the guidelines that we currently see and of course, as the Deputy said, it is right to say that generations of lawyers have represented people from the Island, without fee, in a whole range of areas and what is in front of the Assembly today is a new partnership between Government and the Law Society, pursuant to which the Government will fund criminal legal aid and in broad terms the lawyers will carry on doing civil legal aid, as they have in the past. In relation to the question of human rights compliance, it has always been the view of the Attorney that the legal aid obligation, carried out by the Law Society, is compliant with their convention rights. The analysis as to why that is right is quite a lengthy analysis and indeed it is fair to say that it has not always been shared by the Law Society. But, to give a more detailed analysis would take a little more time and if the Deputy wishes me to do so, then I can do so later today.

**Deputy M. Tadier:**

I thank the Attorney General for his very helpful clarification. That last point is quite interesting; so, while it might well be human rights compliant to require Jersey advocates to provide this service for free and while it is also disputed by the Law Society, perhaps, that that is the case, it ultimately remains a political question. Is it right to require and put a burden on a certain profession for certain ends, if we feel that is justified? It just does not feel right to me, as I do not like coercion and I do not like any profession to be forced to provide something for free. It seems to me that might have worked for a period of time in a different world and in a different system, but that does not feel right to me, irrespective of whether, or not, all lawyers are, as some would say, very wealthy and money-grabbing, because that is not the case. There is often that idea that is put out there in the same way that all politicians are terrible, self-serving and never tell the truth. So, we have to separate caricatures from reality. But, that said, the reason I am supporting the proposition is because there is also some very good stuff in here, so what it does seek to do, albeit partially and it needs to evolve a lot quicker than it is doing, but this is where we can have the conversation during this debate and moving on as it develops, it does note the fact that, ultimately, Government is responsible for the basic human right of providing recourse and access to justice. I know that there were comments from Deputy Morel, which were largely justified, but maybe not entirely fair in the sense that the process was always recognised and we have to go back to the point where this became a political issue when it was raised in the Assembly that people were having difficulty accessing justice; that the Chief Minister then had to have the conversation, because in the past this was entirely a matter for the courts. The then Chief Minister took the necessary and perhaps relatively bold step of saying we need to make sure that there is, at least, some delivery mechanism for Government's obligation to deliver on justice and its accessibility. So, while governments and politicians should not have oversight and control of the courts, they do need to make sure that the human right of accessing justice is very much in the political sphere and is delivered by politicians. There was very much a desire to be pragmatic and to say we need to take the Law Society along with us, we need to take the profession along with us and, necessarily, it may well be that they have driven this more than the politicians have. But now is very much the time, as we carry on putting the meat on the bones that

we make sure that the guidelines are acceptable, not just from a lawyer's point of view, because this is not being done to favour the lawyers, this is ultimately to make sure that our constituents and Islanders have the best possible and most affordable, where it can be, access to justice. So, it is right that we do at least fund the criminal element of it. It is right that we do look to set up that legal aid office in town. What I would ask, though, is that I would hope, in time, that it would develop further than just criminal representation, which is our basic human right that we need to make sure is safeguarded for people, but we also need to make sure that family law and legal advice and representation when it comes to family disputes and family matters, which is the real bugbear for many of our constituents and the real cost, that that is ultimately dealt with. So, I do ask Members to support it. There will clearly be improvements that need to be made along the way and when the guidelines come back, I will very much hope that they are fit for purpose and that they represent a true uplift in terms of the threshold and allowances from what they would have been 10 years ago, so that people can genuinely access justice. Just lastly, I would say, in terms of those thresholds and the guidelines, is that you could quite happily double the thresholds and the guidelines and they would still not be that generous. You could literally double that and people would still find themselves in situations where they are financially crippled, perhaps for years, or even for decades, because they have gone down a course of litigation, perhaps not of their own making and which is unavoidable, and they are the ones, ultimately, who pick up the bill. So, we need to make sure this is fit for purpose for our constituents.

#### **1.1.1 Deputy I. Gardiner of St. Helier:**

I have listened yesterday to the debate and Deputy Morel's speech alarmed me and I would like to bring to the attention, simply I looked through the things and because it is my third sitting I am still learning the procedures, so I decided to bring an example, one of many, from the law and ask a question to the Chief Minister and hopefully it will help me to understand it better. For example, one of the concerns, it is the proposal to limit the recovery of costs in criminal cases where the prosecution is abandoned, or defendant is found not guilty. In instances where the defendant receives legal aid, it might be okay. In circumstances in which the defendant is not entitled to legal aid, their household income exceeded £35,000 and has funded his defence privately, such limit seems to me a bit unfair and unreasonable and could result in real hardship for the defendants.

[10:00]

As the matter currently stands, such defendant faces the prospect of shortfall of 50 per cent and more. Under the scheme, as proposed, that shortfall could be significantly higher. It cannot be right that someone, prosecuted by the state and acquitted should suffer a financial penalty for acquittal. This is where the questions comes at paragraph 5 of the report written: "Next steps if the draft law is adopted. As mentioned above, if this draft law is adopted and brought into force, then the Legal Aid Guidelines Advisory Committee would be established. The Committee would consider the draft further revised scheme (as attached at Appendix 2 to this report) and, having consulted appropriately, advise the Chief Minister regarding the guidelines for a new scheme." I want to just double check, does it mean that the Committee review and advise the Chief Minister regarding the fees and the household income? Basically, as stated in the appendix, legal aid will not be granted where applicants' gross household income exceeded £35,000 and it is really low, we know how much legal fees cost in Jersey. I would like to ask a simple question, basically is it a done deal if we are voting for this law today, or it is under consultation, going to the Chief Minister and this can be reviewed and changed?

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

I share Deputy Tadier's unease. I am not sure that anybody feels particularly good about the proposition before us. I find it quite ironic that this has sprung from something called an Access to Justice Review, because it seems to be doing precisely the opposite. It seems to be encouraging what



will be a parade of litigants in person. That is very undesirable. The litigant in person may be right, but it does not mean that he, or she, will achieve justice. You need more than being right to achieve justice, you need a knowledge of the law, a knowledge of the law that a lawyer will give you. I have been in that position myself; it is a really uncomfortable position to be in and this is going to encourage more of that. The whole thrust of this document seems to be from the part of the legal profession when, as an Access to Justice Review should it not be more centric to the less well-off, who have suffered an injustice and cannot get access to justice, because they do not have the money? Is that not what this is all about? Deputy Tadier is right, it might be a myth that you can only get justice if you are rich in Jersey, but this does nothing to dispel that. The thresholds are obscene; they are completely out of touch and unrealistic. I would like to know - Deputy Tadier mentioned it - what has happened to the idea of raising a levy on the most prosperous legal firms, to compensate for the abolishment of the Tour de Rôle? Jersey creates a very special set of circumstances, does it not, for lawyers not only thriving, but to prosper to significant levels? As we have heard, there is a protection for them; you cannot just rock up to the Royal Court and get the court's ear, you have to be an advocate of the Royal Court. I understand the reason for all that, but is it too much to ask for the legal profession to continue to put something back in the form of the legal aid? My first job was at Channel TV and when the Independent Television Network was set up, the Government was anxious to ensure that it was not a licence to print money, so they made all the television companies invest in a national T.V. (television) news, ITN, they all had to pay for it and they also compelled them to do a local news; producing news is expensive and you do not get very much revenue back. So, you would have the big companies, like Thames, paying millions a year to keep ITN going and you would have the smaller companies, the smallest, like Channel, paying under £100,000. Can we not look at something like that; that kind of levy to pay for this? Because, what we are going to get is a situation where the States are sponsoring both the defence and the prosecution. That is going to open us up to all sorts of accusations of corruption, it will look terrible, people are naturally going to find it grievous. Even an advocate of the Royal Court will drop a paying client like a stone, if acting under instruction for them is going to cause that lawyer any embarrassment, or disdain from, or a card marked from the powerful few. We are proposing this. I do not understand it. Perhaps the idea of the levy did not go down well with the Jersey Law Society, I wonder why? I am also sick and tired of the Law Society marking its own homework here again and again. It seems to me, that every area of the state of governance is now subject to appropriate outside independent scrutiny, audit, review, except the law. I am not happy with this until it has been through an independent, outside expert, assessment. I am not an expert, but I find it stinks. I am not happy with what appears to be the empire building of the Judicial Greffe. I have serious issues and questions over whether they are customer-centric enough for administering this. When the shutters go up at the Judicial Greffe, you are out. I do not know that they have sufficient expertise in appropriate customer and client care. This proposition is misdirected. Our many prosperous law firms should pay for the less well-off to have legal representation, especially in criminal cases, so I do not think I can support this.

### **1.1.3 Deputy R.J. Ward of St. Helier:**

There are a number of things. This is a very complex topic. I was on the Scrutiny Panel and we picked up something that had been going on for about 10 years and it certainly was an exponential learning curve, in terms of the relationships between the Law Society and everybody else. But there are a few things I must say to get really clear and I am a little disappointed: it does seem that not many people have read the report we put out and the recommendations that we made, so I may well quote them to you, because it might help. This is an issue of the law versus the guidelines and I know it is ironic that, yesterday, I stood up and talked about the Finance Law and talked about how important the Articles seem to be to understanding the law. But there is a simple principle that we are looking at here in terms of the law and then the guidelines that will make that law happen, the reality of it, are very much open for question. If you look at recommendation 3 in our report it says: "The Legal Aid Guidelines Committee should carefully consider construction of a legal aid scheme

and should not use the guidelines appended to the draft law as a blueprint.” So, we have actively said do not use the guidelines that were put with it. There was a discussion as to whether to include any guidelines and I believe it was a catch-22 situation; if you do not put guidelines in, we would be sat here today saying: “What are the guidelines? There are no guidelines.” So, therefore, by putting something produced by the Law Society in, we see what I would see as the worst-case scenario. So, at least, we have something to judge by, if you like, a benchmark to judge by. We certainly would not accept those guidelines. Also, there were so many issues there; the levels of eligibility are the huge issue. Recommendation 2 does say and I will paraphrase, look at all systems, such as net income, so that a really good way to do it is to take out the high cost of living in Jersey and then have a certain amount of money left over afterwards, with which you qualify for legal aid. So, therefore, there are other ways to do it and I would very much urge that every single way is looked at very carefully and that is one of the issues that come here. There are some realities we have to face, the statutory requirement for a criminal legal aid system, the setting up of a criminal bar should mean and I say this very guardedly, that we have lawyers who are much better equipped to deal with criminal cases and, therefore, the situation with the Tour de Rôle is you have a criminal case and you could be represented by a lawyer, who only knows about legal law; that should end. But, they are theoretical and they do have huge concerns about setting up the criminal bar, because it does rely on a significant number of lawyers being involved and volunteering. They have talked about training, for example, but we are not entirely sure what that training is, because it strikes me that would be quite a lengthy training to become involved in a legal bar and that would need investment. There are the issues of the limitations of the hourly rates in the legal aid scheme and it is ironic that on a day when teachers are on strike over pay, that the lawyers are concerned over being paid only £190 per hour for qualified staff and that irony is not lost today. So, there are issues over that. Then there is the ultimate issue, which is that, at some point, if we have a legal aid scheme, we need to pay for it. If you are going to have and I agree with many of the things that have been said already, the right to legal aid I believe is a human right and we should not only have access to justice if you can afford to pay for it. As I have said, you do have more than a kernel of truth there. But, in order to do that that is an expensive system and we need to think about what we are going to pay for in this Assembly. In terms of the Committee for Guidelines, there are 2 States Members, which were added and it was amended, there were no States Members represented on it before. The Chief Minister is there and the Chief Minister has 2 choices of those who would also represent. I would hope that they would be from organisations that represent people who are involved in the process. The simple example is the Citizens Advice Bureau would be represented, or there are probably other organisations in terms of dealing with those being rehabilitated, for example, who have been through the system themselves. So, there is, in the Committee, some representation written in there. In terms of coming back to the Assembly to amend the guidelines, yes, there is an issue there. I cannot think of a practical way to do that, because we could be here for ever doing that. The final right of the Chief Minister to annul is very important, because if this is not working, then we need to do something about it and that is very important. Because there is an issue here, once the Tour de Rôle ends, you cannot go back to that system and we need to be aware of that, so the principle behind the legal aid system needs to be thought about very carefully. But then, the guidelines and the way this is going to work on this Island and whether, or not, it is going to be a limited chequebook, in order to provide access to justice - and you are absolutely right when it was said this is called the Access to Justice Law - it needs to be looked at very carefully. Finally, the cost of acquittal is an issue and that is also linked to the limitation of what we pay lawyers and, therefore, if lawyers are limited to what they are paid per hour by the legal aid scheme, they cannot expect to pay any more, otherwise we do open ourselves up to people employing 3 or 4 of the top-grade lawyers, get acquitted because you have the top lawyers, and then the States foot the bill for your acquittal. If that is not an example of, if you can pay for justice you will get it, then I do not know what is. Then we foot the bill. So, we have to be very careful and these are very difficult circumstances that we have to address and it has been a difficult process in itself. So, I would finish by saying, just quickly, the question of how we pay for a legal

aid system is the key one. What do we want? If we have a legal aid system where people have access, we cannot deny one simple fact: it will be costly and you only get what you pay for in this life, so we need to address that.

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

Over the last 3 or 4 years, I have spent a great deal of time going with litigants in person to the Royal Court and to the Magistrate's Court, observing what is going on very close at hand. All I can say is I have been appalled by what I have seen.

[10:15]

We talk about people getting access to justice ... as a litigant in person you do not have a hope in hell of winning. I apologise for using the word 'hell'.

#### **The Greffier of the States (in the Chair):**

It seems to be a theme of this week.

#### **Deputy M.R. Higgins:**

Yes. I must say, it is so apt, though, as an expression.

#### **The Greffier of the States (in the Chair):**

Not here though.

#### **Deputy M.R. Higgins:**

Not here though; I will not repeat it again. Thank you. I have seen what goes on in the courts and the disadvantages that individuals have. First of all, they do not know the procedures and then, yes, sometimes the court will try to bend over backwards to help them, other times they are less than helpful. They are told they have to meet deadlines to produce certain documents; documents they are not familiar with, they do not know how to prepare these things and, of course, if they fail to meet the deadline they are penalised. But, at the same time, I have watched lawyers representing various people, earning a fantastic sum, miss the deadlines and it is ignored. It is not an equal playing field. Equally, although we have some very good lawyers, I have also seen some pretty awful lawyers and, again, many of these people may end up being paid by the States to represent people and I am not sure we are going to get the quality there. Some of them were appalling. There are others I have seen where they have advised their clients to plead guilty. "Why?" "Because it is less hassle. It will be cheaper, if you lose the case you are going to pay this, or that." I see other Members talking as well; we have seen this first hand. So, a number of people have pleaded guilty even though they were not guilty of the offence. They would have liked to have fought it, but they could not and the advice they were getting was appalling. If they do it themselves, as I say, they do not have a hope. So, I really do believe the system has to be changed, but we are creating a major problem and I can see an awful lot more litigants in person and, by the way, the courts do not like litigants in person, because they do not know what the procedures are and the procedures are not followed, it screws the whole thing up and it is not good for justice either. I also know from some of the cases that I have been helping the people with, the laws are totally antiquated. I will give you an example, *dégrèvement*, where a person is going to lose their house in a certain situation and, if they lose their house, they will not even get a penny from it. We need to get rid of some of these old laws. We find that some of the lawyers are very good; obviously they go and do their research on case law, ordinary individuals do not have that hope. My own personal view is, if we are going this way, we have to set up a centre for litigants in person and I would like to see it with the Institute of Law, where they have all the law books, they have access to the cases and there should be lawyers there, who can assist. But what is going on at the present time I have no confidence in what is being put forward. I agree totally with Deputy Morel yesterday, on hearing what he had to say and I will be perfectly honest, I have been tied up doing other things and I had not fully read that law. Last night I did and

I have major concerns. I personally feel we should push this back, we should send it back, it should be referred back and they should come at it again. The idea of just handing over the guidelines to the lawyers fills me with dread, because, as others have said, it will work to their advantage and not for the benefit of the people, who they are supposed to be representing. So, my own personal view is I shall vote against this and if it goes ahead and the guidelines come back we are only left with one option, a nuclear option, we have to reject the whole thing if there are parts of it we do not like. I feel that is very foolish. I would also like to say that if the Chief Minister is looking for people to go on this panel, if he goes ahead with it, I am volunteering. I have seen enough of it and I want to see change. As Members know, I am not prepared to say ... if I feel I am right, or something is unjust, I will say it. So, I am saying right now: I do not think this is fit for purpose, it needs to be looked at again and if the House does go on it, I would like to get involved in that, but remember we only have a nuclear option. We would have to reject the whole thing and start again if it comes back and it is not acceptable. I will leave it at that.

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

I did not want to interrupt your flow, Deputy, but I do not think ‘screws things up’ is the type of language I am supposed to permit here.

**Deputy M.R. Higgins:**

I apologise, Sir, it is just the way I feel internally about these things.

**Deputy M. Tadier:**

Just as a point of order, I understood the Deputy to mean ‘screw it up’ like you would screw up a piece of paper. What did you understand him to mean?

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

It is not question time, Deputy Tadier. [Laughter]

**1.1.5 Deputy J.H. Young of St. Brelade:**

I have been listening intently, because, like I suspect have many Members, there are a number of aspects of this that I just do not feel comfortable with, as other Members have said. So, I am uncertain of which way to go and it is not the Chief Minister’s fault that we have arrived at this situation; he inherited this. I was originally a member of the previous working party that the former Chief Minister set up and, like Deputy Tadier and Deputy Labey from St. Helier, my expectations were that what we would do is that we would open up the system to deal with the incredible amounts of injustices that do go on, I believe, anecdotally from the reports that reach us. We would open it up, rather than, perception-wise, shut it down. So, I agree very much with Deputy Tadier and I am disappointed with that. But I do accept the logic of Deputy Ward who says: “We have done this review, it is not really good, but at least we get a law, we have a legal framework.” There may not be any detail of it, because the guidelines are not there, although we have seen the flavour of where they are headed that, personally, I really do not like very much, but we have seen that flavour, but we are not being asked today to sign up to those rules. So, I can see that logic and I am really worried, so I have a couple of questions I would like the Chief Minister to answer, which will help me decide whether to support him, because I want to support him, because I do not want this to drag on and on. First of all, as I understand it, the intention clearly, although I could not find anything in here that enshrines this, is that the public would have a system of supporting legal aid for criminal work; that is clearly the intention. There is clearly the intention, but again it is not written in here, but it is in the other papers, it is not in the law, that there would be a system carrying on using the Tour de Rôle, the existing Tour de Rôle system, for other private civil cases, which include family cases and so on. I would suspect, although I do not know, they are the majority of cases, the majority of problems where people get problems and people have to almost ... from experience of the cases that I am aware of and from people who have approached me in the public, made decisions about when they feel that

they are suffering that injustice and they do not get legal aid, or they fall outside the parameters for one reason, or other, will they take the risks of risking their own homes, their own livelihoods, in pursuing the case and they often have to draw stumps. So, I worry and I would like the Chief Minister to address this. Are we going to have, as I have read the intention, but it is not in the law, 2 schemes, one for criminal and one for civil and, if they are, who is going to set the rules? Are the guidelines going to be set by the States for both, for the law firms that are running the civil case, or are we going to have 2 sets of rules? Because, if we are going to have 2 sets of rules, that would trouble me greatly. Of course, Deputy Ward has said to us: "Do not worry, accept the guidelines." There is a real big contention here. This Committee is going to have an awful job, absolute nightmare of a job trying to produce these guidelines. What status do they have? The word 'guidelines' worries me. Guidelines to me are guidelines, they are not the law. I have always had the question, which the Chief Minister knows; I have asked it a number of times in the Council of Ministers when this came up: "Have we considered doing this by Ministerial Order, so it becomes part of the law?" I was told no. So, I still have a worry about that and I do accept that there is a procedure to annul it but, of course, it relies on people finding out what is going on and dealing with it and so on, so I do not think it is a full solution. Then there is the question of who pays and I see Article 5 commits now the public to pay for legal aid. I absolutely agree that principle is the right one, but I do not see anything here to address the requirement for the law firms to contribute by way of a levy, for example, because a levy, there is no question to my mind, I had hoped the levy answer would be one way of doing this because it is fair, levy systems are done in all sorts of systems. But I do not see anything in here that empowers law firms to make a contribution. Then, I also note in Article 14, I know we are not discussing the Articles yet, when we get to it, when this is approved, I certainly wonder, we are taking on liability here, it says that all the lawyers that do this work under this law will now be indemnified against damages, loss, cost of proceedings, and so on. So, at the moment, unless I am wrong and perhaps I might ask the Attorney General to confirm that, if a lawyer does work for a private person and they mess the case up, there is a complaint to the Law Society and all lawyers carry professional indemnity to cover that risk. If somebody has suffered injustice as a result of a mistake, or problem, that is the system of dealing with it. Whereas the provision in here suggests that no, that is all going to be cancelled now, so that is a transfer of risk, potentially. So, I would like the Chief Minister please to help me to decide, because I am sure this has been a painful thing for all those involved in this and I can see there is an argument: "Let us just get it done" and then hand it all over to whoever has the unfortunate task of sitting on the Guidelines Committee, because that will be an absolutely dreadful task; get rid of it. But, on the other hand should we, as an Assembly, be putting our approval to things where there are at least doubts and unresolved issues. I will wait to see what the Chief Minister says.

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

Might I first of all clarify my position and ask you, Sir, if you feel I am conflicted in speaking and voting, because, by profession, I am a qualified Jersey advocate and I am a retired member of the Law Society. I no longer hold any interest, financial or otherwise, in any legal firm, or anyone who might be undertaking legal aid work. So, I personally do not feel I hold any conflict of interest, but I am willing to accept your ruling on that.

#### **The Greffier of the States (in the Chair):**

You have answered your own question because, if you are a retired member of the Law Society and you do not have any interest in any way in a legal firm or as a practising advocate, then you cannot be conflicted in terms of our rules.

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

I am grateful to you, Sir. I just also would like Members to be aware that is where I come from. I had the privilege and I will count it a privilege, of working as a legal aid lawyer in my younger days

in the profession and I did that work for 15 years. Not all of those engaged in legal aid do so, but the obligation is to be on the Tour de Rôle for 15 years and because for much of that time I was largely a sole practitioner, I spent those 15 years working in the criminal courts, representing defendants, assisting families who were going through divorce proceedings, getting involved with children's law proceedings; those were the main areas of legal aid work. It opened my eyes to life really and the struggles people go through in the criminal field, the circumstances people get themselves into through their circumstances in life. It was a burden. I was asked to contribute to a report on legal aid, which was commissioned by the then Bailiff, Sir Peter Crill; that long ago. We were asked to set out how many hours a week we spent on legal aid work and, if I recall correctly, I was spending 8 hours a week, generally, on legal aid work, so that is a working day. There were fewer lawyers then on the Tour de Rôle, but it did mean that I was a sole practitioner, paying off a mortgage, bringing up a young family and I was giving up a day of my working week to work, which I had to bear the cost of.

[10:30]

I am not asking for any sympathy, because I agree with those who have said that being a lawyer in Jersey is a fortunate position in many ways, you can earn a decent living, though I will caution Members who believe that you can rake in the money and you are on a gravy train for the rest of your life, you certainly are not. But the lawyers considered it a duty and clearly it was, it was a duty that had been set out decades and even centuries before and accepted by the lawyers; in return for their position in Island life, they would carry out these duties at their own cost and most of us were pleased to do so, although there were times where I did feel that the States, in the sense of Government, should intervene. We learned more about the provision of legal aid in other jurisdictions and, of course, cases became more complex and we became more rule-bound quite properly and I do not really recognise some of the problems that Deputy Higgins has outlined in the way lawyers treat their clients. We are very much rule-bound, in that you have to issue written advice now, there is provision for seeking second opinions and the like, but that is a whole other issue. Yes, I suppose, after the time I had ceased to be on the Tour de Rôle it became apparent that it became much more professionalised, as so many professions have, much more specialised and there arose the beginnings of a criminal bar, which under this legislation, I believe, would become embedded and more specialist, more equipped to serve our criminal courts, but under this law there would remain the obligation on lawyers to provide legal aid, at their own cost, for civil proceedings and civil issues. Because of the suggested thresholds and limitations, this has been described as inadequate. It should be remembered that in addition to legal aid duties, there are firms of lawyers who do sometimes take on cases on a *pro bono* basis. That has become ... I will not say it is common, not at all common, but it has become increasingly a feature of work in the legal profession and it is possible, certainly, to get some initial *pro bono* advice and sometimes to get a whole case taken on *pro bono*, but lawyers are also encouraged and indeed participate in mediation processes these days, so it is not just about fighting your way through the courts. Quite rightly, parties in dispute, in all areas, are encouraged to seek out mediation, alternative dispute resolution and lawyers are getting more and more practised in that and entirely willing to undertake that sort of work and are often qualified themselves as the independent mediators. That has proved to be a great step forward, I believe, so that the courts are very rarely hearing now contested issues around divorces and the financial provisions that need to be made. So, many of those are resolved by an alternative dispute method, so it cannot be said that the lawyers are pursuing their own interests and taking cases unnecessarily to the courts in order to maximise their fees. The impetus is quite the other way and, in fact, they are bound by law and regulation to seek out and explore the mediation route first, before the last resort of bringing a case before the courts. There are also lawyers who serve on a panel of lawyers that work within Citizens Advice and are available to give advice free of charge. No doubt there are other things, because I am not entirely *au fait* with the profession at this time. There are other means of seeking legal advice, but I do accept that those draft guidelines, as we have in front of us, do have a low threshold and it is

a question of access to justice. I know that those who are practising in those areas will feel those thresholds are low and they will have great empathy with their clients, who are struggling to go through a separation or divorce and trying to sort out the financial issues, but they are entirely with their clients in understanding the difficulties in meeting the legal costs. You will find that the lawyers who work in the field, I am sure, would wish for those thresholds to be higher and for there to be greater access to free legal aid, but that means they have to pay for it, or their firms have to pay for it; so, to those speakers who have acknowledged that, you get what you pay for. We have to acknowledge that if we want a good system, whereby our citizens can access justice, without fear of cost, then it has to be paid for. Who is going to pay for it? There is a limit at which you could ask people to undertake their work free of charge. What other professions do we ask to assist a state obligation in that way? Lawyers are willing to do that, but there has to be a limit in the time and the cost you can ask lawyers to bear. As I have tried to say before, it is not the case that it is right to say: "Well, lawyers can afford it, because they are raking it in." There are, I believe, over 400 Jersey-qualified advocates and solicitors in the Island now, but perhaps not all are practising, but there are a great many. Of course, some are wealthy and some do charge very high fees and work in our prosperous financial services industry and give a wonderful service and a highly expert service, but there are other lawyers too. As you would find in every profession, all are different and there are other lawyers working for local people, working in the legal aid scheme, who will not be earning the sort of returns that perhaps some Members think are available to all lawyers. If you end up asking them to bear the brunt of a good, accessible scheme, because many of these are sole practitioners, or small firms, then I do not think that scheme will last. At the moment, the lawyers are saying they will do this at their own cost, but if you want the thresholds to be higher, then please, Government must think about investing in a good legal aid scheme. All of this, it is a political issue, is it not, so it will fall to be considered as we go forward with this legislation. But, for the moment, this legislation, I believe, sets a good framework for the future. Lawyers, members of the Law Society, have been quite happy to surrender their scheme, effectively, to Government and say: "Legislate for this. Put the legal aid provision for this Island on a statutory footing" as it exists in just about ... in, I am sure, every other jurisdiction in the civilised world, but we, in Jersey, for far too long we have said: "Well, Government does not need to think about that cost, because the lawyers are doing it, just shut our eyes to the true cost of providing access." But now this is establishing a framework which brings us closer and perhaps wholly human rights compliant, in that we can say Government provides for people's access to justice and the detail can be worked through. I trust that States Members will continue to take an interest in the eligibility criteria, because lawyers will want a fair system too, a system that is fair to clients, but also a system that is fair to them and does not burden them and we do not end up asking them to pay their taxes, to work for clients at their own costs and, as suggested by some, to meet a levy also. Again, on what profession do we seek to impose those obligations? If this Assembly is serious about providing wide-ranging access to justice, then it should invest properly in a legal aid scheme. I just wanted to mention one point that has been issued, that was put out about the suggestion that rights of audience in the court might be opened to persons not qualified as advocates, or solicitors, in Jersey. In my view and I hope it is a view that I can impart to all Members, that would be a very dangerous step. I am not saying that as a lawyer with a position to protect, or for my colleagues in the Law Society. An independent legal system is essential for our Island's independence. If we open the rights of appearance before our courts to all English solicitors and barristers, then we lose an independent system of law and our status as a self-governing jurisdiction with our own law. Our own Assembly would be endangered if we become another arm of the courts, which all persons qualified in the U.K. can simply march into. So, having our own system of law and having people who are versed in the law, trained in that system of law and can address our local judges on Jersey law is valuable to the independence and the continued prosperity of this Island and I hope that Members will always be willing to defend the exclusive right of appearance in Jersey courts to those who are qualified in Jersey law. After all, it would be quite wrong if any Jersey lawyer went across the water into France and suddenly wanted to appear in their courts. Even in the U.K.,

if you are qualified as a Jersey lawyer, you cannot simply walk into a county court in the U.K., because that is their system of law. This is how it works and it is right that only those who know their laws, who are trained in their laws should be able to practise in the courts of that jurisdiction. I would ask Members to support this law as a first step, the right step, to legislate and put in place, in the Island, a system of legal aid. The Law Society is willing to surrender that to its proper place, that Government now takes a role in ensuring that we have this provision and begin to honour the human rights obligations around it. There is much work still to be done and we must not take our eye off the ball, but let us trust that all work, all these difficulties and questions of eligibility for legal aid will be worked out. Difficult though they may be, I am sure lawyers are willing to play their part in a fair discussion with Government.

### **1.1.7 Connétable R.A. Buchanan of St. Ouen:**

I always have some difficulty following (a) a lawyer talking about legal subjects and (b) my own Deputy, because I know he is well-qualified on the subject. My comments, really, are from the perspective of being a Centenier for a number of years and they are really about the delivery of service in this Island to defendants, who in many instances are people who are vulnerable, who do not have a particularly good understanding of what they are being charged with and how the court system works. There are occasions with the old system, where they are given a very inexperienced junior lawyer, who is him or herself learning his or her trade. I have seen instances where defendants have been persuaded to plead guilty to charges that, frankly, in my experience as a Centenier, if I looked through the bundle I would said: “No, there are quite a lot of matters that could be properly argued in front of the court, which may well produce a different result.” My concerns about the current system are practical ones.

[10:45]

There are occasions when defendants who are vulnerable and who, as a society, we should be caring for - whether or not we particularly agree with their views, or their way of life - who sometimes through the system do not receive the care that they should be getting from us. I think, having seen and looked at what has been done in terms of the legislation that is coming forward, this is definitely a step forward. I accept Deputy Morel’s comments. It is a matter of compromise. We have to bear in mind that the providers are the lawyers and they have had a big input in this, so their opinions and views are reflected in this legislation, as ours are, and it has been negotiated over a long period and there has been a lot of to-ing and fro-ing and a lot of rejection of original drafts. We have now reached a stage, I think, where we have something that will work. I would urge Members to support this proposal, because, in my view, it is a big step forward. It is not perfect, I accept that, but I think we have to think about the quality of service to the end user. In my view, this will encourage a cadre of lawyers, who will be become expert in the field of defending people. That, in my view, is needed. It is not easy to present a case in the Magistrate’s Court and I can tell you that as a Centenier. It is a difficult matter. A case that looks simple on paper, when you open the bundle can turn out to be extremely complicated and it requires quite a high degree of experience as a defence lawyer to argue the case for the defendant and achieve a result which is fair. In some instances that result, it may well be to plead guilty, because the defendant is guilty, but I think everyone deserves access to justice. It is a basic human right and I think sometimes with this system it does not happen. From my point of view, I would definitely be supporting this legislation, because I think I have seen it develop over the years and I think it does achieve what is required now. There are a couple of red lines for me which, as an ex-Centenier, I feel very strongly about. Firstly, anyone who is charged with a criminal offence and who is subsequently found not guilty should, in my view, not be penalised. It is not right that if you are innocent that you suffer and I think we need to find a way of working that into the guidelines, to make sure that those people who are accidentally - and maybe sometimes maliciously - charged with an offence do not suffer. It is not their fault, they have sometimes been caught up in circumstances and they are the ones who are going through quite a traumatic time and to impose



financial penalties on them for a service that they should rightfully get in my mind is not fair. Secondly, from my own experience, it is important that the Magistrate has the power to insist on legal advice being provided for clients where they are prepared to accept it. Some clients do not understand what legal advice means, or why they need it and the Magistrate is best-placed to make that decision. I think it is important that that Magistrate has that right to do that. In summary, I think we need to bear in mind the quality of service issues for the unfortunate people at the very bottom of our system, who get caught up in our criminal justice system, sometimes through no fault of their own. I think, despite the reservations we have had about the process that we have arrived at to get to this legislation, we need to approve this legislation. I think we need to also think about the alternatives. This is a service that we are asking our legal provision to provide and the other alternative to this is to take this service on board ourselves and employ lawyers to deal with this. I think we need to understand the volume of work that is required to do this. On an average day, in the Magistrate's Court, there will be 8 or 9 cases where legal aid is required. That is quite a high demand on our legal profession and if we were to resource this ourselves, it would mean employing quite a number of more people to work for the Attorney General at considerable expense. I think we need to weigh that up when we think about the legislation that we have and to think about what it would cost us if we had to provide this ourselves. I think the cost would be quite substantial and probably we could see the cost of the scheme that we have got. I think, in summary, my view is I think we should support this. I think we just have to accept it may not be entirely perfect, but it does a very valuable job for us, so I shall certainly be voting for it.

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

I think I need to repeat the opening words of the Chief Minister in this proposition and that is this is enabling; this is an enabling law. It is the basics, so that we can then put the flesh on afterwards. A comment somebody made earlier, I think it was Deputy Tadier, who said: "Who else does things for free?" Well, on this Island, quite a lot of people. For example, I know a number of G.P.s will very often assist with their families and clients. They become involved and they help children and they certainly do so. This is not something that is unique to lawyers. By producing this legislation, we are not producing a precedent, because in the law it already states that landowners have to do their *branchage*. That is a massive burden on the agricultural industry, who do 90 per cent of the Island's *branchage* for free. There is the precedent. There are other industries who, through legislation, are obliged to provide what other societies pay for. It is part of Jersey life and I think, therefore, it is important that we support this proposition, to ensure that more people and the right people have the access to the legal representation they need in court and I would urge Members to support it.

#### **1.1.9 Deputy K.G. Pamplin of St. Saviour:**

This has been a fascinating debate so far and I have been listening with both my open ears. In preparation for this, as always, I waited for the Scrutiny report and have read it thoroughly and spoke to some of the members of that panel. I have also read through some of the transcripts and the most fascinating of that was from the current Bailiff, I thought. I also looked at all reactions to the Scrutiny report and all the reactions to what certain people said, including the Bailiff's testimony and noted some of the reactions. I also, during this process, spoke to some law firms. As a matter of declaration myself, I am going through a personal matter with a law firm - very amicably, I must add - and it has been an opportunity to explore where this is coming from against my own circumstances. I have also sat down and spoke to people who run firms who provide legal aid, to try and understand how the business works. That is how I do things. It is very curious and there have been a few comments made about - and the Constable of St. John just alluded to it again - who else does things for free, who else goes above and beyond, who else does that? Our doctors, our nurses, our teachers, our charities, our firemen, our ambulance drivers. I could go on. The interesting thing here is I was thinking the argument had not been about pay and money, but it is starting to become a little bit and that is where my concerns are starting to grow. Again: "Understand it, Kevin, how does this all

work? What is the impact here?” When I was a business manager of a charity and I had to run it and have a business plan and look at the expenditure and when you are running a charity you obviously have obligations to make sure you are doing the right things that need to be done, but also you are fulfilling a service. That could change any day, depending on the emotional day you could have if an unforeseen patient, or client, came forward and you obviously do more than you would be doing as a business manager; you go that extra mile and I certainly accept that as part of the job. But I could see the impact by what I was having to do outside of my terms of reference in my contract, the impact it had on me ...

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

A point of order ...

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

I am sorry, Deputy, but we have lost our *quorum* with the departure of ...

**Deputy K.G. Pamplin:**

I seem to have a habit for that. I will not take it personally. I will sit, though.

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

Members who are close by could perhaps come into the Chamber, so we can resume. Thank you very much. Was that point of order about the quorum, Deputy Ahier?

**Deputy S.M. Ahier:**

It was.

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

Thank you.

**Deputy K.G. Pamplin:**

As I say, I will not take it personally. I am on good painkillers at the moment, so it is helping. Yes, so understanding the business impact I was talking about there is my job, my responsibilities under my contract to be a business manager, but also the other side of it when you are dealing with families and you are going the extra mile. That does have a knock-on, of course, because I have had to park working on our budget, or I have had to park working on responding to some correspondence, so there is obviously a cost for that. But, I accepted that and I learnt how to work on it and it made me work even harder in trying to seek fairness for what we were trying to achieve with increased funding and raise money. Recommendation 1 of the Scrutiny Panel’s report says: “The draft law and the proposed guidelines do not provide adequate discretion for the Judicial Greffier, or the Magistrate, to grant legal aid where the circumstances require.” I think that is a starting point for all of this. Again, talking to legal people, who I have been chatting with and trying to get their understanding and we have heard today, it is not perfect, but we have to. This is about people who are needing justice. This is people who need to go into the courts. That could impact the lives of themselves, their mental health, their children and I just could not get past that bit. Then I turned to the finding 14 of the Scrutiny report: “The draft guidelines reduce the upper limit of eligibility from its current £45,000 household income to £35,000 household income and the draft guidelines also remove any allowances for living expenses.” My thought on this is, we know all the stats here, we know what we are dealing with here on this Island, that productivity is low and there are signs of hope. Wages have stagnated, but the cost of living has increased. The cost of housing, as we have debated recently, is high and we need to work on these things, but costs continue to go up. The argument that very few people under finding 15 of the Scrutiny report ... and as has been mentioned earlier, that the Law Society considers that very few people in the £35,000 to £45,000 bracket currently choose legal aid for private law cases and that law firms make arrangement for payment by instalment. Yes, but I

would argue that is very few. I would add a personal injection to this, because of my current circumstances, the amicable situation that I am going through, I am doing paying instalments, but the reason I have chosen to do that and cover the full cost is because the person I am going through this process with could not afford it and could not even afford close to legal aid. So I, out of the goodness of my heart and for the love of that person, have carried the cost of that and made a way to pay through instalment. However, if I go back, before I was elected into this job, under my previous salary I would not have been able to do that. That is the reality of what life is like in Jersey currently and in this scenario it has been fortunate, but I know going through our many scenarios, since I took office in helping parishioners, that is not life and that is not straightforward and I am very lucky. I have a problem with the threshold and those 2 aspects of the guidelines and I appreciate what others are saying here and I respect my colleagues here, they are saying that we pass this through, we put faith in Government, we get all this sorted and we come back. But, to be honest, right now my feeling is we have some bigger issues to be sorting out: housing, immigration, the hospital, all of these sorts of things that I need think need higher scrutiny and more urgency. So, I go and turn to my comment about how people react in certain scenarios. I thought the Bailiff, in his Scrutiny hearing, gave a very fair and detailed and, thank goodness, experienced view on everything, which I thought was very measured, but very clear and very accessible and understandable. The response that came back from the Bailiff's interjection, as requested by the Scrutiny Panel, was that all of a sudden an issue of: 'This is a tax on the Island's law firms' was the argument bounced back and to go very further to the response in the media from the Law Society: 'If you take the Gross Value Added goods and services provided of the profession in the last States of Jersey statistics of £200 million, the cost is around £7 million. That is 3.5 per cent tax of cost across the board.' They are calling it a tax. In a way, it is a tax you are imposing on Jersey lawyers that you are not imposing on the competition. Is this not a curious argument, that many have argued about where we currently are with the fairness of our tax system? I just thought that was a very poor argument and missing the current climate of what the reality of living on this Island is like and why we are having major reviews of our tax system.

[11:00]

I thought that was a very weak and unfortunate response. I would challenge that and say: 'Okay, if you are saying that that £7 million, the cost of the free legal aid, has become an issue and it is not fair and not right, if that tax was removed and this came through and came into place, therefore you can lower some of your charges', because I am looking at it with my business manager. I had to increase certain charges, because I needed to bring in that money, but once I brought in the money, I could reduce that. I had asked the challenge, I would throw it back and I would go back to Scrutiny and say: "There is some more work to be done here in scrutinising some of these challenges and I think it needs more scrutiny." That argument for me and hearing some of the other debates today, is unlike the Draft Public Finances Law. I felt there was enough to come through for us to work on. I think this has just fallen short at the final hurdle. It is urgent, we need to get it right, we need fairness and equality for all, but because of what I have discovered and the conversations I have had, I have not been encouraged. I think we have to step back, look at the bigger picture here and it is close. It is close, but the arguments are not quite there. We have an opportunity as representatives. This is another thing I would say when we have talked about who goes the extra mile and does things outside of remit. As I have discovered since I took the oath of this office, we do. Since I have become a Deputy, the amount of work that you have to balance between your commitments to Scrutiny, your personal commitments, all the different chairs we sit. I am not in Government, I do not have ministerial responsibilities yet, but the other side of this, which nobody can prepare you for, is when a parishioner is calling you up at 11.00 p.m. at night and they are being evicted the next day, or they felt an injustice, or because I have talked a lot about mental health, they have told me about things. That spurs me only forward on why we must seriously change and turn course in how we provide for people in mental health. The emotional effect that can have - on dealing with some of our parishioners when they have hit some of the worst parts of all of our lives that we hope we never

meet - takes an emotional burden on you as a person. In standing here saying that, I have had to seek mediation in helping 2 particular cases, because it was so upsetting. Because I do that, it takes me out and I may miss a bit of Scrutiny, or I might not look at something in detail. I am not standing here saying we should be paid more, but I think there needs to be a balance of where the whole Island sits, our roles, the legal role, the charitable roles and say the whole system is not particularly fair, but we cannot get it right, until we get it right. That is why, at this stage, I would urge everybody and the Chief Minister, because this is so close and I was almost with him on this, just turn back and say: "You are close. Strengthen your arguments, see the bigger picture and then we can pass this through," because at this stage I cannot.

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

Does any other Member wish to speak on the principles? If not, I call on the Chief Minister.

**1.1.10 Senator J.A.N. Le Fondré:**

Normally I would try and address ... I think in this instance I am going to try to go through and address some of the individual comments. I do remind Members that at the very beginning of this - and as alluded to by the Constable of St. John - we were making the distinction between the guidelines and the law and we really need to be clear on that. While I very much welcome a whole range of the comments that have been made around the guidelines and particularly the thresholds and, in fact, in my opening speech, Members might recall that I said I shared certain concerns in that territory, but the point we have got to is that we need the enabling law in place, because that gets us over one line. There is a lot of work that will have to be done on the guidelines, let us be very clear on that. What I think might be helpful, I know there have been one or 2 technical queries around it, which I know we are dealing with the principles around the Articles, but I wonder if it might be appropriate to refer to the Attorney General, Sir, if I could, and ask the Attorney General particularly in relation to the comments raised by Deputy Young and then refer to ... because that might sweep up a few of the other comments as well and at least Members will hear it from the technical side, if that is acceptable.

**The Attorney General:**

Yes, in relation to the question that Deputy Young raised, I think he was concerned that the provisions of Article 14 might result in the States indemnifying lawyers carrying out any obligations that might arise under the scheme, but I can give him reassurance that that is not what Article 14 intends to do. Indeed, it specifically excludes persons carrying out a professional obligation in a client and lawyer relationship in Article 14(1). If we look at the report, the discussion of the Articles, or rather the note that goes with the law, Article 14 is explained there as: "Protecting from liability any person who carries out a function, including any person assisting carrying out a function under this law or carries out a function under an entrustment pursuant to Article 14(2) other than a person carrying out a professional obligation in a client and lawyer relationship." So, there is no question of lawyers being indemnified by Government from carrying out their functions under the scheme. I hope that assists him in relation to that issue. I was going to mention one or 2 other matters, if I may. Deputy Ward was concerned that this was a one-way street, in the sense that the Tour de Rôle will come to an end when the guidelines are established. That is right. In one sense, of course, this will be a new regime and, indeed, going back to Deputy Young's other question, these guidelines are for all cases, civil and criminal, all cases. Although they are called guidelines, in effect they are rules. I hope that answers another question that he asked. But, going back to the point made by Deputy Ward, it is clear that the obligations that give rise to the current guidelines, obligations of law, are preserved by this statute under Article 2, so the obligations that lawyers have pursuant to their oath and solicitors have pursuant to their oath, advocate solicitors, are preserved under Article 2. Accordingly, if the whole scheme were to break down, for one reason or another, and the Minister was to revoke the legal aid guidelines under Article 7(11), then the lawyers' obligation to provide legal aid under their oaths would come back into play. One should not be too concerned about that eventuality. This is

not a one-way bet in that sense. I hope that deals with that point. The final point I was going to make was that Deputy Labey of St. Helier made some remarks about the ability of the Judicial Greffe to administer this scheme. I would like to offer him some comfort in the sense that the Greffe do currently successfully administer 2 similar schemes, first in relation to public law children's cases, where payments are made, effectively by way of legal aid, in relation to those representing children and parents in those cases and also they administer a similar scheme in relation to exceptional payments made by way of legal aid in civil and criminal cases. They also tax, or assess, costs in legal aid cases - again, in my experience, to a high standard - so I hope that gives him some comfort in relation to the point that he raised. I hope that assists the Chief Minister in relation to legal matters.

**Senator J.A.N. Le Fondré:**

I think that was probably helpful directly to just clarify on a couple of those points. To answer one or 2 of the questions - or hopefully all the questions that have been raised at me - just to be very clear again, we are not approving the guidelines today and we are, therefore, not approving the thresholds mentioned in those guidelines. As I reiterate again, I also share some of the points of view that have been expressed and I alluded to that in my opening speech. Sorry, I am trying to work through quite a number of points that have been raised today. What I would just say, possibly related to Deputy Pamplin, if this ... just travelling into the territory of what happens if the Assembly decides not to approve the principles though, or the law, today, what that does is, one ... well, I will get to the ramifications and what it does in terms of the legal aid scheme, but it obviously does not move us forward. It then puts us in the position that if the Law Society attempt to - as has been alluded to already - amend the scheme again and perhaps there may be some queries raised around that, it puts us back in the risk of ending up in court, as happened in 2016/2017. One has to consider that, bearing in mind this is an enabling law, this, in my view - and certainly the view of everyone who has been working on it, as far as I am aware - this puts a lot more authority into the hands of this Assembly than currently exists. I will just refer to some of the Articles, given that it is later. But, if one looks at things like Article 7(4) - I am looking at page 47 of the report - which says: "In preparing the legal aid guidelines, the Minister shall publish the Minister's proposals and seek representation from the public. The Minister shall consider the representations he, or she, has received in preparing the legal aid guidelines." So, even when the Committee has put those guidelines together, and I fully expect - and I cannot demand, but I would fully expect - that Scrutiny will be looking at those in the first place, because I would rather assume that any Chief Minister with their head vaguely in the right direction will be consulting, as part of that public consultation, with this Scrutiny Panel. But I would also just point out then if we go back and that, obviously, one of the consequences from the Scrutiny Panel's work is the Legal Aid Guidelines Advisory Committee has changed. I would hope - it may not do, but I would hope - that gives a degree of comfort, for example, to Deputy Higgins and others; we have 2 Members of the States directly on that Committee. That will be appointed from in here, it will be a vote, 2 persons nominated by the Minister, who are not Members of the States and 2 persons nominated by the Bailiff. So, it is not dominated, necessarily, by lawyers and I think the balance has changed and been put more appropriately. There is also a difference, I would point out, between lawyers, if one defines them as members of the Law Society in the private sector and those of the Attorney General's side of things and the judiciary. As has been alluded by Deputy Pamplin, certain members of the judiciary have very clear views and possibly not views that are in accordance with those of the Law Society. So, by that I say I think you have got a very good balance of people on there, which will give you the technical arguments, which one will need from the differing points of view and provided the Members of the States and the non-legal people that go in give that right balance, I think we have got an improvement as to what was previously being proposed. I shall try and work down quickly. Deputy of St. Mary, thank you very much for the comments. Obviously you challenged Deputy Morel, who I will refer to at some point, or other. Deputy Tadier obviously served on the original Access to Justice Review Advisory Panel, as have a number of other Members and made some very valuable contributions. Again, a lot of the comments made were around the

scheme. Deputy Gardiner, I am hoping that I have addressed her concerns, particularly in relation to having just confirmed that we are not approving the thresholds. Again, I note Deputy Labey's comments, some of which have been answered, I hope, by the Attorney General, but also the point again, this is about an enabling law and the detail is in the guidelines, which we are not approving today. Deputy Ward, I think we covered a lot of those. He made the very clear distinction, again, between the law and the schemes. Deputy Higgins, he did say that the position needs to change from where we are now. This is a change. He may not like it and I may not have satisfied all of his points, but we are trying to manage that balance of making sure we have the right technical knowledge in there, but it is not dominated just by one group. I have talked about the membership for Article 6. I am just going down. Deputy Young, I am hoping we have addressed most of his concerns. Number 4, the Deputy of St. Ouen I thank for his comments and the Constable of St. Ouen and the Constable of St. John and any comments that were relevant to the scheme.

[11:15]

Yes, I reiterate again from points that were made, again referring to page 47, which is Article 7(4) and (6), this does not hand the guidelines to the lawyers. There are very clearly checks and balances on how the scheme is going to be approved and this Assembly is part of that process and anybody bringing, or reporting, a scheme to this Assembly, knowing that it can be annulled by this Assembly and somebody challenges it, that it cannot be approved and that is in the law until this Assembly has debated any proposition. We will be very cognisant of those particular positions. Deputy Pamplin, I am hoping, as I said ... I am not addressing all his ... a lot of his comments related to the guidelines and we know there is more work to be done. Again, I just keep going back to the point and I think I have touched on the reality of potential conflicts if this law was not to go through today. Deputy Maçon, again he referred to a user group. I have had at least 3 names of volunteers. They may not realise they have volunteered to be competing for the 2 States Members positions. I think it might be Deputy Morel, Deputy Maçon and just to unfortunately break the sequence in Ms, Deputy Higgins. On the other hand, his first name might then ... we can have the 3 Ms applying for the 2 positions, shall we say. But again, going back to the point, that is about the guidelines and there is a lot of work to do there. In terms of Deputy Morel, he did use the words, I think, "unedifying mess" which I thought was somewhat harsh. The point is this is a hugely complicated area. I think there is one point I will make, in the nicest possible way, because it was made to me as a relatively new Member as well. It is when one goes through law, particularly when it has been lodged since the 23rd or 25th of February. If one has serious concerns about that, either come and speak to me, or come and get an officer briefing, or bring an amendment. That is the point, that it is a hugely complicated law. Obviously, sometimes, we have to allow the timing and look ahead and build that in, that is something we learn over time and we will always get it wrong at some point and I am sure I will again, as well. What I do want to say, as well, is just very much thank the Scrutiny Panel for their work on this. As I said, it was a very complicated subject, we know that. That is why I am very relieved and that is why we are making it very clear that the scheme is not being approved today and that is why I very much welcome the approach that Scrutiny took, which was to look at the law and the recommendations they have made. I also make the point that I have noted Deputy Ahier's comments, for example, on the Magistrate. That has been referred elsewhere and I am sympathetic to his comments and we will just have to see how we can accommodate that, either whether it is with the guidelines, or whether it is through regulation. So, I think that is another discussion we have to have because it is, again, to meet the objective, but bearing in mind there were some complexities in there. I think I have done a whistle-stop tour of some of the comments that came through, because there were about 14 or 15 comments in there and I hope I have answered most of the comments that have been raised. Whether it is to everybody's satisfaction is going to be a matter for them. Make no mistake, yes, it has been alluded to that this is a law that we inherited. In fact, it was scheduled for 30th April last year, I believe, and it did not make the cut in the rush to get everything through before nomination day. When it came through and landed on my desk and bearing in mind that it had

previously been on my desk as Chairman of the Corporate Services Scrutiny Panel at that point, it was very clear it was complicated, it was very clear that it needed to be gone through carefully. It has been the subject of a number of discussions and, as I said, I very much welcome the work of the Review Panel that has taken place. I do genuinely think this is an improvement. I make that point from the point of view of saying it is an enabling law and, as I said, there have been various informed commentators, who have made their comments on the guidelines and that will be a further piece of work that will progress, hopefully, after today. The first point is to whether Members accept the principles on this. I do not think I can say much more at this point, other than to say it is an important law. Yes, we do have other priorities, things like the hospital, things like population and things like mental health, and moving this forward will enable us to address those priorities with greater resource. On that note, I think at this stage I shall sit down and ask for the *appel*.

**The Connétable of St. Brelade:**

On a point of order, if I may. Earlier, in his summing up, the Chief Minister suggested that he would elaborate on the consequences of not accepting the law. Could he just clarify that for Members, please?

**Senator J.A.N. Le Fondré:**

Sorry, I thought I had, which was basically that the present scenario on the legal aid scheme would remain, which also then raises the point: so under the proposed law this will place the legal aid scheme and give us the ability ... sorry, Article 3 establishes a scheme and, therefore, the legal aid scheme, for the first time, will be placed on to a statutory basis and it then places greater authority in the hands of the Executive and of this Assembly to have oversight on that scheme and to influence it. If the law does not go through, that will not be there and what it will mean is that if there is a change to the legal aid guidelines and that was challenged, one potentially ends up in court with uncertainty around that process. I hope that clarifies matters.

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

The *appel* has been called for. I ask all Members to resume their seats. The vote is on the Draft Access to Justice (Jersey) Law 201- principles and I ask the Greffier to open the voting.

<b>POUR: 43</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 0</b>
Senator L.J. Farnham		Deputy M.R. Higgins (H)		
Senator S.C. Ferguson		Deputy R. Labey (H)		
Senator J.A.N. Le Fondré		Deputy S.M. Wickenden (H)		
Senator T.A. Vallois		Deputy K.G. Pamplin (S)		
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. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
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 I. Gardiner (H)				

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

Deputy Ahier, does your panel wish to call this in?

**Deputy S.M. Ahier (Chairman, Legal Aid Review Panel):**

No, Sir, we do not.

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

Thank you. Chief Minister, how do you wish to deal with the Articles?

**1.2 Senator J.A.N. Le Fondré:**

I have previously acknowledged that there are, I think, 3 because Scrutiny identified 2 and Deputy Morel identified one typographical error which, I believe, I can address in Third Reading.

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

How do you wish to deal with the Articles?

**Senator J.A.N. Le Fondré:**

On the basis that we have a very long day ahead of us, can I propose them *en bloc*, but if Members have any queries, I will address them individually. But, at the moment, I would like to propose them *en bloc*, bearing in mind corrections will be done in the Third Reading.

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

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

**1.2.1 Deputy J.H. Young:**

The Chief Minister very kindly addressed the things I did raise, with the exception of Article 5. This is my concern: that at the moment this commits the States to, I think, open-ended resources in principle, but says nothing about the opportunity, or empowerment, for the Law Society to be required to make a contribution. I think if we are having an enabling law it struck me I would have



thought we should be seeing such a provision in there, because, after all, the law also sets out the rules that the Judicial Greffe can order people receiving legal aid to make contributions and then progress them to the courts if they do not pay. So, in terms of financial responsibilities for this I think there is an issue there.

### **1.2.2 Deputy S.M. Ahier:**

I just want clarification, if possible, on Article 6(3)(b), the most senior officer of the Magistrate's Court. Could he explain who this person is for Members? Thank you. Just to explain to Members who this person is.

### **1.2.3 Deputy K.F. Morel of St. Lawrence:**

Anyone wondering why I voted *pour* after my speech is because I see this as a necessary evil. The law is poor, there is no question, and I would hope that, in the future, Chief Ministers will seek to change it and bring in a properly funded, as Deputy Tadier suggested, scheme. I would just like to ask, because I was not sure whether I understood the Chief Minister correctly, with regard to the aspect of only being able to annul the guidelines. States Members only being able to annul the guidelines, as opposed to amend them, is that an area that he will be seeking to change, so that States Members do have the ability to amend the guidelines rather than to only annul them. I just wanted to clarify that aspect.

### **The Greffier of the States (in the Chair):**

Does any other Member wish to speak on the Articles? If not, Chief Minister.

### **1.2.4 Senator J.A.N. Le Fondré:**

In reverse order, I may have to deal with Article 5 separately with recourse to the Attorney General again. But in terms of Deputy Ahier at Article 6(3)(b), yes, I think it is my understanding, as well, that it is the Greffier of the Magistrate's Court, or anybody that they nominate. In terms of responding to Deputy Morel, it is not my intention, at this stage, to change the process. Essentially, I think, it is the fact that we have a public consultation process in there before the scheme is produced. I would, therefore, hope that would extend to States Members to have input at that stage and to the Scrutiny process. The question is whether it then becomes open to States Members to amend individual bits, without having the technical offset on that. I think, if it was of sufficient concern, the fact that this Assembly can annul, as I said, I think will very much focus the minds, if a question is raised and it is of substance, by a Member, as part of that consultation process. I am open to, if that process does not work, then any future Chief Minister, or myself, may amend that. The analogy I would use is, this is a very complicated area and it is a highly technical one. If we look at things like the Island Plan which, notionally, is slightly less technical in terms of legal nuances, shall we say, that has a very defined process before it can come back to the Assembly and, yes, Members can change it, but there is a very rigid structure around that. This is even more complicated. That is the concern. Now, is that too complicated for States Members, or not? That is a different view and I would not want to even think that in my mind, but it is very much a case of do you want, effectively, a committee of 49 designing the legal guidelines, or do you want to keep it focused and say: "Right, this Assembly has the final override of saying yes or no" but bearing in mind there are public consultation steps in that process. So, that is an approach. Members may, or may not, go with that, but that is the issue. Now, in terms of Article 5 and resources, my main focus has been on that around the provision of the legal aid office and things like that but I wonder if the Attorney General would like to just elucidate on that particular area.

### **The Attorney General:**

Article 5 requires the States should ensure the Greffier is provided with resources for the purpose of meeting payments under the legal aid scheme. Deputy Young is right to suggest there is nothing in the law which would entitle the maker of the guidelines, or anyone else, to seek a contribution from

lawyers to the cost of the running of the scheme. It is right that the scope of the legal aid guidelines and the matters which they may contain under Article 7 is very wide indeed. When one looks at Article 7 that is clear from what is set out. We have not focused on that, of course, in this debate, but there is a lot of flexibility in terms of what the guidelines may say in due course. But, nonetheless, there is nothing in there which would merit, in my view, or warrant seeking a contribution from lawyers by way of them making a contribution towards the cost of running the scheme overall. There would need to be much clearer words in the statute to permit such a course to be taken.

**Senator J.A.N. Le Fondré:**

I was just going to refer ... because I believe we have various abilities to make regulations that we would amend if we needed to. I do not know if the Attorney General wishes to refer to that, or not, or whether that is something we can seek to address under the guidelines, or under the regulations.

**The Attorney General:**

There are wide powers to amend most of the provisions under the law. I would need to check whether, or not, that extended to the guidelines. I should imagine it does, but there are powers to amend most parts of this law by way of regulation.

[11:30]

**Senator J.A.N. Le Fondré:**

I think my position would be that if Members were of the view that was something that should be addressed, I would make sure that officers would be directed to include that in the deliberations when the guidelines are produced and any subsequent regulations. But I think I shall take feedback from Members, if I can, at that time. On that basis and on the assumption I have, hopefully, responded to 3 of the questions, I would like to maintain the Articles.

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

I think there is a point of clarification coming.

**Deputy J.H. Young:**

Yes, please. If I could ask the Chief Minister, please, to clarify: is the Chief Minister prepared to give a commitment that, in terms of those instructions to officers, that if it becomes necessary to bring an amendment through to this law, that he do an order to enable a sharing of costs in some way from the lawyers that he will do so, he will bring that back subsequently; could he give that commitment?

**Senator J.A.N. Le Fondré:**

I think the point will be is: if they move the Assembly as such then I would obviously make sure I do give that commitment. What I will do is obviously take soundings appropriately and from Members, that if that is the mood of the Assembly and if something was required, then I am sure we would do that.

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

All those Members in favour of the Articles, kindly show? The *appel* has been called for. I ask Members to resume their seats. The vote is on the Articles *en bloc* for the Draft Access to Justice (Jersey) Law and I ask the Greffier to open the voting.

<b>POUR: 41</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 0</b>
Senator L.J. Farnham		Deputy M.R. Higgins (H)		
Senator S.C. Ferguson		Deputy K.F. Morel (L)		
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				

Senator S.W. Pallett				
Senator S.Y. Mézec				
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. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
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)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

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

Do you wish to deal with the matter in Third Reading?

**1.3 Senator J.A.N. Le Fondré:**

Yes, and if I have understood it correctly, under Standing Order 75(4), we can take the opportunity to correct what I think are 3 typographical errors. Do I have to identify them, Sir?

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

Yes.

**Senator J.A.N. Le Fondré:**

Okay. So in Article 4(4) it should read, in the third line: “Any provision to the contrary” there is a missing “the”. In Article 7(12) there is a floating “from”. So, in the second line it should be: “Legal aid guidelines made under this Article and reference” not “this Article from and” I believe and the

most important one, as identified by one of the Deputies of St. Lawrence, Article 10(2) refers to Article 18 and that should be a reference to Article 17. I believe that completes them. I do apologise for the errors, Sir, and I have alluded to those already. On that basis, I maintain the Third Reading. I propose the Articles in the Third Reading.

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

Is the Third Reading seconded? [**Seconded**] Before I ask if anyone wishes to speak, these clerical errors can be corrected if I agree that they are clerical, or an oversight and I am satisfied that they are, so they will be corrected. Does any Member wish to speak on the Third Reading?

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

I just wanted to say that I sat on the review panel, so I am quite happy with what has been proposed today under this enabling law, albeit that I will be looking very carefully at what is brought back to the Assembly by the Chief Minister. This may seem a little bit off the wall, but there was one thing that particularly concerned the Review Panel when we attended upon the Royal Court and it was that the sound system within the Royal Court is absolutely appalling. [**Approbation**] We raised this and, in my opinion, justice should not only be seen to be done, but it should also be heard to be done. I have no doubt that there have been no improvements made to the sound system within the Royal Court. As a Constable, I attend there fairly regularly on a Friday morning when we have swearings in for municipality members and we cannot hear what is being said when we sit behind the speakers and when we are in the public gallery. So, although it is something that clearly has not been addressed, the Review Panel - and I look to Deputy Tadier because he nodded when I mentioned this - were really concerned about it and I do hope that - and the sound system in here is very good and the public can hear this - something will be done about it in future. As I say, an off-the-wall comment but one that needed to be put on public record.

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

Well, I suppose that is very tangentially related to Access to Justice [**Laughter**] but the debate is meant to be on the law and we need to make sure that any subsequent comments are about the law. Deputy Tadier, did you wish to speak in relation to the law?

**1.3.2 Deputy M. Tadier:**

I may be risking sailing close to the wind as well on the basis of, is this the time when we can debate what is in and maybe is not in the law?

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

No, we have done what is not in the law at some length. It is what is in the law that is left now.

**Deputy M. Tadier:**

So, I think just to add the general comment then, that very much we know this will be coming back to the States. It is an enabling law and, certainly, from my time on the board, I think it was a pleasure working on the board, but it was also a great eye opener and we were having to, in many cases, learn very quickly. It is clear to me that there are certain things which this law aspires to provide, which is, ultimately, access to justice, but there are things around that which are equally key, which could be brought back into this law when it comes back to the Assembly. So, while the Constable spoke about things like hearing and the ability to be able to hear court proceedings, another fundamental part of access to justice is whether, or not, they can be viewed and we know that our States Assembly can now be viewed. It can be live-streamed and it is absolutely right that part of our system, one of the pillars clearly here, the legislature, can be completely transparent. There are questions about the transparency, in terms of the ability to view proceedings either while they are happening, if you cannot make it to court, but also about accessing things like transcripts and tapes, because if you

cannot ... here we can refer to Hansard and to proceedings, but in the court, of course, you cannot do that. I think you are about to pull me up, are you not, Sir?

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

I am thinking about it, yes. [Laughter]

**Deputy M. Tadier:**

The good thing is I have almost finished and you could argue that between us, after some 10 and maybe 14 years, 15 years in the Assembly for the Constable, we should know the purposes of the Third Reading, but sometimes they are grey areas very much like the law and there are judgment calls that need to be made. So, I think this law does not do everything, but I think when it comes back that will be a chance for us to go through it with a fine toothcomb.

**1.3.3 Deputy M.R. Higgins:**

I think I may be risking the same as Deputy Tadier. I forgot to mention earlier, this is something that is fundamental to access for justice and it can be brought back in the guidelines. I repeat what Deputy Tadier said, transcripts, tapes; I have helped quite a number of people, who have been bringing actions as litigants in person. They cannot afford the tapes, or they are being denied access to the tapes. That cannot be good for justice and, because of this, people are not able to bring the proper appeals if they feel they were wronged. So, I would highlight it again, it is a question of access to the tapes, access to the transcripts, which should be automatic, I believe and, finally, one other one and it is in the law and that is to do with costs. I am appalled that people can have evidence withdrawn from their case and the case dropped, or if they win their case and they still end up paying costs. That is totally unacceptable and therefore that needs to be addressed as part of what is going to come back to this House.

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

Does any other Member wish to speak on the Third Reading? If not, Chief Minister.

**1.3.4 Senator J.A.N. Le Fondré:**

Deputy Tadier and Deputy Higgins, I note their comments. The Connétable of St. Lawrence, I note her comments and will communicate her concerns to the relevant areas. I think, in summary, this law does represent a significant milestone in updating the legal aid system on the Island. We know it is not perfect, but it does represent a significant improvement. I welcome all the representations that have been made, not only today, but also up to now and I very much want to thank officers of the Law Officers' Department, Scrutiny and representations from the judiciary and all current and past States Members who have contributed to where we are today, because, obviously, there have been a variety of people who have worked on the panels and stuff before my time. It has been a lot of work getting this to this point and I am sure we have a lot more work to come as well. On that basis, Sir, I maintain everything in the Third Reading.

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

The *appel* has been called for. I ask all Members to resume their seats. The vote is on the Third Reading and I ask the Greffier to open the voting.

<b>POUR: 42</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 0</b>
Senator L.J. Farnham		Deputy M.R. Higgins (H)		
Senator S.C. Ferguson		Deputy R. Labey (H)		
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator S.W. Pallett				
Senator S.Y. Mézec				
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. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
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 Hégarat (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)				
Deputy I. Gardiner (H)				

## **2. Investment Appraisal Board: 2 week notice period (P.25/2019) - as amended**

### **The Greffier of the States (in the Chair):**

The next proposition is entitled Investment Appraisal Board: 2 week notice period from Deputy Maçon, it is P.25/2019. Before we start, Deputy, there is an amendment in your name, as well. Do you wish to have the proposition read, as amended?

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

Yes, please, Sir, as amended.

### **The Greffier of the States (in the Chair):**

Does the Assembly agree that can be read, as amended? I see no objections to that, in which case I ask the Greffier to read the proposition, as amended.

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

The States are asked to decide whether they are of opinion to request the Council of Ministers to consult States Members on the appropriateness of introducing a mechanism whereby the Minister for

Treasury and Resources does not implement any recommendations made by the Investment Appraisal Board, or by any other bodies, for allocating money not otherwise allocated to a specific head of expenditure, for a period of time, or other appropriate safeguards that provide for democratic oversight of such expenditure allocations.

## **2.1 Deputy J.M. Maçon:**

Firstly, can I begin by thanking the officers from the Treasury Department and the Minister, in that when I lodged my original proposal there had been, among some of the ministerial colleagues, some frustration in that bids were going in from departments, without even Ministers knowing that that was going on in their name. There were problems about the timeline the various departments were given, in order to signal how they could attain funding for these types of things. So, that led to my initial proposition. Upon reflection and speaking with the departments and officers from the department I have had to weaken it down slightly, in that the point which officers did raise to me was, of course, there is an issue around emergency funding and the Minister for Treasury and Resources does need that ability, in case of an emergency, to be able to release funds in order to achieve things and to put on hold, as with property transfer, for 2 weeks, that type of funding. I could see the point that that would not necessarily be a reasonable way of going about things. I know that other Members have concerns, or certainly have expressed concerns to me, about the Investment Appraisal Board and how it works. So, I thought, perhaps, one way in which we could flesh this out was to have a consultation with States Members, in order that the Minister for Treasury and Resources could better understand what Members had to say on those matters. To be fair, there is a praise for the Minister in that she has already sent a note round to Members, asking them to express any concerns to her and I thank her for doing that. Also, within the new revised draft protocol that has come out, there is a step in the right direction in that Ministers now have to see and have had sight of and sign off bids before going into the Investment Appraisal Board. So, I do thank the progress that has already been made, but I do have one or 2 concerns still remaining and I suppose for me it is the last sentence there of my proposition where it talks about “or other appropriate safeguards that provide for democratic oversight of such expenditure allocations.” So, just to talk about, perhaps, some of my concerns in that with the new set up in how the Investment Appraisal Board works. We know, for example, that there is a filtering process that when bids go in for extra funding there are various layers of filtering before it necessarily gets to the Minister. My concern around that is how that is documented, how that is recorded and how that is presented in order that we, as States Members, have the ability to challenge, not only that board, but also the Minister for Treasury and Resources to say: “Well, wait a minute, why did this one not go through, why did that one not go through?” I think, as the Constable of St. Helier has said, sometimes we see these bids as a bit like choosing the Pope. All of a sudden, we have the white smoke and these are the things that get supported by the Minister for Treasury and Resources, but, of course, we do not necessarily know what has not been supported by the Minister for Treasury and Resources and we do not know why it has not been supported by the Minister for Treasury and Resources. So, what can we do about that, in that the Minister for Treasury and Resources needs to have that ability in some ways to work fleet of foot, but also to have that democratic oversight that States Members have to do when performing that function? I wonder, perhaps, one way which could be better is perhaps an annual, or a biennial, process whereby the Minister for Treasury and Resources produces a report to say: “This is what has been considered. This is what has made it, this is what has not made it.”

[11:45]

I appreciate there may be, in some cases, the inability to go into detail for some cases around commercial sensitivity, but I think there needs to be greater transparency around this process, because, again, with that ability that we give the Minister for Treasury and Resources to make those decisions, the accountability through the transparency is essential. For me, I am not quite happy with that process; at the moment I think it can be greatly improved. But, I am not saying that I necessarily

have come up with the right answer and I wonder, perhaps, if States Members agree with me that maybe we need to do a bit more thinking about how we can improve this process. There are other things, as well, which I would like to see the policy address. So, as I have already alluded to, when there are bids going in there is not really a set timeframe as to how and when bids are going to be considered and how the Minister is going to progress things. So, perhaps, there might be greater signposting within the policy, for example, every quarter. That is when departments know bids need to be in, because I think, with the Education Department, for example, we had about 2 working days before bids could go in and it was not really well-highlighted to the departments. There is an issue around internal communication within departments that needs to be better clarified and that is why I suggest, perhaps, clear signposting through this policy about how and when these decisions are going to be made would improve the overall governance of this particular board and how it functions. What I would also say is: if you compare the Ministerial Decision to the media release about the information when bids go out, there was far more information in the media release than there was in the Ministerial Decision. In order to understand exactly what the bids that had been approved about it was clearer - it was perhaps more accessible language and perhaps less civil servant talk when you read the media release compared to the Ministerial Decision - and in my eyes, I think language that is more accessible is something better. So, perhaps going forward and in order to improve the process, more information is always better and more accessible language is always better. So, I think, perhaps, this policy could be improved by changing it and improving it that way. There is one other thing, on page 2 of the Minister's Draft Policy. It says: "For requests over £100,000 the Minister for Treasury and Resources will provide the One Government Political Oversight Group (One.Gov. P.O.G.) with a schedule and they will make comments." It might be quite helpful just to have a link in that policy to exactly who this oversight group is, because I did quickly Google it - other search engines available - and I could not quite find exactly who they were. So, perhaps, just with clarity and, again, transparency, the policy could be improved in that way. I just wanted to bring this forward today to express my concerns around this particular process; how it could be improved; whether other Members thought that this policy could be improved in the ways that I have outlined, if they had something to add in order to approve this. And I would just like to thank the Minister for Treasury and Resources so far for her approach, in that working collaboratively has helped refine and produce a better process and I wonder if we can just carry on with that a little bit further to where I would like to see it. That is my proposition and that is me finished.

**The Bailiff:**

Is the proposition seconded?

**Deputy M. Tadier:**

I did have a point of order before the proposition is made, if that is all right. If I understand correctly, the Deputy is wanting to move the proposition, as amended by his own amendment. Is it the case that we should have the ability to vote on that amendment, or give leave to the Deputy to take it as amended?

**Deputy J.M. Maçon:**

He already did, Sir.

**The Bailiff:**

I understood that had been given from the Greffier. As you know, I was not presiding earlier.

**Deputy M. Tadier:**

I think I must have missed that, Sir. Sorry.

**Senator J.A.N. Le Fondré:**

If it helps, yes, the Assembly did agree to take it as amended.



**The Bailiff:**

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

**2.1.1 Deputy S.G. Luce of St. Martin:**

I welcome this proposition. Indeed, if Deputy Maçon had not beaten me to it, I might well have brought something myself, because I am very concerned about the Investment Appraisal Board and have been for some time. My concerns are not about the political approval by the Minister for Treasury and Resources, or otherwise, of the proposed bids, my concerns are more fundamental to that and I would like to explain. Let us assume there are 100 bids made to the Investment Appraisal Board and 10 of those find their way on to the desk of the Minister for Treasury and Resources for her approval, or otherwise. My concern is not necessarily about the 10 that find their way on to her desk, but about the 90 unsuccessful bids that have not been chosen to be put in front of her. Those making the decision on those preferred 10 are all civil servants and not accountable to the public in the same way that we in this Assembly are. We, as politicians, are elected by the public, we are here in this Assembly to set policy and to make decisions. However, if the current Council of Ministers do not see the list of the 100 bids altogether, how are they to know if their priorities and policies are being considered? How are we, as backbenchers, to know what is going on, if no one gets to see the 100 altogether in on place? I think the situation is unsatisfactory and I have been unhappy with it for some time. I am going to be certainly supporting this proposition today. I am asking for more transparency on how the prioritisation process takes place, indeed I hope this whole process is reviewed and changed before someone needs to come back to this Assembly again.

**2.1.2 Deputy S.J. Pinel of St. Clement:**

Based on Deputy Maçon's original proposition, I would have been asking the Assembly to vote against it. However, I am delighted that he has proposed an amendment and we would now be happy to support his amended proposition, which provides additional oversight to the contingency funding process. I would also like to take this opportunity to commend Deputy Maçon for taking the time to come and speak to Treasury officials, in order to get a better understanding of the process. I am pleased to report that I have already taken measures to meet the requirements of this proposition. On 29th March, I approved the revised policy on the allocation to contingency. This is published as R.38/19. It lays out additional measures to be met, prior to the approval of funding from contingency. The policy states that, as part of the decision-making process, all funding requests must have written confirmation from the relevant Minister and Accountable Officer to approve the case and, if a business case has implications for another department, there should also be confirmation of consultation and approval from those relevant Ministers and Accounting Officers. In addition, all requests over £100,000 must go through the One Government Political Oversight Group. I will then take into account the recommendation from the States Treasurer, comments from the investment appraisal process and feedback from the One Gov Political Oversight Group before a final decision is made. Once a final decision has been made, the draft Ministerial Decision will be circulated to the Council of Ministers 5 working days before it is signed and published. If the relevant lead Minister does not wish to accept the proposed funding, then a Ministerial Decision will not be approved. I have taken note of Deputy Maçon's remaining concerns, registered in his speech. I hope that this new policy will satisfy the requirements laid out in Deputy Maçon's amended proposition and I would encourage the Assembly to approve the proposition on this basis.

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

Here we go again. This all started, if we can look back, just slightly after the elections. There was a Ministerial Decision that changed the policy for how contingency funding was to be allocated and spent. In the previous term, it went to the Council of Ministers and the departments would go to the Council of Ministers, so they could consider them, but suddenly that was changed to create this Investment Appraisal Board. Now, this was not a decision of the Council of Ministers, it never went

before the Council of Ministers, this was a Ministerial Decision that was set out by the Minister for Treasury and Resources. So, it just removes the Council of Ministers and hands the power of how money can be spent over to the new Director Generals. Then we get to the point where we are now. I am disappointed in Deputy Maçon for amending this, it severely weakens it down. Again, we are setting up a policy to remove this Assembly from having the information on what is going on. Now, I asked a question, not that long ago, of the Minister for Treasury and Resources, which was asking about the Investment Appraisal Board allocations, because in the policy itself - and it is still in the new policy - it states that: "The provision should be for one-off expenditure, there should be no recurring costs associated with this." In my question, I asked about how many of the bids, that have been approved by the Investment Appraisal Board, would require ongoing funding in 2020 and onwards. The answer was quite frankly hilarious to say that all funding for 2020 is a matter for us, though the breakdown of the amounts allocated all have requirements for extra funding in 2020. But that is not our choice, that is your choice. We have allocated £6.2 million worth of funding through the Investment Appraisal Board and the Minister for Treasury and Resources' decisions and next year we will be asking for £5.15 million, but that is not our decision, that is yours. If you choose not to do that, the money that we have already allocated goes to waste, basically, because we might as well just write off that £6 million. We do not have a choice, really, we either choose to remove £6 million that has been approved by not elected representatives, not this Assembly. We were not aware of it, it was decided by somebody else and it is up to us whether we want to make sure that that was a good investment of money, or not; that is our decision. Then we have this new policy that has been set up that says, okay, where the original proposition from Deputy Maçon was let the elected representatives of this Island, this Assembly, have 2-weeks' notice before the final say about the money, so we can have a bit of confidence in what is going on and what we could possibly be approving for following years, which is clearly the case, which goes against the policy. So, we are allocating money that goes against the policy. It goes against the new policy, the March one, that has just been allocated, it goes against the policy beforehand that we are allocating funds that have recurring costs. So, we are already in breach of the policy by the Investment Appraisal Board and the Minister for Treasury and Resources and they were saying: "We do not want you, the Assembly, to see about it again." This Assembly, the openness and transparency that we were promised, at the beginning of this Government, is not really there, is it? It is: "We will deal with it; you do not need to worry your pretty little heads." It is not good enough. We are emasculating this Assembly time and time again. We are trying to remove the powers from this Assembly time and time again. We are trying to get rid of the democratic process that this Assembly was set up for time and time again. Of course, what is being proposed by Deputy Maçon is saying that there should be a process in place. It is a step in the right direction, watered down horrendously and set with a policy that now the Minister for Treasury and Resources gets to say: "Well, I have met the requirements, because I am telling some people. I am telling some people, but you do not all get to see it. You will get to see it when the Government Plan comes and we ask for the extra money to continue what we've spent." This is not good enough and it is not respectful to this Assembly, again. I cannot wait to see what some of the new laws that we want to change, the States of Jersey Employees Law, the States of Jersey Law that we are going to wait on. How much more power is the Government going to remove from this Assembly in those amendments, that I am very much looking forward to? This is not good enough, I am not happy, as you can probably tell. Another one of my very emotive speeches, but this Assembly is elected by the people to run the Island for the people, not so that there are just a few of us that can and everyone else can be excluded. It is not good enough, it is not democratic, it is not open and transparent; it is outrageous. Where am I going to be? I am going to support it, because it is a step in the right direction, but am I happy about it? No, I am not happy about it and I do not think many other Members of the Assembly should be happy about this idea that we are going to do all this behind closed doors; just trust us.

[12:00]

#### 2.1.4 Deputy M. Tadier:

It is worse than what Deputy Wickenden says, because while it is being done behind closed doors, even the Ministers and certainly the Assistant Ministers, do not know what is going on and I have got that from personal experience whereby I knew that bids had been put in, in fact, even before I was in office, I think, the bids had gone in for the Arts Centre. Trying to find information on it was like getting hen's teeth and I think that was despite some very good, laudable, work that was going on by the officers of the department. Because, what is quite clearly happening and it is perhaps as a result of P.1/2018 and the new centralisation, of communist proportions, that is happening in Jersey, right now, that the previous Assembly voted for, I think largely in ignorance, no doubt with also an addition of going beyond what the law envisaged, which is what the new supremo seems to be doing, is that people do not know what is going on within their own departments, often. We have to wait to be summoned by the great leader to be told what is being allocated. So, definitely, the decisions have been taken out of the hands of the Ministers and to even think that the Minister for Treasury and Resources, in reality, is the one making these decisions is not true. We know that, ultimately, the C.E.O. (Chief Executive Officer) decides where the money is going to go under the new Investment Appraisal Board and if he does not like it, they will not get the money. If he does like it, they will get the money. So, we have bypassed the democratic system put in place. We could almost go home - maybe we should do that - and just leave him to that, because that is what we have got. I am disappointed that Deputy Wickenden said that this has been watered down. It has been watered down to homeopathic proportions, to the point where the original solution ... you do not even know what it was made of. There might be a little bit of witch hazel in there somewhere, but you are basically just drinking it ... we could, perhaps, make it slightly more vague. I do not want to be too harsh on my fellow Deputy but, you know, fair game perhaps. He could have said to request the Council of Ministers to think about consulting States Members, perhaps, after they have rolled a couple of dice and then, if the number 36 comes up, then maybe do that. I do not see why the amendment was necessary and that is why I was slightly aggrieved to have missed ... I was clearly busy reading the amended version and by the tenth time of reading it, I think I got to the end of it, it all seems to be one sentence even though it is 6 lines long. I do not think there is a full stop in there for those 6 lines. It has almost become complete gobbledygook. I do not see why we could have not just simply asked to agree that there should be a mechanism whereby the Minister for Treasury and Resources does not implement that. That seems to be what we are doing. We are asking the Council of Ministers to go away and then, somehow, have the debate that we should and could be having here today with us by presumably another more opaque mechanism, which will happen behind closed doors, ironically. So, it does not really make sense. That, in itself, makes me want to, perhaps, vote against the proposition, but to look at what the Deputy quite laudably is trying to do here - and he has been into the department and he has put an amendment in for the right reasons - I think is absolutely true, because it is correct. But, we do not just need to know about the decisions that have been made and I think other speakers have alluded to that. We need to know about the decisions that have not been made and also about the quality of arms that all of the different organisations that are being represented within the bids have because, certainly for my part, I know that some of the bids that were put on behalf of certain longstanding organisations they felt that they were not given the same support, or if they had understood exactly what the brief was, that they were applying for money, they would have done it differently. Because, in reality, of course, a lot of the money is for ordinary spending, because they have had to spend money in the example of the Arts Centre and perhaps the Opera House. They have had to spend money from their ordinary revenues on things which should be capital expenditure, because the things have got so bad that they have to use their ordinary money and then they are being left. To get to the point of being in April, when you are still fighting over what money you are going to get for this year is completely unacceptable. It is not a correct way of doing things. It is not good financial governance and it is not what I, or any of my Ministers, and particularly these organisations should be doing with their time. Whatever their *raison d'être* is, they should be focusing on

delivering that; not whether they might be getting the grants that they should be entitled to. Of course, behind that you have got the C.E.O., or whoever else, trying to leverage a deal for the future, a bit like what is going on with the teachers now saying: “Well, you have your money for this year, but only if you agree to do this in the future, only if you agree to become more commercialised. Actually, we might give you some money in the future if you completely go down this route.” They are not being even dealt with honestly on that level. It is strange that you have to lodge a proposition, or threaten, perhaps, in some cases, to resign, or do something nuclear before you even get graced with sitting down in front of the individual, who makes the decisions, to tell you what the state of play is and why you should not be doing it your way; that you should be doing it his way. If you are very unlucky, of course, then you get summoned to another meeting only 5 minutes later to suspend you, while the whole process of working out the bids for the next 3 years is going on and, of course, then you are forced to put a proposition in any way to ask that the particular area that you are looking at is funded properly. That is a separate debate for another time. That is the political reality that we have had and that is what we have allowed - perhaps not on our watch, but it is going on in our watch - and it is because of a flawed decision of the previous Assembly, in part, but we are allowing this. So, when people complain about the dysfunction of Government and the dysfunction of this Assembly, it is because we have allowed it. We have given up our sovereignty. We have given up our power to a centralised system. I can see some strange faces over there saying: “Well, Monty, you had better watch it, you are going to get the chop” but I do not think they can do much more to me than has publicly been done anyway and I am not saying that has been done for that reason. I will quite happily hold my hands up where I make an error, *et cetera*, but we know the political realities are that, under the current system, it has become much more centralised. We are the politicians here. We have been charged to do certain duties, either as Ministers, Assistant Ministers, as Scrutiny, or in other functions and if we do not, at least, give ourselves the power to do them, then what is the point of doing that. So, of course, let us support what Deputy Maçon is trying to do, but I just wish it had been a bit more meaty and we should be demanding that these kinds of things are made in the Assembly, not done in the dark backrooms and delegated democracy to a centralised power. Is that what Jersey has become? I seriously fear for what is going on at the moment.

**The Bailiff:**

Can I welcome the Deputy of Grouville back to the Chamber and inform her that she has made, in her absence, a contribution to charity?

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

Yes, I apologise and I will make the contribution.

**2.1.5 Deputy R.E. Huelin of St. Peter:**

Hypothetical situation, probably based on my lack of understanding. I heard about an application for some funding to the Investment Appraisal Board and I subsequently heard that it had been turned down. The request for the funding was in a subject that I have quite a lot of understanding of. If I had heard about that, i.e. this is the question, should I have heard about that application, be it turned down, or not, sooner, as this is what we are trying to solve, so I could have intervened potentially and promoted that particular investment, because it solves an issue which I think is very important, and (2) if that application for funding has a tail, shall we say, an ongoing contract of funding, so it needs a maintenance contract for the next 5 years, would that also be included within this?

**2.1.6 Senator K.L. Moore:**

I simply want to share with the Assembly the fact that since the Investment Appraisal Board process was explained to the Corporate Services Panel, we showed quite an element of concern about the process and asked exactly the question that the Deputy of St. Martin has alluded to which is: which bits are turned away and turned down and what is the process behind that? It is absolutely right that

Deputy Maçon brings this proposition to the Assembly, because we are in a funny place where it is clear - and it is very clear following this debate - that work needs to be done, serious work needs to be done, on behalf of the Government, in order to restore an element of trust and confidence, not only from within this Assembly about how business is being conducted, but also outside of this Assembly, because this Government are becoming known as a government of chaos. It is widely repeated. Week by week I hear this and **[Interruption]** ... no, I am afraid, Chief Minister, not by me. It is something that people come to me and they say on a regular basis, which is a matter of great concern and so it is absolutely right and I thank the Deputy for bringing this proposition. It is concerning that he, himself, is an Assistant Minister and feels that he has to do so, but let me reassure Members that Corporate Services have already been asking these questions and we will continue to ask the questions and we will continue to seek the information that the Assembly wishes to know, because we also have been asking the very same questions.

### **2.1.7 Deputy J.H. Young:**

I hesitate to speak and I want to balance it up a bit. First of all, I was delighted to be told that the money had been agreed by the Island Plan, because, obviously, that was accepted as a corporate priority. When I got elected in 2018, I made it quite clear that we needed proper money for that. I spoke to the Chief Executive and lo and behold it was put in the budget. Did not have to attend any meetings and so on. I thought: "This is great." So, from that respect, the system has worked for me but, of course, I have had the frustration of asking for other stuff and it sort of ... I have to say, as Minister, I do not really understand our processes as far as our financial allocation of resources. I think it is probably a symptom of government in transition. We went through a very well understood structure in budget structures of 2019 and, if you remember, I got criticised and laughed at, really, because I said to the Scrutiny Panel: "I did not know what our budget was" and that was because the officers did not know either. They knew what their 2018 budgets were, but there was uncertainty about what their 2019 budget would be, because it is all mixed up in the new target operating model structure and where the lines of responsibility are very clouded. I have to say, here we are at the end of March, I do not believe that there is that clarity yet and that, therefore, what we are promised is that clarity will come in 2020 and that we will have a Government Plan that, for the first time, sets down where the resources are and, obviously, what my expectation is, is that we will have proper political processes. My worry about that is that it is going to be a huge debate, because we have got so many elements of that Government Plan process, will it be manageable? Will people be able to get into that detail? So, I really think what has been said here; there is a task to do. My worry is about transition processes about the One Government. I think we are in danger of dysfunctionality happening in the system as a result of these communication gaps and others, which is very serious. I really expect our Executive to sort this out and part of that means proper engagement with our Ministers, Assistant Ministers and the Assembly. Now, I accept it cannot be transformed overnight, but we have to make sure that this is a transitional problem and it is dealt with, because we cannot have those kinds of uncertainties about the decisions; the reasons for them. Nothing is more important in public sector finance than resource allocation, what the purpose and objective of that resource is, setting priorities and so on. That is really crucial to the political process and if we do not have processes, which are good enough, then I think we are likely to be even more heavily criticised as a States Assembly. So, I think the Minister for Treasury and Resources will need all the support and resources to help her achieve that and I will do my best to do so and I think we should, but I think the message for our Executive is: "Look, OK, we are in a change programme, but this has to be sorted." So, I congratulate Deputy Maçon. It is probably a sticking plaster really and I think, fine, I should support it. I do not fully understand all the details. As with no result, I should be called to account. I should be called to a meeting and given a presentation and told all about it as a result of today's comments. Well, maybe I should say: "Well, can my officers join me, or the officers I am working with, so they can hear about it too?" So, I think transparency, clarity; that is where I hope

where we will get to and then restore a little bit more confidence in the public. I promise you; I am not being negative. I just think one has to speak how it is.

[12:15]

We cannot gloss over things. Reality. You know, that is what really happens. That is what being a politician means; facing the truth and then, if there are problems, owning up to them and putting them right.

### **2.1.8 Senator J.A.N. Le Fondré:**

I think I had better respond to a couple of those comments. Ministers do challenge. In fact, the Ministers today probably challenge more than before. That is certainly the case in my experience and we are supporting this proposal. In other words, we do support the principles of transparency behind it. I think the other point is that ... and this is a recollection from various times, whether it was on Scrutiny, or as an Assistant Minister, in the past. The States, since 2005, I do not believe have ever had control over the specific allocation of individual lines of item on contingency. That has been the case since ministerial government and if the ... for example, to pick up on Deputy Tadier, I will not rise to one of the points he made, but if he is wanting greater control in the Assembly then, no doubt, he will be bringing a proposition to bring back the committee system, because the consequence of ministerial government is that this Assembly, at that point, delegated and put its authority into the hands of Ministers. That is the consequence, you see, of executive government. I think the other point is, which I will pick up on Senator Moore, for example, is a number of the issues we are dealing with are a result of the mess and lack of investment we have inherited and that goes back decades. We are grappling with a whole range of those problems. I know other Members will not agree with this one, but workforce modernisation, I think, took 4 years and got nowhere. We have moved a building. In other words, we have left and we have started to consolidate on States' offices. I have been waiting for 10 years for that to take place. Freeing up Cyril Le Marquand, going towards contributing to housing. That is not strategic items, but that is a demonstration that things are changing. We are shortly going to be issuing some stuff on the hospital. I know Senator Moore has criticised that in the past; she has failed to realise that we spent £40 million plus, rejected 2 planning applications. If that is not a scandal, I do not know what is. So, that is why we have got to deal with these things differently and that is what we are doing. We are grappling with these things. We have just had the Access to Justice Law. We have just approved that. That is a progress today. We have, this week, approved the Commissioner of Children's Law. That is an improvement. That is something that, obviously, was started previously. The whole structure of the organisation was in change when we came in. That was presumably approved by the previous Council of Ministers, of which the Senator was a member. I do not recall her objections at that point. I think that is the point I make. We know, at the macro level, this organisation has had to change for a long time. There will be various aspects that different members of the team do not always agree with but, for example, we are trying to put processes in around the bullying and all that sort of that stuff. I hope everyone would agree that is an improvement. So, the point I am making and I am not trying to go off on too many tangents, I will get back to the amendment to the proposition. The point is there is a lot of change coming through. People will always be unsettled in change and, at a macro level, I fully support that change. I also accept, which is what Deputy Young has said, that occasionally, at the micro level, there will be things that are not done absolutely right and when we see them we have got to adapt them and I think that is the point he is making. So, Ministers are supporting Deputy Maçon's proposition and I do welcome his approach, because, normally, he raises this and he comes and talks to us and sometimes we can address them and sometimes they come to this Assembly. That is by far a better way of doing things if we can work together, but this level of change and the lack of investment in all sorts of areas within the system, which we have started to address in terms of communicating that to Members - there will be more communications going on over the next few weeks and months - is something that needs to be dealt with and they are immensely serious issues

that we face and there will be changes and achievement, should I say, that we will be announcing over the coming period and before the summer recess and that is all I am going to say on that subject.

### **2.1.9 Deputy K.F. Morel:**

My mum always told me never to speak on an empty stomach, because I tend to be quite angry when I am hungry and sadly I have been sat here for the past 3 hours, so I am hungry. I just hope I am not too angry either. I just want to start by saying, when Deputy Maçon lodged his initial proposition, I remember I was in ... I saw it come through on the email. I read the propositions. The next day, I was in one of the fine establishments in the Royal Square, sitting outside there and I congratulated the Deputy on his proposition, because it was something we desperately needed because, going back again, back July, August, when the Investment Appraisal Board first became known, I remember having conversations then. I was shocked at the fact that the Minister for Treasury and Resources had basically just handed over democratic oversight of these hugely important financial decisions to a bunch of officers and with the sense that the Minister just signed off on it. That was the first real question that came into my head about what is happening in the Treasury Department. Who is in charge in the Treasury Department? That was the first time I really wondered, because the Investment Appraisal Board seemed designed for officers and not for democratic oversight. So, Deputy Maçon's proposition was welcome relief. I was very pleased somebody had at least stood up and said: "We need to change this. We need to have democratic oversight of this Investment Appraisal Board." What then saddened me was to see this amendment and I completely agree with Deputy Tadier. I am someone who reads. I am someone who writes. I am someone who knows the English language. Ten times to work out what this said, this amendment. It is incredibly badly drafted. It is drafted in order to mean nothing. That is the truth of it. I have got a bit highlighted here that Deputy Ward highlighted, because I think it is only the end of it, the last ... everything after the one piece of punctuation in there, the one comment that is in there; that is really the bit which matters in this. I was very disappointed, but it was just an amendment and as the report says on that amendment ... Deputy Maçon says: "I have put this forward following feedback from the department, so the Assembly can express its view and make a choice." I was like: "Well, that is OK." We will get to vote on the amendment and, hopefully, in my view, it will be defeated and then we could vote on the original proposition, because Deputy Maçon had promised to allow us to make a choice. Unfortunately, what we saw occur earlier - and I appreciate you were not sitting in that chair at the time - but I did not see or hear the amendment being put to the Assembly as such. I heard a brief conversation between Deputy Maçon and the President ... the person who was sitting in that chair referred to them as President of the States at the time. I am not sure properly how to refer to them ...

### **The Bailiff:**

The Presiding Officer.

### **Deputy K.F. Morel:**

The Greffier, yes, in that position - the Greffier - and it was a conversation between those 2. At no point did I hear, or see, the Assembly referred to, or asked about that personally. So, it is a huge shame for me to be faced with only having to vote on this amendment, this proposition, because this says nothing. What then further vexed me was to hear the Minister for Treasury and Resources stand up and say: "We should adopt this. We should vote on this." Because that, basically, is tacit acceptance that the Minister for Treasury and Resources had not put in place the proper oversight of the initial decision back in July, August to set up the Investment Appraisal Board. By accepting this, the Minister for Treasury and Resources accepts that the job was not done properly last year when the Investment Appraisal Board was set up and there lies my problems with the Treasury Department, or the Treasury ministerial team. We saw yesterday, in the Public Finances Law, there are serious problems. We saw the Management Revenue Assurance Law ... I cannot remember exactly the name. There were serious problems. When I hear the Chief Minister talk about looking at the macro and

the micro level, I appreciate there is a distinction there and I appreciate it is the role in the many ways to look at the macro level, but I think there is an inability to look at the micro level in the Treasury Department, because I do not see ... and I think there is an inability to challenge officers within the Treasury Department, because if that was the case, we would not have these problems coming through, constantly. Everything that has come before us, pretty much, has had problems, real serious problems, from proposals from the Treasury Department. So, now that we know that the Minister for Treasury and Resources basically accepts that there were not enough safeguards in place when the Investment Appraisal Board was created and set up, but she is willing to put her name to something, which barely provides any further safeguards, I do not understand how we can support this proposition. I think better to walk away to say: “No, let us not support this proposition” and then come back. I will stand up and come back with a proposition, which does address the problems and does provide the oversight and does provide the clear democratic accountability that we need the Treasury Department to have in its operations, because I agree, we are bit by bit picking apart what is democratic oversight, that we are elected to maintain. We are handing it over to unelected people and unelected officials. It staggers me. It makes me concerned for the very future of democracy in this Island and it really worries me. I do look to the Chief Minister to please make sure your Council of Ministers stop this handing over of democratic accountability. Not everything can be done for efficiency, because if everything was meant to be purely as efficient as it could be, we would have one person making all the decisions and all the rest of us would go away. That is where pure efficiency lies. There is a reason for democracy and there is a reason for accountability and that is to make sure that decisions are made in the main for the majority, but for the betterment of society, for us to be able to progress into the future as a community, not as a dictatorship, but, unfortunately, we seem to setting down that road. So, I am caught in a really strange situation where having been delighted with Deputy Maçon bringing the original proposition - and it could have been amended to have emergency aspects included, so that the Minister for Treasury and Resources could have dealt with those things - I am now in the position where I have seen the Minister for Treasury and Resources accept that she did not put enough safeguards in in the first place to the Investment Appraisal Board. I am losing confidence, personally losing confidence, very quickly in the Treasury ministerial team and that may be something we see more as things come, but I really want this Council of Ministers to get a grip and to understand that they have to be on top of their briefs and they have to be scrutinising. As the first level of scrutiny, they have to be understanding exactly what is put before them; that they have read the laws that they are proposing, because I am not convinced that always happens and that they know what is going forward and where the holes and the problems and the deficiencies are, so that they then challenge the officers to get that changed, so that this is not left to us to have to argue these things in this Assembly all the time. Because, there are problems and if the Council of Ministers do not get to the bottom of problems, the next few years are going to have a lot of these sorts of speeches happening, put it that way, particularly when I am hungry. So, I am still undecided, because the Investment Appraisal Board needs appropriate safeguards and needs democratic oversight, but I am afraid that I do think Deputy Maçon has destroyed his own proposition with his amendment and I find that hugely ... I appreciate he is also a part of the wider ministerial team and the Council of Ministers and maybe there was pressure brought to bear which led to that, I do not know, but we are not really voting on very much, I am afraid. Perhaps it is better to reject this and somebody come back with something which does the job.

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

Again, like yesterday, I have really been up and down, but I could not let that last speech go, because there are 4 Deputies behind me who should have gone to Specsavers and they were deciding which one they were going to support; the amendment to the amendment, or the amendment, while Deputy Maçon was asked by the Presiding Officer: “Did he want to take this amendment as amended by himself and does the Assembly accept it?” I am only sitting ... and I am a lot older than these Deputies and I heard very clearly: “Are we all agreed?” So they are very angry, they missed it, where they are



discussing behind me: “Which one is best? Which one shall we go for? What do we like?” We have been accused ... we are the Government of Chaos. It has been told we are the Government in chaos. We do not look at the finer print. Well, this Council of Ministers are not whipped by collective responsibility. I am going to tell you we have meetings that are supposed to go on to 2.00 p.m. We are still there at 6.00 p.m., because it goes around and it goes around until we are sure that we are sort of there and we are not. To accuse Deputy Maçon then of being a ... Deputy Maçon can defend himself.

[12:30]

He is one of my Assistant Ministers. He is being novel, because he is an Assistant Minister in 3 departments. Works very hard in 3 departments, reads all the laws in 3 departments [**Approbation**], can rely on him on P.P.C. (Privileges and Procedures Committee), the Planning Committee and nobody else is reading anything. Ministers are bringing forward things that they did not write. [**Members: Oh!**] We did not write laws that we are bringing to this Assembly. Well, as I said yesterday, we would get very worried if I went away and I could ... you know, I will sit at my kitchen table and knock up a new Social Security Law overnight. [**Laughter**] Very simple. You give me more money, I will pay you more money out and you can have your pension when you are 60 or, *et cetera*. It does not work like that and I understand where Deputy Morel is coming from and he has been here a year and he is really keen. He reads everything. Does he not think we do not read everything? I have been challenged by Scrutiny. I was going into my quarterly hearing and the Mental Health Law review came out the night before. I told the Deputy next to me, I had to get up at 5.00 a.m. in the morning and read it and I have to read it twice, so I reread it to go in. They said: “We did not want to ask you questions on that today, because it only come out yesterday.” I really, you know. Sometimes ... and I have been asked to do what ... I have got a law coming. I know the Deputy is scrutinising it. Have I read it? I sleep on it. I sleep with it. But did I write it, no. It is something personal to me and I will go into that debate another time. But, sometimes, you do have to keep up in the debate. You really have to when the Presiding Officer is asking where we go, what is happening and then not get the ... basically when you missed it. “Oh, you did not hear.” We accepted the amendment as the amendment and if people ... 14th March, I have just read the amendment to the amendment was lodged. So, if it was watered down then ... and the Deputies behind me are saying: “But we would not let the Deputy amend his own amendment. We would have said no.” Well, the Deputy is in charge of his own amendment to the amendment and the amendment. So, if the Deputy did not like where it was going, the Deputy would have had every entitlement to say: “I am not continuing this debate.” So, really, we have had some really strange ... we have got again the debate on the end of democracy. We micro manage. We want to micro manage. Bring everything. I say: “Go back to committee.” Bring everything to all of us and we will still be where we are when we get to the next election in 3 years’ time. We really will, because this is how you wanted to go. I have told people: “I would rather go back to committee.” I do not care. It does not bother me. All of us in it, all of us make the decisions together, absolutely. That is the democratic way to go and if people do not like P.1/2018. People do not like it. I said it yesterday: “Go back.” Someone, have the courage of your commitments and bring a proposition to that effect. We will have the debate and we can put it to bed, but please do not accuse people of being nobbled. Nobody is reading their laws. Yes, I admit we are not writing them and that is all I will admit to, but please stop saying that today is again the end of democracy and again if you did not like that amendment, amend it yourself, or bring another. You can bring another amendment. We are all here and that is what a great thing this Assembly is. We can all bring anything. We can amend anything, bring a proposition to what you want to do. Whether you get one vote. I have known politicians over the years not even to get a seconder and they have spoken for 2 hours, but that was their right and you know.

**The Bailiff:**

I think, if it is not seconded, it is not their right, Deputy, but still. Does any Member wish to speak? Then I call on the proposer to reply.

### **2.1.11 Deputy J.M. Maçon:**

I thank all of those who have contributed to the debate. Despite how it may look, I think it has been very healthy to have a good vent and express the views, whatever they are, today and get it out there, which is why I wanted to bring my debate to get those people who might be mumbling in corridors to put on the record exactly they thought, which is healthy for a democracy. In particular, I thank people like the Deputy of St. Peter and the Deputy of St. Martin, who have spoken, who re-enforced some of the matters I wanted to address, so I thank them for their support. The Deputy of St. Peter has asked a specific question and the answer - I am going to give apologies for one - is yes and no, because, in the example he gave, what the board might say is: "This is better to be put in annual expenditure and it might be better if that was done through a different process." So, I hope that answers his question. Yes, the Chief Minister was absolutely right. This is just talking about contingency spending; it is not talking about budgeted for approved expending to the various departments and he is right in saying ... and this is what I got from the department: "This is how we have always done it. What is the problem?" Well, yes, OK, this might be how you have always done it. Are we entirely happy with that process? What I am asking for Members today is to agree: "No, we think more refinement is required around this particular amendment." Then there was lots of criticism about me and my amendment and how it kind of all went and how people were disappointed and not happy with it. Of course, just for Members, when they start learning when they lodge their own propositions, of course, the wording is supported by the Greffe, not necessarily what a Member were to put down. The paper has to go through a process of refinement, but I am not passing the buck. Of course, it is my amendment and I approve it and therefore I have to take all responsibility for it. All I would say is to those Members who have criticised me for amending my proposition, you know, the decision to the Minister for Treasury and Resources around the I.A.B. (Investment Appraisal Board) was last June, almost a year ago. What exactly have those Members done when they have had those concerns, since that period of time? As Senator Moore says, it has fallen to me, as an Assistant Minister, to come forward and say: "Okay, enough is enough. We have got some grumbles about this. Let us put it on the table and get it sorted." While some Members might not be happy with my amendment, what it is doing, is I proposed a result. Upon reflection, officer advice, that would not have worked, so what I have said is: "Come back to the Assembly and say, collectively let us engage with the process. Let us all come together and let us all support the Minister for Treasury and Resources and coming up with something which we are happy with", because Members are not necessarily happy with how it is going. So, if Deputy Morel has got the answer, because today I do not have the answer, if Deputy Morel has got the answer, Deputy Tadier has got the answer, bring it. Come forward. Let us hear it. Let us understand the process and be constructive to Jersey, instead of saying: "Oh, no, I do not like this. Let us put it in the bin." They have had plenty of time to lodge their own proposition, plenty of time to lodge their own amendments, if they do not particularly like this one. This might fall flat and States Members say: "Thank you very much, Deputy Maçon but no, thank you" and then fine. Ball in those Members' courts. They can come forward with something, but do not criticise me for doing some work, when some people have just been moaning in the background. **[Approbation]** That is an angry Deputy Maçon. Look, I am asking Members, if you are not satisfied with the policy that the Minister for Treasury and Resources has got, let us work together, let us say: "Yes, we do want to consult with States Members about how we can refine this process, how we can make it better." I am conscious that we are almost getting close to lunchtime. I will finish there and ask for the *appel*.

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

I do have a question for clarification. Why on earth would Members lodge an amendment to a proposition that they are entirely happy with?

**Deputy J.M. Maçon:**

Members will know the procedures of this Assembly and, alternatively, if Members are not happy with how the proposition now stands, it is their right to vote against it and they can lodge another one. There it is. As I have already said, Members would have been aware of my amendment and would have understood why what I proposed was not going to work.

**The Bailiff:**

The *appel* is called for. I invite Members to return to their seats. The vote is on the proposition of Deputy Maçon, as amended, in relation to the Investment Appraisal Board and I ask the Greffier to open the voting.

<b>POUR: 45</b>	<b>CONTRE: 2</b>	<b>ABSTAIN: 0</b>
Senator L.J. Farnham	Deputy S.M. Wickenden (H)	
Senator S.C. Ferguson	Deputy K.F. Morel (L)	
Senator J.A.N. Le Fondré		
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. Tadier (B)		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy of St. Ouen		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (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)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

**Deputy J.M. Maçon:**

I thank Members for their support.

**Senator L.J. Farnham:**

I wonder, I know it is not quite time, but given the next item is potentially quite substantial, I might wonder if we could propose the adjournment for lunch.

**The Bailiff:**

I am just wondering whether, Minister for Home Affairs, we might deal with P.32/2019 before lunch.

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

I was going to make that very suggestion myself.

**3. Jersey Police Complaints Authority: re-appointment of members (P.32/2019)**

**The Bailiff:**

Very well, if that is convenient. We will come to P.32/2019, Jersey Police Complaints Authority: re-appointment of members and I will invite the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion, in accordance with Article 2 of, and the schedule to, the Police (Complaints and Discipline) (Jersey) Law 1999, to re-appoint Mr. Graeme Marett and Mrs. Diana Taylor-Cox as members of the Jersey Police Complaints Authority, for a period of 3 years.

**3.1 The Connétable of St. Clement (The Minister for Home Affairs):**

I am very pleased to propose the re-appointment of Mr. Graeme Marett and Mrs. Diana Taylor-Cox as members of the Jersey Police Complaints Authority. They have both served since 2013, so under the guidelines of the Appointments Commission and good practice this will be their final term. So, I am grateful for their excellent service over the past 6 years and I am pleased that they have allowed their names to go forward again. Indeed, I might like to take this opportunity of thanking all members of the Authority for the service that they continue to give to the Complaints Authority. I make the proposition.

**The Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? All those in favour of adopting it kindly show. The *appel* is called for. I invite Members to return to their seats. The vote is on the re-appointment of members to the Jersey Police Complaints Authority and I ask the Greffier to open the voting.

**POUR: 46**

Senator L.J. Farnham  
 Senator S.C. Ferguson  
 Senator J.A.N. Le Fondré  
 Senator K.L. Moore  
 Senator S.W. Pallett  
 Senator S.Y. Mézec

**CONTRE: 0**

**ABSTAIN: 0**

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. Tadier (B)  
Deputy J.M. Maçon (S)  
Deputy S.J. Pinel (C)  
Deputy of St. Martin  
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)  
Deputy I. Gardiner (H)

## **LUNCHEON ADJOURNMENT PROPOSED**

### **The Bailiff:**

We stand adjourned until 2.15 p.m. this afternoon.

[12:42]

## **LUNCHEON ADJOURNMENT**

[14:17]

## **COMMUNICATION BY PRESIDING OFFICER**

### **The Bailiff:**

#### **4.1 Request for urgent oral question from the Connétable of St. Helier:**

The Greffier received, from the Connétable of St. Helier this morning, at an early hour, which is a tribute to the Connétable's hard work, a request for an urgent question which was in these terms to the Chairman of the States Employment Board: "Will the Chairman explain to the States why the S.E.B. has failed to reach an agreement with the Island's teaching unions?" I have been considering the application for an urgent question. The particular Standing Order which is in question is Standing Order 15 and I am not going to allow the question and I want to explain why. I would normally have done this privately to the Connétable, but he raised it in the Assembly this morning, which is why I am dealing with it publicly now. Standing Order 15 says: "A Member may not, less than 30 minutes before a meeting commences, seek the leave of a Bailiff to ask a question at the meeting." If one looks at Standing Orders as a whole, it is clear that today is part of a meeting which started yesterday, because it is a continuation day and on an ordinary reading of the Standing Order it seems to me, therefore, that an urgent question should be put to the Bailiff for consideration not less than 30 minutes before the first day of a meeting. Now, I am advised by the Greffier that on previous occasions it is possible - no one has found an example yet - that urgent questions have been allowed, notwithstanding that they have arisen during the course of a meeting, because the circumstances, which triggered the question, arose after the meeting had started. I have to say that it seems to me that Standing Order 15(1) is not framed as it should be - the Chairman of P.P.C. is not here at the moment - but I do suggest that Privileges and Procedures look at Standing Order 15(1), because it seems to me to be undesirable that it is in the terms that it is and there must be circumstances when something arises which is urgent and where it would be desirable that during the course of a meeting that it should be possible for the urgent question to be put. I would feel more worried about the decision I am taking on a technical basis if I thought that the question ought to be allowed anyway and I do not. The reason for that is that the test under Standing Order 15 is whether, or not, the question is of an urgent character and whether it relates to a matter of public importance. Well, it is quite clear, in my view, that the question of an agreement with the Island's teaching unions is a matter of public importance. No doubt about that at all. The question is whether it is urgent and it seems to me the position is that everyone has known for quite a long time that a teachers' strike had been called for today and for other days in May and, on balance, I think the question, as put, could easily have been asked earlier in time and, therefore, I do not regard it as being urgent. So, for these 2 reasons the request for an urgent question is not accepted.

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

I am grateful.

#### **PUBLIC BUSINESS - resumption**

#### **5. Beaulieu Convent School Limited: provision of a loan (P.26/2019)**

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

Right. So, we now come to the next item on the agenda, which is P.26/2019, Beaulieu Convent School Limited: provision of a loan, lodged by the Minister 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 authorise the grant of a loan to Beaulieu Convent School Limited for the purpose of investment in capital projects and to increase the school's capacity and facilities; and (b) to agree that the loan shall not exceed £7.3 million, shall bear interest at a fixed rate of 4.25 per cent per annum, and shall be repayable over a period not exceeding 20 years on terms to be agreed with the Treasurer of the States.

**Senator J.A.N. Le Fondré:**

Can I just declare a slight interest? A member of my family receives teaching services from the school. That is a good way of putting it and many years ago I used to do the accounts for the school. Neither of those are pecuniary in terms of ‘directly’ and, therefore, I am just declaring it, but I will be taking part in the debate.

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

The Assistant Minister will bring this proposition to the Assembly.

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

Before he does, I did declare it with the Greffier earlier this morning, but I would also like to declare that my family firm dealt with Beaulieu over a period of 25 years. I have since sold my interest in the business and no longer have any ties with the school. I would like to make that clear and I will be taking part in the voting.

**The Bailiff:**

Are there any other interests that Members wish to declare?

**Deputy T. Pointon of St. John:**

I would like to declare that I have 2 nieces, by marriage, who attend the school.

**The Bailiff:**

I think that is absolutely safe. I have driven past the school myself and I do not think there is an interest. [Laughter]

**5.1 Deputy L.B.E. Ash of St. Clement (Assistant Minister for Treasury and Resources - rapporteur):**

I stand, on behalf of the Minister for Treasury and Resources, to propose the provision of a loan for Beaulieu Convent School, to allow them to invest in capital projects to increase the school’s capacity and its facilities. The directors of Beaulieu School have identified, in their most recent strategic plan, the need to establish a phased programme of works to deliver essential new capital resources. This will help to ensure the school’s long-term sustainability and meet the needs of an ever-developing curriculum framework and the associated school requirements. This loan will support the school’s continued partnership working with the States, allowing them to continue to provide the best possible learning environment and opportunities for generations of students to come. The total loan proposed is for up to £7.3 million. The majority is to be used for the development of the new facilities with up to £300,000 required to consolidate existing loans that were provided by previous Ministers for Treasury and Resources to the school in 2008 and 2014. Both these existing loans are due to repay fully in 2022, but it makes financial sense to consolidate all the loans together to give the school greater certainty over future cash flows. This Council of Ministers’ Common Strategic Policy has, as its number one strategic priority: “We will put children first.” This project aligns to that priority through its direct impact on improving their educational outcome. This project includes the development of a new sports centre and the redevelopment of the existing gym at the school, both of which will be instrumental in improving pupils’ well-being and physical health. I would encourage Members to consider this proposition on its commercial merits, as I have done. The proposed interest rate of 4.25 per cent provides an appropriate fixed return to the Consolidated Fund over the next 20 years. It aligns with other loans, provided by the States and reflects the long-term nature of the debt. I have taken advice from the independent Treasury Advisory Panel, which has been very helpful in recommending covenants to accompany the loan, to assist officers with regular monitoring. The panel also recommended the amalgamation of the existing loans into one, single facility. Separately, I have commissioned an independent assurance review that has focused on the governance, cost risk

and affordability of the school's project. This review concludes that the project meets the business case assessment criteria, varying the Treasury's own model and it therefore recommends proceeding with the loan, as detailed in the proposition. Beaulieu School and the States of Jersey have a well-established history of collaborating on capital projects, through the provision of loans and grants, dating back almost 20 years. The school is an important provider of primary and secondary education and if it did not exist the capacity at state schools would need to increase at a direct cost to the public and potentially compromising future pupil education. I believe the provision of this loan secures a long-term effective partnership between Beaulieu, the States and future generations of pupils, and I commend this proposition to the Assembly.

**The Bailiff:**

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

**5.1.1 Deputy K. F. Morel:**

I have eaten now and am much less hungry and angry. I had thought of bringing an amendment to this, but then did not, because I was not sure whether it was the appropriate thing to do, or not. I would like to ask the Assistant Minister, he mentioned this is commercially a good deal for the Government, but I do question that. I am not questioning the good intentions behind this. I am purely thinking of it in commercial terms and protecting the public purse. Interest rates are very often higher than 4.5 per cent. Historically, you might find, and I am just looking now, interest rates are often between 5 per cent and 10 per cent rather than below 5 per cent. We have become accustomed, over the last 10 years or so, to extremely low interest rates and now, even though the Bank of England base rate is 0.25 per cent, I think if you went to get a mortgage, you would find it hard to find one for less than 4 per cent, or 4.5 per cent. My concern is that interest rates could rise, or almost certainly will rise, as they only have one direction to go in. If they were to exceed 4.25 per cent, if Bank of England base rates were to exceed that, then the public purse would begin to lose as a result of this loan. I would like to know if a rate, not necessarily variable, but one that was paid so it is always a minimum of one per cent above the base rate, or something along those lines, was considered. If it was not, why not and if it was considered what was the reason for choosing against that? If you were to go for a regular residential mortgage, you would find it hard to find a lender willing to give you a loan for longer than 5 years at a fixed rate. They usually review them after 5 years and ask you to re-fix them, precisely because interest rates have moved over that time. We are looking at a 20-year timeframe and we are saying 4.25 per cent is an appropriate rate. We really do not know where interest rates will be in 15 years' time. If interest rates are 10 per cent, as they have been, think back to the 1980s when you had 14 or 15 per cent interest rates. Would we be losing out? Essentially, would we be losing the public purse by 10 per cent? That is my main concern and had I brought an amendment, it would have been to peg it 1 per cent above base rate once base rate had exceeded 4.25 per cent. That is the question rather than anything else.

**5.1.2 Connétable M.K. Jackson of St. Brelade:**

Would the Assistant Minister be kind enough to clarify the ownership of the school? It strikes me as being incredibly convoluted. We have St. Meen Properties, the Convent School Limited, the Trust and I think there is someone else involved, as well. I am curious to know where the security lies. It indicates it is on the property. Is it on the property? Is it on the land? Who owns the land? Then it says somewhere it has been passed to the public of the Island, so I cannot quite understand the link between all 4 bodies.

[14:30]

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

While on the Education and Home Affairs Scrutiny Panel we recently conducted a post-16 educational review, a magnificent piece of work, if I say it myself. [**Laughter**] During the course of



that, we met with Beaulieu and we were introduced to the Beaulieu Institute of Technology, a wonderful qualification that is delivering business and I.T. (information technology) or tech, or digital, skills, not only to Beaulieu students, but this is available to students across the Island and I believe it is free from whichever school you come from. It is this sort of initiative that I found was outstanding during conducting this particular review that was taken by Beaulieu itself. If we are supporting such a loan and I hope we will be supporting a school that has been courageous and brave in broadening the education for the future of our Island.

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

I want to start by saying I am going to support this proposition, but I did pause and consider whether I would. I attended Beaulieu myself and FCJ. The schools we have on this Island are all wonderful schools and the faith schools that receive state funding are no exception. I have an ethical concern about these schools that I want to raise at this point, because I think if we are giving state funding and loans to these schools, we should be considering the ethics of doing so. As these are such wonderful schools, parents are very keen to send their children there. They are brilliant places to learn. They are so nurturing. When I look at the admissions policies of these schools, it makes me uncomfortable, because I understand that the faith schools want to maintain the ethos of their schools, but I am uncomfortable with the schools selecting by religion. I wanted to get that out there and I think it is something we should consider. If we are giving funding, we should consider the basis we are giving that funding for. I would encourage the schools to reconsider their admissions policies, because there are families, from all different backgrounds, that would like their children to attend these schools for different reasons, other than faith. I think those families should have an equal consideration much in the same way that families, who would like their children to go to the States fee-paying schools, as well. I will be supporting this proposition, but I wanted to raise this point as something that we should be considering in the future.

#### **5.1.5 Senator J.A.N. Le Fondré:**

The view I take on this is that it is consistent with a number of loans that have come out of Treasury in a number of years for what I will call a social interest loan, to the extent that, for example, various Parishes in the past have received ... I believe they have always been fixed rate loans at a particular rate to the aim of social Parish, or sheltered, housing. In this instance, it is more about investment into educational facilities and that is why I think it should be absolutely supported. Going back and I hesitate to use these words, but in a past life - they do echo the words of a former Deputy of St. Helier and I think he used to use them frequently - I will attempt from memory to assist the Connétable of St. Brelade in his queries. Loosely, the land is owned by the sisters, or the nuns, of Beaulieu and the Order and when it became clear as the school evolved that they were no longer going to be present they, in essence, gifted the land and the buildings and essentially the school to the Island. The way it was done - and I believe it was the actions of the late Senator Christopher Lakeman might have been involved as well - was that a trust was set up that owned 2 companies, one St. Meen Properties Limited, which, I think, owns the land and the other is the Beaulieu Convent School Limited that is, essentially, the operational unit. I do not know if that structure is still the same, but that is what I understood and, at the time, it was very much recognised this was a gift to the Island. But it was done in that structure that kept the independence and the ethos of the school and things like that. That is why you have that structure and it was a legal set-up by a well-respected lawyer, property in one pot and operationally in the other pot and a board of trustees at the top. I hope that helps.

#### **5.1.6 The Connétable of St. Ouen:**

I wish to pitch in with the debate about interest rates, not least for the opportunity to debate something with my former colleague from the finance industry is always a bit of fun. In answer to Deputy Morel's suggestions that the interest rate could see us come unstuck, looking at the Bank of England yield curves it suggests that inflation will peak in 10 years' time and that interest rates and inflation

will thereafter dip. Also, there is the further factor that schools need to have certainty in budgeting and a fixed interest rate, from their point of view, is probably the best way forward. My own view is the Deputy of St. Clement has put enough margin in that to cope with any future rise in interest rates and I think the rate over a 20-year period is a pretty fair rate. If interest rates do go above that, there is sufficient meat in that to cover the short term where we are receiving a rate above what is payable in the market. I think if they climb later on, that will more than cover the potential deficit. Looking at the figures from the Bank of England, I cannot see them getting to 10 per cent again, because with Brexit round the corner, I do not think inflation is ever going to allow that to happen in the foreseeable future. From a financial perspective, I am very happy to support the Deputy's figures and from a wider perspective I think it is a good thing to lend money to and support education, even if it is not state education. So, I, for one, will definitely be supporting this proposition.

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

I too have my reservations about faith-based education, but I think, in this case, what I want to point to and why I am loath to vote for this is that we have to see that in the wider view of what our post-16 education is, for example. We have 6 institutions delivering post-16 education for a population of 104,000. You would not see that anywhere in the U.K., or any other country with that much variety. 6 institutions catering post-16 for a population of 100,000. It is enormously inefficient to just assume the award of a grant to expand facilities at one place where often people have a limited range of A levels they can do, or examinations they can do, where classroom sizes are sometimes completely uneconomic; classes of 2, 3 or 4, instead of classes of 10, or 20. We need to examine post-16 education in a wider view and examine what we are doing and how we should best deliver it with a wider range of options and probably fewer post-16 centres, rather than more. In this case, although it seems very ungenerous and mean-spirited not to vote for this, I do not think I can, because it must be seen in a wider-ranging review of how we deliver post-16 education on the Island more efficiently.

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

Just a query. I note that Beaulieu already have 2 loans that are due to be paid back in 2020 and 2022. Can the Minister confirm that these will be paid on time?

#### **The Bailiff:**

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

#### **5.1.9 Deputy L.B.E. Ash:**

I would like to thank some Members for answering other Members' questions, which is always quite helpful. Firstly, the Constable of St. Ouen summed the interest rate situation up pretty well. Interest rates can move around and it is not for us to try to second-guess where they are going. We are not in the business of speculation. I do not think I ever tried to state this is a phenomenal commercial deal. It was just a commercial deal and it provides an appropriate fixed return to the Consolidated Fund over the next 20 years, as I have said. We then moved on to the Deputy of St. Peter. I thank him for his comments. I have heard that it is an exceptional digital and it is being offered to Island schools throughout, which is fantastic. Not just in schools, would it not be great if we had more collaboration among all Island bodies in that way? Thank you for your comments on that. I would like to thank the Chief Minister for his comment in clearing up the ownership of the school. It is quite a convoluted ownership, as you say and indeed the original question from the Constable of St. Brelade. As far as it being a faith school yes, I think originally it was very much a faith school; in the days the headmaster was a nun, who was a redoubtable figure, I understand, at the school.

#### **The Bailiff:**

Was he a nun? It was a very progressive society. [Laughter]

#### **Deputy L.B.E. Ash:**

It has moved now from that. While it is still a Catholic school by name and probably by its values, it now has a considerable number of non-Catholic pupils. It does not discriminate against taking pupils from any faith, so I think it is slightly wrong to single that out.

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

Point of order, please. I think the Assistant Minister is inadvertently misleading the Assembly there. The school has an admissions policy that puts Catholic families at the top and non-Catholics, so it does discriminate.

**Deputy L.B.E. Ash:**

It may take Catholic families first, because it was primarily a Catholic school, but it does take people of any faith and has a substantial number of non-Catholic faiths. I do not want to turn this into a faith issue but the Catholic Church in Jersey, in many ways, does a tremendous job and I think Senator Mézec would agree with me, particularly in the poor areas of St. Helier where the charity Caritas does tremendously well. **[Approbation]** I think it is wrong to try to turn this into a faith issue and I do not wish to do so. That leaves me with Deputy Southern and I agree with him. We do have the post-16 offering, but one thing that will go on with these new facilities is they will be shared with the other schools in the vicinity, which is a good thing. Other schools, such as J.C.G. (Jersey College for Girls) will have access to these, as well as the digital site, so I think that is important to remember. Senator Ferguson’s question; it is being collaborated into the new loan and thus will go on with the new loan to be repaid with the new loan. It is consolidated.

**Deputy K.F. Morel:**

Point of order; the Assistant Minister has not answered my question about the Treasury protecting the public purse and it was about has a variable rate, or a pegged rate, been considered? If not, why not and if yes, why was it discarded as an option? That was my question.

**The Bailiff:**

I am not sure you quite sat down, but yes, you need to answer that.

**Deputy L.B.E. Ash:**

I am happy to answer that. It was not considered to peg as far as I am aware. I will read him the tab. “The Treasury Advisory Panel review concluded they are happy to recommend that the Minister for Treasury and Resources proceeds with the loan of up to £7 million into Beaulieu School, with a fixed rate of return”. That is what we did and we are in line with other loans we have made to St. Martin’s to convert their school into a community centre. It is very much in line with everything we have done. Can I now commend that and call for an *appel*?

**The Bailiff:**

The *appel* is called for. I would like Members to return to their seats. The proposition is on the provision of a loan to Beaulieu Convent School Limited and I ask the Greffier to open the voting.

<b>POUR: 45</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 0</b>
Senator L.J. Farnham		Deputy G.P. Southern (H)		
Senator S.C. Ferguson		Deputy S.M. Ahier (H)		
Senator J.A.N. Le Fondré				
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				
Deputy J.A. Martin (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 of St. Martin				
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 J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

## **6. Climate change emergency: actions to be taken by the Government of Jersey (P.27/2019)**

### **The Bailiff:**

We now come to P.27/2019, Climate change emergency: actions to be taken by the Government of Jersey, lodged by Deputy Ward. I ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion – that there exists a climate emergency likely to have profound effects in Jersey and that in order to deal with this situation – (a) Jersey should aim to be carbon-neutral by 2030 and the Council of Ministers is accordingly requested to draw up a plan to achieve this, for presentation to the States by the end of 2019; (b) the Council of Ministers is requested to publish, with the forthcoming Government Plan for 2020, a climate impact assessment on the proposals set out in the Plan; and (c) the Chief Minister is requested to ensure that consideration of action to tackle climate change in Jersey is included as a standing item on the agenda of the Council of Ministers.

[14:45]

## **6.1 Deputy R.J. Ward:**

I bring this proposition, because we must consider climate change to be the greatest threat to our way of life and our children's future. I am aware that some Members may consider there are more pressing matters for this Assembly. I agree there are other issues we need to address urgently. However, there is no issue so directly relevant to the long-term future of our small Island. Last year, the International Panel on Climate Change, the I.P.C.C., released a report that states that the average global temperature increases must be kept within 1.5 degrees centigrade to avert climate breakdown. It makes clear climate-related risks to health, livelihood, food security, water supply, human security and economic growth are projected to increase with global warming of 1.5 degrees and increase further with 2 degrees earth / sea rise. That is risks to those areas. The report is also clear in its message that the next 10 years will be crucial to limit global temperature rise and avoid the worst impact of climate change and the answer is clear: rapidly de-carbonise the global economy. I have included a report with the proposition that shows data in regards to clear and real effects of climate change that are happening today and what is forecast to come. I am not going to explain the science in this forum, or justify the huge mass of science that identifies climate change as real, current and having recorded increasing effects on our planet. Why declare a climate change emergency? There is one simple reason: to shine a spotlight on to the effects of climate change on this Island and beyond and to create a focus for the Government of Jersey and the States Assembly on the actions we must take to combat this threat. It also joins many other councils and jurisdictions in taking action and we must recognise the opportunity we have in joining this wider community. As a small island, our impact will be minimal, compared to some, but together with many towns, cities, districts and countries we can make a significant difference. We can also set real and achievable targets. Being carbon-neutral by 2030 is absolutely achievable. By voting for this proposition today, we commit to making it happen. Jersey does have emission targets. They are a reduction from 1990 levels of CO2 emissions by 80 per cent by 2050. This is too little, too late. The recent I.P.C.C. report demonstrates that previous targets from Kyoto and this is what this reflects, must be reassessed. This proposition reflects this reassessment. I am very pleased that the Parish of St. Helier - and I thank the Constable - has already declared a climate emergency and from this action we hope to set up a working group of St. Helier residents that will be directly involved in changes to be made. In fact, we meet this evening. This is direct democracy in action, something for which we, as an Assembly, must strive. We must move forward, beyond our fears of change, to the way we use fossil fuels and look at the real dangers and costs that come from failing to make the necessary change. I urge you to think about the real cost of our current reliance on fossil fuels across the Island and consider a wider idea of long-term costs to the Island and our communities of uncontrolled climate change. The second part of the amendment requires the Council of Ministers to publish a climate impact assessment for the elements of the Government Plan. This will ensure the climate is an ongoing consideration to our future plans. This enables policy makers to have climate change included as an integral factor in their planning. This is the key to making lasting and sustainable change to our behaviours that will impact in a positive way to reduce emissions. This must not be considered as an onerous task. Instead, it must be seen as an opportunity to add the depth and quality of the Government Plan and future-proof the actions that are being taken. The final part of the proposition places climate change as a standing agenda item for the Council of Ministers. This again should be considered to be a positive step. It is only when we are consistent with our actions and thoughts that we address the issues as an ongoing process. Examples of this in businesses, in education: when there is a new initiative at every meeting it would be on the agenda, be it differentiation, or literacy, or within businesses customer service. Any of these issues are standing items in the meetings of their workforce and the Council of Ministers must be considered the leaders of the workforce on this Island, so, therefore, it must be a standing order to be discussed at every single meeting. Cultural change and that is what is needed here, will not come about without us all working consistently and keeping the topic of our climate on all our agendas. Finally and I am going to keep this short, because

people may want to speak and I know there are other things to talk about as well, the I.P.C.C. report makes, among others, this important conclusion and I quote: “Strengthening the capacities for climate action of national and sub-national authorities, civil society, the private sector, indigenous peoples and local communities can support the implementation of ambitious actions implied by limiting global warming to 1.5 degrees centigrade. We must be part of this strengthening of action to act on our climate change now and into the future.” There is a Greek proverb that says: “A society grows great when old men plant trees whose shade they know they will never sit in.” The impact of our decision today may not be immediate, but it will be long-lasting. Finally, we have seen young people involved in climate strikes. Whatever your opinion on this action, I urge you not to ignore, or dismiss, this movement. We fail to listen to the voices of young people at our peril. We must take onboard the real concerns they have for the future and the need for urgency in our response and, as suggested by that 16-year-old Swedish girl, who has got in everybody’s minds, Greta Thunberg, we must act as though our house was on fire. I urge you to support this proposition unamended.

**The Bailiff:**

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

**6.2 Climate change emergency: actions to be taken by the Government of Jersey (P.27/2019) – amendment (P.27/2019 Amd.)**

**The Bailiff:**

There is an amendment by the Minister for the Environment. I ask the Greffier to read the amendment.

**The Greffier of the States:**

1 Page 2, paragraph (a) – For paragraph (a) substitute the following paragraph – “(a) the Minister for the Environment should assess how Jersey might become carbon-neutral by 2030 and is accordingly requested to draw up a plan as part of the first 5-year review of the Energy Plan to achieve this, for presentation to the States by the end of 2020;”. 2 Page 2, paragraph (b) – For paragraph (b) substitute the following paragraph – “(b) the Minister for the Environment is requested to carry out, as part of the process for drawing up the forthcoming Government Plan for 2020, an examination and assessment of more ambitious policies to accelerate carbon reduction, to include an assessment of the use of fiscal levels to change behaviour and raise awareness, and the output of this work will inform the review of the Energy Plan referred to in paragraph (a) above;”.

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

First of all, I do want to say I am grateful for Deputy Ward bringing this proposition. As the Minister for the Environment, it is my job to respond, within the context of our government policy processes, because there is no question, in my mind, the proposal that Jersey moves to being carbon neutral by 2030 is a very substantial commitment and will involve a lot of change, which I think is important, we have processes to recognise. So, the Deputy and I certainly share the objectives in reducing our contribution to global emissions and those that we are responsible for. Of course, as a Member, when I was previously in the Assembly in 2013, I worked with the then Minister for the Environment, former Deputy Duhamel, and we worked together on the Pathway 2050, which is our current Energy Plan. Of course, I remember there was debate about whether, or not, this could just go, but I pushed for it to go to the Assembly, because I thought it was important that we have a policy that is backed up by a States’ decision and we are in that situation today. Now, I do not think today’s debate, an important one, is about whether we believe in climate change, or whether we should play a part in reducing our contribution to global gas emissions. We have already done that. We have already made that commitment, in 2014, when Pathway 2050 and the Energy Plan was agreed and we set out policies for then which were, for us, ambitious, but they were ones which were adopted by other jurisdictions. So, obviously, we should all be committed to that policy, to ensure energy security,

affordability and sustainability. Of course, we have a thing called the Energy Executive, which leads that work and the Minister for Infrastructure and I - who hold the waste and transport portfolios, areas which are crucial to our energy supply and demand - work closely together and I believe we continue to deliver the programmes and policies. We published the report on years 3 and 4 of the plan. We published that in October 2018 and it is all there. It has been on the website for some time, with all the details and, of course, the important thing is that part of that process is our carbon emissions are accounted and validated through the U.K. inventory, using science of the experts. We are, at the moment, on track to achieve the 2050 target of 80 per cent and that, of course, was in line with the international community and the Kyoto Protocol, which the U.K. extended to Jersey on our behalf, in 2007. Now, we are on time. We are well into 2019 and our current focus contains some carbon reduction policies, alongside carbon reduction within energy saving. For example, support for Islanders to increase energy efficiency in their homes and subsidise energy audits. A scheme was successfully completed on a major investment on those in more economic need. That is completed. Several millions went into that. There are arrangements for parking subsidies for electric vehicles. We have upped the building bylaws, which people complain about a lot, where new buildings are required to be low carbon and energy efficient and, of course, we have seen improvements to our bus services but, frankly, we all know nowhere near enough; so a programme of 100 per cent grant-funded energy efficiency. Of course, that is where we were when that Energy Plan went to the States, but things have changed and I absolutely own up to this. My generation have not responded positively enough to climate change since we first started to hear about it in the 1970s. So, I think now we have no choice but to urgently address the global challenge and I am totally persuaded by the latest scientific evidence that these earlier targets to reduce emissions were not enough to stabilise our atmosphere and avoid the serious detrimental impacts. Of course, there is mounting evidence globally that we all need to do more and, of course, so inspiringly, Deputy Ward is absolutely right that the younger generations have set the lead on this. It is absolutely moving to see that and they are demanding that government lead by example and I share their arguments and wish to do that. So, I hope you recognise that I am supporting the intentions of Deputy Ward's proposition, but I have to explain, obviously, why I brought this amendment, because it is my job as Minister to balance ambition with reality and realism and ensure that the decisions made in here are really going to be delivered. I was sharing with the Constable of St. Ouen the other day ... the States, I believe, holds the Olympic medal in signing up to worthwhile intentions and doing absolutely nothing **[Approbation]** and while I am Minister in this role, I will not see that happen. I do my best and my amendment seeks to commit the States to the objectives of Deputy Ward's policy and I will outline how I think it does it. Now, some of this is a little bit technical. I apologise, but I think it is important to have it on the record. As of today, our emissions are 57 per cent lower than in 1990, as a result of our switch to a decarbonised electricity supply. Jersey's electricity purchase contract ensures that one-third of our electricity is certified renewable, in our case coming from La Rance tidal barrage, while the remainder is low carbon nuclear sourced and our annual *per capita* emissions are 3.8 tonnes of carbon per person, compared with the U.K. of 7.1 and Guernsey at 6.4 tonnes of carbon per person but, of course, we cannot rest on that.

[15:00]

We have 124,000 diesel and petrol vehicles and I understand about 700 of those are hybrids. I apologise if I have the numbers wrong. I think the Minister for Infrastructure's figures recently showed that. Of course, we have very large numbers of our community space heating homes from oil and gas and, of course, they are the main source of our current carbon emissions. The work in the plan was that, by 2020, we would complete the 5-year review of the Energy Plan and that means working with stakeholders. Stakeholders are the oil, gas, electricity companies, users, others and we will assess. We know where we are being successful and where we are not, but draw upon latest evidence to ensure that Jersey continues to act in line with leading jurisdictions. I think this is a good time to take stock, so it is my intention to produce the Energy Plan, to accelerate carbon reduction,

including carbon neutrality by 2050 and to set out in detail the actions, policies and measures, which will be required in the Jersey context and it will not be easy, but of course, fortunately, in Jersey we are in a better position than in the U.K. We do not have some of their polluting sources. Of course, we cannot ignore costs and social impact, which I will talk about in a minute. This is a technical issue, but it is important. We need to probably define what carbon neutrality we mean. I interpret it as meaning a zero net carbon footprint and that could be achieved by reducing the volume of carbon emissions we release into the atmosphere, or even by 2030, without any residual carbon emissions being reduced and carbon emissions being reduced to zero, then we will still have to look at other means, such as carbon offsetting, or sequestration. In other words, using natural resources like soils and grasslands and woods to absorb excess carbon. But, of course, the capacity to do that in a limited land area of Jersey is extremely limited and, therefore, there is a number of major factors we have to consider. For example, what about aircraft emissions? We are totally dependent on airfreight and our tourism industry is heavily reliant on it and that raises the issue of whether you think it is proper, or not, of these carbon credits. That is a system where you buy into international carbon fixing projects. Of course, they are generally overseas and Deputy Guida, my Assistant, has done some fantastic calculations. If you want calculations on anything, Gregory is your person. He is outstanding. He has done the maths and we are talking about \$10 million per annum additional cost, to deal with that, which of course we could deal with by additional funding through international aid. That is enhancing our reputation. That is one possibility. It is an issue to be looked at and thought about and of course how are we going to get that money, which I think raises the questions that the proposition seeks to achieve? So what do we mean by 'neutrality' and not 'zero emissions'? Should we focus on-Island, or extend our concern to include the embodied energy in our goods? Every piece of goods that comes into Jersey has got embodied energy in it. The batteries, *et cetera*. It is all in there, so we need to have a real look at that in detail and make our decisions on what our policy base is and so that even with the most aggressive emission reduction programmes, which I certainly would be keen to advocate, we are going to have residual carbon, which we need to deal with on those issues. I believe that accelerating the progress will put greater ambitions around demand of management, stronger building regulations, also the transition to low emission and almost certainly electric vehicles and space heating and that probably means phasing out oil and gas. We are going to have to consult on those policies and present them to the Assembly, make no mistake. Those are what we would have to look at and so we need to be careful to avoid unintentional consequences of such a commitment and consider this carefully as part of the work that I seek to do. For example, to avoid fuel poverty, because the most needy households will be less able, or unable, to make the transition and evidence elsewhere shows that and so we are very likely to provide some sort of schemes of support for such households and we need the means of paying for that. Another reason is to look at the wider context of our energy market, to ensure that market competitors and the security of supply remains and I think there is such a substantial body of work to do that if we are meaningful about being carbon neutral by 2030, then I put forward that the amendment is designed to help us do that. I asked in the proposition that Members charged me to work with the Ministers to review the plan, which is scheduled and the resources that we all have available is part of the plan up to 2020. I will commit to bringing forward proposals to do that but, of course, the decision of whether we do that will be this Assembly when you see that report and I think it is absolutely essential. Just looking at the second part of my amendment, I propose a second part of my amendment where Deputy Ward suggests a climate impact assessment of the proposals to link in with our Government Plan. Of course, that needs to ensure that the Government Plan takes account of any carbon impact. While that is important, all the advice I have been given is this is not achievable in the very short timescales we are working on to finalise the Government Plan, nor is it the best use of our work. I have had the comments of the Energy Forum, who also say that it is useful, but only at a high level. My alternative is to use the Government Plan to help us reach our current and future carbon reductions, which are likely to be more stringent and it asks that I am charged to work with the process, the Government Plan, to assess how we use particularly fiscal levers to change behaviour. That will be necessary. I



cannot see how we can achieve accelerated carbon reduction without that and, of course, we are all aiming at the Common Strategic Priority about the environment. I know we all do not have to read that and there is, of course, already a piece of work taking place on that, the Government Plan work being done by the Revenue Policy Board that seeks to develop revenue raising measures as part of that work. That will explore the fundamental principles of environmental taxes and charges and we have yet to see the fruits of that work, but that will come forward as part of the Government Plan. If we are to have more aggressive policies, I think those things are essential and those measures need to be appropriate and fair, so we need time to work those out. The work in the area we will investigate using those taxes. For example, reviewing vehicle emissions duty and revenue to invest in sustainable travel initiatives, further improvements to our bus service and active travel and how we have designed these will need to protect vulnerable people and it is not easy to do. We know that environmental taxes are charges and are not easily welcomed by the public, but there is evidence that if the public see a reinvestment into measures that benefit the environment, they will accept them. We need to have a proper debate about a subject, which is seen as rather academic but it is real, a thing called “hypothecation”, which is a fancy word for “ring fenced”. Up to now, the States have never been prepared to do this and it is something we have to be prepared to look at in the Government Plan. I think by amending the proposition, there will be explicit recognition that we have to consider and discuss these wide range of quality interventions, including taxes and charges to accelerate carbon deduction and I am not asking you to sign up to that, but I am asking you to sign up to a process that would lead to this. The reason why I am spelling it out is I think it is important to understand the scale of the task and I think Deputy Ward has more than adequately covered the reasons why we need to do this. My job is to achieve it, so we do not continue to hold the gold medal in the Olympic lead for non-delivery. I ask that the States: support, please, the most effective use of this Government Plan and, of course, just an example of the things we need to avoid in the previous Transport Plan, which did not quite work successfully and lots of Members have made criticisms of why it has not worked and what happened. The recommendations in that plan to introduce such charges were ducked. They were in the plan, but the States did not adopt them and, of course, therefore, that has reduced our effectiveness. We have made progress, but not enough. I think there are 2 issues between Deputy Ward’s proposition and the amendment that I have brought as Minister to try and give structure to the purpose. We are not at odds, but the 2 issues are points of detail but, for me, they are important. The first is Deputy Ward proposes we do that work now, separate from the Government Plan, which will mean, in my book, that says it will be disaggregated and there is a real risk that it will not join up with the other pieces of work we are running on and, of course, I am going to ask myself: “Where is the money coming from?” We already had a discussion this morning about the Investment Board. Can we assume that there is necessarily going to be the money for that? There is certainly the money for the work on the Government Plan. That is one issue where my proposition says: “Use the existing method to do it” and yet the Members have a choice. On the second part, I think that Deputy Ward’s proposition needs to have actions in it. It needs to be more specific and I think everybody I have spoken to agrees with that and so my amendment would be he puts in place more mechanics and more focus, to ensure that the intention behind the proposition can be achieved. If it helps Members, those are the 2 issues between the amendment and the substantive proposition. Of course, Members may not go with the whole thing. I would be very surprised, because given the whole situation, there is no doubt addressing this subject is absolutely top international progress. Certainly the U.K. is going to adopt those targets and I want to see Jersey along with them, but the 2 differences are really ones of detail of how we get there. I am going to ask the Greffier if I could have separate votes on part (a) and part (b) of my amendment, which I think will allow Members to make the choice about whether they prefer to go off on an *ad hoc* basis or use the Government Plan in the first one or, in the second one, to focus on some actions which we absolutely need to do and will need to do anyway. I make the amendment.

**Senator K.L. Moore:**

Sir, can I ask the Solicitor General a question about the points that the Minister is making?

**The Bailiff:**

Can I take things in order first? Is the amendment seconded? [**Seconded**].

**6.2.2 Senator K.L. Moore:**

My question is that the States Assembly, surely, can direct the Ministers to include items in the Government Plan and, therefore, the suggestion is inaccurate that Deputy Ward's proposition could not be included in the future Government Plan.

**The Bailiff:**

I am not sure if that is a matter for the Solicitor General, because as I read the proposition, it does direct the Chief Minister, or the Council of Ministers in any event. The Council of Ministers is requested and the Chief Minister is requested, so there is no question of direction on the original proposition.

**6.2.3 Deputy M. Tadier:**

I think early on in this debate it is worth quoting from Greta Thunberg, that young Swedish student, who has already been referred to and I think she has impressed people across the world, politicians and civilians alike. She said: "You say you love your children above all else and yet you are stealing their future in front of their very eyes. We cannot solve a crisis without treating it as a crisis. If solutions within the system are so impossible to find, then we should change the system itself." I think the Minister is a very capable individual and I think he is probably, in many ways, the most qualified person in this Assembly to be doing his job, but what I am hearing is the same old conventional language that does not understand that this issue of climate change is like none other. It is an issue which is not defined by the traditional lines of the economic left and right, or the usual axes of authoritarian and libertarianism.

[15:15]

Although it will necessarily engage all of those points and it will mean that there are going to be serious discussions and ideological clashes that will come from the consequences if we are going to act on climate change. Another thing that Greta Thunberg said is: "I want you to act as if your house is on fire". When your house is on fire, you do not say: "Okay, well, this is a real emergency. We need to get an organising committee to decide what the Government are going to do about this, or what our household is going to do about this. We need to call an urgent family meeting certainly within the next couple of days to see what we are going to rescue within the house and to see how we are going to do it." You get out of the house. Now, clearly, we cannot get off the earth, which is the analogy which Greta is making, but we need to treat this as urgent action. We cannot use the same old tired conventional logic, conventional economics and conventional politics which has got us into the mess in the first place. We have to accept that urgency is required and I would ask the question: what would Greta do? If Greta was in the Assembly, or Greta was the Minister for the Environment, would she say: "That is fine. We can wait 18 months before we even get to report back to the Assembly on this very important issue that we are all grappling with" or would she say: "Let us get together. It is still early on in the year. We still have 8 months left of this year for the Minister to report back to the Assembly with what he thinks are the issues." Because, the issues that he has highlighted are all valid questions and I will give an example of why this is going to be a really tough issue, because I think we are all guilty of an element of agnosticism. Certainly I have been in the past when it comes to climate change. We talk about climate change denialists and really it is not climate change denialists who are the problem. It is the people who know and should know and accept, at some level intellectually, that climate change is real. We accept the science, but we do nothing about it, despite that. Those are the real people in society. That is where the real problem lies. The majority of people have accepted it, but yet either refuse to change their lifestyles, or feel

powerless to do so and, clearly, there is an element of this - without wanting to stray into the main debate - about personal responsibility versus government responsibility and again with big businesses' responsibility on the other hand. We all need to change our lifestyles. We all need to change our expectations. Big business needs to be forced to change because, quite frankly, it is not going to volunteer to do that and government needs to learn to think outside the usual political boxes to resolve this very urgent issue. When I watched the documentary - which, hopefully, some others saw, with Sir David Attenborough, so really this has been brought into the mainstream, as I said yesterday, addressing the crowd in the Royal Square - for too long, the environment and climate change has been seen as a minority interest, a minority pursuit and it can no longer be allowed to be that. It is something that is so fundamental, it does not matter whether you are a right-wing libertarian, a neo-liberal, a socialist, or a communist, or even a fascist living on this planet. There will be no inhabitable planet for many millions of people if we do not get to grips with this very serious issue and it may well be that it is on us sooner than others have predicted. When I watched that programme, I went through a phase of being sad at what we have done to the planet and despondent at the fact that it may not even be possible to change what is happening, but we certainly can try and slow it. I felt guilty on a personal level that I was partly responsible with my lifestyle and with others for getting into this mess and not taking sufficient action individually and I also felt angry at what we have done to the planet and the fact that we may not be able to get out of that, so all of those combined, but left ultimately with a sense that we need to act urgently. I suspect this proposition is going to go through, in one form or another, and that is the easy part. It is easy to sign up to this, but if we fall at the first hurdle and say: "It is not that urgent, Minister. You can go away and come back in 2020" and I know the Minister's intention is that he wants to do a proper job and come back with the relevant information, but he can do that anyway, quite frankly. The Minister does not need permission from this Assembly to act over and above what the Assembly has asked him to do, so it is right that he comes back at the end of this year and reports back to us with as much of the information as he can. If he then finds there are other areas that he needs to explore and, clearly, he is not going to solve the whole environmental crisis himself for the whole world in the space of 8 months, but he is not going to do that in 18 months either, so he can come back to the Assembly and he can report back to us. The other issues, which we can talk about in the next part, will require serious discussions about how we live our lives, the expectations that we put on society and what we expect and are willing to give up the compromises that we can make, but that is for a discussion in a moment. So, I would genuinely ask Members to not be tempted to support the amendment by the Minister, which, I suspect, is being done for the right reasons, but it is also being done because he is being advised by the same old political logic in the background. No offence to these people. They are some very clever people. No doubt, some of the advice he has been getting also is not from the Environment Department. It is from the other technocrats in other departments saying: "You have got to wait for the Government Plan" but, quite frankly, we cannot wait for the Government Plan for all of this. States Members are quite within their rights to bring propositions to this Assembly and especially when it is something as urgent as climate change.

**The Bailiff:**

Minister, I wonder if you would just clarify something for Members, please, if you would. You have indicated that you wanted to take the voting on paragraphs (a) and (b) of your amendment separately. That is correct, I think, is it?

**Deputy J.H. Young:**

I referred to (a) and (b). My understanding is that the substantive proposition has got a preamble which I am not seeking to change and the main proposition has got an (a), (b) and (c). The intention of my amendment is to substitute alternative paragraphs (a) and (b).

**The Bailiff:**

Yes. If you look at (a) and (b), I am just wondering if you could explain to Members how (b) can stand if paragraph (a) is rejected. If paragraph (a) is rejected, then the 5-year review of the Energy Plan is not going to include the assessment, which is requested and if that is so, then the forthcoming Government Plan review in paragraph (b) will not inform the review of the Energy Plan referred to in paragraph (a). I was not quite clear I followed what you meant.

**Deputy J.H. Young:**

Yes, I have to bow to your judgment, at the end of the day, but in my head, paragraph (b) I considered it stood alone, because the Energy Plan still exists, whether or not my part (a) goes through, or not. The Energy Plan was approved by the States in 2013, so that still is the case. So, reading that, my paragraph (b) would say that the Minister for the Environment should do the work in the Government Plan to bring forward policies, including all those things in there about fiscal measures, to plug into the Energy Plan so, if you like, we get both. Obviously, there would be an issue that if they are in the Government Plan then, possibly, that may replace the Energy Plan. I do not know; I would need to look back at the propositions, but I did think they were separate processes.

**The Bailiff:**

I see, so the intention is that there is going to be a review of the Energy Plan anyway; therefore, whether (a) is passed or not, the drawing up of the forthcoming Government Plan under (b) will inform the review of the Energy Plan which is taking place?

**Deputy J.H. Young:**

Yes, that was what was in my head.

**The Bailiff:**

That is the proposal?

**Deputy J.H. Young:**

Yes, you have summed it up beautifully.

**The Bailiff:**

Thank you very much. As long as I understand, thank you.

#### **6.2.4 The Deputy of Grouville:**

I am very pleased to be part of a Government that has, for the first time, put the environment as one of its strategic priorities [**Approbation**] and it reads: "We will protect and value our environment." I feel I was part of the strategic development meetings that contributed to that, so we have it here. I must confess, I rather like Senator Moore's suggestion that what Deputy Ward has brought forward, which is a really good proposition, if that were included as part of the Government Plan as a direction, as opposed to a request, I would have no problem with that. Because, thus far, I feel that whenever the environment, or doing things - and I have certainly had my battles, as Members will know with the standby charge - with renewable energy, it has been nothing more than words. We really need to start putting words into action, so I will have no issue, whatsoever, if it was included in the Government Plan, as a direction. I feel that we have simply got to start taking this seriously. It was recognised in the Paris Agreement that the plus 2 degrees' temperature cap is not safe and not acceptable. I wonder how many people have thought of this in the Jersey context. I live in the vingtaine of Le Marais in Grouville and if people do not know what that means, it means marsh. Plus 2 degrees of the marshland in Grouville, we have Samarès Manor, which floods, we have St. Peter marshland and I would like to see some figures, some real-life scenarios of what is going to happen to this Island if - and we are heading that way - we reach the plus 2 degree increase, so we have got to start considering things in those terms. We have got to be more ambitious and rather than just add our name to a list of countries that are declaring an emergency, a climate emergency, while we can

do that I would like us to be a lot more ambitious than what we have been in the past and we certainly can be. We are a small Island and if we all act together I think we can achieve really rather a lot. We boast about being the sunniest place in the Channel Islands, in the British Islands, in fact and sunniest place in the British Isles and yet we have to fight to do renewable energy, for the solar panels, for the J.E.C. (Jersey Electricity Company) to not impose a standby charge. We ought to be encouraging alternative energy. We have tidal and wind power on our doorstep. We need to harness these things; we need to look at this issue so much more seriously than what we do. The plastic bags is a good initiative. The one-use plastics, it is good, it is a step in the right direction and I think it certainly brings into people's mindsets the direction that we need to go in. I must confess, I was a little disappointed with the Minister for Infrastructure's recent article where he was suggesting replacing all our vehicles with electric. Well, I would like to see us think about how we do not have to replace all the vehicles, we can look to different modes of transport, offer alternatives so people ... Members must be so sick of me going on about the Eastern Cycle Network that still is not here and now we are still not providing a safe cycle route for people from the east of the Island, or indeed the north. So, as a small Island, we could be doing so much more. We could be so much more ambitious in what we are doing. We have everything on our doorstep, but climate change for this Island is real. We have the marshlands and we need to start thinking what will happen, what our Island would look like with the plus 2 degrees. I would like to see the Environment Department bring forward some scenarios into what that looks like and it is not scaremongering. It is not scaremongering, this is real and we have got to think along those lines. I will be wholeheartedly supporting Deputy Ward today.

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

I was not quite clear whether the previous speaker is supporting the amendment, or not, but in any case I am just going to try and clarify for Members what appeared to me to be some very important differences between the amendment and the original proposition.

[15:30]

First of all, to turn to paragraph (b), I agree with the Minister that his amendment, I think, probably improves the proposition and I hope Deputy Ward will not mind me saying that. There are these troublesome few words at the end, that the Greffier has already identified which says "referred to in paragraph (a) above". Because, if paragraph (a) of the amendment is rejected, as I believe it should be and paragraph (b) is accepted, then of course the Energy Plan is not referred to in paragraph (a) anymore, because that bit has not got through. But I understand from your ruling, Sir, that that will not be a problem should Members wish it, as I hope they will, that they will reject paragraph (a) of the amendment, because it weakens the proposition, but they should accept paragraph (b), because I think it strengthens it. Why does paragraph (a) of the amendment weaken the proposition? Well, if Members look at paragraph (a) it says the Council of Ministers is requested to draw up a plan to achieve carbon-neutrality and it is only an aim; it is right that it should be an aim, but the Council of Ministers is requested to do that. The amendment gives the job to the Minister for the Environment, which I know he said in his remarks that he was pleased about. I think he, or she, is the person who will champion that in the Council of Ministers, but I think it is still right that the Council of Ministers should be signing up to this and not just the Minister for the Environment. It is too important to give to one Minister. But, the crucial difference between the amendment and the proposition comes in the last word of the proposition. If Members look at it, it says "by the end of 2019". Well, the amendment says "by the end of 2020" so what kind of emergency is it that we are going to give ourselves another year to do this piece of work? I was delighted when the Parish Assembly took a similar proposition on board on 27th March of this year and became the most southerly local authority in the British Isles to declare a climate change emergency. **[Approbation]** Nobody had any problems with the date of 2019 and I have to go back to my parishioners, by the end of this year, with a proposal about how I mean to tackle the enormous challenges of going for carbon-neutrality by 2030. The good parishioners of St. Helier were not happy with 2030, they voted an amendment to bring it back

to 2025. So, we have really got our work cut out and thank goodness that I have not been given until the end of next year to come back to the Parish Assembly with my proposals. We have only got the end of this year and that is why we are meeting this evening, to have a workshop; it is not even our first meeting. We are going to meet regularly, because we know we have to get back to the parishioners with our proposal. So, I would urge Members not to accept paragraph (a) of the amendment, because it does weaken the proposition. It effectively means it is not an emergency at all, because we have just given ourselves an extra year to do this study. I agree with the Minister; I think paragraph (b) is an improvement. Although I would just send a little shot across the bows of the Minister for the Environment, because the words he has chosen among the suite of proposals is he says that we will assess the use of fiscal levels to change behaviour and raise awareness. Well, have I not heard that before in this Assembly? I have been hearing that for 20 years. In fact, when we debated the budget quite recently, the Minister I know was thinking about bringing forward some measures to tackle some of the least-sustainable things we do as an Island and he said: "No, better leave it until the next budget." Well, I hope we are going to do more than assess fiscal measures. I hope the fiscal measures are going to be in the next budget, because if they are not, then we are not serious about climate change. So, I urge Members to reject part (a) of the amendment, but I am quite relaxed about accepting part (b).

### **6.2.6 The Deputy of St. Martin:**

There are some statistics come out of the U.K. today that show that voters there give the highest priority, since 2010, to the environment and climate change issues; 24 per cent of voters in the U.K. now have those subjects on their top 3 personal priorities and the number has doubled in the last 18 months and I ask Members the rhetorical question: why might that be? One of the people who may well be responsible for that has already been mentioned today and that is Sir David Attenborough. I can go back to remembering, some time, not quite 18 months ago, now a series called "Blue Planet" and I am sure many of us here will have seen that. I am proud to say that when I was the Minister for the Environment, I went into the offices on a Monday following the weekend, it was either the second or the third programme in that series and sat my officers down and said: "We need to do something and we need to do something now" and I am proud that I was part of that alliance that went out and spoke to people like Sheena Brockie, Surfers Against Sewage, identified a scheme that this Island could sign up to and move forward. I drive an electric car and my family at home divide their waste into 6 different streams in the larder and dispose of it properly and I take my dogs for a walk on the beach specifically so I can pick up plastic while I am doing that, so I would like to think I am doing my bit. I said, when I stood for the post of Minister for the Environment last year, that there is no question that climate change is the greatest challenge that faces our globe at the moment and I am reiterating that today. But, I am on the horns of a dilemma here, because one thing I do not like doing is being hypocritical and I need to say to Members we really, before we decide which of these 2 options we take, and we will take one, what carbon-neutrality means. You could jokingly say: "What does it mean to Deputy Higgins in his air display?" or those of us who value our car rallies, or our bonfire nights, but more seriously, what does it mean for plastic use? It is not just about plastic bags, it would be every little piece of plastic that you see around this Assembly, or as you walk down the street, what it would mean for the travel on and off this Island by plane and by boat and the consequences of that for the business community. Because it is a thriving and prosperous business community that we would need in order to receive the taxes that pay for that over £10 million a year cheque that we would need to write to balance those 270,000 tons at around 40 dollars a go, so we need to just consider that for a minute. I am pleased that we are on target to meet our Kyoto Agreements and we have done a lot of work in that respect and the Minister has already alluded to that. But be under no illusions that we have done the low-hanging fruit, we have done the easy bits and it gets tougher and tougher. But we know where the problems are and we know where we can go to reduce our carbon further and that is quite simple, it is on our cars and vehicles and it is in homes. The Minister has the ability, he has alluded to bylaws already, to go away from this Assembly

today and immediately sanction an increase in the bylaw regulations to make homes carbon-neutral. We are getting very close to that now, but we could go further quite easily and do that, so I would look to him to do that. But I have to say, I agree with the Deputy of Grouville. I was very bitterly disappointed yesterday with the Minister for Infrastructure when I asked him the question about 23 spaces for electric vehicles on Pier Road. It is a minor thing. He could immediately have made that decision on the spot and said: "I will go away from this Assembly and instruct officers to put 23 spaces" and we need to do more, because we have not been good at doing more. We have not been good at providing those charging points, we have not been good at providing additional parking charges. I remember, after the Sustainable Transport Policy went through the first time, anything that came out of that was the increase in parking charges. It came back to this Assembly to enable that policy to start to work and the Assembly threw it out, so we need to do more on sustainable transport. When I propose bus lanes, I do not expect - and they are sensible propositions - officers and Ministers to come back and say: "No, we do not think that is necessary." We need to do more about waste charges; I cannot understand how, if we are going to sign up to this, we are not going to sign up to charging people for disposing of their waste. It is all one and part of the same thing; it is all part of saving the environment. So, I am going to support the Minister today, in his amendment, because I think it is a better way forward, only because some of these changes are going to be so major that we need that little bit more time to consider them properly. I take the view of the Constable of St. Helier on board, that we need to act immediately, but some of these changes will be so big we really do need to consider the consequences. But - and I say this as a final remark - the Government Plan is only a matter of weeks away. I say to the Minister for Infrastructure and to the Minister for the Environment that if I do not see enough in that Government Plan in June that indicates that they are really serious about tackling this issue, well I will be bringing amendments.

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

I would like to follow on from the Constable of St. Helier here about the differences between the main proposition and the amendment proposition and I think they are quite fundamentally different. The (a) of the main proposition talks about we should aim to be carbon-neutral by 2030 and it is achievable as long as we do it, it is a hard target. If you go to the amendment, it says that the Minister for the Environment should assess how Jersey might become carbon-neutral. So, it goes from Jersey and every part of the Council of Ministers, every part of the Assembly, every Parish, every school, every citizen to one person assessing. So, not all of us, not the whole of Jersey, just the Minister for the Environment will assess and we take it from everyone to one. That is a fundamental change in what we are trying to achieve, or we definitely should be trying to achieve, is there. Then again, we go to part (b) in the main proposition and it says that the Council of Ministers is requested to publish with the forthcoming Government Plan, so not as part of it, with it. So, we have got the Government Plan, but we also will publish this impact assessment on the proposals that are set out on the plan. We get to the amendment that we are looking at now and it says: "The Minister for the Environment is requested to carry out, as part of the process for drawing up the forthcoming Government Plan for 2020, an examination and assessment ..." so, it is not published, it is not an action, it is not going to be done, it is just going to be part of the work of the Government Plan. Now, I do not know about anyone else in this Assembly, I do not know what is going to be in the Government Plan, I do not know what figures we are going to get, I do not know what breakdown we are going to get, it is not clear. I know what the M.T.F.P. (Medium Term Financial Plan) looks like. The Government Plan could come with just 7 figures and they are the heads of expenditure monies. I do not know, because we have not had a briefing, we have not had that information; I do not know. Could the Minister, in his summing up, tell me what is going to be in the Government Plan? We have just seen from the Chief Minister 2 requests for us to come and see what the Government Plan will look like. Presentations, one is on 7th June, the other is on 12th June, but we are going to be debating whether we are going to have a Government Plan on 4th June. So, again it is: please can you approve this and we will give you the information on what you have approved later? Fantastic, it is great. So, it

is fundamentally different, this amendment, to what is trying to be achieved here. One is: can we have this and can we do that and can we do it all together? Another is: can one person just go away and look at this and just trust them to do it? So, is this an issue that affects the whole of the Island and we should all try and act on it and all try and have a target as the elected representatives of this Island, or should we just ask one person? Should we go back to this, let us get rid of all of us and just put one person in charge? Because, again and again, is this where we are coming to in this Assembly? I cannot support something that is so unambitious and so fluffy and does not have any detail and does not promise anything. It just says: let somebody go and look at it; not: let us do something. So, I am not voting for this, it weakens what the whole aspect of what we are trying to achieve in the main proposition is. I absolutely have best of faith in the Minister for the Environment, I really do. He is passionate about the environment and everything, but it is not one man's job, it is all of our job, and this does not meet the requirements of what the people of Jersey want. Therefore, I will be voting against it.

#### **6.2.8 Connétable K. Shenton-Stone of St. Martin:**

I am happy to support Deputy Ward's proposition. Climate change is real and climate change is the great existential threat of our century and we need to ensure that we do what we can to prevent major environmental upheaval from our pollutants. Indeed, if it is part of the Assembly's duty to help to continuously improve the welfare of both the Island and its population, then taking the necessary steps to ensure that the Island we know and love today is not irreversibly damaged should be seen as an essential component of our work and something that I would urge the Council of Ministers to fully act on.

[15:45]

Yesterday, 30th April 2019, polling released by Opinion found that 63 per cent of the British public feel that they are in a climate emergency; 76 per cent said that they would vote differently to protect the planet and climate; 64 per cent say that the Government is responsible for taking action on climate change. Jersey cannot risk falling behind on such a crucial issue. We are very well placed to act on this. We have a myriad of resources, we are not an impoverished Island, we can do something, we can do it now and I urge Members to support this proposition and to act with urgency.

#### **6.2.9 The Connétable of St. Lawrence:**

I would like to put it on record that I like our Minister for the Environment; he is an affable chap. He is easy to get along with; you can have a chat with him on probably any subject, at any time, but today I am surprised at what he has brought to the Assembly by way of his amendment. Because, knowing his wholehearted support for the environment, I would have expected him to stand here today before us and to lead the charge on behalf of this Assembly to first acknowledge that there is indeed a climate change emergency and, secondly, to lead a concerted effort towards achieving a target of carbon-neutrality by 2030, as Deputy Ward has requested in the substantive proposition. Instead, he has smiled at us endearingly across the Chamber as he presented his amendment, but he has given us many reasons why he cannot work towards the simple, straightforward request made by Deputy Ward. He has told us it cannot be done. I think the Constable of St. Helier picked up on that, because he has been here many years more than I have in the Assembly, but I have been here long enough to have heard it said: "We cannot do this, because there are difficulties. We would like to achieve this, we would like to do this but, frankly, we cannot." When it comes to our environment - and Sir David Attenborough has been mentioned a couple of times today, and what we have heard from Sir David over the past few weeks and months - we cannot afford to accept really what we are hearing from the Minister for the Environment and, as I say, I am disappointed in him. He should be championing the environment at every opportunity within this Assembly and without. He is the person who speaks on behalf of the environment within the Assembly and without. He should be leading the charge on climate change and I urge him to do that from this day hence in a robust manner.



Members should not support this amendment, rather we should by rejecting it and, by rejecting it, send a clear message to the Minister and to his department that we want them to make a concerted effort to draw up the plan as requested by Deputy Ward for Jersey to achieve carbon-neutrality by 2030. The only way we can get that message across to them is by rejecting this amendment.

**6.2.10 Deputy I. Gardiner:**

Sometimes we need to use strong words to alarm. Climate Change Emergency is the title. Some Members in the Chamber might consider it is not an emergency, some Members will dispute global warning. Probably today it is my day to simplify. We do have air pollution; we probably will have a shortage of water. We do have it on a day-to-day basis. I, personally, would like to approach it from the point of I would like to have a clean planet, I would like to have clean air and I would like to have quality of life for me, for my child, for my family and for everybody who lives on the Island. It is very simple, it does not have any political agendas, it is regardless of class, nationality, Parish boundaries, it is for everybody. I do agree with the point that action should be taken by the Government of Jersey, because what is happening to the environment it affects all of us. It is important to alarm. Why is it important to alarm? Because we do speak about renewable energy, we do speak about fuels, we do speak about pollution, but when I am going home today, I will get another telephone call from the resident of Cheapside that on a daily basis for the last year they are getting black smoke and black ash in their living room, bathroom, bedroom and their courtyard and the residents and the customers of the Old England pub have it on a daily basis. Yesterday, they called me and asked: "Can we call somebody?" It has been going on for one year. For one year, this black smoke coming out of the chimney cannot be sorted out. So, let us start from something small that can be sorted out and go to the major renewable energy and the major topics that have been spoken here. This is the reason that we do need a proper strategy and I do address what Deputy Ward put in his proposition. We have to, first, have a very strong focus on the issue; second, a strong priority for action and budgets relating to the issues; and, third, delivery of the solution as a package. It is important to say that it should be a package, not small pieces. We need to look at the frame, it should become connected to the Government Plan and I am going to support Deputy Ward's proposition.

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

Can we have a point of clarification from the previous speaker? Our previous speaker mentioned black ash coming from a chimney. Which chimney is she referring to? Or, generally, chimneys?

**Deputy I. Gardiner:**

No, no, a specific chimney: Old England pub at Cheapside. I have written to the Environmental Health, the resident has written to Environmental Health and it has not been sorted since last July.

**6.2.11 Deputy J.A. Martin:**

It is one of those debates where I have been going backwards and forwards: do I stick with Deputy Ward, or did I think the Minister for the Environment's amendments added something? I was at the Town Hall and I was one of the seconders for the 25 years in St. Helier and it was talked about renewing the fleet and I wanted it done quick, but we knew there what we were doing. Now, it is a matter of opinion, one way or the other something is going to happen. I just really think that putting it in the hands ... and if it had been this Minister for the Environment, or the previous Minister for the Environment, who the credentials are so good they fought to have environment in the Strategic Plan, wants environmental taxes, but he is going to need help and we need a good plan. I read (a) as unamended that we should aim to be carbon-neutral. What does that mean? When we get there, Sir, I will say: "Well I was aiming for you but I got the Greffier and we missed it." **[Laughter]** I missed it.

**The Bailiff:**

That is a good thing, Deputy. **[Laughter]**

### **Deputy J.A. Martin:**

Sorry, Sir. I mentioned this to the Constable of St. Helier outside and I said: “We have discussed it, I listened to what the Minister for the Environment, Deputy Young, said at Council and he thinks this will, in his words, do a better job.” It is not about: “Oh, this is something we think we are going to water down” but we are in the hands of the Assembly. I was in London when they brought London to a standstill a week or 2 ago and the climate for climate change is changing. People, even taxi drivers, were like: “We cannot get through. We are on strike, anyway, because of this extra super carbon thing, so we are not working. We do not mind.” It was a surprisingly really good-natured ... except in the end, I suppose: people started getting arrested. But there were no real fights, or anything and it was a shame people had to get arrested and it was a shame that they went around it the wrong way, because gluing yourself to the Docklands Light Railway and stopping people going on the only thing that is not polluting London is a bit silly, but you get your point across and you are on the 6.00 p.m. London news. But I heard the warning there from the Constable of St. Helier. Well, I am going to give him another warning: it is in his hands. We have a ring road around St. Helier and inside of that we have traffic looking for a parking space for hours. Bring a congestion charge; I would support him. If it is my job on the line next time as a Deputy of St. Helier, so be it. Now, this is real. You put your money where your mouth is and you start doing things. It is all good to say: “Deputy Ward is better than this.” For this one instance, the jury is out. I am going to listen to the Minister for the Environment, as I did in the Council. If we stay just with Deputy Ward ... because I thought Deputy Ward had spoken to the Minister for the Environment, was sort of happy with the amendments, but if I am wrong the Minister for the Environment will tell me. It just achieves more. It is making us really think about what we mean and what we are going to give up, what we are going to charge for and getting real about this. We could have a fantastic public transport system. Absolutely fantastic. It would mean park and ride, it would mean Dial-a-Ride, it would mean all the things. We are 9 by 5, it is not unachievable. We need to get a system that you can get a double-decker bus, like you can in London with an Oyster card, full in 2 minutes. “Beep, beep”, you are all on the bus. You do not need to pay your money and you do not need to wait for the Avanchi to give your ticket just to prove you are there. So, there are lots of things we can do; it is not one of those things. I personally think that the amendment sets out exactly what and I know is in the bones of this Minister for the Environment. This one, you give it back to the whole Council, who do you look in the eye and say: “You are doing this”? I do not know. This Minister for the Environment and, as I say, the last one ... and if you listen to the last Minister for the Environment, who is now the Deputy of St. Martin - and always was the Deputy of St. Martin - he is supporting this, because he knows you cannot just make it up on the hoof. The only difference really, the Constable is saying, we present a good plan, we take a bit longer to do it. You listen to the environmental officers ... I was with one of them last night, looking at a revenue stream, these really great ideas. But when it comes to this Assembly, like the Deputy of St. Martin said, simple things: double-parking charges. No. Do we really mean it? We have got to be strong and I want my Constable to lead the way. It is not one of those, something is going to get through today and I think we are all, like the public, the penny has dropped. After Sir David Attenborough: “This is a real climate change” there was a spoof on BBC Two and it had Peter Postlethwaite in it and they had this warning, it was in 2014, and they had 7 years to get it right and they had already reached 2021 and the world was ending. They were all going back: “If only, if only.” I know it is not that desperate, but if you keep saying it, it was so many years ago and people did not believe in it, I think the penny has dropped now for a lot of the public and you really can go either way. I support either way. I supported Deputy Ward at the Town Hall, I supported the reduction in St. Helier to 25 years, so I am not sort of fussed, but I do think the amendment adds something, but I will listen to the Minister for the Environment to sum up.

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

I feel a bit like Cassandra, who spent her life pointing out the unintended consequences of ... I cannot remember whether it was Priam, or the other one, the King of Greece’s actions. She came to a rather

sticky end, I seem to recall, so I am hoping. Now, a couple of things, we are a carbon-based life form.

[16:00]

“Controlling carbon is a bureaucrat’s dream. If you control carbon, you control all life.” That is Professor Lindzen, who is a physicist, who was the Professor of Meteorological Science at Massachusetts Institute of Technology. However, I am talking about unintended consequences. I am told, I believe, that they are testing a garbage guzzler at the airport. You feed the food waste into it and you get out a concentrated granular mix, which can be mixed with green waste, or D.f.I. (Department for Infrastructure) compost, to make a mix which is excellent for improving the soil and that is something we need to do urgently in Jersey, you know: “It is the environment, stupid.” We have over-ploughed and over-chemicalised the soil to the extent that it is a great deal less productive than it used to be and, therefore, we need to load it with more chemical fertilisers. It is the environment every time. The Earth Project Jersey group are very keen on environmental matters and I keep in touch with them, in order to keep up to date on matters environmental. Similarly, the work being done by Save Our Shoreline Jersey is equally important. If Members have not read their latest report on the Horizon development and the toxic waste that is being discharged into the marina, I suggest you read it carefully. What I like about these 2 groups is that they are not proposing remedial environmental changes which are expensive. Make no mistake, it is important that we adopt approaches which are not expensive. We have seen how the ill-conceived approaches being taken by the U.K. and Europe are placing an undue burden on the lower-income groups and pensioners. In the U.K., the last figures published estimate that 11.1 per cent of households are suffering fuel poverty. Dr. John Constable has made the comment that the U.K. Government appears to be price rationing the poor out of the heat market, in order to reduce emissions. In other words, they are considering lower carbon and lower fuel bills through price-coerced under-consumption. Or, if you want to put it more simply: an uptick in the number of frozen grannies is a small price to pay for our wind and solar-powered future. Is this really what we want? We do have a cold weather supplement which we pay in Jersey. Fine. But it would be a good thing to have estimates of fuel poverty in Jersey from the Statistics Department and I look to the Chief Minister to find that. One of the biggest drains of heat energy is from the domestic house. There is a simple cure. First of all and we have heard mention of it, all new houses, all new-build houses should be well insulated and new flats, obviously. Secondly, the seller of a second-hand house should ensure that they are selling a well-insulated dwelling. This should be certified by the relevant authority and without that certification it cannot be sold. Obviously, the person buying it will be selling a house and therefore they will be making sure that house is well insulated. Eventually, all domestic houses must be well insulated at no cost to the Government, or other taxpayers; a note for the Housing Policy Board, perhaps. We need sensible recycling. For instance, is paper recycling environmentally friendly? I have a friend, who is a printer, who tells me that the chemicals used to clean up the printed paper cannot be disposed of safely and are stored somewhere in the north of Scandinavia. The amendment wants to consider the energy market carefully. As a chartered electrical engineer, with knowledge of power engineering, I consider this absolutely essential. South Australia, Germany and Denmark, which arguably have the most expensive electricity in the world, all of which have spent a great deal of money on wind farms and solar panels. That is fine if you are the company chairman, but not much use if you are a pensioner, or a low-income family from which you will also gather that I find the idea of excessive environmental taxes anathema. Since we are dealing with a chaotic system, there is no confidence that the item which is being taxed is the correct one. You are talking about taxing something which is 0.04 per cent of the atmosphere: carbon dioxide. We have also got to consider the environmental pollution caused by increasing population. More people require all sorts of inputs, from vehicles to houses, which all add to pollution. That is why the Migration Policy is so important for Jersey. By the way, increasing the number of workers does not improve productivity. More work done by existing workforce increases productivity and automation assists workers in

improving productivity. Frankly, forget the complicated measures, they are too expensive and they serve no useful purpose other than penalising low-income families and pensioners, of whom we are going to have a great number in the Island. Peter Foster placed the climate debate in its historical context: “The climate issue has to be seen as the latest chapter in the 2-century-long battle to use the alleged moral shortcomings of capitalism to justify political power.” This was confirmed by a statement in 2014 in Brussels. Christiana Figueres, executive secretary of the United Nations Framework Convention on Climate Change admitted that the goal of environmental activists is not to save the world from ecological calamity, but to destroy capitalism. “This is the first time in the history of mankind that we are setting ourselves the task of intentionally, within a defined period of time, to change the economic development model that has been reigning for at least 150 years, since the Industrial Revolution.” I will support the amendment, because I think the analysis is needed, but I am really extremely concerned about the effect on low-income families and pensioners. As Bjorn Lomborg said: “Money spent on carbon cuts is money we cannot use for effective investment in microfood aid, micronutrients, H.I.V. (Human Immunodeficiency Virus) prevention, health and education infrastructure and clean water and sanitation and cheap energy.” These are the things we need. We need to look at the environment, I am all for that, but please leave all this peripheral stuff out.

### **6.2.13 Senator S.Y. Mézec:**

I am pretty sure I speak for a large portion of the Assembly when I admit that I did not understand a word of what was just said, that it sounded very convoluted and, frankly, off topic, most of this. I regret to say that I cannot support the Minister for the Environment in his amendment on this occasion. I know the moment that I realised that I would not be able to support it was that front page in the *J.E.P. (Jersey Evening Post)* which seemed to suggest that we need to tone down our ambitions here, or we need to be more realistic, somehow, which I think is precisely the opposite attitude we need to have for all of the reasons that were said in some of the opening speeches and for those quotes we heard from the Swedish activist, Greta Thunberg, who I think has got to be one of the most inspirational people to make headlines in recent years. He also said in his remarks for this amendment something along the lines that we had to marry the principle with the reality. I shook my head as he said that, because on this issue, if no other issue, this must be an occasion where we make our reality match the principle, not the other way around, because, frankly, we have absolutely no choice on the matter. The fact is that the planet is heading in a direction which is disastrous and we absolutely have to do something about it and with that backdrop, there is no such thing as too ambitious. Frankly, other projects ought to be put on hold, so that we can focus on this, so important that it is. I do not have too much more to say that has not already been said. I just wanted to make one point on this, which I made when I spoke to demonstrators in the Royal Square yesterday, which is that I do not think we can look at this as an issue of environmental justice in isolation, without thinking of the other elements of justice that we need in our society, be that social justice or, most importantly, economic justice when we are having these conversations about tax and that is one that has been brought up by other speakers. The former Minister for the Environment said he could not understand why some had opposed waste charges. I will tell you why I opposed the waste charge last time it was proposed here and why, if brought forward in the same context, I would continue to oppose it, notwithstanding what I have said, is that we are not going to create a just society on the back of regressive taxation, without focusing on the fact that it is the richest and most powerful people that are causing the biggest problems for climate change. It is not ordinary people, who are struggling to make ends meet, who are doing the wrong thing. Often, they are perhaps not recycling as much, or not being as environmentally friendly as they otherwise could, because the alternatives are too expensive. That is a reality that I think they simply cannot be criticised for in the choices they make there. What we are going to have to have at some point is structural change to our economy, so that those massive businesses, where people are making billions, many of them, let us face it, tax dodgers, many of them do not pay their fair share of tax when they are making all of this money, are going to

have to be told: “No, sorry. Tough luck, you cannot do this anymore. The planet is too important for that and it may suit your personal interests and you may be living lives of luxury with all of the wealth you are accumulating from poisoning the planet, but it is going to have to stop.” I think, ultimately, that is where our focus will need to be at some point. We can talk about the things we can do as individuals; we can talk about improving public transport in the Island to make it easier to access. How about making it free? That would be a good start, I think. But, if we do not look at the wider issues, looking to divest in companies that are involved in fossil fuels, or other ways of polluting the planet, as well; other governments are going to have to look at banning fracking. I cannot understand why other governments, like the U.K. Government, for example, has not taken that step now. If it were not for the fact that there was so much money involved, then perhaps they would have done. So, I simply wanted to make that point, that in looking at this issue, we have to consider economic and social justice, alongside environmental justice, or we will not inspire those people who have hearts in the right place and want to do the right thing and we will not make anywhere near as much progress as we need to, because those at the top will simply carry on with their behaviour, because they believe they are unaccountable and it will not affect them and instead ordinary people will pay the price and we have got to get this right. So, I ask Members to oppose the amendment and to support the proposition unamended.

**The Deputy of St. Martin:**

A point of clarification, if I may?

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

Yes, sure.

**The Deputy of St. Martin:**

I do not think I misled the Assembly, but when I mentioned waste charges previously, I specifically had in my mind commercial waste charges, which is the ability for profit-making companies to create as much waste as they like with no consequence.

**Senator S.Y. Mézec:**

I opposed that waste charge at the time and I would do so again, because it is still not progressive based on those businesses and bore no resemblance to the profits they were making and potentially would hurt smaller businesses, which would not enable them to adopt more environmental-friendly practices. I would prefer that we had resorted to progressive taxation and not arbitrary charges like that proposal was.

[16:15]

**6.2.14 Senator K.L. Moore:**

I will not keep Members too long, because some really excellent speeches have already been made and some excellent points. I simply wanted to talk about the Constable of St. Helier’s suggestion that we should in fact reject part (a) of this amendment, but keep part (b). I have given a great deal of thought to that suggestion during this debate, because it was quite a good suggestion, I felt. However, on reflection and listening to the various speeches, I do think it is important to reject these amendments as a whole, firstly, and as Senator Mézec has just said, due to the general attitude that is being conveyed in the ethos of the amendment. I would like to remind Members of a letter that we, I think, all received from a student, a 19-year-old student who finished her thought-provoking letter by saying: “Even if you think the proposal to be carbon-neutral is too ambitious, is it not better to try and fail than to fail without even trying?” Well, of course, that is the very point of Deputy Ward’s proposition and, of course, if we try but fail, some good will still have been done. We will have improved the air quality, we will have reduced carbon emissions and we will have improved the well-being of each and every Islander as a result of those actions, so I ask Members to reject this

amendment. I particularly would like to raise a question, though, before I sit down, of the Minister for the Environment. He talked about the costs of introducing the proposition, of accepting the proposition and suggested that they could be in the order of £10 million a year. Of course £10 million in his view was unaffordable for the Island. I would like to know what fundamental evidence that was behind the suggestion of those costs, firstly. Secondly, I would like to understand on what basis the Minister feels that it is inappropriate to impose additional costs to the Government spending when those costs are driving at improving the health and the well-being and sustainability of our Island.

**6.2.15 Deputy K.F. Morel:**

Like the Senator, I am going to try and stick to the amendments, so you can all get to hear me later talking about climate change; even better. I do want to though, first of all, start by reassuring Senator Ferguson because I have just had a word with Deputy Ward and he removed the part (d) which was to destroy capitalism from his original proposition **[Laughter]** so we were all saved there.

**Deputy M. Tadier:**

We tried to get him to keep it in but he could not be persuaded. **[Laughter]**

**Deputy K.F. Morel:**

Before I go on, having one cheap shot, I will also say that another aspect, though, of what Senator Ferguson said, which is absolutely right, is affordability and it is something which is crucial in whatever plans the Minister for the Environment and the Minister for Infrastructure and so on come up with in the end, because there is a problem of affordability and that always needs to be borne in mind. I thought the Constable of St. Helier's intervention, so to speak, was really interesting, because I had been struggling. I was speaking to some of the people in the Square earlier in the week and last week and what I am most concerned about is it is very easy to pass this proposition in whatever form. Whether it is Deputy Ward on my right, or whether it is Deputy Young on the left, whoever's version you choose, it is very easy to pass it and it is very easy then to do nothing about it. My concern is driven by the fact that we have not done very much about it. I have said this a few times, when I was at school, so we are talking the 1980s, I was learning about climate change and I was learning about how terrible it was going to be, the destruction it is going to cause and the causes of climate change and the things we need to do to prevent it. That was in the late 1980s, early 1990s. My daughter is now at secondary school and she is learning exactly the same things as I did 30-odd years ago and almost nothing has happened in between time and that really concerns me, because she has got exactly the same concerns. Because, for 30 years we have had knowledge but done nothing about it and that is globally, nationally, regionally and locally. I have got some of the statistics up here and at the end of the day, yes, by accident really, our energy link with France meant that we just kind of got a head start on dealing with carbon emissions and the Government could rest on its laurels there. Because I am looking at a chart here and transport, almost half of our carbon emissions come from transport and almost nothing has been done about it. This is 1990 to 2016; almost nothing. The Sustainable Transport Policy has failed; it is failing. It fails every day. We have done nothing as far as improving transport and the sustainability of transport in this Island. No matter how many more people are catching the bus, it does not mean that there are fewer car journeys, unfortunately, because we are emitting the same amount of carbon through pollution, transport pollution, now as we were in 1990. That comes to the point I am trying to make which is what worries me is that we are going to do nothing. So, when I hear the Constable of St. Helier say, and quite rightly point out, Deputy Ward's proposition part (a) says 2019, the Minister's part (a) says 2020. I think, you know what, this Government - and I do not mean this Government, I mean successive Governments, the Island's Government over the years - has successfully done very little. Therefore, they do not need more time, they have had time, they have had decades of time and they have not done very much because they have rested on the laurels of the energy supply from France. They have been too scared to say: "Actually, that enormous engine is unnecessary. That enormous engine, driving you to work on your

own every day” they have not had the nerve to say that is unnecessary. Whether it is tax it, ban it, whatever you do, do something about it. They have not. So, I have to admit I have pretty much decided that the Constable of St. Helier was right as far as part (a) was concerned and I will not be supporting part (a) of this amendment. Part (b) is much more difficult, partly because of the wording of it. The Minister’s wording, although the Minister goes on to talk about fiscal levels - it would be great if we were talking about tax incentives, subsidies, some sort of financial incentive or penalties to encourage behaviour change, nudging so to speak - that is quite specific. There is some particular wording which is “an assessment of more ambitious policies to accelerate carbon reduction to include an assessment ...” what sort of assessment? We have been assessed. We have been assessed so much. We know where we stand. I have stats. Jersey has all the statistics that prove it has done very little. We have lots of statistics that prove that we have done very little. I do find it hard to support part (b) as well, because while the Constable of St. Helier felt that it was stronger, because it focused on things like taxes, fiscal levels ... fiscal levers, sorry, not fiscal levels, I know that is meant to have changed. It is still talking about just assessments that will move into ... it does not talk about action. Assessments that will feed into a plan and that is about it. Sorry, Deputy Young, but I think I am probably going to have to not give your amendment my support on both counts. Just to add why I think ... in the sense the Government - and I do not mean this Government, this Council of Ministers, in general - the Island’s Government over many years cannot be trusted is because, by his own admission, the Minister for the Environment says that the budget for the Environment Department has been whittled down and is too small. In that sense, you know, we can see that successive Governments have not had the environment in mind. I just ask: is there a climate change policy cluster in the Government? Do we have that? A climate change policy group of people. There is not, so we know that the Island, this Government, does not have any focus on climate change. I know that the Department for Infrastructure is in many ways a department which delivers a lot of the changes. The Environment Department creates the policy around it. We need a joined-up approach and we do not even have policy thinking in the joined-up way. It is difficult to trust the Government and I apologise, Minister, you now represent all Governments that Jersey has ever had and it is difficult to trust that they will act in the right way. For those reasons, I think it is better to stick with Deputy Ward’s original proposition because I think it is more to the point, it is more direct and it will, therefore, be easier to hold the Government to account in delivering on it than the Minister’s version, which is just a bit too full of assessments and hopes and plans that may, or may not, happen. I think it is better to reject the Minister’s version.

#### **6.2.16 Deputy J.M. Maçon:**

Firstly, can I just begin by thanking all those members of the public who have taken the time to contact us and write to us to express their views about this debate today. It is certainly much more useful than, perhaps, some of keyboard warriors that we have out there that you never get to see. That is good. I have replied to many of them. I would say of the handful that I have had, there has only been one or 2 that I have responded saying: “Thank you very much, you have actually been constructive in providing some form of policy guidance and understanding about how we can move these things forward.” When I look at Deputy Ward’s proposition, his part (a), I have described to some of those Islanders as it can be interpreted a bit like a Brexit unicorn, in that you can kind of interpret it any which way you like and you do not know what you are going to get at the end of the day. I think there has been an issue around green policy, which has been going on for a long time in that, yes, the Government could come back and produce a thing that makes carbon neutral measures but, as Senator Mézec pointed out, these can be very regressive and could ignore the whole issue of social justice around these issues. It is the same thing that Senator Ferguson was saying. On the other hand, you could have some fantastic policies which were much better. For example, under the time of Senator Cohen, you had the policies about insulating people’s houses, cladding the boilers, all that type of stuff, making energy use much more effective. The problem I see with Deputy Ward’s proposition, part (a), is that it does not set any parameters that the Government works in to actually

what it is going to come back with and that could be quite good or that could be quite bad. What I want to say, for my part, for the Ministers that are listening, for a line in the sand, is to say that I would expect that Deputy Ward is trying to push us in the right direction, so I will be supporting him today. I just want to put that line in the sand to say this has to be seen through the lens of social justice, this has to be seen through the lens of some green policies. It does not really affect the rich, because they can pay the taxes anyway, but the ones it hits is the poor people who do not have an alternative on the other hand as well. I was going to say I was surprised a party like Reform Jersey, which usually has social justice as one of its key things, is trying to bring this forward and why that parameter was missed out I am not entirely clear. I just want to say, personally, that is something I am very concerned about when looking at taking forward green policy. Then it is about whether to accept the Minister's amendment, or not. I find that the Minister's amendment, part (a), really tries to restrict the debate just to talking about the Energy Plan. I think if we want to address carbon neutrality it is much bigger than that. One of my pet hates, for example, is packaging in supermarkets, classic debate about there were other things that you could tackle, which would not arise in the Energy Plan. There are other policy topic areas where we could be much more effective. There are also concerns that I have, for example, a classic one is looking at fuel duty.

[16:30]

Now, you could double the amount of fuel duty that people might pay and I will try and ignore the Treasury team behind my back, who might be rubbing their hands gleefully thinking about this, because, yes, it would make the costs of petrol more expensive, but the issue is the tradesman, who may not be on a particularly high income, still has to use the same amount of fuel in order to carry on and do his job. It is not really going to affect the office worker, because they can still pay for it, so all you have done is you have put up the living costs of people on the Island, because it has an inflationary effect and the amount of carbon you are producing is still the same. We have to be very aware about the streams of work that is being asked to lead to. There are very different impacts about how it could be. Another one is air travel, for example. Particularly within a small jurisdiction, if you say: "Right, we are going to put up our landing fees" what does that do to our tourism industry, how does that affect other things within the Island? All I want to say here is we have to be very careful, if you want to use the taxation model in order to drive behaviour, in how that occurs, because there are a lot of unintended outcomes from green policy. I hear Deputy Morel talk about since the 1980s there has been all these movements, but if you look across the world globally, green parties have really struggled in order to get there and get their message across to really influence policies. Not in all states, but in a lot of states it has been a struggle. That is because there are some of these issues where the public, while they acknowledge there is an issue around climate change, do not necessarily want to adopt the green policies, because of the economic and social justice impacts that they may have. Looking towards part (b) of the proposition and again I think the Minister's ... for me it is the last sentence of part (b) where it goes: "And the output of this will inform the review of the Energy Plan referred in paragraph (a) as above." The problem is this is so much more than just about the Energy Plan. It is so much more than just that. It is about resources, it is about fundamentals, it is about behaviour. To try and take this big debate and reduce it to just what is in the Energy Plan, for me, I do not think is enough. So, for those reasons I do not think I am going to be supporting the amendments of the Minister, but that is to say not necessarily that I disagree with what the Minister is proposing and because he is the Minister he can go ahead and do part (a) and part (b) of his amendment anyway. I hope that is an olive branch to the Minister in saying I do not necessarily disagree with what he is trying to do in looking at the energy plan, but I think he undermines the broader scope of what the proposition is trying to achieve. As for part (b) of Deputy Ward's proposition - and I realise we are on the amendment - but I think if I speak only once then I will not have to stand up again. Part (b) of Deputy Ward's proposition, where it requests the Council of Ministers with the Government Plan to have a climate impact assessment on the proposals. Now, this one gives me a little bit of concern, because if the skills in order to do that can be met within the



House of the Government, the civil service, then I would probably support that, but if that means we are writing a £50,000 cheque for consultants to go and do that then I am not necessarily happy about that. If anyone has a point of fact they can always point that out to me. I am very concerned about part (b); I would like much more clarification about what that work is going to entail.

**The Bailiff:**

Comparing the amendment with the main proposition is absolutely fine, but addressing the main proposition is not.

**Deputy J.M. Maçon:**

I only have one more to go.

**The Bailiff:**

Go on.

**Deputy J.M. Maçon:**

So, I would like some clarity there. Finally, part (c), where it asks that the Chief Minister is requested to ensure the consideration of the action to tackle climate change is included in the standing item of the C.o.M. (Council of Ministers) agenda; all I would say is, is that the most effective way of getting the outcome that Members want? The C.o.M. agenda is incredibly busy, there is a lot of work that goes on there, depending on which Ministers you speak to, do they have enough time to consider everything on the C.o.M. agenda? On such a big and important issue, would it not be better to say: “Actually, I would like the Chief Minister, with relevant colleagues, to set up a group to consider this on its own”? I want the Deputy’s proposition to be effective. I am not entirely sure whether putting it on the C.o.M. agenda is necessarily the most effective way of getting the outcome that the Deputies want. Thank you for indulging me.

**6.2.17 The Connétable of St. Saviour:**

It is just a couple of remarks. Years ago Al Gore in America and Prince Charles were considered to be not nutters, but very close to it when they were speaking about the environment and global warming.

**The Bailiff:**

Connétable, could you sit down, please? You are really not to take members of the Royal Family’s names ...

**Connétable S.A. Le Sueur-Rennard:**

I do apologise, Sir. I do apologise. Prince Charles, if you are listening, I apologise. No, seriously, I do apologise, I would not offend our Royal Family. David Attenborough has put all this on the map and we finally got our act together, sort of. What is happening with this Island is we are going to do this and we are going to do this and we are going to save everything. We are not going to save ourselves, or the planet, if we do not stop immigration. We are overpopulated, we have far too many cars. What is going to happen in the end is similar to what is happening in the U.K. where their streams are drying up and we will have a water shortage on this Island. Once we have a water shortage on this Island the farmers are going to be in trouble and most of the Island will be in trouble. We do have to do things; we have to do things sensibly, but we do have to do something. This is why I seconded Deputy Ward’s proposition, because he is finally bringing it out into the open. I feel sorry for the Minister for the Environment, because he is very committed and he is very interested in what is going on. When we have been on Scrutiny and we have spoken to Environment and Infrastructure: “Are we going to have solar panels? Are we going to have this?” it has been a lacklustre reply and that I find very disappointing. Quite recently, we had Environment and Infrastructure and they were patting themselves on the back, because we are going to have electric

vehicles and we are going to have this and is it not going to be wonderful. The electricity to power these vehicles is going to have to come from somewhere. Then somebody said we get our electricity from France. So we are all right, Jack; but, France, you are going to be slightly in trouble. We have to take the bull by the horns and we have to say: "Enough is enough" we only need X amount of people in this 9 by 5 or by 6 Island, depending on which way you are looking at the Island, we can only inhabit enough people that we can support. The same as vehicles, the emissions going through here. We are doing these cleansing things in the environment and making sure the emissions are going to be fantastic and everything. A moped, or a little pedal thing, is not going to make any difference to the environment, it is the cars, the big lorries and the vans which, when you are behind, the emissions coming out of the exhaust pipe are horrendous. Those are the ones you need to have a go at. But, we do need to do something and seriously the Island is 9 by 5, we need to look after what we have here and make sure that they are okay, because if we do not, water is going to be a big thing on this Island that we are going to run out of. There are no ifs, or buts, we will run out of water on this Island, so we have to maybe flood another valley and where are we going to get the water to flood that? When you look at the U.K., as I said before, a lot of the streams that feed into their reservoirs are empty and no longer coming forward. We do not want to be in that position, so please could somebody from the Environment and somebody from Infrastructure and somebody from every department that is supposed to be looking after this Island, please get together and please think seriously about where you are taking this Island, which is only 9 by 5. You are overcrowding us with people, you are overcrowding us with vehicles and we cannot sustain that.

#### **6.2.18 The Deputy of St. Peter:**

I was only going to speak on the main proposition, but I feel a bit like a hungry Deputy Morel at the moment, except I had a good lunch, and I feel compelled to speak. When I drafted this, I wrote one hour. We spend one hour on it and I reckon that was about 45 minutes ago, so I estimate we are spending ... we have got to nearly 90 man, or people, hours deciding on the amendment. I have looked long and hard at this; it says somewhere here "emergency". What sort of emergency is that? So, what I am interested in is what will get this done and how can we achieve the objective? The objective I totally agree with of getting to a carbon neutral situation by 2030. Now, Deputy Ward, if I can summarise very simply what I think you are asking for, you are asking the Council of Ministers to do something.

#### **The Bailiff:**

Through the Chair.

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

Sorry, Sir, I am learning. However, we have the Minister for the Environment, who is passionate about the subject, who is on the Council of Ministers, who is offering, as I understand this, to take an accountability and responsibility to put an action in place to deliver the objectives that we have set out. So, what I plan on doing is doing what he needs to support him to achieve the goal. This is about a process that leads to success. May I ask the Minister for the Environment to direct me on this amendment.

#### **6.2.19 Deputy G.C. Guida of St. Lawrence:**

Well, first I would like to say that I am absolutely thrilled to see this clear and present danger coming back to the Assembly and so many people being interested in it for a change. I know that it is the flavour of the week, but it has been around for 40 years and some of us have known about it and experienced it and seen it with their own eyes for that length of time. So, I am really glad to see it back here. Everything that they have said is true. It is all real, it is all happening and it is very serious. Now, there has been a big misunderstanding about the proposition and the amendment. What I was expecting ... I said I was thrilled, but what I was really expecting was a call to arms, let

us do something, let us physically do something but P.27/2019 is not so much about doing things, but it is more like a call to pencils, a call to calculators, a call to bring in more consultants to help us do things. Part (a) is £150,000 so that we can bring forward one of our plans by 6 months, the other one is look at our projects for the next 3 years and cost them in terms of carbon. Yes, £150,000 just for that, a management consultant. We will have more reports and more figures to think about. The misunderstanding is to think that the Minister and I lack the courage to do things. But neither P.27/2019, nor the amendment are about doing things. The amendment is about trying to keep a little bit of the bread, the breadcrumbs and a bit of string that the Environment Department lives on, so that it can continue doing what it does and allowing the Minister and I to come here and do things. The Deputy could have come up with a proposition to install a new road tax, to raise the petrol duty, to create parking charges, to have free buses, active travel, congestion charges, some incentives for solar energy, do things but, no, it is all about let us think about it, let us declare an aim. The Minister and I will come back to the family with all those things independently from the plan, because we know that this is part of what the Government tries to achieve in the next few years. I would like to answer a few questions. We are talking about costs and I was talking about courage. Now, as it has been said several times, it is very easy to say yes to the proposition and I think you should, but it is very difficult to come anywhere near success. £10,000 worth of carbon offsets? That is in 2020 when we have gotten rid of everything else. You want to get rid of petrol and diesel cars, vehicles in general, 120,000 vehicles, if you want to do it over 30 years the cost is nil, in 30 years all the cars will go.

[16:45]

If you want to do it in 20 years it is becoming difficult, we need incentives. If you want to do it in 10 years the cost is £750 million, £75 million a year. That is the cost just of vehicles. If you want to do it with heating, we are talking about £35 million a year between improving insulation and switching to electric heaters and, of course, the massive extra cost of heating with electricity, compared with heating with gas, or with diesel. I could go on. I have not even started with transportation, because it is not just the cars, sometimes we take a plane to go out of the Island and when we have a vacation somewhere it is still a Jersey person creating carbon dioxide. In fact, if you really want to go all the way, each of us here are producing 1 kilo of carbon dioxide a day, you would need to offset that as well. We are talking about massive implications. Now, interestingly, and most of you will know it, the Minister and I have the courage to go through that. We will come back here and see how many of you will have the courage to go on with that rather than say: "Let us have aims and goals and reports and studies and assessments." I urge you to vote for the amendment, all the amendment, because that will just save the Environment Department money. Keep the proposition alive, it is important, but it has been through this Assembly and it is voted for, but do not burden the Environment Department. It really does not have the capacity to take that on. In terms of working towards the environment, well, again, we have the courage to do it.

#### **6.2.20 The Connétable of St. Brelade:**

I am pleased to follow the last speaker. I would start at the end by just referring to a comment that the Minister made in his amendment. By amending the proposition, as proposed, he says: "There is explicit recognition that consideration should be given to the full range of policy interventions to accelerate carbon reduction." That, I think, is the crux of the matter and why I intend to support the amendment. The P.27/2019 itself is a high-level document, driven by a general desire to improve the environment. I am fully in agreement with that. I am happy to support it, but I think we have to take care not just to get swept up in the euphoria of the moment. I consider myself a very practical person and a realist, the amendment enables positive action to be planned into our government's framework. I suggest that it must be supported if the principles of Deputy Ward's proposition are to succeed. We have the 5-year review coming up. Certainly, from a Scrutiny point of view, we shall be looking closely at that and the progress that it makes through the department but, of course, we do

need to understand the consequences of the fiscal levers suggested as these are things that have a habit of disproportionately affecting those who can least afford it. There must be an understanding of the effects of our decisions. There could be massive lifestyle changes needed. Are we all going to stop travelling by air? Are the elderly of the Island going to be prevented from using their cars? It is all very well to suggest everyone else should be carbon neutral, but what about us, what will we do? In conclusion, I would urge Members to support the amendment, failing which I fear we will not achieve the results that we all desire.

**6.2.21 Deputy G.J. Truscott:**

I would like to thank my Constable for that speech, I totally agree and concur with everything that he says. I do want to congratulate Deputy Ward for bringing this along to the Assembly. There are some new Members and all of them have brought a breath of fresh air to the Assembly. I think bringing this - excuse the pun - to the Assembly is a great thing. We can see the concern around the world regarding climate change and it is a very important issue. I was not intending to speak, I pretty much knew how I was going to vote, I will be supporting the Minister. I think it is going to deliver the right thing at the end of the day. I just want to make a few observations. It is undeniable that the climate is changing. It is heating up; the earth is heating up. Roughly, I do not know, it is 11,000 years since the previous ice age ceased and the great ice sheets started retreating back to the North Pole, *et cetera*. It was not so long ago, in earth terms, that we had a mile of ice above us. So, undeniably, the earth has been heating up and that was not due to mankind, that was due to what the earth has been doing over the centuries and over the millions of years, it has been constantly changing from tropical to hot to cold. Mentioned Prince Charles earlier and I can recall back in the 1970s or 1980s ... it is nothing derogatory.

**The Bailiff:**

It is not a question of being derogatory, it is not appropriate under Standing Orders to invoke the names of the Royal Family.

**Deputy G.J. Truscott:**

It is just he is very passionate about the environment and I share that passion, but I withdraw the name, Sir.

**Deputy M. Tadier:**

Could I just clarify, to help my fellow colleague, 104 does say - and you are right obviously to pull up the first speaker - no one should refer to the conduct of a member of the Royal Family. I think my honourable colleague from St. Brelade was not referring to the conduct, merely to the reference that was made to the good Prince.

**The Bailiff:**

Respectfully, I do not agree with that Deputy. If he was talking about the conduct of Prince Charles, then that is not within Standing Orders. Once one starts to say it is all right to talk about good conduct it then leads to a debate about what is good and what is bad conduct and that is not contemplated by the Standing Order.

**Deputy G.J. Truscott:**

I agree and, as I say, it was just referencing the fact he has a passion for the environment and the world. Many prominent people have made remarks about the Amazon rainforest over the years. The lungs of the earth. For decades, absolutely decades, we have been taking the trees out, deforestation, in the Amazon. It has been unbelievable and it has not stopped. All we do is talk about stopping cutting down the rainforests. Palm oil is a product now that has become very prominent and great swathes of rainforest in Asia and Malaysia and places like that have been cut down for the production of palm oil. I think it was Frazer from 'Dad's Army' that says: "I think we are all doomed, Captain

Mainwaring.” It does feel that way. It just does feel that mankind is on a self-destruction path. I think this is so important that at the end of the day we start making a change, that we start doing something and that is why, I think, Deputy Ward is to be commended for bringing this to the Assembly. We are bags of water. I mean it disappoints me year in, year out, we keep reading about the reservoirs locally, how they have become contaminated with pesticides, oxadixyl. What have we done about it at the end of the day? We are trying to control things, but it is still an issue and we really have got to do something about things like that. At the end of the day the reality is we do want to do something, but there are things like impact assessments, *et cetera* ... I just want to remind Members and I hate to be ... you have to be realist, we are facing a £30 million to £40 million deficit from 2020 onwards and these policies can cost a fair bit of money at the end of the day. Very pleased with the Assistant Minister, he gave some clarity. If we are going to decarbonise all the houses locally and I have oil in a 1,000 litre tank down at the end of the garden, what is that going to cost if you are going to now compensate me - I presume that is what we are looking at to compensate all Islanders with oil tanks at the end of the garden - what is that going to cost? It is going to be horrendous; it really is. Whatever we can do I think is so important. Diesel cars. I am sure the Minister for Infrastructure could do more and I think he has already alluded to the fact that he is going to have 600 vehicles change over to electric and he is looking to bring the buses to become electric. That is also important too. Every morning, on a clear day, I go out, feed the birds and various other things and I look up to the sky and it is like a lace curtain with the amount of - what do they call it - aircraft vapour trails, that is the one. That is what I was looking for. It is just unbelievable. There are tonnes of aviation fuel being burnt off by the hour. We are going to have to change our habits. We are going to have to do everything that we can, if we are serious about saving our planet, saving our environment. We are an Island 9 by 5 and we can do our bit, but when you compare our small place in this very large world and you look at the great continent and power house of China, the amount of coal-fired power stations that daily are polluting our earth, we are a speck in the great world. Whatever we can do and I think we should lead by example and I think that is a very worthy thing, also. As I say, I will be supporting the amendments. I thank Deputy Ward for bringing this proposition and, as I say, for making a start in the right direction. That has got to be a good thing.

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

It is my considered opinion that climate change is not happening, that climate change is actually here and it is our duty to do something about it for our children and grandchildren. I think we were all impressed by the David Attenborough ‘*Blue Planet*’ and the young Swedish student, Greta Thunberg, really highlighting this to the rest of the world. We are doing our bit. I will highlight something I mentioned previously - it was a long time ago, it was yesterday, which some Members seem to have forgotten - I have the States’ fleets under my control; that is over 600 vehicles and that will be electrified. We are working with LibertyBus who are very responsive to this idea of electrifying the entire bus fleet. They do have other companies in the U.K., so the buses they have could be transferred if we went electric and if we came to some financial arrangement. They have been extremely responsive to that. Multi-storey car parks were mentioned earlier on. We do have 2 charging points in all our multi-storey car parks, the department is in discussion with the Jersey Electricity Company to expand those to 10 per car park, which will be approximately 60 additional charging bays. There are various private spaces that are now being electrified. I notice there is a charging point outside the hotel L’Horizon and there are probably more around the Island, people are really embracing the technology now. Bus lanes, we will put bus lanes in wherever we can. That has been in discussion for some time, but there is no point putting in a bus lane for 50 yards. We need a good stretch, otherwise the bus is just bobbing in and out of traffic and is expensive and pointless. The Eastern Cycle Track, we have been working with officers for some time in consultation with the Deputy of Grouville and others, and the Constable of St. Clement, and indeed the Constable of Grouville. A congestion charge, I am not in favour of. There are inherent problems in that inasmuch as people with money will be able to drive in and pay the charge, people on a lower

income will not, so it will be discriminatory. Also, if you happen to live in, say, Grouville or St. Clement and happen to work west of the Island, you cannot go through town, without paying a fee. Unless it is something entirely within the Ring Road that a charge would apply, in which case there are other problems. We would be like London, we would have the north circular and the south circular, which would equal gridlock.

[17:00]

I have been criticised talking about electric cars. Several people have sent me emails claiming that there is an extremely high carbon footprint on electric cars. I got a foot stamp for some reason there. Some of this carbon footprint on cars is because, in Germany, the Germans were very short of electricity on their grid, so they have restarted, I believe, 50 coal-fired generating plants and they are burning lignite, which is a very low-grade brand coal, which is probably quite pollutant. I do not know if they have gas flue cleaning, but that is apparently a carbon print that has been added to the cars. So, we get blamed for that. I get blamed for everything happening in Jersey; I cannot be blamed for Germany as well. Electric trams we can bring into Jersey. They are available now, if the money was there and the demand was there, as a mass transit system. Finally, I would like to know how did Members get here today. Did they walk? Did they cycle? Did they catch a train, catch a bus ... if you caught a train that was 1935, that is some time ago. We all have to do our bit. I walked today. With diesel cars, as well, as diesel and petrol are being phased out, we do have another problem inasmuch as the fuel duty will drop accordingly. There is no fuel duty on electricity, so we would need another source of income for our cars. We will be doing tours in 2 weeks' time, by the way, of the Cavern, which is part of our recycling units, so I will be taking all Members down to the Cavern if you would like to join me in 2 weeks. I may even bring some of them back.

### **6.2.23 Deputy R.J. Ward:**

I will speak and I will focus on the amendment, as is necessary. I am very pleased that the amendment of the proposition agrees that there is a climate emergency that will profoundly affect Jersey; however, the amendment fails to take the actions necessary. We do not have an extra 12 months to use making decisions as to what we are going to do with regards our impact on climate. It lacks commitment to urgent change, so desperately needed; instead, we have another example of delay in how we might achieve outcomes. I am going to talk specifically about part (b) in a moment, it would be good if those people who are thinking about part (b) would be either in the Chamber, or at least listening to what I am about to say, because I think there are some real key points that need to be made about why you should reject part (b) of the amendment. I would like to direct you, first of all, to a document that was delivered to your table at the beginning of this, which is the comments from the Jersey Energy Forum who advised the Government. I will just read a few sections of this. "The consequences of not taking sufficient action to combat climate change will be extremely serious and failure to do so would have a devastating impact on our way of life." On our way of life. That is you, me and everyone else on this Island. "One of the 5 strategic priorities in the C.S.P. (Common Strategic Policy) is to protect and value our environment. The C.S.P. also states we must demonstrate to global partners that we take our global environment responsibilities seriously. Global climate change is a direct threat to Jersey. A target of carbon neutrality by 2030 would be a significant challenge for Jersey to achieve. Yes, a significant challenge, but the Energy Forum believes it is not impossible." It is not impossible. So, the advisers to the Jersey Government on energy say it is not impossible. "It would require a concerted effort over a 12-year period with leadership from the Island's Government", leadership from the Island's Government, not one individual within it who has to struggle to make themselves heard around the table of 12, or many others, but leadership from the Island's Government. The Ministers, all of you, sat in this Chamber today, or in the coffee room, I hope you are listening. "With the support of industry, commerce and the wider community, if it is to be achieved it could set an example to other jurisdictions, including national governments and regional and local authorities." I like to live somewhere where I am setting an example to all of those

people. Why are we not willing to set this example, that is what I ask you? Let us do this properly and let us do this as an Island in the way that we absolutely can. I will read a bit more. I will take a bit of time, not as much as many, I am sure: "Governments and local authorities around the world have been reviewing their carbon reduction targets in the light of the I.P.C.C. report, with many deciding to aim for net zero carbon emissions by 2030, as cited in my report, or 2050. One thing is certain, the pace of change needs to be increased." This is the key point: "Jersey is arguably better placed than most to deliver a significant reduction." We can do this, let us be positive. Now, it does talk about whether we can do this by 2019 and this is the Energy Forum, this is not my words, these are the people who advise the Government. I will remind you again: "The first 5-year review of the pathway 2050 will be taking place during 2019 and the Energy Forum believes this provides a good framework for reviewing recent developments and agreeing a new target for emissions reduction." In other words, the time is now. So, that is part (a). It is conclusive: 2019 is the time by which we have to come up with targets, just like St. Helier is doing. Let us talk about part (b), and I am going to talk in detail, but there is one section of this that says: "A high level impact assessment would nonetheless be of a considerable value and would help to establish whether the proposals in the Government Plan are consistent with existing and proposed carbon reduction targets." In other words, if you do not assess the Government Plan in its totality, you cannot, in any way, prove that you are going to reach your carbon targets. The 2 are part of the whole. That is significant. Finally, from the report, one further section - I am trying to turn the page over - "Given the importance of this issue and its wide-ranging implications, the Forum recognises that climate change will need to feature on the Council's agenda, on a regular basis, as the period between now and 2030 will be critical in determining how governments across the world respond to climate change." That is why in part (c) it needs to be on the Council of Ministers' agenda as a recurring item. What I would suggest ... I will suggest that later. There are a few points that I made as we went through this proposition. If we accept the amendment proposition, we are only addressing one part of what needs to happen, in order to address the climate emergency. We are talking about fiscal levers. They are not even specific; they are just levers. Now, levers can work, or they can really fail. It is vital that we have a full impact assessment, because we need to address such things as our investment policy. We can cut as much carbon as we want, but if we are investing most of our money in huge carbon-rich industries, then we are just playing a game and what we are doing is self-satisfying why we buy into huge damage to the climate throughout the world. That is part of our Government Plan, our investments and we need to address that. We need to look at buildings, we need to look at farming and soil. When you talked about soil, I agree, we are destroying soil and that is a real issue when it comes to the emission of carbon and the non-absorption of carbon. We need to look about our food. Why are we flying in food, green beans from Kenya, which were in the shop the other day, when they are grown locally? How much of our food is being exported to the U.K. and then we are importing food in and we are not buying locally, which is not good for our local economy? This is part of the Government Plan, so you cannot isolate one thing, as you are suggesting in the amendment for part (b), you have to look at the totality and you have to be brave enough to move away from the scaremongering and fears about made-up fantasy economics. I will come back to that. We talk about population. Yes, of course, population is an issue and one of the things that is going to drive our carbon footprint. Of course it is. I am going to say it again. We have to address it in the Government Plan, but if we do not impact assess it in the Government Plan, as I have suggested, and we take the other amendment - I am just looking at fiscal pressures - we are not going to get anywhere, because we are not going to address the issue, which is another part of the jigsaw of climate change. That is why you must reject part (b) of the amendment. I want to talk about the fantasy economics, £10 million for something and £5 million for this and £750 million for others. I understand the tactics. I am learning quite rapidly in this Assembly about the way to get a message across and if you throw figures at certain people they panic and they worry, so let us take the easy option. Let us worry about those figures, because it is all about the money. Well, I ask you this, what is the financial impact of having uncontrolled climate change on this Island? What is the impact of the rising sea levels? The finance

sector is built upon reclaimed land. The reason the finance sector is attracted to here is because it is a safe place to be. If those areas start to be flooded regularly, it is not as safe and therefore we lose our economic dependents and we lose our financial security and that is linked to climate change. This is a complex argument and there are lots of variables, but I ask you, please, hold those variables in your head and think very carefully about the argument that you are voting for. I would suggest if you are going to vote for the amendment part (b), you are just dealing with a drop in the ocean of what we have to do, as a Government, in order to address climate change through the Government Plan and we are letting down the youth of our Island, the future of our Island. It was Professor Brian Cox who said: "Do not dismiss the science, just because you do not like the economics." Very true words. Why do we have to act now? We have to act now, because we are running out of time. A 1½ degree increase in temperature will have profound effects on this planet and us, but we may be able to hold it at that temperature and we may be able to deal with those issues. If you are worried about population now, you are going to worry about it a lot more when there is mass migration from countries that are flooded, so mark my words, that is something you really will need to think about. There is a Chinese proverb - I looked up a few, I thought I would put them in a speech - that is a nice one, which says: "The best time to plant a tree was 20 years ago. The second best time is now." We need to be acting now, not on isolated specific little areas of our Government Plan in order so that we can pat ourselves on the back, walk out of this Chamber today and say: "We have done something about climate change", we need to be looking at our entire Government Plan. We need to climate assess every impact of that Government Plan and we need to be honest about it. When we fail, we need to say: "We have failed. What can we do about it?" That is transparency, that is open Government, that is what we are desperate for on this Island. If we are to be relevant and valid to the people who voted for us, that is what we have to do. Let us act now, not in 18 months and let us be certain that future generations will not look back on this debate and shake their heads in disappointment as we fail to give their futures the priority it needs. I urge you to reject the amendment.

#### **6.2.24 Deputy L.B.E. Ash:**

Firstly, I would like to say that I will support the proposition of Deputy Ward, but I would preferably like to support it, as amended. I think we do need a workable timeframe and it is not as black and white an issue as some would have you believe. We have already seen that during these debates, where different people have had different views. We saw Senator Mézec earlier on say: "Well, it is a problem the rich are going to have to pay for." Personally, I do not see that. It is a problem we all have and it is a problem we are all going to have to meet. You cannot just wander into a coffee shop and then say: "How wealthy are you? You will have to use the renewable one, mate. And you?" "I will just have the flat white." "Oh, you seem poor, have a plastic one. Fill your boots, pollute away." It does not work like that. We are all in this and we are all going to have to work something out. That is how we start. We need a timeframe. There are also other things I would like to point out that Deputy Martin said. Some of the things that went on in London I felt reeked of double standards, gluing yourself to the Tube, so one of the most sustainable methods of transport in London became out of use, causing massive traffic jams, massive fuel fumes coming out of those cars, all parked up. That is a double standard. We cannot just do it on those sort of double standards. We must push ahead with proper standards, proper levels, including educating people the right way. It is also worth remembering that when they were doing that in the capital city of one ... if not the leading nation in Europe at reducing carbon emissions. Greenpeace, when they did it, they went out and found the whales, they found out and tried to protect them where it was happening. If people really want to protest, they need to do so in New York, Mumbai, Moscow, Beijing. On the radio, the other day, it said that China is expected to produce as much carbon in the next year as Britain did in the last 600 years, so let us look at where a lot of the real problems are and let us not say everything is Britain, because it is not, regardless of what everybody would like to have you believe. Let us look to this fair isle of ours, which we are rightly proud of and where we do have an influence and where we can



make a difference in our own Island and let us set an example. I would fully support that we do set that example, but we have to work to a happy median, a balance in order to live in the 21st century. “What would Greta do?” was the question. Well, Greta would ban air travel.

[17:15]

How would people feel about that tomorrow if they could not move out of here via a plane, if we are running a finance industry with no airport? For the moment, we have to work with that. If that means buying carbon credits, then we will have to buy credits. As I said, I support this. There was a younger Member of the Assembly yesterday who said to me: “I support this, but I would not want to give up my iPhone.” Well, he is right, that is how things will go. Do we want to give up our iPhone? Do we want to give up air travel? Do we want to ban cars? Do we want to stop importing foods from far-flung places? Which, by the way, if we do, will make the poor people in those countries even poorer, which is worth people considering. So, there is a lot more to consider than just a simple black and white thing. As I said, we have to, as a Government, do it with financial incentives and financial disincentives. Have a look at the carrier bag situation. It was on the news today. A few years ago we used 140 carrier bags each when we did shopping, 140 disposal plastic carrier bags. It is down to 19 now. That came through education and putting the price in place for people having to pay an extra price. If you look at that, beautifully done, a nice non-disposable carrier bag. But, it is a point and it is a point on double standards and we have to close those double standards down. Now, we have in this Assembly - I will use rugby parlance here - a tremendous back row, a brilliant back row, a back row that perhaps the Jersey Reds would be proud of, of Deputy Ward, Deputy Tadier and, of course, Deputy Morel. As I said, I feel like ringing Harvey Biljon. They tackle everything tenaciously; they pride themselves on getting on the ball. I think the only problem Harvey would have is that they stray offside a bit and get suspended. **[Laughter]** Deputy Morel would also be complaining about Harvey picking the team as being undemocratic **[Laughter]** but you may recall that the fearsome back row were in action in a recent question I fielded on the Ports of Jersey wishing to raise their car parking fee. The fearsome back row, as you would imagine, were all in favour of this. They wanted it to go up to £10 to really deter people from driving to the airport, make them use the bus. You might not recall that, because they did not. They all complained. They complained that the Ports were putting it up by 10 pence, because it is going to make it difficult for people to use their car and park it at the airport. That is the sort of double standard we have to avoid. If we are going to have to do this, we have to do it together. I will support the motion, but it is a thing that we will all have to do as one body and we have to accept there can be no double standards in this.

#### **6.2.25 Connétable J. Le Bailly of St. Mary:**

People are wondering, how do we do this, when do we do this and how much is it going to cost? We could start tomorrow, quite easily. It would start with the Minister for the Environment changing his policies. As Senator Ferguson alluded to, a lot of our waste comes through domestic dwellings, lack of insulation, and the current policies on insulation contradict with each other. Many people in older houses have wooden windows, which are rotten. They will not replace them, because there is a massive cost. They could replace them with nice plastic double-glazed units, but they are not allowed to, because the Minister for the Environment, or one of his departments has decided that is not acceptable. So, we could start this tomorrow. We could start by allowing people that really cannot afford to replace their wooden windows with plastic windows and it would be far more cost-efficient. If we got that on the go, at least that would be a start to the situation.

#### **The Bailiff:**

If nobody else has anything to say, then I call ... right, OK. Well, my predecessor might have said: “Has anyone got anything new to say?”

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

I definitely have, Sir. I certainly have something new to say, because I am going to be controversial. In a debate, it is important both sides are put forward and not just one side. I think the first point I would like to make - and it was mentioned earlier - this Government is the first to put in its Common Strategic Policy the environment. That is because we are taking it seriously. I am sorry to sort of boast a little bit, but I think, just to give a background to myself, as a student, believe it or not, I went on a march and I was marching against C.F.C.s (chlorofluorocarbons), because C.F.C.s were going to burn a hole in the ozone layer, which would create a hole that when the sun's rays came through, it would melt the ice cap within weeks, or months, or whatever the period was and if you spent more than 10 minutes in the sun, without the ozone layer to protect you, you would get cancer and die. So, as a student, naturally, I campaigned strongly against that. Well, history has shown that has not quite happened. Secondly, I personally have planted over 2,000 trees on this Island. I have planted a small wood and I have planted trees along hedgerows through the Parish of St. John and one, or 2, other Parishes and I am very proud, because those trees now are semi-mature, lovely great big chestnuts, oaks and other trees. I have introduced, in St. John, cotton shopping bags. We do not use plastic in St. John, because we have got these nice shopping bags. But, when I was farming, I went about reducing my nitrate usage by 80 per cent and I achieved it. I produced a paper, which I handed to the Department of Agriculture and they said: "Oh, that is nice" and did nothing more. I think I can, with a degree of pride, say that I am somebody who is an environmentalist, but what exactly is carbon? Carbon is one of many pollutants that we have within our globe. I congratulate the Deputy on bringing this proposition, but it is just one single topic and it is carbon. I would like to see that broadened significantly more to include all forms of pollution. Another issue is, yes, this Island can become carbon free. As Deputy Guida pointed out earlier: at what cost? It is not just 10,000 dollars, because that is only the annual cost for air travel, it is the loss of duty, the loss of G.S.T. (Goods and Services Tax), the loss of vehicle emission duties. Those will have to be replaced, because, otherwise, we are going to have to choose between education, between health and the environment and those difficult and realistic choices which we here in this Assembly will have to make. So, unless you are prepared to go through with the very difficult decisions that this is going to produce, then do not just play to the gallery. I also have a very serious issue over electric cars, because the batteries have to be manufactured and the manufacture of batteries is exceedingly toxic and the emission of the sulphur and other gases in their production and to obtain their raw materials is very substantial. I do not want to be somebody who says: "I am all right, Jack. I am driving an electric car, because it was the developing countries around the rest of the world who manufacture the battery and are they not terrible in their emissions?" We should not push our emissions on to other people. We should take full responsibility if we are to go down that route. My final problem is that of setting an unrealistic target; in other words, setting yourself up to fail. A Member earlier said: "It is better to fail than not to tackle the problem at all." Yes, I can agree with that sentiment to a point, but why not set a realistic target and achieve it, because then you can take everybody with you on the journey? If you set up an unrealistic target, there are many who will give up, before trying to achieve it. That is why I would urge Members to support the amendment, so that we can come back to this Assembly with realistic and workable targets.

#### **6.2.27 Connétable J.E. Le Maistre of Grouville:**

I am going to support this amendment and, if it fails, I will be supporting the main proposition as well, but I would like to ask the Minister if his department have warned him of this impending doom of the ruination of our soil, as described by Senator Ferguson and Deputy Ward. I think Senator Ferguson said inputs were having to go up and yields were going down, because our soil was being destroyed. My information is that nitrates, for example, the inputs are going down due to fertiliser placement and better methods and our yields are at least maintaining their former levels, if not getting better.

#### **The Bailiff:**

Time is such that I need to ask Members if they wish to continue this debate. I assume they will want to see it through to finish, but ... okay. Deputy Southern.

**6.2.28 Deputy G.P. Southern:**

I rise to respond to the previous speaker, who suggested that the target was unrealistic. With the words of the Jersey Energy Forum, the advisers to the Minister on the climate change emergency: "A target of carbon neutrality by 2030 would be a significant challenge for Jersey to achieve, but the Energy Forum believes that it is not impossible. It would require a concerted effort over a 12-year period, with leadership from the Island's Government." That little comment there, which said that this target was impossible, is contradicted by the advice of our advisers. In reality, it is doable. It would require big efforts, but it is doable. A certain thing - I just remind Members on - is the need for some urgency here. Time and time again in the States, in this Government, this Assembly, we have made the right noises about the environment and then put it to bed, gone home and done nothing about it. That is our history. If we are to make a success of this, then, as many speakers have pointed out, the difference between 2019 and 2020 is a vital one. We should be starting now. It most realistically fits in with the Pathway 2050, the 5-year plan, the 5-year review of that, but when it comes to reviewing that, one of the targets that was in that Pathway 2050 was the insulation of homes. When they come to examine it, they will find it has got no funding. The funding was pulled at the last M.T.F.P. Ditto initiatives that this House has sanctioned, for example, just a minor one, but my favourite, the hoppa bus to get people around town, a bus, not cars, passed by this House. The money was pulled in the M.T.F.P., no funding for it. There will be some funding requirements, but far better to put that at the remit of Ministers, the Council of Ministers collectively, than to pile it on to the keen enthusiastic and dedicated Minister on his own, among let us say 10 other Ministers. The way forward, I believe, is not the amendment, it is the proposition.

**Deputy H.C. Raymond of Trinity:**

Can I ask a point of order, Sir? The Constable of Trinity and myself have another engagement which is vitally important to the Parish, but I am not sure, we cannot leave our vote, obviously, but I am asking if we could just hold this until tomorrow morning, because we are going to have to go. We are going to be caught in a very difficult situation otherwise.

[17:30]

**The Bailiff:**

It is open to any Member of the Assembly to propose an adjournment if that is right, so if you wish to propose that and you second that.

**The Deputy of Trinity:**

Are you happy that I propose an adjournment until tomorrow morning? Through the Chair, sorry.

**The Bailiff:**

Do you wish to propose the adjournment?

**The Deputy of Trinity:**

Yes, I propose the adjournment.

**The Deputy of St. Peter:**

How many are waiting to speak on the amendment, please, Sir?

**The Bailiff:**

Does any other Member wish to speak on the amendment? It seems that is only the Minister to reply and then a vote. So, you wish to propose the adjournment?

**The Deputy of Trinity:**

I wish to propose the adjournment, Sir.

**The Bailiff:**

Is that seconded? [**Seconded**]

**Senator L.J. Farnham:**

I would like to propose we finish the amendment.

**The Bailiff:**

That just means you vote against having an adjournment and we are not going to have a debate about whether to adjourn or not. It is perfectly straightforward.

**Deputy J.H. Young:**

To guide the House, I have kept notes throughout. I do think I need at least a quarter of an hour, 20 minutes to do my reply. I am sorry about that, so I will tell Members, so they can make their mind up whether they go for an adjournment or not.

**The Bailiff:**

Minister, that is helpful, thank you. I think we will take an *appel* on this. So, all Members return to their seats. The vote is on whether to adjourn. If you are in favour of the adjournment, you vote *pour*, if you are against, you vote *contre*, if you wish to abstain, you abstain. I ask the Greffier to open the voting.

**Deputy R. Labey:**

I wonder if you might repeat which is P and which is C, because there are a lot of people that are confused.

**The Bailiff:**

Chairman, I am delighted to do that. *Pour* means you are in favour of the proposition, in which case you are in favour of the proposition to adjourn. *Contre* means you vote against the proposition to adjourn.

<b>POUR: 31</b>		<b>CONTRE: 16</b>		<b>ABSTAIN: 0</b>
Senator L.J. Farnham		Senator S.C. Ferguson		
Senator J.A.N. Le Fondré		Senator K.L. Moore		
Senator S.W. Pallett		Connétable of St. Martin		
Senator S.Y. Mézec		Deputy J.A. Martin (H)		
Connétable of St. Helier		Deputy G.P. Southern (H)		
Connétable of St. Clement		Deputy of Grouville		
Connétable of St. Lawrence		Deputy M. Tadier (B)		
Connétable of St. Saviour		Deputy J.M. Maçon (S)		
Connétable of St. Brelade		Deputy of St. Martin		
Connétable of Grouville		Deputy R. Labey (H)		
Connétable of St. John		Deputy of St. Mary		
Connétable of Trinity		Deputy J.H. Young (B)		
Connétable of St. Peter		Deputy of St. Peter		
Connétable of St. Mary		Deputy J.H. Perchard (S)		
Connétable of St. Ouen		Deputy R.J. Ward (H)		
Deputy K.C. Lewis (S)		Deputy C.S. Alves (H)		
Deputy M.R. Higgins (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Ouen				

Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy G.J. Truscott (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

**The Bailiff:**

So the States now stand adjourned until 9.30 a.m. tomorrow morning.

**ADJOURNMENT**

[17:32]