

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 9th JULY 2014

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[9:30]

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

PUBLIC BUSINESS – resumption

1. States owned or controlled companies: rights and responsibilities (P.100/2014)

The Bailiff:

We come back to the Order Paper and the next matter is Projet 100 - States owned or controlled companies: rights and responsibilities - lodged by Deputy Baudains and I will 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 agree that appropriate amendments should be made to the Public Finances (Jersey) Law 2005 to provide that responsibility for exercising the rights and responsibilities associated with the shares owned by the States in any company, which is currently vested in the Minister for Treasury and Resources alone in accordance with the provisions of Article 68(1) of the Law, should in future be vested in a new panel chaired by the Minister and comprising one Assistant Minister and 2 States Members who are not Ministers or Assistant Ministers appointed by the States; and (b) to request the Minister for Treasury and Resources to bring forward for approval the necessary amendments to legislation to give effect to the proposal.”

1.1 Deputy G.C.L. Baudains of St. Clement:

I have got around to this at long last. I would just mention, I do not know how long Deputy Le Hérisier is able to stay with us today but I think it is unfortunate. I did accede to a request from Senator Ozouf last week to defer the debate because he was unable to be here but now it transpires that Deputy Le Hérisier is otherwise engaged during the day and has consequently had to withdraw his amendment, which I think is unfortunate. The reason I am bringing this is because first of all, I think what we really need to do is question the present template we use when incorporating areas of government that were previously administered by States committees, whether it is the most appropriate one because whenever incorporation is proposed much is made of the potential benefits but we only really discover the disadvantages later on. As an example, it was just a couple of weeks ago we decided to incorporate Housing, which was previously administered by politicians who did so as part of their work and were fully accountable to this Assembly. It will now be undertaken by a board which is effectively a committee by another name. It will be populated by people who require a salary and who are effectively unaccountable. I recall during that debate the Minister for Treasury and Resources commenting that a board would be far superior to the old committee because it was the latter who had let the properties deteriorate. I think I mentioned at the time the reason they deteriorated is because the committee had been starved of funds under the Fundamental Spending Review while a new board will benefit from hundreds of millions of pounds. It is not comparing like with like. There is no doubt the board will, I have every confidence - and like others I will come to in a moment - will come under the watchful eye of the Minister for Treasury and Resources in his position of shareholder representative. However, while that may look after the interests of the public on whose behalf we and he act, it is done at a high level and does not cover the areas which are crying out to be covered, as the Minister for Treasury and Resources does not get involved in day-to-day administration and rightly so. But that, in turn, creates a huge accountability gap which did not exist before and that is what my proposition is intended to address. As Members will recall, many questions have been asked of the Minister for Treasury and Resources in the recent weeks or months regarding certain utilities. We really have

not made a great deal of progress because as we learn from the Minister's comments to my proposition, he is proud of the Memorandum of Understanding that he has with these companies but, of course, what he is doing, and rightly so, is ensuring that the companies produce the maximum amount of profit that they can, that the value of the company is enhanced wherever possible. No problem with that. But who is taking care of the customers? What happens is that the Minister does not get involved in the plight of thousands of customers that get caught up in this accountability vacuum surrounding the utilities, many of which are, of course, monopolies. This is a recurring theme, as I made clear in the report accompanying my proposition. We did lose, in my view, a substantial amount of accountability when we moved from committee to Ministerial. The companies or incorporated entities that we created are at arm's length and, in fact, company law does not allow us to interfere in the running of them. All very well and good but when you have a utility - as I have said, in most cases, monopoly - how do you ensure the customers are receiving a fair deal and more importantly any problems they have are properly dealt with? The truth is, at present one cannot. Of course, I fully appreciate that a fair deal will normally be an issue for the regulator but he, rather like the Minister for Treasury and Resources, operates at a high level and does not concern himself with day-to-day operational issues. This is important. This is the crux of the matter because many cases of customer dissatisfaction would be regarded by any company as minor issues but they are major issues as far as the customer is concerned.

[9:45]

Sadly, because of obviously being a monopoly - a lack of competition - many utilities do not respond to customer complaints the way that other businesses with competitors would. The customers are basically left with no one to turn to. That is where I would disagree with the Minister for Treasury and Resources because he has described the bad old days of committee when in actual fact in, this regard things, were better because if issues were not resolved by the department fairly quickly, they would be referred to committee and the fact that politicians could be held to account for operational issues meant problems were unlikely to be left unresolved for very long. We have lost that. Now we are faced with a question: "Where does the buck stop?" If I give an example where a tenant of the new Housing Committee has a problem it will usually be something simple, a window will not close, a neighbour's dog barks, someone has damaged the door. Major issues as far as that tenant is concerned. Will the company resolve the issues speedily? At present the Housing Department does, and I hope the new company will but we do not know. The point is where does a tenant go if they do not? The regulator cannot help nor can the Minister for Treasury and Resources. I have said before that the mere ability to be able to ratchet-up unresolved problems previously meant that they never got to that stage anyway. We have lost that with incorporation and that is a gap we have to fill. As I also mentioned in my report, obviously some utilities are more exposed to this problem than others. For example, customers of the J.E.C. (Jersey Electricity Company), Waterworks and the like are only likely to face issues of continuity of supply and price and issues like that and both those are currently able to be dealt with. But, of course, some other service providers are not so easily dealt with. Members will be aware of the problems customers have had with Jersey Telecom over the past year or so. I am not going to go into a lot of detail. I could speak for hours on that but there is a great deal of dissatisfaction over a whole raft of issues. But there are 2 common denominators underlying this. Firstly, it is becoming obvious that the company has become self-serving. They are not interested in the inconvenience customers face by introducing fibre into the home or any of the other problems they have been facing. The company no longer accepts payment by cheque; it does not even take cash at the counter. This is a blatant example, in my view, of acting in their own interests and the customer just has to put up with it. There is no customer service. As an example, over a month ago - 5 or 6 weeks ago now - I wrote to the company seeking clarification of charges and I am still waiting for the reply. Secondly, those of us who have taken up the baton on behalf of disgruntled customers

are aware there is no way of bringing pressure to bear to force the company into resolving customer issues which we were able to previously. We asked the Minister for Treasury and Resources ... as I have said, we asked questions of the Minister for Treasury and Resources but as shareholder representative, operational issues do not concern him. Frankly, again I mention in my report, I think in the case of Jersey Telecom I think he should be because given the amount of customer dissatisfaction with that particular entity I fear he may find the company's value diminishes when its customers transfer to alternative providers which, once the regulator has finally got his act together, will make a large difference. We have mentioned the regulator. We have tried to get satisfaction via the Minister for Economic Development in his capacity of regulator overseer but unfortunately again, we have seen the regulator operates in the bandwidths between impotent and weary. There is no help there. The regulator, like the Minister for Treasury and Resources works at a high level; it is not his concern if your telephone does not work properly or your front door will not close. These are not regulator issues. In fact, the problem is it has become nobody's issue. People have to put up with unsatisfactory service because politicians have lost the ability to intervene. In my view there are potentially even greater problems over the horizon assuming, that is, that Harbours and Airport become incorporated because I believe that has the potential to be the biggest cause of frustration of them all. It is concerning because when it comes, all these incorporated States bodies, there is now no way a politician can represent his or her public to take up issues on their behalf. I became a States Member to help people, not to have to tell them: "I am sorry, there is nothing I can do." So today we have an opportunity to fill the accountability void created when we incorporated services previously managed by politicians. We need the tools to do the job, tools that we had previously which were taken away. We need a politician or politicians we can at least question in this Assembly regarding operational issues. In that way at least some degree of accountability will be restored. Again, as I mentioned in my report, it is a difficult one to resolve and I considered several options before deciding on the structure that I am proposing. One of the main contenders obviously was an ombudsman but I discounted that mainly for 2 reasons: there would undoubtedly be a cost involved and it is certainly doubtful, in my view, that resolution of customers' problems would be immediate enough. Taking my previous example of a housing tenant, if currently the department does not act... and I have to say in my experience Housing are excellent. But if they do not act, all that is usually required is a phone call or email from a politician to get satisfaction. Would an ombudsman be able to act that quickly? I do not know. So what I have tried to do is to extend the powers that the Minister for Treasury and Resources currently has and, mindful of his workload, include other politicians to form a small panel and my hope is that members of that panel would forge a working relationship with the companies involved and by virtue of being politicians, be easily contactable by the public or indeed other States Members whenever a problem arose. That way, hopefully all it would take to resolve an issue a company may not be dealing with expeditiously enough or at all would be a call from a panel member to the company concerned in much the same way a person or politician contacts a department on behalf of a constituent. That, in my view, will improve customer service instead of at present the unsatisfactory situation where a company can, if it so wishes, do what it likes and politicians are unable to help those members of the public seeking their assistance. So I make the proposition and will attempt to answer any questions.

The Bailiff:

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

1.1.1 Deputy R.G. Le Hérissier of St. Saviour:

Yes, if I could speak, thank you. My emphasis is slightly different to Deputy Baudains in that I do think Members would represent the broader public interests and it would be about broader public issues. I think... and indeed if one is to read the comments of the Minister my view is these

comments feed totally into support of Deputy Baudains' proposition. They achieve precisely the opposite effect that he is trying to achieve. He talks of committees as bodies where there might be irreconcilable opinions expressed, there might be different opinions. This is normal committee operation we are talking about. It is as if there is some strange world out there where if people express different views on committees the whole system of government will come crashing down. Quite the opposite. I do think this notion... and I notice when you look for examples the P.A.C. (Public Accounts Committee) report which is at the end of the Minister's comments, there is this movement between the word "States" and the word "Minister". Well, the Minister is only operating on behalf of the States. He has somehow to reflect those views. How does the Minister, having run a policy in the last few months, for example, in deflecting Deputy Baudains' questions - because that is largely what the policy has been - absorb the view of the States? How does he determine under the Memorandum of Understanding, which he quite rightly says govern the relationships? How does he determine what the public interest is? It is the view of one person. That is essentially what it is and the checks and balances are views from within the Treasury, so it is the Treasury imposing checks and balances on itself and that is never, never a healthy organisational way to operate. To take some examples, the Minister says: "I set them out and then I... it is a private organisation" and yet, he has a major responsibility for setting the direction of that organisation and then once having set it, through the Memorandum, he draws back, But yet he then says: "Oh, we have got to give them commercial freedom" but one of the things, for example, that has occurred with Jersey Telecom is they have got massive involvement in the international sphere and you have to ask yourself, there is a famous management axiom from *In Search of Excellence* which says: "Concentrate on the knitting." In other words, concentrate on what you are really about and when you are having massive difficulties with your billing system, when you are introducing systems that are starting to alienate the public and so forth; who gave permission? Is it done through the Memorandum of Understanding? Who gave permission that J.T. (Jersey Telecom), for example, was to embark on massive international ventures? It all sounds very good but that is not the issue. The other issue... and we as a States are partly to blame, and it has been reflected in emails which Members have received recently, which Deputy Baudains received in very great numbers from a certain gentleman, but he has some very good points. One of them is we never really thought through the process of what we would do with J.T. when we decided to keep it as a States-owned entity because it was allowed to keep control over the infrastructure and we now see the almost impossible tensions which that has set up. We have seen the almost farce of the court cases. We saw a previous court case on number portability where vast sums of money were essentially spent to delay an inevitable decision, to delay an inevitable decision. We have similarly seen a recent court case where it was simply delaying rather than attacking a matter of substance. But by allowing J.T. to keep control over the infrastructure and not be a true competitor with the other operators in Jersey we have set up an almost impossible tension and that is the sort of issue I would have thought that the Minister would have been seeking to resolve, to separate out the infrastructure issues of J.T. from the service provision issues. Whereas we now see this case that is rolling on of the fixed line system where people cannot get access to it, where progress has been unbelievably slow, where the only liberalisation that apparently has occurred with the Competition Authority is over single lines rather than multiple lines, for example, which makes it almost impossible for these other companies, including the one that we have heard about quite a lot recently. It makes it impossible for them to break-in and also it is impossible for these companies to retain commercial confidentiality when, in approaching J.T. as the infrastructure provider, they have to give an awful lot of information which essentially undermines their competitive position. That issue has never been resolved. In my view, the Minister has never faced up to it and he has never said: "Look there are real issues with the way we have set up this structure. It has tilted the balance far too much in this case" and good luck to J.T., they have got the freedom. It has tilted the balance far too much in their favour and led to this situation. But overall, what is the main

objection in my view is this total void that the Minister is beavering away representing the public interest. I just do not know where he gets his concept of the public interest. I would have thought, as Deputy Baudains is suggesting, to have 3 or 4 States Members who can say: "These are the issues." They will be presented with the thinking of the utilities and they will respond to them. What can be wrong with that? What can be wrong? Instead of one person operating in total isolation under Memoranda of Understanding, which his own department are monitoring, formulating and apparently modifying as need be. What can be wrong with a group of people working with the Minister and if there are, as he says in his comments, differences of opinion, what is the problem?

[10:00]

That is the whole purpose of setting up a group; that there are differences of opinion that people have healthy arguments; that his thinking is teased out. At the moment, I mean, we know in a way, because of the Senator's ideological position, where he stands but in terms of detailed oversight of the position what is the problem in teasing-out where he stands and asking him or her fundamental questions? I would have thought that is incredibly healthy. So for all those reasons I think we probably got it wrong as to how we managed these utilities. We concentrated far too much power, irrespective of the enormous energy, which we all respect, of the Minister for Treasury and Resources. We have concentrated far too much power in the hands of the Minister for Treasury and Resources and allowed far too many debates that should be open debates to be held under the surface and that is why occasionally they pop up these incredible issues where quite clearly things are going wrong, but we as Members cannot deal with it because of the almost surreptitious form of accountability that apparently controls this situation. Thank you.

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

I have to rise and disagree with the first 2 speakers on a number of issues that they have already raised. The first one is the billing system. Members need to realise that the old billing system that Jersey Telecom used was defunct. It had to be replaced. They realised that the new billing system was not going to be perfect; it was going to give them difficulties. They are overcoming those. They send out an enormous number of bills on a daily basis and it would be my view that the number of complaints they get about those bills is very, very small. There is laughter in the Chamber but I think if you saw the percentages, we might be surprised. Very recently, the week before last if I recollect it correctly, Jersey Telecom put on a presentation to States Members. I was embarrassed that I was one of only 5 States Members that attended; one of those 5 being the Minister responsible. It was a very professional presentation. It is one that I look forward to going to on an annual basis, mainly because it gives me the ability to see how well Jersey Telecom are run, the profits they are making. I find it a really good presentation. Once again, this year we saw that they are now making more money from the business they do off-Island than the business they do on-Island. This is money. This is profit which is returned via a dividend to the Minister for Treasury and Resources for the Treasury to administer, to use for the benefit of Islanders. Why are we not more proud of our States-owned utilities? Why are we not more enthusiastic? Why do we not encourage them more? This is a company that is owned by us for our benefit. We should be allowing them to make more profit on the basis that profit is returned to us for us to use for the benefit of Islanders. Deputy Baudains mentions the lost ability of States Members to resolve issues speedily and the inability now of politicians to intervene with State-owned utilities. I have to say to Members this is not my personal experience. I have had dealings with the Electricity Company, with the Water Company and with Jersey Telecom on constituents' and other Islands' behalf and I have to say that in every occurrence I have had speedy success in resolving issues. I urge Members to think carefully about this proposition. Thank you.

1.1.3 Senator S.C. Ferguson:

I would like to have been at that presentation. Unfortunately, like many Members, we had prior engagements which had been arranged with us long before we got the note about J.T. One of the problems we have to cope with is that everything is dressed up as commercial confidentiality, and: "We cannot tell you everything." You have to have a cut-down set of the accounts because otherwise it is commercial confidentiality. I do think there is a conflict of interest regarding the shareholdings because obviously it appears that the Minister for Treasury and Resources, and he no doubt will confirm this to us, seems to be requiring as much return as possible. But this is not necessarily in the long term or even the short term in the best result for the public. There needs to be a balance. Every now and again we get the comment coming that we cannot afford to carry on with the cheap rate fixed line for the oldies. I am sorry, the more mature members of society. Sorry, senior citizens. Sadly, I must confess to a conflict of interest here because I myself have one of these lines. But there is no true competition because in a number of aspects there is a monopoly situation with the utilities. With J.T. we have got the multiple and the fixed line problem which has been alluded to by Deputy Le Hérisier and, in fact, I should say that the Minister for Economic Development and I will be attending a meeting with J.T. regarding various aspects of their dealing with the local community. Now, Jersey Water and Jersey Electricity have significant minority shareholdings which are independent. J.E: Jersey Electricity is publicly quoted on the London Stock Exchange and therefore there is another set of checks and balances; and Jersey Water is quoted locally. Therefore although these are monopolies there is a check and balance with the independent shareholders. The position of J.T. does not afford this control. In fact, although the accounts have been ... or the summary accounts have been published, I notice that the 2013 figures required to be published by the regulator which split out the wholesale and retail dealings are not yet on the website, and it is well over halfway through the year. Over the past 2 years - well, 2011, 2012 - the main profit of the company has come from their wholesale activities. They make profits on the line usage, on the call usage for retail, but not on any of the other aspects in their retail dealings. These figures are ... if you go on to the website and look for regulatory matters, you will find the figures for 2011 and 2012. I have also started looking at download data charges. I question the pricing being loaded on this. Again, I shall be raising this at our meeting because in the U.K. (United Kingdom) where there is true competition it is possible to have unlimited download available. The download charges here, if you download television or films or anything, which is becoming commonplace, if you download those before midnight, then your telephone bill goes up significantly. In fact, I have put a bar on my son downloading before midnight because my bill was going up by leaps and bounds. The recent rationalisation on broadband has increased costs for those in the bottom level tariffs. This is unreasonable. Many of these people will not require the additional facilities provided. They do not want a lot of download. They just want to be able to do a few emails and stuff like that. Apropos the activities of J.T., the international activities of Jersey Telecom, we do not, as I have said, as a matter of course, get full accounts and it is not totally clear as to how profitable the international operations are. Now a few years ago, certainly the biggest part of their revenue came from their international operations but whether that is the same as profit, as we all know it is not the same as profit. But should we be in the dark over this? As I say, I have questions for this particular company at our meeting on this and the fixed single and multiple line position which has already been quoted. I think to have a spread of views looking at the operation and the public interest on the utilities is no bad thing and I will be supporting the proposition.

Senator F. du H. Le Gresley:

Sir, could I just seek some guidance from you because we have just had 3 speeches which only talk about Jersey Telecom. I thought the proposition was completely different to that.

The Bailiff:

Yes. The proposition relates to all the companies. Senator Ozouf.

1.1.4 Senator P.F.C. Ozouf:

I have tried to find something to agree with with the last 3 speeches because I have heard an awful lot of criticism. I have heard some things that I recognise; I am not going to use the word “sympathy with” because it is the wrong word, but I recognise the issue and I have been trying to find something that I really agree with. I will start by being positive and say that I absolutely agree with one thing that Senator Ferguson said in respect of the 2 entities that she made a fleeting remark about, which was Jersey Water and Jersey Electricity. In the last 2 weeks the Assistant Minister and I have held all of the A.G.M.s (Annual General Meetings) with all of the entities and we have used that ... A.G.M.s do not take very long; they take literally minutes and then we have one of our regular dialogues of meetings. It is fair to say that both Jersey Electricity and Jersey Water have got minority shareholders which do perform a valuable role. I will come back to that later. I would observe also that this debate is being characterised as simply one and again there is some very ... if I may say there is ... they are not necessarily confused but Deputy Baudains and Deputy Le Hérissier are coming from 2 different directions and Senator Ferguson is also coming at it from a third direction. All of these directions appear to be now eliding in the middle with a single solution of effectively putting in a committee. There is no doubt that these are really important issues and they are really important issues for the Island, for this Assembly and for Ministers. This is not a debate and should not be a debate if Members know their facts. I am sure they know their facts because I am sure they have read the comments that have been given and that they read the underlying laws, and many of the Members of this Assembly were there when we set up many of the arrangements. This is simply not and should not be characterised as a single point of responsibility and a single almost decision-maker in being whoever the person the Minister for Treasury and Resources is. Because that is not how the arrangements work. There are multiple levels and there are different Ministers that are responsible for different areas of some of the problems. Deputy Baudains, I think it is fair to say... and I think that he would freely admit and... of course, in an open society and in an open democracy and in a Parliament we are free to disagree. Now Deputy Baudains, I think, would like generally to go back to committee government. He has brought a proposition, P.157, and that was effectively defeated. We debated it. There were 16 votes in favour and he wanted to move back to committee system and that is a fair view. That is what he thinks and if he thinks that that is the way forward then he is entitled to have those views. This is a proposition which is a partial rerun of that debate, to move some of the old responsibilities of committees that moved to the Ministerial system back off to a committee. I also note that Deputy Baudains, quite rightly, has asked lots of questions about utilities. He has asked 10 questions on J.T. since the start of 2013 and 2 on the J.E.C. and these issues are clearly important for the Deputy. The majority of the questions that he has asked me, and indeed, much of his speech focused on the really important issue of customer service and customer satisfaction, and many of the questions that he has asked me in this Assembly are areas such as the company’s acceptance of cheques, and these individual issues in relation to the billing system.

[10:15]

Now, I think to move problems at what I would describe, and Deputy Baudains would not, I think, agree to describe levels of fairly operational matters equating to a wholesale governance change with huge implications to the boards, all of which the boards, which this Assembly has mandated them to deal with the operational issues, are I think to equate problems in some areas and in one company to a wholesale reorganisation of the governance arrangement for utilities would be a very dramatic jump and I think would be wrong. Effectively it would be equating some customer service experiences which are real and problematic and needed to be fixed, with an overall conclusion that there is a fundamental failure of the governance arrangements with the shareholder.

All companies and utilities should have proper processes to first of all avoid customer bad experiences and then dealing with customers' complaints. With the greatest of respect, I do not think that day-to-day problems, and Deputy Baudains used those words, day-to-day problems of customers should be time taken in this Assembly every 2 weeks. I think we are here - and I will come to the important issues that Deputy Le Hérissier makes - to be legislators, to be overall strategic policy confirmers at a very high level enjoiner and to ensure accountability. All of the entities... Senator Le Gresley was right to say that a lot of the comments are about J.T. J.T. seems to be ... certainly it is the most valuable entity. It is the entity that is going through most change. It is the entity that is having the most amount of capital projects going on at the moment, fibreing the Island, moving to a new billing system, together with a fundamental change in the way that telecommunications and data is being received and they are effectively the entity that this Assembly and Deputy Baudains and Members' comments mainly are concerned about. It was not always so though. It was Jersey Post that was the problem entity a couple of years ago and before then it was the J.E.C. because we had also Deputy Breckon using the 1937 Law for electricity. I have reflected and all entities will be ... just as there is a time and place when all Ministers get particular problem periods. We have all had them. They will continue to happen where public matters of importance are the real issues which are commanding public interest. Now with these entities, we have set up a structure and process including, and nobody has yet used the word "regulation". We have set up segregated responsibility to ensure that matters are dealt with properly and that matters are accountable. Companies have been incorporated and they have been put to some extent at arm's length from day-to-day operational control for good reason. They are commercial enterprises. They need to be allowed to invest, take business decisions in a fast-moving business environment and in a way that, if I may say, would be very problematic in a committee system which this does ask for. Deputy Baudains said: "Politicians have lost the ability to intervene." Well, I do not agree with that from an overall policy point of view, but politicians are not there to be good committee members, attending a Jersey Telecom board to speak about, and I have spoken with former politicians and former directors and former managers of days in which the old Telecommunication Board would have endless discussions about micro matters which, frankly, was not the best use of politicians' time. There was apparently a very long discussion at a certain time in the past about whether or not Jersey Post vans should be painted a certain colour. Well, I do not think that Members are elected in order to make operational decisions. Politicians are here, and politics is about the really big strategic matters. We do have the ability to intervene. We do have issues that can be brought to the public's attention and this Assembly, on occasion, is the right place to bring serious failings, serious matters. Question time can be used and those serious problems, let me say to Members... and it does not matter whether or not it is me or anybody else, if I have questions without notice and I have not been given knowledge of something that is going wrong in a Treasury Department or a States-owned entity and I am asked a question and it is not in my brief, then there are problems when I go back to the Treasury. I say: "Why do I not know about that? Why have you not fixed it? What is the problem?" So there is accountability that works, and I can say to Members that when I became Minister for Treasury and Resources I did believe - and I again make no criticism of my highly regarded predecessor, who had many other important issues - the Treasury at the time had got into a position where the relationship was too arm's length. The States ownership of entities must mean something otherwise we must simply either sell them, and I am interested to know that apparently Senator Ferguson might not think that because I thought that her politics might be that she would sell everything and that the free market would operate better entirely. She hinted at it because ... by saying that private shareholders would be better. My view is that national ownership means something and national ownership should mean that there is a linkage between the States overall plan and the Strategic Plan and what these entities are doing. I think for all sorts of reasons that is sensible. That is important for investment. We have seen utility companies in other places that have been privatised, and that are not in their

government's ownership, under invest. They have seen their lights go out. They have seen their telecommunications not invested and they have seen their ability to compete, not in our neighbouring Islands... although I note with interest that Guernsey Telecom was sold and Members can see for themselves the reality of the financial matters to do with that, and I will come to the concerns about whether or not the Treasury is simply wanting a return. Actually, J.T. is worth about £300 million if it were to be sold. I personally do not believe it should be sold. Each of these entities does have challenges and does have, from time to time, a requirement for an intense dialogue between Government and the entity themselves. Jersey Telecom is at that moment now. That is why we are working with J.T. and I hope going to be working very closely with the Minister for Economic Development, who has the responsibility of dealing with many of the questions that Senator Ferguson was raising. Now I do not quite know where the Minister for Economic Development is going to be in this world whereby there is a committee and simply then still the Minister for Economic Development is dealing with regulation. Does he need a committee as well to deal with the governance and what he is going to be dealing with the regulator? The regulator is not entirely independent either. There is accountability of the regulator and there have been issues, there has been learning, there have been problems on both ownership and the regulatory side. You, Sir, should not have been sitting over a court case between the J.C.R.A. (Jersey Competition Regulatory Authority) and J.T., and you rightly mentioned the waste of money. I hope I am permitted to say that. You are right, Sir. That was a matter which needed to be fixed, although I will say, on J.T.'s side that they won the case, but we should not have been in that position. But clearly, and again I say that I think there is a proper debate to be had about some of the issues that Deputy Le Hérissier raises about what to do with infrastructure. Many of the problems that Deputy Baudains is talking about is effectively retail service and I am poacher turned game keeper. When I became Minister for Treasury and Resources I wanted to be a more activist shareholder. I had chairmen of the entities thinking: "Goodness me. We are going to be told what to do by the Minister for Treasury and Resources." No. We have had a very good relationship where we have aligned States objectives, what this Assembly wants in a strategic plan much more closely in terms of what those entities should be. There are huge challenges that need to be put in place in relation to dealing with telecoms in the future. There is an absolute debate to be had about infrastructure, investment and retail competition. But we are not alone in that debate. There is a debate that needs to have happened all over the world about how to get investment. But setting up a committee is not going to solve these issues. Allowing Members, as Deputy Baudains says, to deal with the problems and to intervene on operational matters is not the solution. I have given substantial comments on these matters and I hope that Members would have learnt something, if I may respectfully say, for the M.O.U.s (Memoranda of Understanding) that had not previously been ... perhaps Members aware of exactly the granular nature of the way that the relationship works within those entities. The M.O.U. sets out how strategic planning works, how strategic plans will be approved. Budgets. It will be how reporting is made. That is strong governance. They define the dialogue that is expected, the issue of no surprises that I mentioned earlier. There should be no surprises. States Members and Ministers should not read something in the media of an important decision of a publicly-owned entity without pre-knowledge about it. Buying an acquisition, for example. That is why those no surprises are in place. So I see Senator Breckon's light on and I regret the fact that the debate on Broad Street has not yet happened but there we go, as a good example of whether or not the dialogue and accountability has worked. Jersey Post wanted to sell its Broad Street site. It was right because it was a reserved matter in the M.O.U.. Is that a problem, the fact that the previous Minister said that if you sell Broad Street please come and tell the shareholder? Was it right that there should be a dialogue with the Minister? Absolutely, and there was, and it happened properly. It was not possible to hide behind a committee. There was a single point of authority. There was a speediness and a quickness to dialogue which was possible because it was with a clear document with a clear accountability structure that worked. I also say, Jersey

Post: has the withdrawal of L.V.C.R. (Low Value Consignment Relief) worked? There have been some difficult times at Jersey Post. I commend the outgoing chief executive for his work in effectively doing a complete reorganisation and refocusing of Jersey Post, and who had brought himself much closer to the frontline staff that were dealing with many of the realities of the problems. Having brought his office down from the lofty heights of the executive floor down to the management floor that chief executive fixed a lot of the problems with Jersey Post and did it well. When there was an intense dialogue required between the shareholder and the management team - or the board rather - in relation to the changing of directors, *et cetera*, it could happen and it works and Members should be proud of what Jersey Post has done, winning awards for enterprise, winning the global innovation award for their call-in service, working for Health and Social Services. Fantastic. Is the Assembly saying today that there was a problem with Jersey Post that was not fixed and fixed well? I do not think so. But was there a problem? Yes. Would politicians, if I may say, micromanaging and interfering inappropriately on operational matters and being unable to allow the organisation to take some necessary and painful decisions that it needed to make... would it happen? The new chief executive of Jersey Post is an individual who the Assistant Minister and I had a frank conversation with 2 weeks ago.

[10:30]

He has been a regulator. He has worked for the U.K. Government and he has run a postal business. He is now running our postal business and is going to do a very good job. We spoke frankly about the implications of Deputy Baudains' proposition. Would it work? Could it work? I have some interesting things that I wish I could say in public about what that individual said about politicians' well-intentioned desires and stopping things happening will be. I am afraid that it is not possible and it should not be accepted that commercial entities are interfered with at an operational level inappropriately. It is simply a turning back to an old world that might have worked 20 or 30 years ago but will not serve customers, the Island or the public finances. Deputy Southern wants to speak. He may want to speak in terms of more nationalisation. He might want to talk about more control.

Deputy G.P. Southern of St. Helier:

Please do not put words into my mouth.

Senator P.F.C. Ozouf:

I said he may want to speak about it but he is remonstrating against my remark.

The Bailiff:

There was nothing improper about those remarks.

Senator P.F.C. Ozouf:

I look forward to his observations but if he is going to say we need more State involvement I might agree with him on some matters but I also think we might need less in some areas. There is a debate to be had about J.T., about infrastructure, retail competition, access to the network. All is not right in relation to the Competition Authority and J.T.'s relationship. The Minister and I are committed with it being the accountable Ministers, not just the Minister for Treasury and Resources, of fixing that problem but it is a fast-moving world. If may come to the defence of J.T., Senator Ferguson said: "No, J.T. was not making any money from external sales before." Yes, they are. J.T. have produced some spectacular results as a result of leveraging a small market and building profit which ultimately means that taxpayers are in a better position and J.T. is in a more robust position. There is a debate to be had. This Assembly has accepted a lower dividend for J.T., so where is this argument about profit being the entire motive? We have accepted a lower dividend to invest in fibre. I was grateful to both the candidates at the time for Chief Minister, that said:

“Yes get on with fibre”, and that, I think, has been a prophetic decision which I believe is going to stand us well into the future. Technology is about everything of the future and it is vital that, in my view, we have a Jersey Telecom that can work properly. I do not want to speak long because this is a difficult debate and there will be people who will, no doubt, stand up and say some fairly forthright critical things of some State entities, which I will be uncomfortable with, but I will not have a second chance to say I regret some of the things that some Members criticise about some of the States entities. Some of the States-owned entities have hundreds of staff that are committed to delivering very high levels of customer service. It is one of the most pleasurable things that I do and other Members, of course, are also invited to go and see J.T., Jersey Water, Jersey Electricity; go to the power plant, meet staff, meet engineers at the coalface and see hard working staff. I met a member of J.T.’s staff by accident at the weekend and this individual, who I did not know, spoke about the disillusionment that J.T. staff feel when they are criticised in this Assembly. They feel pain and they feel as though they are almost ashamed of being J.T. staff because of some of the things that are said and I find that a matter of regret. So I would urge Members to please be sensitive. There are good hard working people in these entities working day-in day-out to deliver customer service and solving customer’s problems. Yes, there are problems with putting a new box in everybody’s house for fibre. Yes, some Members do not think that that is the right thing to do. I am sorry but I disagree and generally people think it is the right thing to do, which is going to be enabling us to deliver all sorts of other States objectives in terms of education, health care and a society and an economy of the future which is going to be able to deliver jobs and growth and economic activity in a way that otherwise would not be possible. So I say we cannot turn the clock back. We cannot turn the clock back to a Deputy Baudains committee. We need to move forward. There has been huge success in many of these entities. Jersey Electricity is working well, working efficiently. Jersey Water is working well and efficiently. Jersey Post is working brilliantly well after having a problem. Jersey Telecom is working well and profitably but there are challenges and a debate to be had and we need to continue to use the existing separation of responsibility of the shareholder and regulation, widen it; expand it, if necessary, at the appropriate levels. Yes, have a linkage to a strategic plan and to invite the entity to show what they are going to do to meet States objectives but please not to go to an old form of governance that would throw away the last 10 years of management, improvements, investment, and better value. I hear Members complaining. If Members are going to say that they want to go back to a world where Jersey Telecom did not deliver the kind of sophisticated services that they do today then I regret what Members are going to be saying. These are difficult issues and it is not appropriate for a States committee to be created to deal with them. I urge Members, this is going to be one of these strange debates again where I think there is going to be an alignment of all sorts of irreconcilable positions. Three Members wanting something completely different coming to a conclusion which is a complete dog’s breakfast. I say to Senator Ferguson: “Look at what the P.A.C. say about governance.” I say to Deputy Le Hérissier: “Yes, strategic plans need to be linked into overall States plans. We can do better than we have in the past because of what we have now got.” I say to Deputy Baudains: “Nothing is ever going to persuade me”, that means that States Members are here to deal with operational matters and give the ability to this Assembly to intervene into matters; I do not think elected Members are there. Work to be done, but this is not the solution.

Deputy G.P. Southern:

Point of clarification, if I may, of the previous speaker? When he referred to different Ministers responsible for different areas, was he only referring to the Minister for Economic Development and himself or was he meaning other Ministers have responsibilities?

Senator P.F.C. Ozouf:

I am conscious that I do not want to speak for too long but, no. The Minister for Housing is responsible for housing policy and we now have a good and excellent framework for Andium. We have the Minister for Transport and Technical Services and the Minister for Planning and Environment responsible for certain matters to do with Jersey Water. Only yesterday discussing nitrate issues with Jersey Water. Joint solutions. We have electricity; I held the board meeting of J.E.C. last night, a full Minister team, dealing with electricity matters, a future of electricity sustainability. We have the Minister for External Relations dealing with seabed issues. We have a Chief Minister responsible for overall matters. It is a multi-Ministerial involvement that needs to be, perhaps, seen in the context in which it is but not a committee, going back to the past.

1.1.5 Deputy R.C. Duhamel of St. Saviour:

I think that what we do here, whether we are ordinary Members or Executive Members of the Government, could be likened to being participants in a giant game, a giant game of Monopoly, and having analysed the game, in game theory terms, Members will not be surprised that if you wish to win Monopoly, to take over the world, then you must take over the utilities first. Unfortunately that really is what we appear to be doing in terms of the strategic direction of the utility companies. There is a huge difference between strategic direction of commercial entities that are wholly-owned or part-owned by the States and their commercial running. In order to give proper strategic direction there have to be proper mechanisms in order to give those directions but the directions should not be given just by one person and we just heard the Minister for Treasury and Resources, coming late to the argument, that perhaps we do have embryonic working practices that are going to deliver stronger methods of governance in order to ensure that the information flow in terms of strategic direction properly runs from the public through to the States and its Members, through its Ministers and the Government and down to any businesses in which we have a commercial interest. But we do not have that exactly at the moment and that, I think, is really the essence of Deputy Baudains' and Deputy Le Hérissier's comments so far. It is said that a chain is only as strong as its weakest link, or as strong as its strongest link, but if that link is just the Minister for Treasury and Resources acting as the shareholder on behalf of the States then fundamentally we have a difficulty, in my view, in terms of the connectivity back through to the strategic direction that has to find its way properly forward from the public through the States and Ministers to those companies. So I think the Minister for Treasury and Resources is fundamentally wrong when he says that his world view is essentially black and white - his so-called binary options - and that going back, in any shape or form, to any committee style of government represents a wrong way forward. In this job - and I have mentioned it on previous occasions so Members will not be at all surprised - things are not necessarily black and white. They may well be at the extreme ends of the argument but we have to find working ways to come up with what is best for the majority. That means that in designing our chains, or designing our ropes perhaps, that is probably why we have multi-threaded ropes so that if any one particular linkage does not work then we have got a whole host of other links or linkages to rely upon. Some mention has been made that we do have a number of strategic issues that have not, in my view, been properly assessed by this working government over the last 3 years but we have made a start and we do have new governance organisations springing up and new challenges in particular with housing, energy, water; harbours and airport is coming up on the inside rail. Some of the difficulties I had in supporting the move to transfer all of our properties into the new Andium company were based on this very point that we have to have very strong mechanisms in order to ensure that strategic direction, which is to be given to our property holding company in a different guise, to make sure that those issues are taken up and expressed by the company. So what have we done about it? We have set up a Strategic Working Group consisting of a number of Ministers and we have begun to sit down together to discuss some of these issues but fundamentally it still relies on the formation of those ideas being expressed through the Minister for Treasury and Resources as the fundamental shareholder to the Andium organisation. Indeed I

thought it might have been possible - and I mentioned it in various places - that perhaps a better way forward would have been to have adopted something that is being suggested to us by Deputy Baudains today, that the instructions to be given to these commercial companies should be formulated by a group; we are going to call it a Strategic Housing Group. There is no difference in my mind to calling it a Strategic Housing Committee or whatever collective noun you wish to use. In essence, it is more than one person and that is the fundamental point.

[10:45]

I think having had the States move towards the creation of the Strategic Housing Group it is pretty clear in my mind that the comments that are being expressed by Deputy Baudains are being heeded. Harbours and Airports: and we are talking about commercialisation of that particular organisation, but there is still going to remain issues that previously had a States Working Group called the ... I cannot remember exactly what the name was, but it was a Transport Working Group that was interested in the transport linkages to and from the Island. It was headed by one States Member, but it was a group of people who looked at the strategic issues of transport to and from the Island. The very big things that any organisation running a harbour or an airport have to think about. There is a general interest to be expressed on behalf of all members of the public through this Assembly to those companies. Likewise, it was just mentioned about the other interested parties on behalf of Jersey Water. I have held talks with the Jersey Water executives under my remit at Planning, to look into the nitrate issues and other chemical pollution problems and indeed perhaps to have early talks in what T.T.S. (Transport and Technical Services) - if it is still here as a department in the future - might be wishing to consider which is the transfer of the sewage system to the water works company so that we have one body looking after a number of different areas for whatever reason. So that means that there are interested parties, other Ministers, who have to, on behalf of the public, express the longer term strategic issues in a way that these companies are expected to respond. Why are they expected to respond? Because we own them, or we own part of them, and that is the whole essence of the ownership. We have got similar issues - I will not go on too much further - with the Jersey Electricity Company and the opportunities that this Island might wish to avail itself of its renewable energy resources in terms that can be expressed perhaps in part or in full or in partnership with other bodies, through the electricity company. So all of this inevitably means that we are going to be reliant on the opinions of more than one person. So I am not particularly hung up to say that if you have the wrong person then you are going to have the wrong issues promoted but I think I would rather have organisational structures conceived that allows a multiplicity of opinion to be expressed and to be decided upon in a way that can be conveyed either through a single person, if that person is the chair of the group, no problem at all with the Minister for Treasury and Resources remaining as a chair of a policy-setting or a strategic policy-setting group, or any other person. So for me I think really we are about to reinvent a governance structure that served this Island for a number of years before we decided to change the names on the doors, and that was the Policy and Resources Committee. The Policy and Resources Committee in the past, if you read some of the papers, busied themselves with looking at the big issues, the really big issues, that this Government and this Island needs to get to grips with in a way that could be transferred sensibly down to any of the other organisational bodies that were required to bring into effect those common designs. One last point, I am a little bit worried when we have the Minister for Treasury and Resources suggesting that we do not have to worry too much perhaps - maybe I am paraphrasing what he is saying - about the reliance or being able to rely on the functions of a Minister for Economic Development when perhaps discussions are already taking place as to what might happen in the future to remove the Economic Development Department as one of the departments under a new Government. A number of functions have already been shed from E.D.D. (Economic Development Department) and I think the writing is on the wall for that particular department and I think the Minister probably realises, and if he does not I think he soon

will. We have been making functional changes to transfer different pieces of responsibility from some Ministers to other places and indeed that is one of the reasons why we have moved a lot of the property function out of the specific remit of the Minister for Housing and into a commercial company. So the future is going to be different, that is for sure, but I would like to think that we are a mature enough Assembly to take helpful propositions that do come from Back-Bencher Members from time to time to move us to a point where we can consider organisational structures and deficiencies in the proposals for how we operate our business in a way that I think is definitely useful and should be properly thought about and tried out. It has worked in the past and I see no reason with a strong wind behind us that our Members could not support wholeheartedly this proposition and satisfy ourselves that in doing so there would be an element of security in not putting too many eggs into one Ministerial basket.

1.1.6 Deputy G.P. Southern:

What are we talking about? We are talking about, for example, Jersey Post, Jersey Telecom, Jersey New Waterworks Company, more recently Andium Homes and in the future Jersey Ports. What are they? They are strategic assets to the Island, absolutely vital. Our communication mechanisms, our transport, our fundamental resources. They are strategic assets. Why do we want arm's length control over those? Why should we do that? Because it is surely essential to looking after our population that we keep hold of them. Why? Because if we incorporate them, not privatise them but incorporate them, then we put them at arm's length and we take some infrastructure costs, some capital costs, off the balance sheet, quite simply. We then say that in some cases we are introducing competition and competition brings down prices and the service will go up and the price will come down. Is there evidence that that ever happens? I would argue that is not the case and why is it not the case? Because the model used that competition brings, is a good thing intrinsically, brings down prices, does not work in a small economy because it is the Regulation that you need to control particular assets in order to make them work to the best interests of the public and that is what we should be concerned with. So let us have a look at the record. Let us start with Jersey Post. Jersey Post: in trouble some time ago. What happened to prices, did they come down? Prices went up. What happened to service level? Went down, collection was reduced, *et cetera*, no Saturday post. I just had my wife marking exam papers and comparing the times in which stuff gets to her without a Saturday post and stuff gets to the U.K. and hearing massive differences. So it nearly interfered with her ability to mark papers. What happened to the workforce? Well, the workforce got reduced. They were invited to apply for their own jobs minus 20 per cent of the old rates, so terms and conditions for workers went down. Jersey Telecom: similar sort of story really. They outsourced their cabling service and conditions went down. Now we have seen an additional factor, we have seen the arrival of the bonus culture. So they have got a chief officer on £190,000 with a bonus of £120,000. That is the sort of thing that is happening and an employer who used to be a model employer, in terms of its training and structures and its local contracts, now I hear using zero hours contracts in order to cheapen the service, reduce the costs of delivering a service but at the expense of its workforce. So not a particularly good model. Jersey New Waterworks Company: again, immediately outsourced its maintenance crew and there were a number of people made unemployed there and I do not know that standards have gone up, I doubt it very much. I suspect that it has gone down. Now we have Andium Homes where there is absolutely no clear... I am asking the Minister for Housing where are the lines of accountability? When a decision is made either at Andium Homes or at the Gateway where is the mechanism through which you appeal that particular mechanism? Now, the Minister for Treasury and Resources, during his speech, he said one of his jobs - and I think it was a list of 3, but the third one - was to ensure accountability. Members in this House know the stock response we get from this Minister for Treasury and Resources to any questions about delivery of service from any of the utilities of which he is the representative of the States, the answer is, it is operational, you will get

nothing out of me. I will do nothing. So when we ask him about £120,000 bonus culture, what is that for, are we going to get some decent statement out of him as to what it is about and why it is justified or unjustified or what he is going to do about it? I doubt it. So accountability, singularly missing and that is something that I have found is important. Finally, I turn to Jersey Ports, which is in consultation at the moment but is going to happen, we all know it; it is going to be incorporated. What have we got there? Well, we have got yet again, no notice: Jersey New Waterworks employment issues, conditions; Jersey Post, conditions reduced; Jersey Telecom, conditions reduced. That is the common theme. It has not happened yet with Andium Homes. Do not hold your breath, it will happen eventually perhaps. Jersey Ports, serious issues there about terms and conditions. Again, always incorporation without any T.U.P.E. (Transfer of Undertakings (Protection of Employment)) transfer of undertakings; protection for the workforce in place. Instead a code of practice, I think it is called T.O.P.S.E. (Transfer of Public Sector Employees), which is not enforceable. It is not statutory and again, I say, every time we incorporate terms and conditions go down. It is one of the ways of reducing cost and becoming, apparently, more efficient. It is not a very good way but it happens time and time again. It is about to happen again. No T.U.P.E. in place and without that I think some accountability is absolutely essential in terms of a single issue of treatment of the workforce and that accountability does not come from this Minister for Treasury and Resources but might come from 4 heads, which do not have to take an enormous length of time coming to a decision, but usually 4 heads will produce a better decision than one because more input, more directions, will go into that. So it is possible to get rapid and better decisions out of a small committee than it is out of one person, that is a reality and that is what I will be voting for.

1.1.7 Connétable P.J. Rondel of St. John:

Everyone seems to be majoring on Jersey Telecom. Yes, I did not attend their presentation the other week. I spent several, well more than several hours, with the department earlier this year after a number of issues that I had. Yes, we covered all sorts of things at that particular meeting including the billing, which is still not resolved in its entirety.

[11:00]

I suppose if you are spending many millions of pounds - many, many millions of pounds - on setting up a new billing centre off-Island then you are going to expect an awful lot of people down the far end, who do not know how the Island of Jersey works, are going to create problems especially when they do not know the local ins-and-outs of our island. Then, of course, we bring in outsiders to put in all the fibre optic equipment in our roads. They dig them up. I think the Deputy of St. Martin mentioned the boxes in each house, if not him it was the Minister for Treasury and Resources. Somebody mentioned it. These boxes are taking anything between 12 and 14 weeks in some cases to be wired-up to the telephones or to their computers or whatever they wire these things up to. There are all sorts of things still going on. I have got to find out the latest figure of how many houses are being connected to the fibre optic system. I know full well that it is my Rating Assembly this evening and one of the things I have had to do is - not had to do we are doing - within that is delaying the rates resurfacing of a number of our minor roads because Jersey Telecom, or the fibre optics teams, have still to go through them and we are not going to resurface roads until they have been through them but I am going to move on. I can see the Deputy of St. Martin and Minister for Treasury and Resources looking as if they are going to burst a seam. But that said ... I am not giving away, you had your 20 minutes on your feet, Minister.

The Bailiff:

Through the Chair, Connétable.

The Connétable of St. John:

Yes. Thanks for reminding me. Yet again. But I am looking at the bigger picture of what we have, whether it is Jersey Post, Telecom, the Water Board, which in general have been running a good ship for many years although there have been one or 2 little hiccups with Jersey Electricity, but they have run a good ship since well before I was born. So we have got some stability in some of the companies. One or 2 of the new kids on the block, shall we say, have still got to grow their feathers. I am concerned in one area in particular, which is about to happen, and that is the ports because over recent months - it is years now since we have set up this shadow board - a lot of the responsibilities, shall we say, for the outlying harbours have been handed over in a big part to clubs or associations. I am just thinking of one in particular at Bouley Bay where one heck of a turmoil has happened down there in the last few months when a fisherman, who has a living to make, fell out with the local administration that has been put in place. This guy tried everywhere within both the Fishermen's Association and through the Harbours to get a result. I got involved and the poor chap finished up where Harbours eventually took him to court. The poor chap got fined £5,000 and in fact, poor lad, his health has suffered considerably and I feel sorry for him that the help was not there. This has been done because we want to corporatize a particular area. In this case it is the ports and there is not the close working relationship that was there when everything came under Harbours or under the Airport. You could get to the bottom of things much easier. The more we move away from, shall we say, hands-on to a point ... historically I could have spoken to the Harbour Master of the day and made things happen. It was far more difficult getting anywhere to get results to try and bring a bit of common sense to this particular scenario. Far more difficult. So much so, as I say, the way that things are being run, yes, it is another tick box; yes, we have done that, we have done that, okay, we now take the person to court. There are other ways of dealing with it including, in the first instance, yes, a Parish Hall Inquiry if need be and try and bring people together. Parish Hall Inquiries are very good for doing things like that, but that did not happen in this case but that is just one. People do get injured along the way whether it is our employees, whether it is people that we are responsible for. Do not forget we are all in this Chamber representing the people out there in the streets. They come to us as a last resort - a last resort - and we sometimes cannot help them because of the bureaucracy that we are putting in place. Whether it is the people with their telephone bills that cannot get them resolved. They spend 45 minutes on the telephone line trying to speak to somebody and they still do not get it resolved and this has been a common complaint from many residents of this Island about the way they are being treated. Bring it to the Chamber, you raise questions with the Minister, he says: "Yes, no problem. I will get you to meet the department." I go and meet the department; because I am an elected Member, yes, they will put on some sandwiches for me to have lunch with them and, yes, everything is ... they take you around and show you how everything works but really getting to the bottom of things... I have told a lot of people, ring the C.E.O. (Chief Executive Officer) up direct. Get hold of him. If you rattle his cage sufficiently then something might happen. They cannot even get through to the C.E.O.'s secretary let alone the C.E.O. What is happening? This is the kind of walls which we are building. We are building walls around these businesses so that the ordinary man in the street, all our people that elect us into this Chamber, are being affected one way or another. They are being affected. We put a billing system in place at Jersey Telecom. Several years ago - a number of years ago now - we used to pay our bills quarterly, as most companies did, all of a sudden they bring them forward to monthly billing. There is a cost implication there which we are paying for; yes, they want their money in quicker. We have had a recession that we are still ... well, we are just coming out of it. People have been paying through the nose for services, why, because they are pushing up the costs, billing people on a monthly basis when they could have been on a quarterly basis as before. All of a sudden now we are seeing our numbers rise in costs and really it is of concern. We have seen the services in other areas; where it has been mentioned by Deputy Southern the postal delivery is only done Monday to Fridays. If there is a bank holiday in a week or 2 bank holidays over a weekend, like Easter, you finish up with a 3-day service. Honestly,

when I said that earlier ... when I saw the Minister for Treasury and Resources ... somebody speaking about it earlier, I think it was Deputy Southern, spoke about his wife marking papers, you can buy that service in but it is an extra cost. An extra cost if you want delivery on a Saturday. Everything seems to be not what is required for this Island, it is where we can make a quick buck here and a quick buck there but at the end of the day it is costing us more. It is costing us considerably more. Let us be fair to the people we represent. That is what, I think, Deputy Baudains is trying to get to with this proposition. People contact their States Member because they have tried all the other avenues, whether it is a window that needs fixing in a house, whether they have got problems with their telephones, whether it is something to do with their water supply, someone has had their water cut off. We are there to help them. That is why we are elected but to put barriers in place, which the Minister for Treasury and Resources is quite happy to give us a blank answer on any question we give him, hiding behind this blank answer. We need somebody within each of these departments that we can feed the information to and that they know it is coming from this building that we can make things happen or cut through the red tape. It is the red tape that is frustrating a lot of the Members, in fact so much so obviously they have had similar problems in Guernsey. I was listening to the news last night and what do I see, they are looking at putting or in fact they have set up a system where they are returning to a committee system. I thought: "Wow, maybe Jersey, yet again, will be following in the heels of Guernsey" as they have done with the aircraft register, within the next 2 or 3 years because they will see: "Oh, yes, that is the right way to go." After we have had such a shambles - and it is a shambles - of Ministerial system. In fact if we look at what happened last week, we had the Minister for Planning and Environment in fact put in place a committee system to run the Planning Department. Well done, Minister. Possibly the Minister for Planning and Environment should be probably proposed as our next Chief Minister for the guy with the best common sense within this Chamber in the way forward. I was listening to his speech earlier although I was outside in the Members' room and he spoke a lot of common sense, and that is what this Chamber requires, the commonsense approach not, yes, I am a Minister, I can do this that and the other, I have got all the power as Minister for Treasury and Resources to do this, this and this. We need people who are human. We want the human being approach. People are not going to say: "Right, I know Phil Rondel. I know Deputy Hilton or the Deputy of St. Ouen. I know these people, I will go and have a word with them and see if they can help me" because that is what we are here for and over the last 6 years, since I am back in the Chamber, I am not seeing it. We are getting too far away. We are prepared to hide behind a system that does not work, a system that is broke. I think I have said sufficient.

1.1.8 Senator A. Breckon:

I think here there is a question about accountability and even transparency. In the Minister's comments he said the States have already agreed a process for each of the major States-owned companies and that is the Jersey Electricity Company, Jersey Water, Jersey Telecom, Jersey Post and the States of Jersey Development Company. It goes on to say that involves the Minister for Treasury and Resources exercising shareholder responsibility and accountability on behalf of the States Assembly and ultimately the public. Well, some Members may have received a couple of emails recently from somebody in ... are we okay?

The Bailiff:

Yes. I am sorry, Senator we have gone inquorate. Usher, could you summon back Members please?

Senator L.J. Farnham:

I have been technically on défaut for the last half an hour or so although I have been sitting here. So does that make us ... have we been debating while inquorate?

The Bailiff:

Well, one moment, let us see. Let us count then. We cannot count the Senator. Right, we are quorate even without him so do you wish to let the ... Senator Breckon, please continue.

Senator A. Breckon:

I was talking about the question of accountability and transparency and the comments are in there. Members may have received a couple of emails from somebody who is in the telecom business who was frustrated and the latest one mentioned the role of the Minister for Treasury and Resources in that which was ... as well as the accountability was to get value for money and returns and other things and he saw that as perhaps a conflict of interest. The other thing is, questions are - as the Minister for Treasury and Resources pointed out - asked in this Chamber but they are not always answered and that is the frustration because these things may seem the minutiae but they are of public interest. If people get a bill from a garage or anywhere else then it is reasonable for them to be able to understand it and there was an issue with that. I must say I did attend, at the invitation of Telecom, to comment on this at the session with ... I was the only States Member there. There were members of the public from all ages and there was a general view that they could not understand it. We were shown the old bill, the new bill and it was a case of what you have been charged for and then there were questions about things like the broadband. Well, I have got the broadband I thought I was getting that but they have set the bar at a lower level and as soon as you start using it you start paying more so there were some questions.

[11:15]

I know I got a message the other day to say they are dealing with this. They cannot do it in one go. They are going to remodel the bill and then remodel it again over the next 2 years. The other thing, I think it was the Constable of St. John mentioned, I did get invited by Jersey Telecom when I spent most of a day with them and I looked, and I am aware of some of the work they are doing, which is global, and I think that is a good thing. I do not have any problem with that. It was explained with their data centres and other things that they are doing and it is global business that they are chasing and they are being very successful at that. Having said that, maybe the public are not generally aware of some of these issues and Telecom do send out bills so they could tell people. They could do a résumé of what they are doing because the core business is very important to the local population especially people who get a bill and say: "Well, what is this for?" and I must say that there has been an issue. The other thing that has been mentioned is the Jersey Competition Regulatory Authority and there are some issues there. There are some real issues there. They seem to have got tangled up with Telecom. There have been other cases that were not mentioned. There was another one about a licence that was issued and then revoked and there was a judicial review and again the J.C.R.A. (Jersey Competition Regulatory Authority) lost. There have been issues about number portability and now about landline access and of course a delay and there was ... I think J.T., when the number portability issue was delayed by years, that benefited them by something like £7 million or £8 million, I think, by having a 2 to 3-year delay. So there are issues there that have not been sorted and some of the fault of that is with the J.C.R.A. Interestingly when they lost the court case they increased the percentage chargeable to the telecom operators to get their money back from them for the case that they lost. Ultimately who pays for that, well we do. So it is incompetence on a grand scale really and I think the Minister for Economic Development really needs to look at the J.C.R.A. and see what they are doing, and I think changes are required there. There is a change of watch required there and that was demonstrated, I think, by the vote that Members gave when it came to reappointments because it was by no means a sort of handsome majority. Turning to Jersey Post, again they do a valued service. They are seen as part of the community and Deputy Southern has mentioned some of the issues. I ask Members to remember, they are supposed to be under the supervision of somebody, the Minister for Treasury and

Resources, but they, not many years ago, set up a mobile telephone company in competition with something we have already got. We have got 100 per cent ownership and they did that and it was scrapped and it was just a waste of money and it was not ... well, if anybody questioned it, I was not aware of it, but they did set that up; that was a waste of money. The other thing, when we had low value consignment relief it was a booming business and then Jersey Post decided they would go into the business themselves, which was never the intention, and they set up a base there. They rented premises and of course, as we know, it took a retrograde step but combined with that was some very high salaries within Jersey Post and there was a significant amount of money to unbundle some of that, and that was not on the present watch, it was previous. The other thing with the Post Office of course, which again is public interest, are things like counter services and it is interesting that Jersey Post jumped in to bail Jersey Telecom out with the taking of cheques. You can pay your phone bill now by a cheque, you make it payable to Jersey Post and you can pay it over the counter at a post office so they moved in, interestingly, where Telecom failed. The other thing with Jersey Water the Minister for Planning and Environment has mentioned quality but there is also ... I mean supply is of interest. We have moved to metering. Storage, there has been an extension as we know. There was the Queen's Valley debate. There has been an extension to Val de la Mare and the question is, what is the future for water supply and storage? Do we need another reservoir? Again, that is a strategic thing but if we increase the population by 25 per cent in the next 30 years then perhaps we do. So, again, it is a strategic thing and perhaps something that should be shared with other Members. Somebody else heard that we were not quorate. With the J.E.C., again I have done a number of visits to J.E.C., not just recently but over the years and, as Senator Ozouf mentioned, the cost of electricity was an issue. I think the proposal was to put it up by about, I think it was about 22 per cent or something like that a few years ago. Reliability of supply again is a strategic thing because if we do not have a robust supply then it affects all sorts of other things on which we rely for income. We are aware of the massive investment that has been made. Some of us did go to see some of that but in typical States fashion the ship had already sailed so we did not see the vessel but that they had an excellent range of photographs and a demonstration there for those of us that made it up the steps of Mont Orgueil Castle. Again, not many years ago the Jersey Electricity Company invested in U.T.E.L. (Utility Excess Liability) which is a telco and it was, I must say, because I looked at it in some detail, a disastrous investment and in the end it was sold. They had a data centre in Guernsey which was bought by Jersey Telecom incidentally and that sort of bailed the situation out. The question is: why was a company that we own 62 per cent of investing in a telco that we already own 100 per cent of. So, again, that is why I say some of the issues perhaps about the governance and the oversight have gone astray here on 2 issues both involving telcos with companies that we already own by a majority interest or as a whole. The other thing with this proposition, where I think the benefits are it gives more eyes and ears. I can understand where the Minister for Treasury and Resources is coming from but there are a lot of responsibilities with the Minister for Treasury and Resources and they have been added to and in his position I would saying: "Well, okay, for me this is a good idea because a problem shared is a problem halved or in this case quartered." So I think that is where the things are. I have not said much about the States of Jersey Development Company but again questions may be asked about what is happening with the Jersey Girls' College site. We were promised that we would have this mobile all-singing thing that we have done. I am not sure how many residential properties they have created but I cannot think of any. I cannot think of any at all. Now, that was not the idea. We had a site there, something should have happened. If it had been the biggest developer in the Island then it would be half way up by now, if not finished. They are dragging their feet in there so somebody should be asking some questions about things like this. Again, if you had a number of Members in a group, call them what you will, an oversight board, call them a committee, call them whatever, then an individual, perhaps, could take the lead in a specific area and liaise with that and the others certainly could take part but I think is a good idea and it is well worth supporting because

it does have its merits and it also could be public facing. I understand some of the commercial confidences; that is not an issue here. It is about being accountable to the public who in effect own it. We do not own it, they do. I think we should be more open and honest about that as far as we can be and there will be some reasons why details cannot be disclosed but that is how it is but I think it would be a step forward and not a step backward. For those reasons I will support this proposition.

1.1.9 Deputy J.H. Young of St. Brelade:

I think the whole subject of outsourcing is really responding to a changed world. No question throughout the world public services have been historically provided directly by government, by their own operational arrangements and involving such structures as committees and others to ensure that the interests of the public were well served and the record has been very good. Of course in recent times as financial pressures have come along there has been the need to try out measures to ensure that services which could be operated at arm's length in order to release efficiency and achieve more focus, those techniques have become absolutely prevalent. No question. Jersey is not alone in this. Throughout the U.K., and in fact while the debate was going on I was looking at a whole lot of articles throughout the world where academics are looking at the pros and cons of corporatisation. There is no doubt about it, there are disadvantages. The issue is that those organisations are there not for their own sake as in a true private sector body, they are there to serve the public or the community interests. It is just that we have decided that we are going to devolve to them responsibility. Of course there is this key question of how does the shareholder, the public, keep track of what is going on to ensure that what is taking place is always in the public interest. I do not think this means abdication. I think it means having mechanisms of good governance. There is no question. There is this question about, does that governance need to take place at an operational level or is it strategic? There is no question that it is strategic and here I compliment our Minister for Planning and Resources for focusing the debate on exactly the right subject to ensure that these hugely important organisations, massive resources ... I was just running through all their annual accounts while other Members were speaking just to see how that related to the proposal and of course a lot of attention has been about Jersey Telecom. £150 million of assets, £151 million of turnover, £3 million dividend, lots of subsidiary companies that have been acquired, most of which I think we do not know; I have never heard of. I am not sure. So I think that is great. I am sure our Minister for Treasury and Resources knows about them and I hear that the majority of our profits on J.T. comes from those new acquisitions. Of course I do not know what businesses they are in. I do not remember receiving an invitation to that. I would have very much liked to have seen the presentation of the board and I regret not being there but of course with our workload at the moment it is easy to miss those invitations particularly if they clash with States sittings and are at short notice. I think that particular issue raises an issue of communications, desperately important, that those bodies, all of them, communicate as effectively as they can with the public. Of course looking back Jersey Post, yes, obviously they had their major problems mainly due to the changes in the world of emails and so on, all of which is ... and the loss of low value relief, but nonetheless they are providing a vital service and turning in a profit. Full marks to them but, of course, at what cost? We have lost their Saturday post and it is the number one thing that people are very upset about. So we have had to accept that decline in service. Jersey Water, £15 million turnover and £3 million capital investment, £4 million profit. Massive strategic issues about how delivery ... its relationship to this ... our sewer network, nitrates and so on. Big; really important for Government. Jersey Electricity, issues of renewables in the future. Big decisions to make about regulation or not regulation. Issues about tariff structures, about fuel poverty and so on. Those issues require an active dialogue between shareholder and the company.

[11:30]

Of course we are dealing with a hugely successful company. So I have got no issues with J.E.C. as an operational business. Highly successful, full marks, in the same way that remark applies to Jersey Water. Harbours and Airports, well, they are not yet a corporate body but of course they are handling, as well as the essential services of our harbour and our airport, they are looking after things like leisure boating and things like that in our heritage harbour. They do rather function in a slightly different way and maybe we just have to accept this, that this is part of how these bodies become remote. I, for example, had the experience that I had my small dinghy to my tiny little fishing boat taken out of the harbour on a cull last week ...

The Bailiff:

Deputy, that may be very interesting but it is not yet incorporated so perhaps we could confine ourselves to the ...

Deputy J.H. Young:

Sorry, Sir, I could not resist that. I do apologise; I withdraw that. I just had to go down and get it back. But the direction of travel is towards more corporate bodies. We have now got Housing with £1 billion of assets, huge issues about housing on the Island. So when I read the Minister for Treasury and Resources' comments he is absolutely dismissive of this question of having this relationship with the broader range of shareholders and says that the only people that are going to be happy are those who prefer to deal in operational detail rather than policy. In other words, micromanaging, as he often says. I think that is him protesting too much. There is always benefit in having a broader range of input in a body that is going to deal with all the matters listed. The assumption I make is that Deputy Baudains is not proposing, I do not believe, a body of people who are going to sit and micromanage and go into detail. I hope he can clarify that in his summing-up. I think what Deputy Baudains is proposing is consistent with the shareholder role as set out comprehensively in the Minister for Treasury and Resources' comments and beautifully summed-up by the coloured diagram on page 10, which one cannot really argue with, which sets out what the shareholder functions and the interfaces should be. When I look at that picture I say: "Can it really be right that all that is exercised by one person on an increasing number of these businesses now, probably many billions of pounds worth of turnover and assets for one person?" Why is that we have set up a structure where one person has the perfect wisdom on this and yet we have got all other Members with massive expertise and skills that we just waste? So why can we not have a structure where we have some other people, we broaden that out? Because I suppose our Minister for Treasury and Resources, he must be a superman; he must work throughout the day and night to be able to do all this plus run the Treasury. But of course there are some clues where it might go on in the Deloitte report on governance which Deputy Le Hérisier's amendment attached. In it Deloitte's talk about the need to have this governance structure to fulfil this and they talk about the Minister and the Treasury, and I think that is probably a clue that this work is probably being done at civil servant level. Now, great, we have got some outstanding civil servants, no question, but I do think they need to operate within a political governance structure which Deputy Baudains has offered. Of course, looking again, I was looking at the internet to see what other places have done and it seems to be quite common that public sector bodies set up these types of structures, not just for one Minister, but they set up a group. I know you did not like my proposals when I brought up Cornwall, but Cornwall have done that. Also Tasmania, I find, because they have found that corporatisation of some of their services has made them remote, less accessible to the public and less responsive to the public needs. Those are the sort of things; those structures exist elsewhere. So I do not think it is fair to paraphrase Deputy Baudains' proposals as being some kind of unhelpful dinosaur-like return to the past, reinventing the past, old-fashioned stuff, it is about recognising that in this journey towards doing things differently we need to be sure that our

government arrangements are sufficiently broader-based to deal with all the sort of things, the bigger picture that Deputy Duhamel so ably summed-up for us. I am going to support this.

The Bailiff:

I have 3 Members still to speak. Can I just remind Members that they should consider whether they have something new to say because Standing Orders does refer to no undue repetition of points already made. The Deputy of St. Ouen.

1.1.10 Deputy J.G. Reed of St. Ouen:

Well I do believe I have something new to say because I am going to ...

The Bailiff:

I am sure you have, Deputy.

The Deputy of St. Ouen:

... focus on the main issue of the debate and it is whether or not we should introduce a new system to deal with complaints and concerns raised by the public and I do not believe that that is the case. We have had much criticism about States departments which I believe to be absolutely misplaced but I have not heard what I would believe is the most practical and the best way forward coming from those responsible. The Minister speaks about Memoranda of Understanding that are entered into with our States-owned companies and in his notes he says that a list of the current objectives for the Treasury are to review the existing Memoranda of Understanding and ensure that they are operating effectively. I would say that if we want to deal with complaints - which we should do, because any business requires to respond appropriately to customers' concerns - then that is the way to do it. Review your Memoranda of Understanding, make sure that all of our States-owned or majority-owned companies have the appropriate systems in place to respond properly and appropriately to customer service. If you want a belt-and-braces approach then have something in place that any significant trends and issues are referred regularly to the board in the first instance that is responsible for the company and then ultimately to the Minister, which in this case is the Minister for Treasury and Resources, who is a major shareholder. That is the way to deal with it. It is not to reinvent the wheel. We have collectively decided a particular way forward in providing and supporting our utility companies and, let us face it, I think where I absolutely agree with Senator Ozouf is that national ownership means something but I would go on to say we should be proud of it. So let us not be complacent and let us not minimise the issues that certain individuals do raise and have been raised here in this Assembly this morning around some of the matters linked to particular States-owned companies but we can do something about it. So I am looking to the Minister or Assistant Minister or somebody within the Council of Ministers who can properly commit to this particular piece of action which is review the Memoranda of Understanding and let us make sure that the customer service that we provide is appropriate and that we do not need to be the first port of call when issues around a particular matter to do with a company come to the fore. Thank you.

Senator P.F.C. Ozouf:

Would the Deputy give way?

The Bailiff:

I think he is done. Senator Farnham.

1.1.11 Senator L.J. Farnham:

When I first saw this proposition I thought it had merit. To a certain extent I can understand why it has been brought because there is concern regularly about our States assets and companies, even

our States departments, because a lot of our departments tend to run themselves like a company in many ways. A lot of us have direct oversight over that and one could argue that we could be better at that as well. But then I remembered why we changed the makeup of the boards and we started to remove direct political involvement at board level. Once upon a time I think the whole boards were made up - and someone will correct me if I am wrong - of States Members but times have changed and it is probably difficult to reconcile a political interest and company interests now. It is probably important that we do keep some segregation without losing the Assembly's very important influence over the direction and control of these businesses. I think Senator Breckon and a couple of other Members mentioned regulation and from my point of view this is central. Strong regulation is central to making sure these companies are operating in a way conducive with the wishes of the Assembly, of course, in the best interests of the customers and the people of Jersey. I have to say, and I do apologise if I upset anybody with this, I think regulation since we set it up - I think it was 2004, 2005 the J.C.R.A. was set up - has been a bit of a disaster. In actual fact I would go as far to say that they have almost been out of control at some times. That is where we let ourselves down because we allow this to happen. We set up these bodies with the greatest of intentions and then we take our eye off the ball and they go off on their own merry way and problems ensue. A strong regulatory framework is essential to our States-owned companies performing and operating in an appropriate manner in line with this Assembly's strategies and policies, so lessons have to be learnt from this. Now I understand work is underway to ensure the regulators are properly structured and have the appropriate amount of political guidance without it becoming political interference. But when we look at us as individuals and we look at the Ministerial system, this is where we need to show strong political leadership. We need to do that to ensure that our companies are running the way they can because Deputy Baudains and a number of others are absolutely right. There have been great disappointments in some of our companies, in some of their performance, not necessarily from a financial point of view, because they continue to perform generally well in that area and that is with, I believe, a strong working relationship with the Treasury and the Treasury team. I know they all work hard there at trying to achieve that but from a customer service point of view then a number of us have been concerned. Now I might just be the odd one out and I find J.T. are very good. I know there was the problem with the bills and everything but now it seems to have all settled down I find it much better. I know a lot of people do not and have not but I really did feel for them. I have been involved in companies and changing the I.T. (Information Technology) as we all probably know is a complete and utter nightmare at times. But it has to be done and I think hopefully J.T. will move swiftly on and work hard to get back inside their loyal customer base. But also I would say I have found that it is very easy for any one of us to get contact. I had contact with the Chief Executives of Telecom and Water and the J.E.C. Pick up the phone, you can often get straight through to them, you can meet with them and talk to them, and they do listen. So we, as individual Members, can still go up and speak to these people and have influence; they will listen. That is really it. I do not think I can support it. I do understand why Deputy Baudains has brought it but I do not think I can support it without first seeing Ministers and the Assembly - but Ministers in particular - working hard to ensure that our regulatory process is properly structured and appropriately run and the correct leadership and guidance is given to ensure it can do this job to ensure that our States companies are operating the way we want them to. Thank you.

1.1.12 Senator A.J.H. Maclean:

I am pleased to follow the previous speaker. I am particularly concerned by a comment that Senator Farnham just made with regard to the J.C.R.A. He referred to the regulator as being "out of control" and I think that is a most regrettable turn of phrase. I hope he will in due course withdraw it. The reason I say that is because the regulator has undoubtedly had its challenges but I would say that it operates to the law that this Assembly passed. If I remember correctly, Senator

Farnham was a Member of the Assembly when the law was passed so he approved the law under which the regulator operates.

[11:45]

The regulator has to, as Members will appreciate, be independent. There is an oversight from the Minister for Economic Development of the regulator but the powers that the Minister has are strictly limited. They are featured under Article 8, if I remember correctly, which are around the principal procedures and the policies, not intervention. There has to be clear independence from a regulatory perspective. Now indeed we may wish to make changes to the law in due course and there are areas; Jersey Telecom have been raised in particular as being a case in point. For example, I have been looking very closely at Articles 11 and 19 of the law which looked at the powers that the regulator has with regard to thresholds for appeals. I think that drives to the very heart of the challenges that we saw when there was the most regrettable recent court case with regard to wholesale line rental. That matter should never have gone to court. I did in fact raise it with the regulator before they took that action and in fact they did, in my view, everything possible to avoid a court case but sadly the situation got to a position that was not in the interests of either the regulator or Jersey Telecom and, most importantly, the consumer who ends up ultimately paying the cost and that is what we saw. So some alterations which will need to go through an appropriate consultation process are something that we are looking very closely at now to address some of the challenges that the regulator has faced with regard to their management of the telecommunications sector. I would say, just on that point about telecoms, that the regulator has been investigating - Members may or may not be fully aware - the broadband practices that are undertaken. There is the wholesale line rental matter which initial notices as of 17th June have now been issued and that will mean that the market will, or certainly should, open up. The date has been set as 1st June 2015. I think that is too long. I think the wholesale line market should have opened up. The United Kingdom opened that area up 10 years ago. It is not in the interests of the Island economy, it is not in the interests of consumers to have that area closed in the way that it is at the moment. With it being opened we would see greater choice, greater innovation, greater efficiency, better quality of service, greater convenience, all the benefits that would improve. Of course, there would be an impairment on the revenue of Jersey Telecom and clearly that is an issue that needs to be borne in mind. But I think we need to look at the longer-term benefits rather than just short-term revenue issues. I think at the heart of this... and I do have some sympathy to the sentiment behind the proposition that Deputy Baudains has brought; I understand where he is coming from. I understand some of the frustrations that some Members feel. But I would say, if anything, it is not that incorporation is wrong, it is perhaps the way in some respects that overall it is being managed. Of course, the incorporated bodies function well and we have seen some of them function extremely well in recent times. Jersey Post is a good example with a good, strong chief executive, a good executive and a good board, they have taken a very difficult environment that Jersey Post were operating in - particularly with the loss of low value consignment relief - and they have turned literally that business around. I would say also that some of the concerns raised by Deputy Southern about terms and conditions; he in particular talked about the impact of incorporation on staff. We saw with Jersey Telecom that, yes, staff numbers did reduce following incorporation over a period of time but that business, now under strong leadership, has diversified its business base; more than 50 per cent of the revenues now come from outside of the Island. The question was asked earlier, I think it was Deputy Le Hérissier who asked the question: "Who gave permission for J.T. to embark on international acquisitions?" or a phrase to that effect. Well I would suggest it is the board that comes up with ultimately the decisions based on advice from the executive. The decision I think appears to be a sound decision on the basis that it has diversified the risk out of the Island, it has created other revenue sources to sustain the business in the long term and what we have seen happen with the staffing levels of J.T., they are now back to the levels

they were at previously. So it has created job opportunities within the local market and there is competition with other telcos. So the telecommunications market overall now has more jobs in Jersey and more jobs for local people than was the case prior to incorporation, and I think that is a positive thing in many respects. As I have said, the quality of the board and the executive is key to these incorporated bodies. There is no question that it provides greater governance and oversight, it provides greater freedom and opportunity for generating revenues from a commercial perspective, as I have already alluded to. I think in that respect we have to make sure that we continue to work hard within government, within the Council of Ministers, to get the best out of these entities. I would give an example of where I think there is some good progress, and again I am referring to the telecoms market. It is the off-Island data connectivity issue which has been much debated. I can tell Members that it is an example where the Ministries of E.D., Treasury and Resources and Chief Minister have come together recognising that there is a potential problem here, to get a greater understanding of that problem, and have commissioned jointly Oxera to look at the particular issue of off-Island data connectivity. I think that is really positive that the 3 Ministries have come together in this way that perhaps has not been done in the past. I have to say that it is a proposition and a commissioning of a report that J.T. themselves are not overly comfortable with because I think it will certainly highlight some issues that will need to be addressed, some of which could indeed be uncomfortable. But it was the right decision to take and I think that hopefully will give Members a view that a co-ordinated approach from within the Council of Ministers to these issues is important. Where I think we do need to perhaps also give some further consideration is around the responsibility. As Members know, the Minister for Treasury and Resources has responsibility - shareholder responsibility - for the utilities. I think the heart of Deputy Baudains' proposition today is to try and spread that responsibility among some other Members. I think really from my perspective there needs to be a debate about where the most appropriate location of that shareholder responsibility might be. The Minister for Treasury and Resources I think does an excellent job but it is a very difficult job because clearly there is some conflict potentially as the shareholder representative from a short-term revenue perspective. I know the Minister will find the comments perhaps a little uncomfortable but I think it is an honest statement to make that we do need to consider these matters in the Council of Ministers, and more broadly, as to where the responsibility for the utilities is most appropriately placed. As I say, I think the Minister has done a very good job to date, but I think in some respects he is often put in a very uncomfortable position. I do not think from his point of view that can be very satisfactory. I would say that I cannot support this proposition. I would urge Members not to. I think the principle and the way in which we operate with regard to the incorporated bodies is right and I think we need to look further at the way in which we improve the efficiency of that relationship but I do not think the proposition provides us with a solution which is going to be the most effective. Thank you.

Senator L.J. Farnham:

Can I just respond briefly to Senator Maclean? Perhaps I did go a little far in stating that the J.C.R.A. was out of control but my comment was only borne out of a slight frustration and a realisation of an opportunity that if we do improve our regulation then we have great opportunity, so I would just like to withdraw the comment.

The Bailiff:

Very well, thank you. Deputy Power.

1.1.13 Deputy S. Power:

The tenet of what Deputy Baudains is trying to do and, in a slightly different way, what Deputy Le Hérisser is trying to do, is that they are identifying an issue whereby the public feel that they are in some way disconnected from these big companies and that the conduit into these companies is not

working as effectively as it could work. They have both expressed it in different ways and all of us, as States Members, have seen the response of the Minister for Treasury and Resources. The nub of the issue is that it is difficult for members of the public to dial a number to contact Jersey Electricity or Jersey Water or Jersey Telecom and have their grievance or their issue or their problem aired. The result of that is that States Members from time to time ...

The Bailiff:

Deputy, I am sorry, we have become inquorate. Will you ...?

Deputy S. Power of St. Brelade:

Are we quorate, Sir?

The Bailiff:

We are, yes.

Deputy S. Power:

We have been bumping along at 26 all morning; it is quite extraordinary. I do not know where everyone has gone. So States Members *per se* end up as ombudsmen and as conduits into these States utilities. Deputy Baudains and Deputy Le Hérissier are both saying: "Well perhaps States Members need some representation in some way so that they can act for and on behalf of the public." To be honest, I do not think the proposition achieves that today; I do not think it does. But there is a case for examination as to how this ombudsman/conduit into these States utilities can be worked. I think that is a matter for another debate on another day. I do not ...

The Bailiff:

Deputy, I am sorry, I think we may go inquorate; if we can just check. Please carry on, Deputy.

Deputy S. Power:

Sir, I think you are going to have to put a call out to King Street or Queen Street or the coffee shops to find them. I think the point is that there is a debate to be had at another time on another day. Indeed, linked to that future debate is what Senator Maclean has just said in that while the shareholder interest is represented by the Minister for Treasury and Resources, some of the activities of some of these States utilities probably fall closer to an Economic Development brief or somebody who has a trade and industry brief and that is maybe again for another day. I, like Deputy Young, looked at the accounts that were kindly forwarded by the Greffe this week and, indeed, looking at the accounts and the balance sheets of the 5 companies that are already listed, J.E.C., Jersey Water, J.T., Jersey Post and the development company you are looking at, in a fixed-asset balance, at companies that are worth somewhere in the region of between £800 million, £900 million to a billion. If you add to that Andium, which is somewhere in the region of £800 million to £900 million, the Ports of Jersey which will soon come down the incorporation route, another £200 million to £300 million, and then any other privatisation that does occur, and one hears talk about the drains and sewage system perhaps going to Jersey Water, you then have a group of incorporated companies that are worth somewhere between £2.5 billion to £3 billion. I do believe that there is a case to be made where States Members, or a States Member acting as an ombudsman for some of these companies, could have a role on perhaps some of these boards to be the conduit for the public. I agree also that incorporation is not negative; incorporation is a good thing. It enables efficiency, it enables an increase in profitability and, as has been often quoted, it increases the ability of the company to be flexible. We have seen the results of Jersey Post coping with the low value consignment relief industry disappearing but overnight they responded to the increase in online purchasing, online sales, online imports to the Island and have done extremely well. I struggled in the early part of this year with the new J.T. billing system but my experience

was that I picked up the phone to the company, and had visited the company the week before the briefing, and had explained to me in no uncertain terms that the usage and charging structure were completely wrong and they were very helpful and that ended my problem with them. I do believe I do not need to say any more because I am conscious of the fact that you are very aware of States Members repeating what has already been said. So what I am looking at in my handwritten notes has already been said. So those are my points; I cannot support this important proposition as it stands but I do think there is a debate to be had on how we improve the link into these companies and indeed the reporting role in terms of their economic value to the Island is perhaps another debate for another day. Thank you.

[12:00]

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

As the Assistant Minister for Treasury and Resources with the responsibility, along with the Minister, for these entities, I feel I should just say briefly a few words. Many small jurisdictions such as ourselves would be quite envious of our utility and our infrastructure companies. They have performed extremely well in the past and we have every confidence that they will continue to do so into the future. Yes, it is important that the shareholder agrees the strategic plans of these entities to make sure that they are in line with the States Strategic Plan, and that is exactly what we do. We regularly review the Memoranda of Understanding, we review their business plans and to add another layer on top as outlined by Deputy Baudains, to be fair, in his well-meaning proposition, would not add anything. We have independent board members on these companies and it is their role to provide that challenge. It does seem to be that Members do find there is some sort of frustration with the communication between the public, States Members and these entities on some consumer matters but it really is not the place for this Assembly to put in another layer to counteract those issues, many of which I believe are short term and are addressed adequately by the companies. So really it is just to add we should be proud of these entities. They do provide the Island with fantastic service and I really have nothing else more to say.

The Greffier of the States (in the Chair):

If no other Member wishes to speak I will call on Deputy Baudains to reply.

1.1.15 Deputy G.C.L. Baudains:

I shall be reasonably brief and I thank those Members who have spoken; obviously some more than others but there we go. Deputy Le Hérissier: obviously he and I have done quite a lot of work on this subject. We have had several private meetings with Jersey Telecom to try to get a better understanding of what the problems are and things like that but obviously, as Members have alluded to during the debate, we are using Jersey Telecom as an example because it is probably the example of which Members are most familiar and the difficulties that exist there do not currently exist at the other utilities, although of course they have happened in the past and there is potential for them to happen in the beginning. I was rather interested by the comments of the Deputy of St. Martin that the old Jersey Telecom Committee was defunct; well I was a member of it at the time. But of course he is a member of a Scrutiny Panel and also, I believe, Chairman of another Scrutiny Panel and I am struggling to see the difference between a Scrutiny Panel and a committee if he does not like committees. He was one of 5 Members that attended the J.T. presentation and I agree with the comments made by Senator Ferguson. I wanted to attend that presentation but was not able to. He was impressed by what he heard there but I think sadly, as a number of other speakers have done, he missed the point because we are not talking about making profit. That is where the Minister for Treasury and Resources is coming from, and rightly so, interested in the profitability of the company and the good governance of it. What I am trying to address is resolving the issue that surrounds a monopoly of companies and that is there is no competition to which a customer can

resort if they are not satisfied with the service they are getting. I am glad that Senator Ozouf realises there are issues. I am not sure that the comments he made, and one or 2 others, that what we need to do is modify the Memoranda of Understanding would get down to where we need to get. It has not worked so far and I do not believe a modification of it in the future would deal with that issue. I was somewhat disappointed in that, having said that what I was proposing would not work and recognising there were problems, he did not, apart from suggesting perhaps a modification of Memoranda of Understanding, come up with a solution to the problem. I did find that somewhat disappointing. I am not going to read out everything that Members have said; I am just quickly looking through. Deputy Southern mentioned something which to my mind is the heart of the matter and that is accountability is missing and that, I believe the Minister for Planning and Environment addressed the same thing: 4 heads will make a better decision than one. Of course, I would remind Members what I am suggesting is not an entirely new separate panel. What I am suggesting is an enhancement of the Minister for Treasury and Resources' existing position; that he would have assistance basically. Let us be aware of the fact that the Minister for Treasury and Resources is a very busy man, he has a lot of work to do, but has he got the time to look more closely at all these companies? I do not think so. In answer to Deputy Young's question, no I am not suggesting that these people should be acting in the way that an old committee did in making decisions on a daily basis about minute matters: should the 5 pence stamp be green or white or something like that. All I am looking for is somebody who can look after the customers' interests. At the moment, as I think Deputy Power has just said, there is a problem that the public feel disconnected, that they do not have anybody to turn to, and it is difficult for them to make contact with these companies; I know, I have tried myself. You can ring some of these companies and sometimes it is not answered, sometimes the phone will ring for a long time, but if you do get through to somebody they put you through to somebody else and you end up going round in circles. I remember on one occasion - this is a personal observation - when I was having a problem with Jersey Telecom. I just could not get it resolved, so somebody gave me a telephone number. They said: "Try this number but do not tell anybody where you got it from." I tried that number and I had immediate success. Well why can that sort of number not be available to members of the general public? It seems there is a service for one person but not everyone. Yes, I am concerned that the Minister for Treasury and Resources understands there is an issue but does not have the resolution for it because I believe that the inability to deal with operational issues means that the Treasury and Resources' oversight becomes part of the problem. Because previously if a department did not deliver you would take it up with the committee, or the Minister nowadays, and if they did not sort it out, well you knew a vote of no confidence was always their nuclear option, a last resort. Pressure could be applied and simply because that ability was there meant you never got to that stage, it always was resolved at the beginning. At the moment we do not have that ability and so people can assist you if they feel like it but if they do not feel like it: "What are you going to do about it?" "Well, nothing." As I said in my opening speech, I find it terribly frustrating because I became a politician in order to be able to help people. Quite often recently I have had to turn round to people and say: "Well I am sorry, there is nothing I can do about that. I cannot help you" whereas previously I would be able to apply pressure and say: "Look, sort this out, this is ridiculous." I had a person phone me just a couple of days ago on somebody else's phone because their own phone had been cut off. I asked why and they said: "Well Jersey Telecom cut it off because we had not paid our bill." I said: "Well that is reasonable" and they said: "Well, no, because they never sent us a bill." When we queried that with Jersey Telecom they said: "Well when you had not had the bill you should have asked for one." Well if you do not get one, how do you know you have not got one? It really goes round in circles with people like that. To my mind the root of the problem is that there is no longer a politician responsible or able to influence operational issues. Here again I go back to some of the comments that Deputy Power made which I thought were quite helpful even though he says he does not support my proposition. He is saying,

as some other Members have said, there are things that need looking at. He was suggesting that there was another debate to be had about this or perhaps an ombudsman. Well I have to say that both Deputy Le Hérissier and myself and other people looked closely at all the options that we could think of but we were very constrained because of the way they are incorporated because of company law and various other things. There are not many options and, as I said in my opening speech, really the only options available are either an ombudsman or, what I am suggesting, the panel. I think I made it clear in my opening speech the concerns I had about an ombudsman being maybe too slow to react, it would probably cost money. I notice interestingly that Deputy Power suggested that maybe the ombudsman could be a politician, in which case I would say well, really, what is the difference between that and what I am proposing, because you are having a politician that has got some input into it? The other thing I would reinforce is obviously what I am proposing is creation of a small body of politicians to whom hopefully the public, or indeed other States Members, would be able to turn and get a better response than they currently do. But let us not forget that in my proposition that that small panel would be chaired by the Minister for Treasury and Resources. He would still be very heavily involved. It would merely be in fact assistance for him to assist him in making sure that these companies who have a monopoly give the service which other companies who have competition would have to provide or suffer the consequences. Monopolies are insulated from that. This would assist the Minister for Treasury and Resources. I do not agree with the comments that this is a regulatory issue. As the Minister for Economic Development said, the powers of the regulator are strictly limited and he is totally independent. He cannot interfere. Again, reverting to my opening speech, I said that if a tenant of a Housing flat has a problem, a window is broken and the department will not fix it or something, that is not an issue for the regulator. All it needs is the person who is distressed by this to, if he or she cannot get satisfaction from the department, be able to get hold of a politician and the politician does what he was able to do in the past, make a phone call and say: “Look, fix this” and it would be fixed. It is not a question of getting involved and making decisions, it is a question of being able to apply a little bit of pressure to achieve what is needed that the public ... well put it another way, that we can represent the public which is what we are here to do. I make the proposition and I would ask for the appel.

The Greffier of the States (in the Chair):

The appel is called for on the proposition of Deputy Baudains. I invite Members to return to their seats and I ask the Greffier to open the voting.

POUR:12		CONTRE: 23		ABSTAIN: 0
Senator A. Breckon		Senator P.F.C. Ozouf		
Connétable of St. Lawrence		Senator A.J.H. Maclean		
Connétable of St. John		Senator B.I. Le Marquand		
Connétable of St. Saviour		Senator F.du H. Le Gresley		
Deputy R.C. Duhamel (S)		Senator I.J. Gorst		
Deputy G.P. Southern (H)		Senator L.J. Farnham		
Deputy J.A. Hilton (H)		Senator P.M. Bailhache		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Helier		
Deputy J.M. Maçon (S)		Connétable of Trinity		
Deputy G.C.L. Baudains (C)		Connétable of St. Peter		
Deputy J.H. Young (B)		Connétable of St. Mary		
Deputy S.Y. Mézec (H)		Connétable of Grouville		
		Deputy of St. Ouen		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy E.J. Noel (L)		

		Deputy A.K.F. Green (H)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy R.J. Rondel (H)		

2. Draft Health Insurance (Performers List for General Medical Practitioners) (Jersey) Regulations 201- (P.110/2014)

The Greffier of the States (in the Chair):

We come now to the Draft Health Insurance (Performers List for General Medical Practitioners) (Jersey) Regulations 201- and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Health Insurance (Performers List for General Medical Practitioners) (Jersey) Regulations 201-. The States, in pursuance of Article 27A of the Health Insurance (Jersey) Law 1967, and following consultation by the Minister for Health and Social Services in accordance with paragraph (13) of that Article, have made the following Regulations.

2.1 Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):

Today's debate represents the final piece in a group that this Assembly started working on constructively in 2010.

[12:15]

These Regulations will establish a performance list for G.P.s (general practitioners) and when in place will be a statutory governance infrastructure that Jersey G.P.s need so that they can be accepted as U.K. equivalent by the G.M.C. (General Medical Council), thus, when they will be eligible for revalidation, and their G.M.C. would have licences to practice. These Regulations are a final piece in the central jigsaw, one that is an absolute requirement if we are to maintain G.P.s licensed to work in Jersey. The Assembly has already agreed to the principles of this law and these Regulations are now putting in place the structures to ensure the law is implemented. This is not a "nice to do" but this is a "must do". Simply put, if we do not implement these Regulations, doctors in Jersey will not be able to register with the G.M.C. and without that licence it will be illegal for them to practise in Jersey. Back in 2011 the Assembly supported the underpinning amendment to the Health Insurance Law, enabling the creation of new Regulations. Then the Assembly had approved overwhelmingly 2 important amendments to the Health Insurance Law in 2010, each brought forward by the then Minister for Social Security, now the Chief Minister. P.36 was unanimously approved in 2010, which created extra investment in primary care and allowed Jersey's general practitioners to gear-up for G.P. revalidation, without having to increase charges to the patients. This was followed in P.136/2011, further amendment to the Health Insurance Law to enable the creation of a performance list. Both of these propositions, as this one here, have been strongly supported by Jersey G.P.s. Without the needed legislative change they would have continued to face major obstacles in achieving revalidation of their licence to practice and so being able to continue to practice medicine on our Island. It is not overstating the case to say that these proposed new regulations are vital to all G.P.s here in Jersey. To clarify the importance of revalidation, it is a system through which doctors demonstrate to the G.M.C., their professional body, through continuous annual appraisals that they are up to date and continue to be fit to practice. The professional appraisal, which includes having to submit evidence to the G.M.C. every 5 years, also requires recommendation to the G.M.C. by an approved senior doctor known as a

responsible officer. As well as taking account of the annual appraisals the recommendation will also take account of the clinical governance infrastructure the doctor is working in. Jersey's Medical Practitioners Law has always required doctors practising here to be registered and authorised to practice by the G.M.C. In 2011 that was amended to reflect the new systems to which all G.M.C. licensed doctors are subject, including the power to appoint senior doctors as G.M.C. recognised responsible officers. When the final timetables and criteria for the G.M.C. revalidation was made public in 2008 G.M.C. leads advised that in the absence of a statutory local clinical governance infrastructure Jersey G.P.s would not be eligible for revalidation with the G.M.C. Such an infrastructure is normal and long established in all other parts of the British Isles. While it is fully recognised in 2008 the Jersey General Hospital did have a good system of clinical governance applying to all its employed doctors, the G.M.C. nevertheless dictated that no doctors in Jersey would be eligible to apply for revalidation simply because at that time there was not regular and/or professional appraisal structures that is fundamental to revalidation. Now in 2014 all hospital doctors and G.P.s alike undergo annual professional appraisal. Some Jersey doctors have already been called forward by the G.M.C. to submit for revalidation. As part of their legal requirements and responsibilities responsible officers must be satisfied that the doctors they are reviewing and making revalidation recommendations for are working in a local infrastructure of good clinical governance and regulation. G.P.s in Jersey are still not currently working within such an infrastructure. So, the Regulation today will put that necessary infrastructure into place. As I said, they are needed to secure essential agreement from the G.M.C. that our governance infrastructure for G.P.s is at least fit for purpose. It will also enable our Jersey responsible officers to deliver their strategy function as set out in new orders under the amended Medical Practitioners Law. More importantly, they will enable our G.P.s to revalidate and continue to practice here. The progress achieved to date is the outcome of unprecedented partnership between the Jersey primary care body representing G.P.s, Social Security and Health and Social Services. The Chief Minister deserves much of the credit for his early vision and tenacity while Minister for Social Security in maintaining the pace of this change and initially securing the fundamental amendments to the Health Insurance Law. In 2012 the Medical Officer of Health brokered agreement with the G.M.C. that it would accept revalidation recommendations in relation to Jersey doctors. However, this was subject to our expected delivery in a timely manner of the legal infrastructure to establish and bring into both the performance list and the Jersey responsible officers. In the interim they agreed to recognise Jersey's medical directors as G.M.C. suitable persons for making revalidation recommendations. These Regulations today will finally bring into the strategy governance of G.P.s through the performance list that they need to be able to practice and the G.M.C. needs in order to recognise that. In stark contrast our position in 2008 when G.M.C. advice to us made it clear that without urgent progress and major reform no doctors in Jersey will be able to meet revalidation standards. Today we are on the verge of putting that final piece in place. In recent weeks the G.M.C. have expressed renewed serious concerns that the performers list is still not yet in place through Regulations. Furthermore, the revalidation recommendations around medical doctors and their capacity already been made about Jersey doctors since April 2014 could potentially be revoked if we do not put this into place. The Medical Officer of Health and the Medical Directors for Primary Care and the hospital have maintained a continuous dialogue with the G.M.C. to provide reassurance on our progress and keep this progress on track. It is now up to us as States Members to put the final stone into place and ensure that Jersey doctors are able to comply with the fundamental requirements of revalidation. Our Jersey doctors need to be validated and licensed by the G.M.C. if they are to continue to practice in Jersey. We need to ensure that Islanders can continue to have confidence that our doctors are meeting their standards. So, the Regulations that have been proposed today are the final pieces that have been many years in the making. I make the proposition, Sir.

The Greffier of the States (in the Chair):

Are the principles seconded? [**Seconded**] Deputy Hilton.

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

After receiving some correspondence from a G.P. who had concerns about the Medical Practitioners Registration, the panel met with Dr. Minihane, who is Chairman of the Primary Care Body and Dr. Venn, member of the Primary Care Body, for a meeting to discuss G.P.s concerns regarding the draft Orders. The panel explained that it had held a previous meeting with the Primary Care Director. During that meeting he explained that the Primary Care Body had responded to the consultation with concerns regarding the suspension. He also advised that he would be meeting with G.P.s to discuss their concerns further. The panel had contacted the Primary Care Director, since the meeting with G.P.s had taken place, to ask whether the concerns around suspension had been satisfied. The Primary Care Director had responded by advising the panel that the G.P.s had appeared to be happy with proposals regarding suspension. The panel asked Dr. Minihane to confirm whether the G.P.s still had concerns regarding the draft Orders. He explained that the Clinical Medical Director had acknowledged the suspension issue and they had drafted a paper which was due to be presented to the Health Committee overseeing the draft Orders. Furthermore, the detail would be in the policy underpinning the law, which had not yet been drafted. We were then advised that there would be G.P. representation on the policy group, which they were pleased about. It was also explained to us that there had been initial concerns that these were being worked through and as long as the Primary Care Body was satisfied with the outcome of the paper being presented to the Health Committee there should be no other significant concerns with the law. The matter was discussed with the Primary Care Body after the Easter holidays and it was left with the panel that if there were any further concerns based around suspension, which had been raised with us initially, then they would come back and speak to us. I just wanted Members to know that we have had no further communication with the Primary Care Body, so we must assume that they are happy with what is being presented today. Thank you.

2.1.2 Deputy G.C.L. Baudains:

Just quickly to ask in summing up whether the Minister could address my concerns, I have heard from some G.P.s that they believe this will raise costs in bureaucracy but achieve not a great deal. It was suggested to me that this sort of legislation is designed to prevent another Shipman-like issue. But, I was told by some imminent doctors that in fact this legislation would not prevent that anyway.

2.1.3 Senator F. du H. Le Gresley:

I just wanted to praise the work of the Primary Care Governance Team who have had a difficult path. As we heard just now from Deputy Hilton, it has not been easy for the Medical Director for Primary Care to deal with private practices, individuals who, quite understandably, are concerned about their positions as doctors in our community. I think that the individual has in particular dealt very carefully with their concerns. I know that the Minister, in proposing this law, has praised the work of the Primary Care Body. I know that they have been challenged by some of the decisions they have had to make along the way. But, all in all, I think we are at the stage, as the Minister says, where this is the final piece of the jigsaw; we are almost there. What I would say is that the Social Security Department are still in negotiation with the Primary Care Body concerning the extra £4 of medical benefit that was decided should be added to the benefits to enable them to move forward toward revalidation and the performance list. Those negotiations are still taking place. We have not raised the medical benefit for a couple of years, so there is obviously inflation to take into account. We are also in discussion about the added costs now of the G.P. central server. Those negotiations are still underway and we are not at the moment in a position to inform Members

whether we will be reducing the medical benefit or whether it will stay the same or whether in fact it might increase. But, I just wanted Members to know it is not forgotten. Thank you, Sir.

The Greffier of the States (in the Chair):

Does anyone other Member wish to speak? Very well, I call upon the Minister to reply.

2.1.4 The Deputy of Trinity:

First of all, I am pleased that the Scrutiny Panel have been in discussions with the Primary Care Body, as we have done all the way along, worked as a partnership. I take Senator Le Gresley's comments too about the fact it has been a challenge on both sides. I think we have come out stronger working together and we have a good working partnership. As you would expect with this, as we go along, there have been a few issues raised, sorted out and moved forward. At the end of the day, if this is not in place - to answer Deputy Baudains' question - G.P.s will not be able to work here in Jersey. It is as simple as that. Their professional body, the G.M.C. will not recognise them. That is why this legislation is important. I shall leave it there and ask for the appel.

The Greffier of the States (in the Chair):

The appel is called for on the principles of the Regulations. I ask Members to return to their seats and the Greffier will open the voting.

POUR: 35		CONTRE: 0		ABSTAIN: 0
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

The Greffier of the States (in the Chair):

Deputy Hilton, we understand your panel has already done its work on this matter.

Deputy J.A. Hilton (Vice-Chairman, Health, Social Security and Housing Panel):

Yes, we have, Sir. Thank you.

The Greffier of the States (in the Chair):

Minister, you seem to have general agreement with these Regulations, do you wish to take them together?

[12:30]

2.2 The Deputy of Trinity:

Can I take them *en bloc*, Sir? I am in Members' hands. I can go through each part or just answer questions. I will answer questions.

The Greffier of the States (in the Chair):

Very well. Regulations 1 to 46 and the 3 schedules are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations? Those in favour of adopting the Regulation kindly show? Those against? They are adopted. Do you propose the Regulations in Third Reading, Minister?

2.3 The Deputy of Trinity:

Yes, I do, Sir. Before I just do that, I would like to thank the Primary Care Body and the Medical Officer of Health and also the Primary Care Medical Officer, because they have been on the front line of working through this. Now we have a really, really good structure for all doctors in Jersey and also for patients especially that they know that the doctors are working within a good clinical governance infrastructure and being able to be revalidated. I make the proposition.

The Greffier of the States (in the Chair):

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

3. Draft Residential Tenancy (Deposit Scheme) (Jersey) Regulations 201- (P.111/2014): amendment - reduce lodging period to consider at present meeting

The Greffier of the States (in the Chair):

We come now to the Draft Residential Tenancy (Deposit Scheme) (Jersey) Regulations 201-. Minister, just before I ask the Greffier to read the citation, you did yesterday bring a late amendment on an issue of commencement date. Do you wish to seek the approval of the States to take that amendment today?

3.1 Deputy A.K.F. Green of St. Helier (The Minister for Housing):

Yes, please, Sir. I am not quite sure how long this debate on the deposit scheme will go on, whether first of all could we deal with the question of the amendment and then whether there was something shorter we could do before the recess. But, I am entirely in the hands of the Assembly.

The Greffier of the States (in the Chair):

Do you wish to make an application to reduce the lodging period for you amendment so it can be debated today?

Deputy A.K.F. Green:

Yes. I am requesting that we reduce the lodging period, because I want to change Regulation 34. The report in my proposition makes it quite clear that once we have these Regulations in place it would be a period of time before we could enact them. For example, we have to appoint an administrator. In Regulation 34 - and I take entire responsibility for this - we have said that the Regulations would come into force after 28 days. That clearly is not possible. All my amendment does is to seek to put a date in there where they will come into force, 28th February 2015. I apologise to Members for bouncing it on them, but it is a straightforward piece of housekeeping and I hope that they will allow me to shorten the lodging period.

The Greffier of the States (in the Chair):

It is a matter for Members. Does any Member wish to speak on the issue of reducing lodging period, not on the substance on the amendment?

3.1.1 Deputy G.P. Southern:

Having had this in my sights since 2008 and asking my now annual question of when it is going to be delivered, I was quite surprised last time I asked it was 28 days and I thought: "Hooray, it has finally got here, after 6 years." To find that it is going to be 28th February 2015 instead of 28 days is somewhat of a disappointment, but nonetheless I wholeheartedly support this amendment, albeit a late amendment, in order to get it in place for February next year.

The Greffier of the States (in the Chair):

Does any other Member wish to speak? All those in favour of reducing the lodging period for the amendment kindly show? The appel is called for on the proposition of the Minister to reduce the lodging period for P.111 amendment. The Greffier will open the voting.

POUR: 30		CONTRE: 1		ABSTAIN: 1
Senator P.F.C. Ozouf		Connétable of St. Lawrence		Connétable of St. Mary
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy G.P. Southern (H)				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				

Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

The Greffier of the States (in the Chair):

We are in the hands of Members. Did you have a long speech for the principles, Minister? Will it take more than 10 minutes?

Deputy A.K.F. Green:

Sir, the Minister for Health and Social Services is happy to take her next item. I do not have a particularly long speech, but I really do not think it is healthy with such an important thing to start just before lunch.

4. Draft Medical Practitioners (Registration) (Amendment No. 4) (Jersey) Law 2011 (Appointed Day) Act 201- (P.114/2014)

The Greffier of the States (in the Chair):

Very well. You are referring to P.114, the Draft Medical Practitioners (Registration) ...

The Deputy of Trinity:

Yes, Sir. It just follows on from the other one really.

The Greffier of the States (in the Chair):

It may not even take 10 minutes; are Members content to take that item now? Very well. I will ask the Greffier to read the citation of the Act.

The Deputy Greffier of the States:

Draft Medical Practitioners (Registration) (Amendment No. 4) (Jersey) Law 2011 (Appointed Day) Act 201-. The States, in pursuance of Article 8 of the Medical Practitioners (Registration) (Amendment No. 4) (Jersey) Law 2011, have made the following Act.

4.1 The Deputy of Trinity (The Minister for Health and Social Services):

This is the Appointed Day Act, which will bring into force on 1st October an amendment to the Medical Practitioners (Registration) (Jersey) Law 1960, which is the primary law under which relevant qualified and trained practitioners can be registered by the Royal Court to work as doctors in Jersey. The amendments to the law were essential to meet the new requirements for the U.K. General Medical Council for all practicing doctors to hold a G.M.C. licence to practice and which requires them to have their registration revalidated on a regular basis. I make the motion.

The Greffier of the States (in the Chair):

Is the Act seconded? **[Seconded]** Does any Member wish to speak on the Act? All those in favour of adopting the Act kindly show? Any against? It is adopted.

5. Draft Proceeds of Crime and Terrorism (Tipping-Off Exceptions) (Jersey) Regulations 201- (P.112/2014)

The Greffier of the States (in the Chair):

Chief Minister, do you anticipate the Draft Proceeds of Crime (Tipping-off) Regulations to be a lengthy item?

Senator I.J. Gorst:

Sir, my Assistant Minister is acting as rapporteur, I am not sure how long ...

The Greffier of the States (in the Chair):

Assistant Minister, do you anticipate this being a controversial, difficult item?

Senator P.F.C. Ozouf:

I do not think so, Sir.

The Greffier of the States (in the Chair):

If Members are content to move to P.112 I will ask the Greffier to read the citation of the Regulations.

The Deputy Greffier of the States:

The Draft Proceeds of Crime and Terrorism (Tipping Off - Exceptions) (Jersey) Regulations 201-. The States, in pursuance of Article 19B(2) of the Misuse of Drugs (Jersey) Law 1978, Articles 35(5) and 42A of the Proceeds of Crime (Jersey) Law 1999, Article 35(5) of the Terrorism (Jersey) Law 2002, and Article 51(2)(b) of the Proceeds of Crime and Terrorism (Miscellaneous Provisions) (Jersey) Law 2014, have made the following Regulations.

5.1 Senator P.F.C. Ozouf (Assistant Chief Minister - rapporteur):

Members will be aware that the Proceeds of Crime Law and Terrorism (Miscellaneous Provisions) Law were debated by the Assembly earlier this year. The consolidated laws have now received sanction in Privy Council. The law is not yet to be brought in force. Members will note that there is an Appointed Day Act that has been lodged for debate alongside that will come in on 4th August. The law consolidates and makes amendments to the Misuse of Drugs Law and the Proceeds of Crime Law and Terrorism Law. The bringing into force of this law will amend the position in tipping-off under the law to explain what tipping-off is in relation to individual disclosures. The provisions of the consolidated law remove limitation which restricts tipping-off offences to matters likely to prejudice an investigation or proposed investigation. These are in line with the I.M.F. (International Monetary Fund) recommendations on anti-money laundering and the counteracting of the financing of terrorism. The law, when it comes into force, will remove the provisions stating that it is acceptable to disclose so long as it is not likely to prejudice an investigation or proposed investigation. I will deal very quickly with the Regulations to try to speed up matters. I propose the principles.

The Greffier of the States (in the Chair):

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All those in favour of adopting these principles of the Regulation, kindly show? Those against? They

are adopted. The Chairman of the Corporate Services Panel is not present. Are there any Members of the Corporate Services Panel?

Deputy R.J. Rondel of St. Helier (Member, Corporate Services Scrutiny Panel):

No, thank you, Sir.

The Greffier of the States (in the Chair):

Very well. Do you wish to propose the Regulations together, Assistant Minister?

5.2 Senator P.F.C. Ozouf:

Yes, Sir. I think they stand for themselves. They deal with all the matters concerning disclosures, Join Financial Crimes Unit. I will answer any questions that Members may have.

The Greffier of the States (in the Chair):

Regulations 1 to 9 are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations? All those in favour of adopting the Regulations, kindly show? Those against? They are adopted. Do you propose the Regulations in Third Reading, Assistant Minister?

Senator P.F.C. Ozouf:

Yes, Sir.

The Greffier of the States (in the Chair):

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

6. Draft Proceeds of Crime and Terrorism (Miscellaneous Provisions) (Jersey) Law 2014 (Appointed Day) Act 201- (P.117/2014)

The Greffier of the States (in the Chair):

Would it be convenient, Assistant Minister, to take the Associated Appointed Day Act?

Senator P.F.C. Ozouf:

Yes, please, Sir.

The Greffier of the States (in the Chair):

Which is P.117, the Appointed Day Act. Members are going through their papers. I will ask the Greffier to read the Act.

The Deputy Greffier of the States:

Draft Proceeds of Crime and Terrorism (Miscellaneous Provisions) (Jersey) Law 2014 (Appointed Day) Act 201-. The States, in pursuance of Article 52 of the Proceeds of Crime and Terrorism (Miscellaneous Provisions) (Jersey) Law 2014, have made the following Act.

The Greffier of the States (in the Chair):

You are acting as rapporteur.

6.1 Senator P.F.C. Ozouf (Assistant Chief Minister - rapporteur):

Members, I am sure, will be aware of the importance of this type of legislation and particularly this as an important part of the preparations that the Island is undertaking to prepare for the fourth round

of review by MONEYVAL, the body which now assesses the Island in relation to international standards and anti-money laundering and counteracting the financing of terrorism. All of these laws and this bringing into force and the Appointed Day Act are part of that. There is good work that is done by all of the States departments including External Relations, Chief Minister's Department, Law Officers, *et cetera*, on these issues. I have an interesting briefing note that I will send Members about exactly what MONEYVAL is, which might be helpful for Members to deal with it. It is really a very important matter. I move the Act.

The Greffier of the States (in the Chair):

Is the Act seconded? **[Seconded]** Does any Member wish to speak on the Appointed Day Act? Would all those Members in favour of adopting the Act, kindly show? Those against? It is adopted. Perhaps it would be optimistic to try to take any other matter.

LUNCHEON ADJOURNMENT PROPOSED

The Greffier of the States (in the Chair):

The adjournment is proposed. Just before the adjournment I can announce to Members the Minister for Planning and the Environment has lodged this morning 2 matters in relation to the Island Plan revision that is an amendment to the 8th amendment and an amendment to the amendment to the 11th amendment. They are both lodged this morning. Very well, the Assembly will now adjourn and reconvene at 2.15 p.m.

[12:41]

LUNCHEON ADJOURNMENT

[14:16]

7. Draft Residential Tenancy (Deposit Scheme) (Jersey) Regulations 201- (P.111/2014)

The Greffier of the States (in the Chair):

Very well, we come to the Draft Residential Tenancy (Deposit Scheme) (Jersey) Regulations 201-. I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Residential Tenancy (Deposit Scheme) (Jersey) Regulations 201-. The States, in pursuance of Article 24 of the Residential Tenancy (Jersey) Law 2011, have made the following Regulations.

7.1 Deputy A.K.F. Green (The Minister for Housing):

Before I get into my speech proper, I wish to advise Members that I am going to propose all the Regulations except Regulation 28. Senator Le Marquand helpfully this morning looked over the Regulations and suggested that 28, which prohibits the giving of a guarantee, unless in the form of a deposit, perhaps unintentionally goes too far. It might, for example, stop a child's parents from acting as guarantor with the landlord. I am not going to propose Article 28. I will seek advice on the matter further. If it is deemed necessary, bring back an amendment in narrower form at a later date. The Law Draftsmen's Office has advised that it has no material effect on the rest of the law. Again, before starting, I would just like to say, because people often get hold of the wrong end of the stick with this type of legislation, that there are good landlords and there are good tenants and there are bad landlords and bad tenants. I acknowledge that there are a lot of good people out there going about their daily lives, but there are also some that have problems. I am pleased to bring the Draft Residential Tenancy (Deposit Scheme) (Jersey) Regulations before this Assembly. It introduces a scheme to protect all deposit monies that tenants pay their landlords or their managing agent when renting a home under a residential tenancy. Members will know that these Regulations

have been in progress for some time and stem from a much wider set of reforms, when we introduce through the Residential Tenancy Law. The Residential Tenancy Law came into force in May last year. That has made it possible for me to bring forward these Regulations in accordance with the wishes of this Assembly, which gave direction to the then Minister for Housing in 2009. Deputy Southern brought that proposition. I thank him for his interest in this and the work that he has put in in looking over things for me. Also, one of the newer Members of this Assembly, Deputy Mézec, has also assisted me in ensuring that we come up with something that really does work. I am very grateful for that support and help. The Regulations set out a framework of procedures, processes and requirements through which the Tenancy Deposit Scheme can be established and allow the Minister for Housing to appoint an organisation, known as the Scheme Administrator, to set up and maintain a scheme on behalf of the States. I expect that we will appoint the provider at the end of the year, so the scheme will begin to operate - hence the amendment before lunch - in February 2015. This, of course, is subject to the Members voting for this, but we hope that we will be there 28th February 2015. I supported the introduction of the deposit scheme never thinking for a minute that I would be the Minister bringing it to the Assembly. I supported it then and I still support it. It provides a solution to a problem encountered by tenants all too regularly. When tenants pay a deposit they do so in good faith. They expect the landlord to hold their money securely and that it will be returned at the end of the tenancy, provided of course that they fulfil their part of the contract and leave the property in the same condition that it was found. The vast majority of landlords handle deposits without any problems, holding the money as a guarantee and returning it appropriately at the end. When tenants cause damage or fail to comply with an obligation of their tenancy landlords are entitled to make reasonable deduction to cover costs and other expenses. However, in some instances a landlord will deduct money to deal with things that are simply not the fault of the tenant or to pay for charges that were not part of the tenancy agreement, and in worst examples - and there are some - may even deny ever receiving the deposit. I would highlight to Members the figures provided to us by the Citizens Advice Bureau, which shows, on average, that C.A.B. (Citizens Advice Bureau) deals with 180 complaints each year relating to deposit money. This is about 10 per cent of the total number of tenancy related complaints it receives. I am extremely grateful for the support I have had from C.A.B. when we looked at the extent and the nature of the problem. C.A.B. has had a lot of direct experience with the issue in Jersey and in the United Kingdom, and they tell us that the casual nature of deposit transactions and the high turnover of tenancies mean that there is likely a lot more tenants experience bad practice than we are aware of. Indeed, it is probably the one thing that I get the most phone calls about, as Minister for Housing. On one occasion the tenant was advised that the flat was immaculate, that they could have their deposit back but they could not have their deposit back until the new tenant had paid the deposit. It was wholly unacceptable, and that is probably one of the better examples of the phone calls I have had. It gives me, therefore, considerable concern that this is happening here in Jersey. It is not right that good tenants are put in a position of not knowing if the landlord is going to return their money, it causes significant financial uncertainty, stress and harm to people's welfare. Many of the landlords are also stigmatised as a result of the actions of the minority. As I said when I opened, there are good landlords and there are bad tenants, and we know that both exist. Landlords do find themselves with ex-tenants who withhold keys or who do not pay the last month's rent in expectation that their deposit will not be returned to them. So the Regulation before us today imposes an obligation upon landlords who receive the deposit to protect it by paying it into a deposit scheme. The Regulations ensure that the deposit will be held by an independent scheme administrator who will protect the money and return it to the tenant when the tenancy comes to an end, in full or in part, according to whether a deduction has been agreed with the

landlord. It follows that the custodial deposit schemes that operate in the United Kingdom, which I believe provide the most comprehensive and transparent means of ensuring a similar level of protection for deposits in Jersey. A scheme will not prevent disputes but it does provide tenants with confidence that they will receive their money back unless the conditions for withholding it have been met. Most of the time disputes involving deposits can be resolved by people talking to each other but nobody can be certain that their tenancy will end with both parties being happy with the outcome. So another integral part of this Regulation... and I should thank Senator Le Marquand here because he, at the very beginning of the drafting, was saying that we needed to have available a means of dispute resolution. If landlords and tenants are unable to reach an agreement about how much a deposit either of them is entitled to, then their claim can be heard by an impartial adjudicator. Following the adjudicator's decision the deposit amount will be released to one or both parties in the directed proportions. Of course the Petty Debts Court remains open if one party wishes to use it, but arguably - and I hope people will use the Dispute Resolution Service - it will be much quicker, much more attractive because it is free, and deliver, as I say, a quicker and fair resolution to disputes outside the more formal court environment. I, and previous Ministers before me, have been clear that the deposit scheme must be self-funding and operated by an independent body at arm's length to the States. I believe this is the correct model because it encourages innovation, based on professional knowledge and an expertise that industry bodies have. It follows practice which has been adapted from respective authorities in the United Kingdom. There has been an interest from organisations, both on and off the Island, to run the scheme locally and this gives us assurance that a competitive tendering process can be carried out to appoint a scheme administrator, subject to the Assembly adopting these Regulations, of course. I am conscious of the need to ensure that there is a strong working relationship between the scheme administrator and the Minister for Housing, and this will be managed through a service level agreement between both parties. The Regulations will also enable the Minister to direct the scheme administrator about matters such as the use of interest generated on the scheme. Not a problem we have at the present time but hopefully as things improve interest will be accrued and the use of that interest generated in the scheme will ensure that an investment strategy is produced in relation to how funds are used and managed. In respect of the financial implications of the deposit scheme, these will be minimal to the States and relate to the cost of the Ministerial oversight such as periodic reviews of accounts. We anticipate the deposit scheme will fund itself by the interest generated on deposits held in the scheme account but will be supplemented by the scheme administrator being able to deduct a small fee from deposits to contribute towards the running cost of the scheme. On the basis of our estimates and information from potential suppliers, this would be in the region of £10 to £20 per deposit. I believe that this is a reasonable deduction as the scheme will be providing the tenants with assurance that their deposit is protected and will be returned fairly at the end of their tenancy. These Regulations have been a complex piece of work in terms of ensuring that proposals for the tenancy deposit scheme are practical, viable and cost-effective for Jersey. The Regulations will affect a significant number of landlords and tenants and they will need to change the way that they are used to handling deposit money. Of course we will support them in making these changes as easy as possible, and we will ensure that they know what the scheme is and how it works and what their obligations are under it. But we should not lose sight of what these Regulations seek to achieve. They will ensure that deposits are held securely for the length of the tenancy. They will ensure that deposits are returned quickly and equitably, especially if a dispute arises. I would always stress that the deposit money belongs to the tenant and this scheme simply places them in a secure and proper place with good governance surrounding them. I would hope that many of the landlords would welcome no longer having to manage this aspect of

tenancy themselves, whether that be holding the money or navigating their way through any dispute at the end. In that sense, the scheme provides assistance to both tenant and landlord. These Regulations contribute... are a part of a package of legislative measures aimed at supporting the residential rental sector. The Residential Tenancy Law was one of the largest reforms of the sector in recent memory and the proposed introduction of minimum standards of rental properties being developed between the Strategic Housing Unit and the Health Service will contribute even further. I am confident that these will create a more professional, stable and effective rental sector that is attractive to both people in our community who invest in rented accommodation and to those who live in it. I propose the Regulations in the First Reading.

[14:30]

The Greffier of the States (in the Chair):

Are the principles seconded? **[Seconded]** Does anyone wish to speak on the principles of the Regulations? Senator Breckon.

7.1.1 Senator A. Breckon:

Deputy Southern, I think, mentioned this morning about how long this had been in a gestation period but it is longer than that because it goes back to, probably the late 1990s and early 2000s. Just to say that over the years I have dealt with hundreds of these cases where the deposit was in dispute for some reason or another and some were legitimate and others were not. The Minister has mentioned the use of the Petty Debts Court but what has been very useful, in my experience, and that was due to the former Bailiff before Bailhache was the fact that the Petty Debts Court had a mediation service and that was very helpful because if the parties agreed it was referred to mediation and usually within 2 weeks there was a written submission and the people involved got the chance, in an informal way, to say their bit and then a judgment was made. It was not binding but in the main it was, in my experience, accepted and it was a useful thing and I think the former Magistrate as well, Senator Le Marquand, had some influence over that process at the time. It was helpful because the court process was finding one way or another and that was not easy because somebody might have a £1,000 deposit and they were not entitled to all of it back, for legitimate reasons. But then they should not have lost all of it either so this process really has worked and it is fairly low cost, it is around about £20 to go through that and there are forms to do it. I hope, with that, the Minister will take note of that because any process needs to be comfortable so that people feel that if they are in this situation they can do it because there are some statistics in there, and it is something that perhaps the Minister for Housing would know. This is on page 6, it is contained in the narrative there, and it says: "The rental households in Jersey constitute 46 per cent, 32 per cent of which is private, which means only 14 per cent is States housing." If you compare that with the U.K., the rental sector is 36 per cent and it is 18 per cent private and 18 per cent in public ownership or local authorities or whatever it is, and that is something, really, where some of the problems are. As the Minister has said, there are also some bad tenants as well so this is not one-way traffic. But the reason I say that is sometimes in housing it should be about availability, it should be about choice and it should be about the quality. The other thing that is mentioned in there, also on page 6, is what the range of rentals are and it is talking about £1,144 a month, that is the difference between qualified and non-qualified. So if a month's rent is equivalent to that then it is a significant amount for somebody who may be moving and have the costs associated with that, it might be carpets or whatever. But I have seen some excellent landlords where there is no quibble, there are no problems, but I have seen others. The former Minister for Housing, Deputy Le Main, will remember some of those because we worked on these together and there was one company that was particularly notorious for keeping tenants and refurbishing properties. They were decorating, they were putting soundproofing in and all sorts that had nothing to do with

tenants' deposits, and that was, as I say, a professional company and a significant landlord that was doing that. So I think these have been a long time coming but they are welcome because people will know the rules. The advice I used to say to people was take photos, photos, photos. Get one of those cameras, 36 shots, take it all around the place and get 3 copies. Post one to the landlord, keep one yourself open and post one back to yourself and do not open it. That way it is dated and it cleared up some of the disputes when somebody said what was the state of this, that and the other, so I think this, as I say, has been a long time coming but it is welcome and I notice that the estimate for deposits held is £15 million. So if somebody is managing this then perhaps, as well as a small fee, the interest from that could service the scheme. I know interest rates are low at the moment but it is looking like they are not going to stay that way for much longer, so I think that could be one way of doing that so that the cost to landlord and tenant is kept to an absolute minimum. Thank you.

7.1.2 The Connétable of St. John:

At the time of the original debate I declared an interest but said I would speak if I thought it was necessary. There are one or 2 little points that I need to just check. The deposit: is that retrospective? No, so it is ... I presume it is not by the nodding or the shaking of the Minister's head. Also, the 33, on page 32, a person who fails to pay as required is liable to a fine of level 3. Is that in the civil court or in a criminal court? Are we going to criminalise people on this or are we going to do it through the civilian courts? Given that that is quite important, that needs to be answered. Also, as a landlord I have no problem with this. It is just those 2 or 3 items. Although some people will have had tenants for 20 or 30 years who will have taken deposits all those years ago, and in some cases may have even returned it but those things need to be swept up in this part of the debate. Thank you.

7.1.3 Deputy G.C.L. Baudains:

The Minister said that he estimated that the cost of administration to be probably somewhere around about £10. I am concerned about that. Is the scheme intended to be completely self-financing? Because if it is, what happens if, for example, the administration costs start to rise to 10 per cent of the deposit or something? Is there any contingency to deal with that?

7.1.4 Deputy G.P. Southern:

I wholeheartedly welcome this proposition, albeit it has taken some time to get here, and it comes at one of those moments when you have just done 3 days on the back of a previous 3 days when you are feeling exhausted and you wonder why you are doing this job, and here we are 5 years after something initiated by me comes into effect. It has taken a long time to get there. In fact, a second lesson to learn from that; I caused some of this delay myself because I brought a Residential Tenancy Deposit Law in 2008 and I was assured by the then Minister for Housing, Deputy Le Main - or Senator Le Main he was at the time - that he was getting on with it and I should withdraw it. So I did withdraw it only to have to bring it back one year later, 2009. That is the last time I ever withdrew a proposition of mine. It was a learning process. But I wholeheartedly welcome this. The issue is still there, it has not gone away and this, I hope, will provide a solution to this issue, which will mean that Deputies and Constables and Senators have got less work to do chasing deposits not returned.

7.1.5 Senator B.I. Le Marquand:

I also need to declare an interest as a landlord of residential property. I also very much welcome this. I was concerned - and this may have caused some of the delay - by the fact that there was a need to have a process for dealing with these matters because otherwise what was going to happen was the deposit would be lodged, as it were, under the scheme and would be stuck there for a long time. This indeed provides a quick resolution process in terms that there are relatively short periods

for people to apply for the money and then to respond. Now, a side effect of that which I mentioned this morning to my esteemed colleague, Deputy Green, is the importance of both landlords and tenants understanding that if they move address - particularly tenants will be moving address - that they notify of that address because otherwise there is a danger that they will receive notification of the other side's claim, not respond within the time period and effectively lose the claim. We discussed how that would be dealt with and in fact because there is an acknowledgement initially of the receipt of the monies notice that that could have, in very large print: "Please be warned that you must keep us informed of your address or otherwise it may prejudice your claim." So I am reassured that that will happen. When I was the Magistrate and the Senior Judge in the Petty Debts Court, one of the strange things was that we did not get very many cases in that period of time, that was really from late 1999 until the summer of 2008. People simply were not bringing their cases to us. I used to keep figures of numbers of disputed cases and the numbers in this category were very small. So I had to be re-educated via the - oh, dear, I have lost their names. Thank you very much, Citizens Advice Bureau - to the extent of the problem, and once I understood that I immediately saw completely the need for this. It is right that, notwithstanding the fact we did not get very many cases initially, that may have changed of course since I ceased to be Magistrate, that in fact the mediation process was highly successful in dealing with such cases. Such cases are quite complex from a legal point of view and much more difficult to itemise, *et cetera*, than you would realise and the old procedures really did not work very well. But mediation did and that is why I welcome this resolution process which is being set up there. I think this will work extremely well and I am happy to support it.

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

I suspect I am one of ... perhaps the only or maybe one of few States Members here who has successfully sued a landlord in the U.K. over a dispute with a deposit. When I was studying at university, myself and a group of students were renting a flat in North London and as the few weeks went by after we first moved in we were not given things like our electricity safety certificate, gas safety certificate and what have you. So we began to pester the landlord and the estate agent to get this documentation sorted, sooner rather than later, and they began to realise that we were not a group of students who were happy to do things off the cuff, we wanted everything done by the book and done professionally. When they realised that they made an attempt to try and kick us out by issuing us, I think it was a section 22 of the Housing Act Notice of Possession, which was their first mistake because they did not realise they were dealing with a law student. So the first thing I did was look up section 22 of the Housing Act to find that all 3 of the relevant criteria you needed to issue one of those notices of possession had not been fulfilled, so I knew that they were not acting professionally whatsoever, and one of the things they had not done was protect our deposit. Now, we looked at the law in the U.K. and found out that if you had not protected a deposit by the prescribed time - I think it is 14 days after they receive it they are meant to have protected it - the punishment that the court can potentially make them pay out is up to 3 times the amount the deposit is. So having each of us pay £500 and potentially going to get a pay-off of £1,500, we thought that was very good so we signed up to do that and took them to court over it. The court ruled that they were out of order to have not protected the deposit. The problem we had - and there was a flaw in the U.K. law here, which I want to bring back into context of what is being proposed here in Jersey - was that the court could not force the landlord to pay damages for not protecting the deposit if they had protected the deposit by the time it came to court. So the moment we threatened our landlord with court action, the first thing he did was protect the deposit. So essentially it had achieved nothing apart from causing us quite a lot of hassle having to go through that process. When I was working for the Citizens Advice Bureau a few months later I got talking to them about this because they had campaigned for a deposit protection scheme there and they had realised that there was a serious flaw in the U.K. law in that there was no actual incentive for

landlords to comply with the law and protect these deposits because if it came to a dispute as long as they had protected it by the court date, they would get away scot free. So I spoke to the Minister for Housing about this after I got elected to find out what was going to be done with this particular version of the law to make sure that that would not happen here, and the format that they have come up with is quite different to the U.K. law and the way I see it is that the situation I found myself in in the U.K. cannot happen under this law. So what we have got here is better than what they have in the U.K., and that is all I really want to say on it and I want to congratulate the Minister and his department for putting this together because I think it is better than what they have got in the U.K.

[14:45]

7.1.7 Deputy M. Tadier of St. Brelade:

Reform Jersey is delighted to see this legislation coming to the States today, and it is no coincidence that the 3 Members, in particular, Deputy Southern, Deputy Mézec and myself, have all been working on this kind of legislation constructively with the Minister, and we also commend the Minister for taking us to this position. It goes to show that if the public want social legislation to be pushed higher up the agenda then all they need to do at the October elections is to vote for more Reform Jersey candidates because they are the ones who are leading the way on this issue, along with the Minister.

The Greffier of the States (in the Chair):

Let us get away from the party political broadcast. **[Laughter]**

Deputy M. Tadier:

I am afraid that will become more and more the norm but it is germane to the debate. Also it helps having a Minister with whom one can work and have good channels of communication along with the officers, who are sitting outside, who are no strangers to me and our team mates. I have got a couple of questions. The first one is - I think I know the answer to this - on page 6, it does talk about the scheme covering unqualified sector. Does that also extend to lodging houses? If the Minister can address that, perhaps, in summing up, and will it also extend to privately rented rooms that might be rented out in the unqualified sector? I would also be interested to know how the scheme might progress if there is talk about introducing minimum standards and inspections, which I know is being worked on at the moment, then could this form some kind of basis? Could this mutate or would this be a separate system? So I think those are basically the only comments for the moment. There will be parts of the Regulations, I suspect, which will need to be spoken on individually because I have got concerns about the funding mechanisms. Who pays, for example? It has been said, quite rightly, that this scheme is beneficial to both landlords and tenants and I think that will be proven to be the case. I think there has been a demand out there from both landlords and tenants but it seems to me that the cost is falling solely on tenants, whether that will be an administration cost of £10, £20, but also the interest ultimately belongs to the person who pays into the scheme and that is the tenant. So there may be points in the Regulations which I and others cannot support or which we need to raise and flag-up concerns. But certainly overall, as a principle, I am very supportive of this legislation.

7.1.8 Senator F. du H. Le Gresley:

I rise to echo the comments that we have had from other speakers and congratulate the Minister on bringing this proposition to the Assembly. Members will know, of course, that I have got some history on this one, like Deputy Southern. Citizens Advice Bureau were campaigning for this back in the 2000s, the year 2000s. Nationally, they were... the national association was mainly responsible really for the creation of both the insurance and custodial rental deposit schemes, so it

has been a long time coming for Jersey. A note of caution, of course, there are 2 matters outstanding. One is the choice of the scheme administrator, and the Minister is aware of my concerns of the tendering process that is going to take place because it is absolutely essential that whoever is given this role has all the systems, the electronic arrangements with banks, *et cetera*, to offer a swift service. In my experience the problem with any of these sort of schemes where money is held by third parties, is that if somebody is moving tenancy and they have not got the money without recouping the deposit from their current rental, they cannot move and they are stuck in a situation where they may have given notice; the landlord, at the moment on the current arrangements, may be sitting on the deposit and refusing to release it or making excuses and they cannot move to their new tenancy. Given the shortage of rental accommodation, sometimes they completely miss out on a suitable property. So where the money is going to be held by a third party, that scheme administrator really has to be up to date with the technology, has a system that can move money around through the bank bureau credits between banks, and unfortunately, unless I am satisfied that the Minister is going to be very careful who he chooses, I will be reserving my praise for this new scheme. However, it is a big step forward, and the other matter that is still outstanding is the structure of the proposed Alternative Dispute Resolution Service. It is mentioned in the proposition that this would be a subject for the Minister to resolve, probably with the new scheme administrator or maybe a third party. Again, same air of caution; it is all about speed. There are indications that it could take 14 days to submit evidence, *et cetera*. It has to be electronic, it has to be a paper-based system, and speed is of the essence. If the proposed A.D.R. (Alternative Dispute Resolution) scheme is slow, tenants will be no happier than they are with the current Petty Debts Court route. So with those caveats I congratulate the Minister again, but we are not there yet so hang on.

7.1.9 Deputy J.H. Young:

Like other speakers, I think it is a very, very welcome, progressive move to establish this. I do have some issues though about the detail, which I think I want to draw now rather than wait until the Articles. The whole thing relies of course on funds being held in a scheme account and clearly from the report there could be substantial. We are talking about monies of £15 million. Now of course in the normal course of events those sorts of monies would be held in our Treasurer of the States accounts and would not be a problem. We all have complete confidence that the States accounts are probably the most secure arrangement. Here we have got a scheme where the Minister is going to go out to tender and he is going to go out to a tender, who presumably somebody is going to say: "I am going to run this for you. This how much money I need to run it and these are the arrangements I am going to make for the bank account." As the Minister for Social Security said, I certainly want to be sure that the arrangements for that bank account are absolutely secure so that there is no ... Because one hears all sorts of situations occur: error, mistake, fraud, for example in the Guernsey situation where somebody paid out £5 million. These things do happen in the financial world and I certainly think that that account should have the level of security required. Obviously not appropriate for the Regulations, but the Regulations do not say anything about it other than the fact there is an account. I see in the U.K. that they have different schemes there and that people can choose. They can either have a scheme similar to this, which I think Capita run in the U.K. where monies are paid over and there are no fees payable - no fees payable. But here we have a scheme of course where it is proposed that fees are going to be charged. I have big reservations about that because the interest at 0.5 per cent on £15 million is £75,000 a year. I think there is almost an implication here that this scheme is going to cost more than £75,000 a year to run. That troubles me; very troubled. Of course in the U.K. people could also have a choice. They can have an insurance-backed scheme where they pay a fee; not unreasonably. But here we have a cash deposit one where you have to pay. But anyway there is no question. I think those are points of detail. But I think one other point, just to echo the Minister for Social Security's point about

A.D.R., I had not picked this up, but of course in the absence of A.D.R. any disputes will have to go through Petty Debts Court and of course there is no question that the introduction of this scheme will dramatically increase the workload of the Petty Debts Court because loads of issues arise at the moment as Members have said. People cannot do anything about it; they just have to accept it. This way there will have to be a resolution. I hope that the courts can cope - the Petty Debts Court can cope with that for you. Having said all those reservations I think this is a very, very good move.

7.1.10 Deputy N.B. Le Cornu of St. Helier:

I too welcome this proposition. It is long overdue and it will give protection to tenants. I would like to point out that the rentier landlord class is a very powerful one in this Island and one that is rarely challenged. That is why this piece of legislation has taken so long to reach the statute book. Overcoming that interest is very difficult and it is quite remarkable that it has been achieved. We have further to go. It is certainly a common experience of the working class in this Island who have to rent accommodation; but they regularly do not receive the return of their deposit in fact. It is taken and grabbed by the landlord as another month's rent. I have a nice little anecdote that does not relate quite to renting property; it is worse. It relates to a winter let which is basically staying in a hotel at Havre des Pas by a young Romanian barman. He was obliged to pay a deposit of several weeks' rent and when at the end of the tenancy or the period he stayed there - it was just an ordinary hotel he was staying in - they asked him for money. The owner of the hotel pointed out: "Oh, behind the curtains there is a little bit of a spot there on the... Oh, did you notice? That must be you. I am keeping your deposit of several hundred pounds." Of course he is young, 18, and does not know what to do. So he does not complain and I offer to take him to the Petty Debts Court for him because I thought it was injustice, but he decided not to pursue it. But I report it now to the States and to the sections of the working class who are listening on the radio today and who will read Hansard in the future, because it has to be recorded that that rentier class, that landlord class, does not treat tenants well in this Island. Some are very good. I have an excellent landlord myself - before I am thrown out. **[Laughter]** I do; I do have an excellent landlord. But I hear in part through my constituency work, so many horror stories and working people have to take this day after day after day. Anyway, thank goodness this is in place; well, very soon.

7.1.11 The Deputy of St. Ouen:

As this particular matter falls under the remit of Scrutiny Panel that Deputy Hilton is Vice-Chairman of, we did have the opportunity to be briefed by the Housing Department and the Minister. Following that and during that briefing we did raise a number of questions. One was the issue of how the money is protected. What we were particularly concerned about was how the money would be invested; whether it would be invested and what protection would stop it being invested in what I call a high risk scheme that offers you large dividends and interest payment and yet you can find that you would end up with less than you started with. We have heard significant reassurances from the Minister that there is surety of 2 Regulations. One in particular, Regulation 7(2) that first of all the Minister must seek advice of a suitably qualified and experienced person which supports Regulation 7(1), which invested in accordance with an investment strategy as directed by the Minister. So I think that you have 2 checks and balances there that (1) the actual person responsible for looking after the money is a fully reputable person and indeed that the Minister has overall responsibility and is able to ensure that the money is well protected. Equally we have had assurances that all the deposits that are being held will be held by a company that is regulated by the Jersey Financial Services Commission, because obviously again we are looking for further checks and balances. In fact we also did ask whether the C. and A.G. (Comptroller and Auditor General) would be able to review the scheme and consider it if and when necessary. Again we were assured that regardless of what the Comptroller and Auditor General may wish to do,

obviously various internal controls are put and other information would be provided to the Minister that is responsible so he can oversee the work. Finally I think, one other issue that we picked up on was about the fact that the notification went into deposits paid. We thought it was important that this scheme should notify the tenant that their deposit had been paid into the scheme, rather than the tenant having to ask for confirmation. Again, we are pleased to say that provision has been made within the Regulations by inserting Regulation 31(3) in addition to Article 24(1). So I think, as I say, although we have not been able to conduct a full review on this matter, I think we are able to say that in light of the comments I have already received and the actions of the department, that these particular sets of Regulations should deliver what we all seek to achieve.

[15:00]

7.1.12 The Deputy of St. Martin:

I apologise to Members for my next sentence which is one we hear so often in this House, which is: "I had not intended to speak in this debate." I had not intended to speak, but I feel that I must rise and respond to Deputy Le Cornu who put over a very one-sided view of tenants and landlords. Because in a previous life I was once a landlord who was treated most appallingly by a tenant that I trusted and took on his word. The second thing I wanted to say is a thank you to the Minister and those who have helped the Minister to bring this forward, because the Minister in his opening speech gave as ever a most balanced speech. I thank him for acknowledging that there is good and bad on both sides of the fence.

The Greffier of the States (in the Chair):

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

7.1.13 Deputy A.K.F. Green:

I thank Members for their comments and I am encouraged by the comments that we have had and the constructive nature generally of the comments. Members can be assured, and I am particularly looking at the Minister for Social Security, that I have listened carefully to their contributions and will give due consideration to the suggestions and anything that I think will improve the practical operation deposit scheme in harnessing objectives in respective of residential tenancy matters I will work on. I will try and deal with comments that have come through in order. First of all, Senator Breckon made some comments about, I think, conditions and the like. I would just like to say to the Senator, through the Chair of course, that the one thing that we will bring forward as part of this scheme is an Order that I intend to sign in the next few days if this goes through the Assembly, an Order making it a requirement for tenant landlord to have a condition report when they enter a new agreement or enter a new property. That should be, and I have been advised will be, backed up by photos. I could have signed that Order before, but it would have been a bit presumptuous because it would be a very useful part of the deposit scheme. So if Members accept this scheme then condition reports will be a part of that; I will follow that up. Senator Breckon made comment as well about the low amount I think of what he was referring to as social housing compared to private rental, and of course we have a scheme for that. It is called the Housing Transformation Programme and Andium will play a big part in that and that is exactly why we have the £250 million bond. I look forward to Members supporting me next week in finding sites to build these homes on. But that is for another day. Constable Rondel: the scheme is not retrospective. It will apply to new tenancies from the date that is set which at the moment is 28th February and I hope that we will achieve that. So it is not retrospective. Action is taken through the Petty Debts Court, if there is an action that needs to be taken. It is a civil case; unless someone tells me otherwise, that is what I believe to be the case. It will be an offence under the Regulations of the Residential Tenancy Law. There was a question on that as well. Deputy Baudains: all the tenders have shown that it could be self-funding, the scheme. I know you and others were worried about

the £10, £20 fee. Picking up on Deputy Young's comment, I think he had worked out that there is possibly £75,000 worth of income. But of course, if he is right, that figure will not be achieved until all the deposits are in the scheme. This is not retrospective. It will take a number of years for that to get to the £15 million being held and therefore that sort of income. It is right to bring in a fee initially to make sure it works; it is a very small fee. Of course, ideally what I hope will happen eventually is that interest rates will be at such a level that that will fund the scheme and give the tenants some interest as well; after all, it is their money. But that is for the future. I must apologise to Deputy Tadier because he has worked with me on this as well. I do apologise for not mentioning him. He has worked with me on this. The rates apply to lodging houses if they rent accommodation under the Residential Tenancy Agreement. It does not apply to every accommodation. I think I have covered some of the comments that Deputy Young made regarding the interest rates. But rest assured, both Deputy Young and the Minister for Social Security, that there will be a full tender process. I will be, as required in Regulations, once we have appointed a suitable provider or scheme administrator as per the Regulations required, because I am very conscious eventually this will be £15 million of other people's money. I will be seeking, as the Regulations require, or the Minister for Housing who follows me will be seeking to get proper advice on the security of that money and its investment. I think, unless I have missed anything here, I have thanked the Deputy of St. Martin for his comments. Deputy Le Cornu, this was not held up by any subversive action by landlords; this was held up due to the sheer volume of work in the department, not only with the Strategic Housing Unit, but the ... and I am not a landlord myself and never likely to be - I struggle to maintain one house. I think I have covered all the points. If I have missed anything I apologise and perhaps Members could ask me. No, I have covered everything, thank you. These Regulations represent a major, and it is stated by others, a long-awaited reform of rights and obligations and of needs of both the landlord and the tenant in handling deposit money. We rely heavily in Jersey on the rental sector, as Senator Breckon stated: 46 per cent of households on the Island are living in rented accommodation, 32 per cent of them in the private sector. It is only right that we have a modern and fair framework to clarify and protect deposits money. One question I was asked and I have not answered: it was mentioned about speed being essential. I think it was the Minister for Social Security, speed being essential in refunding deposits. Of course we are very small in Jersey, and it is quite likely there is a person, if they are moving from one landlord to another, we do not need to refund the money to the tenant for him to bring it back to us for the new landlord. We can just move it across on the book. So we will be able to be agile. These Regulations will overall strengthen professionalism, confidence and stability within the residential sector as we ensure that we continue to meet the Island's housing needs, because I see my role as Minister for Housing across all tenures now, not just social housing. With that, I maintain the proposition and ask for the appel.

The Greffier of the States (in the Chair):

The principles are proposed ...

Deputy M. Tadier:

Sorry, Sir. I did have a question of clarification but I was not able to ask it. It was just to ask about the lodging houses. The Minister said that some if they were under the Residential Tenancy Law would be covered; if they were not they would not be covered. What is the reason that some lodging houses might not be covered by the Residential ...

The Greffier of the States (in the Chair):

The question of the lodging houses was asked by Deputy Tadier.

Deputy A.K.F. Green:

I think I am right in saying if the person has their own front door, so to speak, in the lodging house, then they are covered by this. If they just have a room and they share other facilities, then they are not. I think I am right in saying that.

The Greffier of the States (in the Chair):

Very well. The appel is called for on the principles of the Regulations. If the Members are in their seats the Greffier will open the voting.

POUR: 35

CONTRE: 0

ABSTAIN: 1

Senator A. Breckon

Connétable of St. John

Senator A.J.H. Maclean

Senator B.I. Le Marquand

Senator F. du H. Le Gresley

Senator I.J. Gorst

Senator L.J. Farnham

Senator P.M. Bailhache

Connétable of St. Helier

Connétable of Trinity

Connétable of St. Clement

Connétable of St. Peter

Connétable of St. Lawrence

Connétable of St. Mary

Connétable of Grouville

Deputy R.C. Duhamel (S)

Deputy R.G. Le Hérisier (S)

Deputy G.P. Southern (H)

Deputy of St. Ouen

Deputy J.A. Hilton (H)

Deputy S.S.P.A. Power (B)

Deputy K.C. Lewis (S)

Deputy M. Tadier (B)

Deputy E.J. Noel (L)

Deputy A.K.F. Green (H)

Deputy J.M. Maçon (S)

Deputy G.C.L. Baudains (C)

Deputy J.P.G. Baker (H)

Deputy J.H. Young (B)

Deputy S.J. Pinel (C)

Deputy of St. Mary

Deputy of St. Martin

Deputy R.G. Bryans (H)

Deputy R.J. Rondel (H)

Deputy N.B. Le Cornu (H)

Deputy S.Y. Mézec (H)

The Connétable of St. John:

I abstained, for those who want to know, because I am a landlord.

The Greffier of the States (in the Chair):

Thank you, Constable. I understand the Scrutiny Panel has already looked at this matter and we heard your comments. You do not want to look at it again. Minister, do you wish to ... there is an amendment to ask for 34, so perhaps we perhaps should not take that Article at the moment. You

have indicated you will not be proposing Article 28. Do you wish to propose the other Articles together? That is 1 to 33 without 28?

7.2 Deputy A.K.F. Green:

I am entirely in the hands of the Assembly. I can run through them if Members would like me to or I can propose them *en bloc*.

The Greffier of the States (in the Chair):

Widespread support for the principles.

Deputy J.H. Young:

Could we have Article 33 separately, please?

The Greffier of the States (in the Chair):

Yes, we can certainly vote separately on articles. Articles 1 to 27 and 29 to 33 are proposed. Are they seconded? [**Seconded**] Does anyone wish to speak on any of the Articles? Deputy Young.

Deputy J.H. Young:

Point of order. I did say I wanted a separate vote on 33. You just said...

The Greffier of the States (in the Chair):

We are not voting; we are just debating at the moment. Do you have any comments at the moment on Article 33? No. Does any Member wish to speak on any of the articles? Senator Le Gresley.

7.2.1 Senator F. du H. Le Gresley:

I am glad that Deputy Tadier asked for clarification about the position of people in lodging houses. It did throw me a little bit when the Minister spoke, but I have come to the conclusion that we could recover them under this piece of legislation because it comes under the Residential Tenancy Law and the Residential Tenancy Law did not cover bedsits as in lodging houses where, as the Deputy or the Minister explained, you do not have your own entrance and probably your own kitchen and toilet. I have to say, in time I hope we will find a way to protect the deposits of people in lodging houses because that is an area that does need to be looked at and I hope the Minister will look to expand the scheme in some way or other to give those people protection as well. I am particularly concerned about Article 14 because only in reading the detail of it I realise that - sorry, I do not have my glasses on - 14(2)(b) makes reference to things being in writing. I hope that this is a liberal interpretation of "in writing" and does not mean in letters, it does mean that things can be done by email because that is becoming more the common way of communication, obviously. I just hope that the Minister accepts, when he requests the administrator to do things, that "in writing" can also be by email.

7.2.2 Deputy M. Tadier:

Just quickly, one of the Regulations I have some concerns about, as I alluded to earlier, is the use of interest. The interest, as I said, ultimately belongs to the people who put money into the scheme and it may well be that Members say this is such a small amount of money it is not relevant and it is worth paying for the purposes of the scheme. But there is an argument, of course, that the scheme should not be run necessarily, even at the cost of the landlords or the tenants, even though it is just falling with the tenants, it is something which the States should pick up or that should be run completely on a cost neutral point of view in some way. But it could well be that there are long-term tenants who join the scheme and then do not ever claim their deposit back for another 20 years and all that interest is being accrued in the meantime and being spent. Whereas if somebody is just in the scheme for a year the cost for them is the same but, of course, the interest cost is not. So I do

have concerns about that. I have some concerns about Regulation 7 as well, about the oversight of the accounts, *et cetera*, so I will be at least asking for Regulation 8 to be taken separately.

The Greffier of the States (in the Chair):

Very well. Does anyone wish to speak on any of the Regulations? I call on the Minister to reply.

7.2.3 Deputy A.K.F. Green:

I agree with the Minister for Social Security that we need to look at the lodging houses. At the moment, only those with their own, call it front door, come under the Residential Tenancy Law but we are going to be reviewing lodging house regulations. I wonder whether we need - and this is me thinking slightly aloud - to have a separate lodging house law when we have got, hopefully soon, a minimum standard Residential Tenancy Law deposit scheme, whether we cannot roll it all under one scheme. But that is under review.

[15:15]

Yes, the notice can be given by email, in fact, I am hoping that the majority of transactions and work will be done by email and that is why it is important that we select the right provider. Picking up on the comments made by Deputy Tadier, again I would reiterate that at the moment to make the scheme work, because we will not be starting off with £15 million in the bank, it is not retrospective, it will build-up over time. It might take many years to do that but it will build-up over time. Interest rates may well improve and, therefore, the scheme can be both self-financing, I hope, and also that the tenants will enjoy a degree of interest on their deposits. But we are not in position today but certainly that is where we want to go. I think I have answered the questions asked but, if I have not, perhaps Members will ask me again.

The Greffier of the States (in the Chair):

To satisfy Members. Very well, separate votes have been asked for, as Members are entitled to do, on Regulations 8 and 33. There are no other requests for separate votes. Are Members content, therefore, to vote on a standing vote on Regulations 1 to 7? Those Members in favour of adopting Regulations 1 to 7, kindly show. Do you wish the appel on Regulation 8, Deputy Tadier? The appel is called for on Regulation 8, the use of interest earned on the scheme account. If Members are in their seats, I will ask the Greffier to open the voting on Regulation 8.

POUR: 30		CONTRE: 4		ABSTAIN: 0
Senator A. Breckon		Deputy M. Tadier (B)		
Senator S.C. Ferguson		Deputy J.H. Young (B)		
Senator A.J.H. Maclean		Deputy N.B. Le Cornu (H)		
Senator B.I. Le Marquand		Deputy S.Y. Mézec (H)		
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy of Trinity				

Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

The Greffier of the States (in the Chair):

Are Members then content to take Regulations 9 to 32, obviously 28 not having been proposed? All those Members in favour of adopting those Regulations, kindly show. Any against? They are adopted. Deputy Young, you sought a separate vote on the Regulation 33 on fees. Do you wish the appel on that Regulation?

Deputy J.H. Young:

Yes, sir.

The Greffier of the States (in the Chair):

The appel is called for on Regulation 33, fees. If Members are in their seats, the Greffier will open the voting.

POUR: 32		CONTRE: 2		ABSTAIN: 0
Senator A. Breckon		Deputy M. Tadier (B)		
Senator S.C. Ferguson		Deputy J.H. Young (B)		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				

Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

The Greffier of the States (in the Chair):

We come finally to the citation and commencement Regulation. There is an amendment so I assume Members are content for the Minister to propose the Regulation as amended but I will ask the Greffier in the interests of good order to read the amendment.

The Deputy Greffier of the States:

Page 36, Regulation 34. For the words “28 days after they are made” substitute the words “on 28th February 2015”.

The Greffier of the States (in the Chair):

Minister, do you propose Regulation 34 as amended?

Deputy A.K.F. Green:

Yes, sir.

The Greffier of the States (in the Chair):

You explained it this morning. Is that Regulation seconded? **[Seconded]** Does anyone wish to speak on Regulation 34 as amended? All those in favour of adopting the Regulation as amended, kindly show. Those against? It is adopted. Do you propose the Regulations in Third Reading, Minister?

7.3 Deputy A.K.F. Green:

Before doing so I would like to thank 2 other groups of people. I would like to thank the officers in the Strategic Housing Unit that have worked very hard to put this together and also the Scrutiny Panel with whom I have a very good and constructive working relationship. Their comments influenced some of these articles and I am very grateful for their help and constructive criticism on that and with that I propose the articles in Third reading.

The Greffier of the States (in the Chair):

Is that seconded? **[Seconded]** Does anyone wish to speak in Third Reading? All those Members in favour of adopting the Regulations in Third Reading, kindly show. Those against? They are adopted in Third Reading.

8. Draft Criminal Justice (Life Sentences) (Jersey) Law 201- (P.113/2014) - deferral

The Greffier of the States (in the Chair):

We come now to the Draft Criminal Justice (Life Sentences) (Jersey) Law 201- and I will ask the Greffier to read the ...

Senator I.J. Gorst:

Sorry, I would be grateful if the Greffier did not read it as it has come to my attention that there is a need for an amendment to one particular Article and officers are working on that now. I would be

grateful if we could, in the first instance, defer this to the next States sitting, please. It is only a minor but important item.

The Greffier of the States (in the Chair):

Very well, Chief Minister, it is your prerogative not to propose that matter today.

9. Draft Social Security (Bonus) (Jersey) Law 201- (P.82/2014)

The Greffier of the States (in the Chair):

The Minister for Social Security has given notice that the item that was deferred earlier in the sitting he would like to place it back on the agenda. If Members are content to take P.82? Very well, the Draft Social Security (Bonus) (Jersey) Law, I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Social Security (Bonus) (Jersey) Law 201-. A Law to provide for the making of Regulations for the award or payment of bonuses to or on behalf of eligible persons and to provide for a cold weather bonus and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

9.1. Senator F. du H. Le Gresley (The Minister for Social Security):

I would like to thank the Assembly for allowing me to bring this proposition today. This is what we call primary law change and, therefore, it goes to the Privy Council. I was concerned that the first cold weather month is October, we may have got to the stage where we did not have the law in place to approve entitlement in October. This new Social Security (Bonus) Law is what we call a framework law so that enables us to create new bonus payments by Regulations. In the past where we have needed to act quickly to address a particular concern, we have introduced what is called triennial regulations and sometimes we have had to renew these on several occasions. This Bonus Law will allow benefits to be paid using a similar process but the Regulations will not require renewal every 3 years. Similarly, if a bonus is not required any more it can easily be withdrawn. The framework law can also be used to consolidate a number of small existing benefits, for example, we could look to move the Christmas Bonus and the Television Licence for the Over-75s into this law and standardise some aspects of administration and appeals which would improve efficiency in the delivery of these bonuses. The Bonus Law works by establishing powers to make payments either by Regulation or Order. By Regulation the States may describe the nature of the bonus so this could be a sum of money or perhaps a television licence. Regulations will also describe who is entitled to the bonus currently paid and how claims would be determined in rights of appeal. Order-making powers allow the value of the bonus to be set and varied by the Minister and allow the creation of tests around assets and income. The cold weather bonus has been included in this Bonus Law as the first bonus to be paid under this framework as the current Cold Weather Bonus Triennial Regulations expired a few days ago. The bonus, as set out in the schedule, is essentially unchanged from the previous Regulations. The bonus is available only to pensioner households who do not pay tax and do not receive income support. Payments are made when temperatures have fallen below a certain threshold in cold-weather months, these being October through to April. Payments are made in 2 instalments, one in January in respect of October to December and one in May in respect of January to April. No changes have been made to the calculation of the bonus and the value will be automatically operated in line with the R.P.I. (retail price index) fuel index published in July of each year. There are, however, a few changes to the operation of this bonus; first, we have removed complexity regarding tax liability because previously the cold weather bonus used entitlement to the food cost bonus as the gateway. The tax year under consideration could be the previous year or the year before. This caused a lack of clarity

and was burdensome to apply operationally so in the new cold weather bonus only the previous year will be considered. Payments will be made at the same timescale as before and claimants will not be affected. In the old Regulations eligibility for the bonus was restricted to people who received an old age pension and had 5 years residency. These requirements have been relaxed following the adoption of P.115 brought by Deputy Southern, as amended by myself in 2013, so that people may be eligible even if they do not have a Jersey old-age pension, as long as they are over pensionable age and have 10 years continuous residency prior to making their application. As in the current cold weather bonus regulations, the bonus is paid to a tenant or home owner, therefore, people who live in a hostel or residential care will not qualify. Also unchanged are the rules for 2 households which share a dwelling and, therefore, one set of heating bills. This could be the case where pensioner siblings live together. In such cases the bonus is not paid if the other household already receives the income support cold weather payment and if both households applying qualify the bonus is split between them, although in practice this rarely happens. As I originally proposed the payment of a cold weather bonus to pensioners as a Back-Bencher, I am delighted to see the cold weather bonus moving into primary legislation. It is one of a number of pensioner benefits that enable us to support the older people in our community whose income is just above the threshold for tax. I propose the principles.

The Greffier of the States (in the Chair):

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All those in favour of adopting the principles, kindly show. Any against? They are adopted. The support in the remit of the very busy panel. Do you wish to scrutinise this matter? Do you wish to propose the Articles together, Minister?

9.2 Senator F. du H. Le Gresley:

Yes, sir. I propose them *en bloc* and take questions.

The Greffier of the States (in the Chair):

Yes. Articles 1 to 6 and the schedule are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Articles or the schedule? All those in favour of adopting ... the appel is called for on the Articles and schedule. The cold temperature seems to have emptied the Constables' benches. If Members will take their seats ... with the notable exception of the Constable of Grouville. If Members are in their designated seats, the Greffier will open the voting.

POUR: 32		CONTRE: 0		ABSTAIN: 0
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy of Trinity				

Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

The Greffier of the States (in the Chair):

Do you propose the draft law in Third Reading, Minister?

Senator F. du H. Le Gresley:

Yes, Sir.

The Greffier of the States (in the Chair):

Is that seconded? [**Seconded**] Does anyone wish to speak in Third reading? All those in favour of adopting the draft law in Third Reading ... the appel is called for in Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 31		CONTRE: 0		ABSTAIN: 0
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				

Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

10. Redundancy Payments: businesses which have ceased trading (P.120/2014)

The Greffier of the States (in the Chair):

In accordance with the decision yesterday, the Assembly comes finally to the proposition of Deputy Southern that the Assembly agreed to be brought forward, P.120, and I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion - to request the Minister for Social Security to extend the insolvency scheme to enable the Minister, in consultation with the Viscount, if appropriate, to use discretion to make payments to workers who have been made redundant without the payment of statutory notice by businesses that have stopped trading even if the businesses have not yet been declared insolvent.

10.1 Deputy G.P. Southern:

It looks like, to me, as if I am stuck in 2009 because back in 2009 not only was I dealing with tenancy deposits, I was also dealing with redundancies and insolvencies in particular in that year; it started with the Woolworths workers. Back then one of the problems with the temporary scheme that we had got in place was that of time and speed. The Minister for Social Security just said in the last debate: "It is all about speed and speed is of the essence." There he was referring to the ability of a tenant to get hold of his deposit. Imagine, let us say, £2,000 that is missing and he needs it urgently. Imagine then the position of an employer, one of 8 made redundant 9 weeks ago who currently is living off his sickness benefit of £191 instead of his normal wage of over £400 per week and is, therefore, of the order of £2,000 out of pocket already. He believed and I believed we had a redundancy insolvency scheme which could promptly and efficiently cover those people made redundant by employers so that in the aftermath of that redundancy they were not suffering from hardship. Back in 2009 I proposed that because of a delay in that case of 5 weeks for a particular redundancy that we had a need to speed-up the system. I proposed a system then which involved the use of discretion by the Minister for Social Security in conjunction with the Viscount, who knows about these things, to make payments to those workers who had been made redundant even though the insolvency had yet to be declared.

[15:30]

At the time the then Minister made the following statement: "The Minister will add to that report the following: 'In wholly exceptional circumstances where the employer has ceased trading but has yet to become to formal insolvency proceedings, the Minister will give consideration in consultation with the Viscount to make compensatory payments where he is reasonably satisfied that the employer will become subject to such proceedings or that related proceedings have commenced. A review of this nature may be instigated by an officer of the Social Security Department at the request of one of the following: the employer, a former employee of that employer, the Viscount or the prospective insolvency practitioner.'" Having replaced that temporary insolvency scheme with a permanent insolvency scheme, the fact is that a request for

payments has been made by a former employee who has just been made redundant. He has been told: "Sorry, we cannot make any payment at all because we do not know what is going to happen." The fact is that the employer concerned, Just Glass and Windows, has closed-up his business, stripped out all the assets, put some of them into his overdraft with his bank and left the Island. He is now in Southampton in the U.K. and refuses to have anything to do with any insolvency practitioner with the Jersey Courts, with anybody who has contacted him, including the 8 workers, and is not picking up his phone to calls from Jersey. What are we to do? We thought we had a system in there that would get support for people in very similar circumstances and it looks like we have not; it is Groundhog Day. That was 2009. In 2014 we are in exactly the same position. The Minister's report in 2009 on R.44 said: "Time has been of the essence in drawing-up this temporary insolvency scheme which is designed to pay compensatory statutory notice pay to employees where their employer is insolvent. As well as avoiding unnecessary delay, another priority has been to design a scheme that is easily accessible to those submitting a claim and that pays out relatively quickly to those who qualify." So, according to those statements, we have got a system that works. However, as I noted at the time in 2009, it appears that the scheme devised by the Minister for Social Security has failed in its first test to deliver what the States requested: "This proposition is designed to give the Minister a degree of flexibility to enable him to properly support redundant workers with payments in lieu of notice in a timely manner while insolvency proceedings are resolved." It is very disappointing this year to see that the Minister suggests that what I am proposing cannot be accepted and that for various reasons he is suggesting that we do not change the state of play; we do not change our insolvency law; we do not add this degree of flexibility. On page 2 he says the following: "The temporary scheme provided compensation only in respect of statutory notice pay and the scheme closed when the more generous insolvency benefit became available on 1st December 2012. In addition to a component for statutory notice pay, the insolvency benefit also includes components for statutory redundancy pay, wages and holiday pay owed. These 3 components, which were not available under the temporary scheme, can be paid to claimants much more quickly than notice pay because they can be paid as soon as the entitlements have been confirmed." The evidence is that the entitlement after 9 weeks has not been confirmed. His claim that this process is much more quick than notice pay looks like it is not true. He then goes on to say: "In 2013 the total spend on insolvency benefit was over £1 million in respect of 9 employer insolvencies and 156 employee claims." The key question there, I beg to ask, is not what the size of these payments was to tide people over at their moment of need, but how soon were those funds delivered. At the moment we have evidence that 9 weeks on and £2,000 worse off, one of 8 workers is struggling to make ends meet. In fact, all 8 workers are struggling but some worse than others. Back in 2009 the House voted 41 votes to one to accept my amendment to offer this discretion to the Minister for Social Security, in conjunction with the Viscount, to make payments before insolvency proceedings were complete. That is the bit that gets you, to get some support when you first need it and not 10 weeks, 9 weeks, 3 months, 6 months later. That is not the appropriate time to do things. At the time in 2009 the Chief Minister, nonetheless, Senator T.A. Le Sueur, was the person who responded on that day to my proposition and he said the following, and I want Members to pay attention to this because I think this statement applies just as validly today as it did back in 2009: "Members may have noticed that the Minister for Social Security and the Assistant Minister are both out of the Island and, accordingly, I am wearing another hat today as Minister for Social Security. In that context I am happy to confirm the acceptance of this proposition by the Minister and, indeed, to welcome it as further clarifying the desire to assist those employees in resolving, as quickly as possible, the concerns and difficulties which they undoubtedly will have in this situation, i.e. having been made redundant. It is, as the proposer said, much a matter of exercising discretion sensibly and in an informed way and using the assistance of the Viscount's Department in ensuring that that discretion is used wisely as well as widely, hopefully not too widely but certainly wisely. There may be issues, as Deputy Southern says, in

being able to recover assets if the insolvency does not prove to be an insolvency, but I think those are details which should not detract from the main intention here which is that of helping employers in a position of difficulty. I welcome the amendment from Deputy Southern and confirm that the Minister for the Social Security will exercise his discretion in an informed way, pending the implementation of a proper redundancy scheme.” That was the sentiment then and I think that is the sentiment that should hold sway today because the situation is exactly the same. We have got a system which does not deliver promptly when people most need it. We have redundancies yet again - 156 was it, last year - I am talking about 8 now. I believe that we can and should do what we did then, make sure that prompt payments, part payments if you like, can be delivered to those people who are in need. I urge Members to support this proposition.

The Greffier of the States (in the Chair):

Is the proposition seconded? **[Seconded]** Does anyone wish to speak on the proposition? Senator Le Gresley.

10.1.1 Senator F. du H. Le Gresley:

There are a few red herrings running around the room at the moment. Deputy Southern tends to drop words in that might convince people that we have this completely wrong. He talks about we need to change the Insolvency Law. Fine, change the Insolvency Law but it will not make any difference because the Insolvency Law does not come under the Minister for Social Security. What he means is we need to change the Social Security (Jersey) Law under which insolvency benefits - and I stress the word benefits - is paid. The States decided to set up the insolvency benefit as a result of the expiry of the temporary scheme, which Deputy Southern has explained. That was approved by the States and it now sits within the Social Security Law, absolutely clear as to how the department has to deal with situations where an employee or a group of employees are in a position where they have not been paid their notice money, redundancy money, holiday pay, *et cetera*, because the business in which they are employed has commenced insolvency proceedings. The process for that is clearly described in the Social Security Law as to what are insolvency proceedings. We have a benefit; it has paid out, as the Deputy explained, just around £1 million last year and thank goodness we had it. However, because this particular situation has arisen with this company, we cannot suddenly change a benefit and hope that within a few weeks the Minister is going to use discretion and start paying out money. It will not happen that way because I will not have the power. In any event, the Social Security Law... no benefit in that law is available at the discretion of the Minister. There are set procedures for qualifying for each benefit paid under Social Security and the Minister has absolutely no discretion and should not have discretion because it has become a statutory benefit. The only discretion the Minister has is in tax-funded income support where he can make exceptional payments. This is not a tax-funded benefit. Let us be absolutely clear what we are talking about, we are talking about a benefit set up by this House, this Assembly, to pay insolvency benefit so as employees do not have to go through the process of making a claim in the insolvency. The Minister for Social Security makes payments up to a maximum of £10,000 per employee and then stands in the shoes of those employees in the insolvency proceedings. That is the reality of what this Assembly agreed. No discretion. Inappropriate to have discretion with a statutory benefit. The old scheme only paid out notice money and the reason for that is because we did not have statutory redundancy pay. At the time the maximum you could receive was 16 weeks of notice money. Since we have the statutory redundancy payments now we have reduced that down to 12 weeks maximum notice period and what happens when we look at the claim from an employee under the insolvency benefit, we are able to pay out redundancy pay fairly quickly because it is set out in law what is redundancy pay, and it is based on length of service. Provided we have evidence from the employer, ideally, or something that we can verify that the employee has served 2 or more years, because that is the

minimum, then we can pay redundancy pay one week for every year of service and after 2 years we can pay that out fairly quickly. That is the easiest one because also there is no tax deducted from redundancy payments. We do prioritise these claims when they come through as soon as we are advised that insolvency proceedings have commenced. I have to explain to Members that there have been other cases since we have had the law where we have not been able to pay out because, quite simply, the owner of the company has stopped trading. If Members want a “stopped trading” benefit, we can have that. You can all vote for that. I would suggest that the States of Jersey will be like a cash machine because what employees say is: “Oh, the States will pay out all these things, they pay notice money, they pay redundancy pay. I am just going to close my doors and go off on my holiday and come back maybe and reopen the shop or the bistro in 6 months’ time.

[15:45]

Let us have a “ceased trading” benefit because that is what the Deputy would like me to have. I can assure you the bill would be much higher than we currently have accrued and £1 million is a lot of money. Also we have not started taking extra contributions from employers to fund that. That was decided to be waived at the time. We have not started collecting the money for such a scheme but if we had a “ceased trading” benefit scheme well it is going to be very expensive. I do not want to put doom and gloom in this Assembly on this ... I think it is a sunny afternoon, so let me give you some good news, I can advise that matters are proceeding. I believe the employees of this company should this week make contact with the Viscount’s Department because things are progressing. That is all I can say; that is all I am allowed to say, but I can assure Members that as soon as the department has confirmation that insolvency or désastre proceedings have commenced we will pay immediately because we know who the 9 employees are, they have already made contact. We have income support to help these people. One of the employees is getting help through income support. They are all eligible for income support, I would stress, and the particular employee that Deputy Southern has referred to, who is on short-term incapacity, I do not know who he is, but if that person is struggling they can also come in for help until we are able to make insolvency payments. We have a benefit, we are following the procedure. If you want to loosen that benefit and make it much more flexible, you are saying that you want a “ceased trading” benefit with no consequences on the employer, States pay out and you may try and recoup the money. I do not recommend it.

10.1.2 Senator A. Breckon:

I have some sympathy with Deputy Southern but I am also mindful of what the Minister for Social Security has just said, which looks as if some payments might be forthcoming, it looks like, in the next 5 or 6 weeks hopefully. But the reason I stood up is because I remember the case years ago when Shepherd Hill, who were building Queens Valley at the time, disappeared and they had quite a sizeable workforce and the Constable of St. Helier at the time was Fred Clarke and he, through the Parish Welfare System assisted people - my recollection is it was early December - to get round the system. People had not just lost their weekly wages, they had also paid in to a savings scheme which was going to pay out at Christmas and did not. They lost holiday pay and bonuses and all sorts of other stuff and the cry went up at the time that something must be done; something must be done. Now, as the Minister has explained, something has been done but it looks like because of a person frustrating the process then the sufferers here are the 9 people that were employed there where the doors were closed and it looks like they did not receive fair and reasonable notice or treatment, or whatever else. I understand what the Minister says, we cannot pick up the bill for any scallywag, let us call him, that wants to do such a thing because that would not be appropriate. There would be an expectation that the person who was responsible and was running a business, employing 9 people, more or less, would play the game, as it were. The fact that they are not - maybe they are now - has put some doubt in my mind about this proposition because doing it to do something when something might be done. But the only thing, having said that, I would ask the

Minister to do is take note of we have this gap, if you like, where there may be situations and income support can pick things up but then it is a difficult time for people and we need to make the process easy but not a giveaway; there is a balance. I think the Minister is near enough in the right place and I will listen to what others have to say and Deputy Southern's summing up. But, generally speaking, my sympathy is with the employees here and nowhere else.

10.1.3 Deputy J.H. Young:

I think it has to be accepted that there can be very long periods of time elapse between a firm ceasing trading and then getting into a formal and *désastre* situation. All sort of situations apply. Responsible employers would ensure that in ceasing trading they would deal with the liabilities to their employees, the liabilities for unpaid wages, holiday leave, pay in lieu of notice and statutory redundancies, responsible employers would do that. Of course, some businesses would be in administration and then there would be a third party charged with the job of sorting it out. I think it has to be accepted that there can be long delays and it is a worrying period when people have to pay significant sums, for example, rental deposits, what have you, or there may be other family matters that are pressing. I can see the argument Deputy Southern is making but, equally, I am absolutely sure the Minister for Social Security is right. I cannot see that it would be wrong to provide a fund that could go and be raided by any employer, anywhere, that wanted to fine or they are getting into difficulties, they have shoved those liabilities on to the public, and so I think somewhere, I ask myself, is there a middle ground because the Minister did say that under the current law in this fund, he steps into the shoes, which I think means that if he pays any money out he can recover that money or seek to recover it from the administrator or during the insolvency. I would have hoped that these debts to employees would be treated as secured creditors, which means they take first claim against any other assets that the firm has. So it seems to me that there is quite a strong case and I wonder whether there are any grounds for some kind of, where there are exceptional circumstances, where the circumstances justify it, having some interim payment which could be, of course, recovered or sought to be recovered as part of the administration process. So I am absolutely with the Minister for Social Security. I think it would be wrong to just provide a pot that be used as a slush fund for anybody to wind-up their business and avoid their responsibilities. Absolutely right. But I wonder here if there certainly is some middle ground. Now, it is good news that the particular case that Deputy Southern who is behind this proposition is likely to be solved, great. But I would make a request that further thought be given to how those long periods of times sometimes can take years, things can drag on, and how that period is managed and to avoid disadvantage employees unreasonably.

10.1.4 Senator I.J. Gorst:

I just wanted to ... I am not sure if Deputy Southern was clear in his opening remarks that the temporary scheme was, indeed, different to the now statutory scheme that we have. He and I spent a number of occasions discussing the temporary scheme and the latitude and ability to make payments without trigger events in that scheme in effect did exist and the Assembly knows that. But from my perspective and from the perspective of the Assembly, it was quite clear and made quite clear that when we brought in the statutory scheme there would not be the ability of the Minister to make such decisions for all the reasons that the current Minister has just said. Therefore, I do think that the States were aware and knew that the scheme was not the same and did not have the same ability in place and could not because of how it was being set up. Therefore, I am pleased to hear what the Minister for Social Security has said about us moving towards a payment and that sounds very hopeful if it is moving towards the door of the Viscount. Inevitably, there are occasions when it does take time to reach the, I use the word "hurdle", to reach the trigger events and that is what has obviously happened in this particular case. So I would not want to see us just simply changing the scheme because we would, as the Minister said, have to create a new

scheme and I am not sure that would be appropriate. I think the recovery of the amounts is not an issue. That will remain once the payment has been made. It is whether there should be latitude for the Minister in the scheme as it was previously and I do not see that there is any way that can be, nor that there really should be because that is the whole point of setting things up on a statutory basis, but it is clear payments will be effected in a particular instance and not in other instances and those trigger events have to take place. So I suppose I appreciate what Deputy Southern is trying to do, supporting those people who are finding they are having to wait because of the actions of a former employer, and I think that none of us would wish to associate ourselves with that former employer in the way that they have, as it would seem, behaved. But when we have a statutory scheme in place that is the one that we have to follow and I would say that we created that scheme in the knowledge that this may happen even though it would be unfortunate. But I am pleased that it is now moving towards that.

Deputy G.P. Southern:

Does the Chief Minister feel that 9 weeks is too long a period to have to wait? Will he work with the Minister for Social Security Minister to arrive at a more prompt solution to these particular issues?

The Greffier of the States (in the Chair):

It is not question time, Deputy. You can seek clarification but I do not think he mentioned periods. So I do not think he needs to reply if he does not wish to. Does any other Member wish to speak on the proposition? I will call on Deputy Southern to reply.

10.1.5 Deputy G.P. Southern:

If I was to receive slightly stronger reassurance, and not just in this case, that in general that 9 weeks is accepted by Ministers as too long a period to have to wait and that they would work towards a system which could give more promptly some assistance as a norm rather than as an exception, then I would be minded to withdraw this particular scheme in the light that the Minister for Social Security has said that if these workers, employees, get in touch with the Viscount next week, then a fairly swift solution will be found and I think he did say in response to Deputy Breckon less than 4 or 5 weeks, and that was enough. So, yes, in that situation and given that I am trying to address immediate needs of these 9 workers at the moment with that assurance, I will withdraw this proposition [**Approbation**] and not delay anybody's taking in a little sunshine which is still there today. But I will be back to pester the Chief Minister and the Minister for Social Security about what can be done in future to get rid of these delay periods because I think it is absolutely critical. We have statutory redundancy pay, regulated about holiday pay, *et cetera*, and we do not appear to do it swiftly and we set out to do that and we are not doing it swiftly enough. So I will be back but I will withdraw. I seek permission of the House to withdraw.

The Greffier of the States (in the Chair):

Are Members content to grant leave to Deputy Southern to withdraw the proposition? Those in favour kindly show. Those against? The proposition is withdrawn.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Greffier of the States (in the Chair):

We come finally to the arrangement of business for future meetings, the meeting that starts particularly at 2.30 p.m. on the Monday and I invite the Chairman of the Privileges and Procedures Committee to speak to that.

11. Deputy J.M. Maçon of St. Saviour (Chairman, Privileges and Procedures Committee):

Thank you. Can I start with the addition of the deferred item from today, P.113, in the name of the Chief Minister?

[16:00]

If the Chief Minister could give an indication where that should sit in the Order Paper because custom is deferred items do go to the top. However, as this is an amendment, could he advise where that should be placed?

The Greffier of the States (in the Chair):

You will, of course, if you do lodge an amendment, the Chief Minister needs to yet again seek permission to reduce the lodging period. It seems to becoming common practice.

11.1 Senator I.J. Gorst:

Indeed, it does. I am quite happy for it to not necessarily sit at the head of the paper but it would be I think very useful for it to be taken next week.

The Greffier of the States (in the Chair):

Very well, perhaps the P.P.C. (Privileges and Procedures Committee) Chairman will slip it in its normal numerical sequence and place it there.

Deputy J.M. Maçon:

As you advise, absolutely. I am also advised by the Greffier that the amount of questions that are down for Monday, there are only 10 oral questions which tends to suggest that we will have a shorter period of question time. I wonder if I could give notice to Members that perhaps as we did with this sitting, we might take some of the smaller items which are down on the Order Paper early [**Approbation**] and to give notice that will be P.27 in the name of the Constable of Grouville and P.37 in the name of the Minister for Transport and Technical Services. I am getting excited, there. I beg your pardon, P.30.

The Greffier of the States (in the Chair):

I thought you were going to knock off the Island Plan. [**Laughter**]

Deputy J.M. Maçon:

I have had expressions of concern from other Members regarding how long the Island Plan will take and what impact that will have on the other items of business. I am in Members hands, if any Member wishes to propose that we take the other matters of legislation before the Island Plan, but I am in the hands of Members. If not, then we will just carry on as set out in the Order Paper, which appears to be how Members wish to proceed.

Deputy G.P. Southern:

I wish the Chairman had asked me yesterday before we drifted to my items.

11.2 Deputy J.H. Young:

Could I question the decision to do P.30 - Road Traffic Cycle Helmets - on Monday afternoon? I say that because the Scrutiny Panel report is, as we speak, in its final production and Members I do not think will receive that report until Friday evening. I do not think they have... it is fair to say straight into the debate on it. There are quite significant matters in that. So I would suggest that that one goes slightly further down the agenda.

Deputy A.K.F. Green:

I support Deputy Young in this. This is not a minor thing. This is a very important thing and I would like to have time to read the Scrutiny Panel's comments.

Deputy K.C. Lewis of St. Saviour:

I am content for that to be further down the list.

The Greffier of the States (in the Chair):

Chairman, depending how controversial Grouville School is, you may have extra time to fill on Monday afternoon.

Deputy J.M. Macon:

Perhaps, and we will consult more widely and advise Members if anything comes to the fore to suggest for Monday. That seems the best way to proceed.

11.3 Senator L.J. Farnham:

I just wondered if ... test the mood of the Assembly and wonder if we should take ... finish on a high, as it were, and take the Island Plan as the last item? It might help focus Members' attention a bit more.

The Greffier of the States (in the Chair):

If you agree to make that proposition?

Senator L.J. Farnham:

I do propose that, Sir.

The Greffier of the States (in the Chair):

That is formally proposed. Is that seconded? It is not seconded.

Senator A.J.H. Maclean:

I will second it.

The Greffier of the States (in the Chair):

[**Seconded**] Does anyone wish to comment on the proposal before it is put to the vote?

11.3.1 The Deputy of St. Martin:

I would like to object as strongly as I can to that. I think the Island Plan is probably the most important thing Members will do next week. It needs to make sure that we debate it. It is the most stupid and ridiculous idea I have heard in many years.

Senator L.J. Farnham:

The Deputy should listen to some of his, on occasion. [**Laughter**]

11.3.2 Deputy J.H. Young:

If the Senator is persisting, I think this is a complex debate. We are all tired and exhausted as it is. If we leave it at the end, my word, what chance have we of making any sense of it?

Senator L.J. Farnham:

Happy to withdraw the proposition.

The Greffier of the States (in the Chair):

The proposition is withdrawn. Chief Minister, do you wish to make a comment?

11.4 Senator I.J. Gorst:

Yes, I just wanted to inform Members that I will not be taking P.97 next week, that is the Draft Employment of States of Jersey Employees. I think that is the right one. I would like it deferred until September, please.

The Greffier of the States (in the Chair):

Very well. The proposition is deferred. Are there any further comments on the arrangement of business?

11.5 The Deputy of Trinity:

Are we still looking for something to do ... well, a proposition for Monday afternoon, I am happy to debate P.103.

The Greffier of the States (in the Chair):

Yes, very well. Are Members content to attempt to list P.103, the Restriction of Smoking after the Grouville School? It would probably fill the ...

The Deputy of Trinity:

Yes, but it can be very short.

The Greffier of the States (in the Chair):

Very well. Are there any further comments on the arrangement of business?

Senator F. du H. Le Gresley:

I cannot resist the Deputy of St. Martin that the Island Plan is the most important thing we are going to be debating when I have family friendly rights coming along. **[Approbation]** I would have thought that was even more important.

The Greffier of the States (in the Chair):

Let us not have a debate on what is the most important.

Deputy J.M. Macon:

If Members are content shall we propose to take the items as now listed on the Order Paper?

The Greffier of the States (in the Chair):

Very well. Members are content?

Senator I.J. Gorst:

Did you indicate to the Chairman that it would be sensible to at least find perhaps one or 2 other items that could be taken on Monday in case we get through the 2 items and then we are left without something to do. So perhaps the Chairman could email Members so that we can do that?

The Greffier of the States (in the Chair):

The Chairman can liaise and circulate by email if Members are prepared for Monday afternoon with the propositions that may be debated. Very well, that concludes the business of the Chamber.

Senator A.J.H. Maclean:

If I may, just one minor point? If I can remind Members that tomorrow there is a public sector reform programme and although we were due to be sitting here, there was a bus arranged for lunchtime. If Members are still able to attend, there will be a bus departing from Royal Square at 12.45 p.m. Members need to make their way directly to the Hotel de France or, indeed, be picked

up by the bus but we would welcome the opportunity of briefing you on where the public sector reform programme has come to and welcome all Members who are able to attend and of course there will be some refreshments available as well over the lunch period.

Deputy M. Tadier:

So would the Minister consider cancelling the bus? I do not think we need a bus tomorrow and it would not save any time or any energy.

The Greffier of the States (in the Chair):

Very well, Senator Ozouf has his light on. Do you wish to make a comment?

11.6 Senator P.F.C. Ozouf:

I just would like ... and I am sorry if I was not here for that. It is just in relation to something of the matter of States business on 9th September. May I ask a question?

The Greffier of the States (in the Chair):

Yes, carry on.

Senator P.F.C. Ozouf:

Committee of Inquiry: sale of Broad Street Post Office has been deferred until 9th September and I just wondered, having done comments, whether or not Senator Breckon might want to explain to say what the position is. It is not that it affects me. It affects third parties and that is my concern, is that a matter, an accusation has been made for a Committee of Inquiry, which obviously is an important matter. Comments have been made. A debate was expected and now it is going to be held over until September and I am concerned for the third party.

The Greffier of the States (in the Chair):

What exactly are you asking?

Senator P.F.C. Ozouf:

Is it possible to bring forward the debate? Does it have to be held in September so the Assembly can consider it and would Senator Breckon consider bringing it forward so that we can deliver it early so that we do not have a further period of uncertainty over summer in relation to a respected individual that has no right of speech in this Assembly?

11.6.1 Senator A. Breckon:

Yes, one of the reasons I deferred it was that I received the comments at the last minute and as a result of that, I might wish to put in an addition to my report because I do not necessarily agree with the comments and, of course, I did not have time to do that because I was there on Friday night, or whenever it was - typical of stuff - and then I need to analyse those comments and produce probably an addendum to the report. That is the reason for the delay.

The Greffier of the States (in the Chair):

I think your answer to the question is no, you are not prepared to bring it forward?

Senator A. Breckon:

No, Sir. It is my proposition and I need time to do that.

The Greffier of the States (in the Chair):

Very well, it is your prerogative. Further comments on the order of proceedings?

11.7 Senator A. Breckon:

Yes, since with the question of 9th September was raised, I wonder if I could ask when is the expected lodging date for the Budget because I think it is important in planning proceedings for that that we have some indication of when that will be.

The Greffier of the States (in the Chair):

Can anybody assist the Minister?

11.7.1 Senator P.F.C. Ozouf:

Because of the significant States sittings, the lodging of the Budget was planned for next week and is still next week. I hope to be able to formally lodge on Thursday, there is a the Council of Ministers meeting on Friday to finalise certain matters and I hope to lodge it on Friday with Members being briefed on Thursday and an email will be sent out shortly to arrange the finalised timing of it. But I understand it will be lodged before the end of next week. Members will have all the information in relation to the lodging of the Budget. The legislation that brings into effect the measures will be following a couple of weeks later. We are up to very difficult time lines. I hope Members will understand.

Deputy J.H. Young:

Does that mean the debate will be the 9th or the 22nd?

The Greffier of the States (in the Chair):

The debate has always been fixed for the 22nd, has it not?

Senator P.F.C. Ozouf:

Yes, that is exactly right. There is no change to the date it is just simply the scale of the work that has to be done for the lodging.

The Greffier of the States (in the Chair):

Very well if Members are content with the order of business, I can simply notify Members also that the Minister for Planning has lodged a 12th amendment to the Island Plan and there are comments presented this afternoon to the Referendum Act in the name of the Comité des Connétables. The meeting is closed. The Assembly will reconvene at 2.30 p.m. on Monday.

ADJOURNMENT

[16:10]