

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 12th APRIL 2016

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[9:31]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

1.1 Welcome to His Excellency The Lieutenant Governor

The Deputy Bailiff:

May I start by, on behalf of Members, welcoming His Excellency to the Chamber this morning?

[Approbation]

1.2 Appointment of next Lieutenant Governor - Air Chief Marshal Sir Stephen Dalton

The Deputy Bailiff:

I will also make the following announcement. The Ministry of Justice has advised that Her Majesty the Queen has approved the appointment of Air Chief Marshal Sir Stephen Dalton as the Island's next Lieutenant Governor. Sir Stephen joined the Royal Air Force in 1976 and after a distinguished career he was, in 2009, appointed a Chief of the Air Staff, a post that he held until 2013. Sir Stephen and Lady Dalton will come to Jersey early in the New Year and he will assume office early in 2017.

1.3 Apologies for absence from The Dean of Jersey

The Deputy Bailiff:

I am also asked by the Dean to pass on his apologies to the Assembly for his absence today. He is out of the Island by reason of a family medical emergency involving his daughter and we obviously express our hopes for a speedy recovery.

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

2. Nomination of Deputy J.A. Hilton of St. Helier as a member of the Health and Social Security Scrutiny Panel

The Deputy Bailiff:

We come to F for the nomination of a member of the Health and Social Security Scrutiny Panel. The Chairman of the Health and Social Security Scrutiny Panel has nominated Deputy Hilton of St. Helier as a member of this panel, is that correct?

2.1 Connétable M.J. Paddock of St. Ouen (Chairman, Health and Social Security Panel):

Yes, I am very pleased to propose the nomination of Deputy Hilton who, as many Members will know, has served on the previous Health and Social Security Panel so her extensive knowledge and wide experience will be of value to us.

The Deputy Bailiff:

Thank you very much, Chairman. Is that nomination seconded? **[Seconded]** Are there any other nominations? If there are no other nominations then I declare that Deputy Hilton has been appointed as a member of the panel. **[Approbation]**

QUESTIONS

3. Written Questions

3.1 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING LOSS OF REVENUE IN RESPECT OF THE PERSONAL TAX SYSTEM:

Question

Following changes made to the personal tax system over the last 10 years, could the Minister please provide a statement of:

1. any actual loss of revenue due to allowances within the marginal relief tax system and the dates at which allowances were changed;
2. any actual loss of revenue due to the allowances within the 20-means-20 tax system and the dates at which allowances were changed;
3. any actual loss of revenue due to the change in the marginal rate; and
4. any actual loss of revenue due to changes in stamp duty?

Answer

The Deputy's question has required a significant amount of work within the Taxes Office, some of which is still ongoing. The answers to the first three parts are expected to be provided over the course of the next two States sittings. The answer to the fourth part is below.

Question 4: any actual loss of revenue due to changes in stamp duty?

The following table summarises the significant changes made to stamp duty since 2007:

Year	Changes made
2007	No significant change to stamp duty
2008	Threshold for first time buyer ("FTB") relief extended from £250,000 to £300,000 (i.e. reduced stamp duty for FTB purchases of property between £250,000 and £300,000)
2009	Stamp duty for FTBs on properties not exceeding £300,000 reduced to nil. Stamp duty reduced for FTBs on properties not exceeding new FTB relief threshold of £400,000
2010	No significant changes to stamp duty
2011	Increase in stamp duty rates on all properties worth more than £1m (effective from 1 June 2011)
2012	FTB relief threshold increased to £450,000
2013	No significant changes to stamp duty
2014	No significant changes to stamp duty
2015	(1) Phase out FTB relief on properties between £400,000 and £450,000 (2) Increase stamp duty rates on residential properties worth more than £1m (3) Reduce the stamp duty on all residential mortgage debt in respect of properties worth not more than £400,000

The stamp duty change made in the 2016 Budget (to reduce the stamp duty on all residential mortgage debt in respect of properties worth not more than £450,000) has not been included above as the resulting financial cost will not be available until 2017.

The financial implications of these changes are outlined in the table below:

Change made	Financial implications per year									
	2007	2008	2009	2010	2011	2012	2013	2014	2015	Total
2008 – extend FTB relief threshold from £250,000 to £300,000	N/A	(£85,000)	(£59,000)	(£67,000)	(£49,000)	(£40,000)	(£79,000)	(£63,000)	(£53,000)	(£495,000)
2009 – SD for FTBs on properties not exceeding £300,000 reduced to nil. SD reduced for FTBs on properties not exceeding new FTB relief threshold of £400,000	N/A	N/A	(£324,000)	(£394,000)	(£444,000)	(£409,000)	(£520,000)	(£577,000)	(£468,000)	(£3,136,000)
2011 – increase SD rates on all properties worth more than £1m (from 01/06/11)	N/A	N/A	N/A	N/A	£543,000	£847,000	£428,000	£2,246,000	£2,810,000	£6,874,000
2012 – increase FTB relief threshold to £450,000	N/A	N/A	N/A	N/A	N/A	(£233,000)	(£276,000)	(£314,000)	(£166,000)	(£989,000)
2015 – increase SD on residential properties worth more than £1m	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	£1,387,000	£1,387,000
2015 – phase out FTB relief between £400,000 and £450,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	£69,000	£69,000
2015 – reduction of SD on all residential mortgage debt on	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	(£750,000)*	(£750,000)*

properties worth not more than £400,000										
Total	N/A	(£85,000)	(£383,000)	(£461,000)	£50,000	£165,000	(£447,000)	£1,292,000	£2,829,000	£2,960,000

* This measure has not cost the States more than £750,000. Under the current records maintained by the Judicial Greffe, the cost cannot be more accurately calculated without reviewing the source documentation for approximately 1,500 transactions.

3.2 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING CORPORATION TAX:

Question

How much has been collected in Corporation Tax each year since the introduction of zero-ten?

Could the Minister provide a breakdown for each year since its introduction of the total number of registered companies and how many of them were in each band of corporation tax (i.e. how many were paying 0%, 10% and 20%)?

Answer

Table: Analysis of corporate income tax paid for Years of Assessment 2009 to 2013. Data for 2014 Year of Assessment (received in 2015) is subject to audit and is not included.

	2009	2010	2011	2012	2013
Number of companies registered with the Jersey Financial Services Commission (as at 31 December)	33,074	32,722	32,508	32,503	32,479
Number of 0% companies that paid no tax	30,601	30,361	30,198	30,265	30,232
Number of 0% companies that paid tax on specific sources of income (income from Jersey property, quarrying in Jersey or from the import and/or supply of hydrocarbon oil)	1,425	1,406	1,333	1,300	1,299
Total 0% Companies	32,026	31,767	31,531	31,565	31,531
Number of 10% Financial Services Companies	888	865	894	920	929
Number of 20% Utility Companies	17	17	19	18	19
Number of International Business Companies (the International Business Company Regime ceased with effect from 1 January 2012)	143	73	64	0	0
	£	£	£	£	£
Tax paid by 0% companies	21,915,857	22,167,072	18,749,485	19,208,841	18,113,554
Tax paid by 10% Financial Services Companies	41,309,147	37,348,704	47,370,971	65,936,728	61,584,809
Tax paid by 20% Utility Companies	3,058,447	5,056,365	4,501,010	3,460,942	2,704,616
Tax paid by International Business Companies	15,454,876	11,789,259	8,747,720	0	0

Total tax paid	81,738,327	76,361,400	79,369,186	88,606,511	82,402,979
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Note 1: The zero-ten regime was introduced in 2008 only for companies registered on or after 3 June in that year. It was not until the 2009 year of assessment that all companies were included.

Note 2: Data extracted from the Taxes Office Systems on 6 April 2016

Note 3: The tax figures shown are by year of assessment in each case.

Note 4: An International Business Company was a Jersey company - or Jersey branch of an overseas company – wholly owned by non-residents carrying on overseas activities. There was a fixed annual fee for access to the regime with varying rates of taxation for domestic and overseas profits. The regime was closed to new entrants from 2005 and ended, after a transitional period, in 2011.

3.3 THE DEPUTY OF GROUVILLE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING PRIVATE PENSION SCHEMES:

Question

Given that the Government is looking to achieve economic growth to provide greater opportunities within the community, why have rules and restrictions been placed upon access to private pension schemes?

Can the Minister explain why the majority capital sum of a person's private pension, once deposited into a scheme, is rendered unobtainable or has restrictions placed on it to render access unobtainable during that person's lifetime?

What is the purpose of imposing restrictions in this way and who does it benefit?

Who does the Minister consult with to receive advice on pension policy?

Has the Minister considered whether restricting a person's access to their own monies and rendering them unobtainable especially when other opportunities may present themselves, is human rights compliant?

Answer

To encourage people to save for their later years the Island's tax system provides generous tax relief for the contributions that working age people make into pension schemes, together with access to a 30% tax free lump sum payable from the age of 50. Pensions are tax advantaged in this way because the pensioner receives a stream of income from the pension scheme throughout their later years. It is this continuous stream of income which means that the pensioner is better able to plan for their retirement and is less likely to require financial support from the States and hence restrictions are placed on pension schemes regarding how funds can be paid out.

This approach is used in jurisdictions across the globe to encourage savings which produce an income stream for retirement and has been in operation in Jersey for many years (for example the use of tax relief to encourage people to save into personal pension schemes with restrictions commenced in 1987). In recent years the income tax legislation has been updated to introduce a much more simple, modern, flexible and accessible pension system. The key steps in this process being:

- 2003: the introduction of approved drawdown contracts – giving the pensioner access to 100% of their pension fund in certain circumstances
- 2014: greater flexibility in the payment of annuity equivalents from retirement trust schemes

- 2015: significant simplification of the income tax rules and additional flexibility over access to tax free lump sums and approved drawdown contracts

This modern, flexible approach can be seen, for example, in the context of retirement trust schemes where under current rules:

1. A 30% tax free lump sum can be paid out by the retirement trust scheme once the pension holder reaches the age of 50.
2. There is no obligation to purchase an annuity from an insurance company – the retirement trust scheme holds the pension fund throughout the retirement phase and whatever remains can be paid out as a lump sum to anyone following the death of the pension holder.
3. There is much greater flexibility over the quantum of the annuity equivalent paid by the retirement trust scheme – with the scheme being able to pay out 150% of the “basis calculation
4. The whole of the pension fund can be commuted on the diagnosis of serious ill health.
5. From the age of 50, provided that the pension holder can demonstrate that they have minimum retirement income, the whole of the pension fund can be transferred into an approved drawdown contract whereupon up to 100% of the pension fund can be accessed.

In connection to the changes introduced in 2015, the Minister issued a public consultation paper alongside the 2014 Budget which received a broad spectrum of responses from across the pensions industry and other interested parties which helped to shape the final legislative changes (a summary of the responses to that consultation is available at:

<http://www.gov.je/government/consultations/pages/taxrulespensions.aspx>). The Minister also receives correspondence from individuals and businesses with an interest in pensions. The Tax Policy Unit meets periodically with the Jersey Pensions Association (see: <http://www.jerseypensions.org/about/>).

The Minister understands that the restrictions on accessing private pensions do not interfere with the property rights outlined in the Human Rights Convention; the restrictions on pensions under the Income Tax (Jersey) Law prescribe when an investment vehicle qualifies for the tax advantages given to pension schemes. Individuals use their property rights when they choose to invest in private pension schemes knowing they are regulated by law and contain certain restrictions. After making such a choice, the individual’s Convention right is to the return prescribed by the pension scheme rules.

3.4 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING PLANS TO RESTORE FORT REGENT:

Question

Could the Minister provide both the total amount and a breakdown of how much public money has been spent on the various projects over the past two decades to devise a plan to restore Fort Regent as a major commercial and recreation centre for the Island?

Answer

The requested time period spans several Departments and Committees. The studies conducted over this period are shown in the table below. Unfortunately in the time available it has not been possible to gather the information on the costs of the projects listed. I will ensure the Deputy, and the Assembly, are provided with this information as soon as it can be compiled with the assistance of colleagues from Treasury & Resources.

Since the recent transfer of functions in January 2016, where responsibility for Fort Regent moved to the Economic Development, Tourism, Sport & Culture Department, developing a long term solution balancing the needs of the Island has been made a priority. This work is being undertaken by a newly constituted Ministerial and officer team ('Future Fort 50') under the Chairmanship of Assistant Minister, Connétable Steve Pallett.

Fort Regent Chronological record of recent Studies

Date	Title	Authors	Brief description of Content
1996	Feasibility study on Future of Fort Regent	Roger Quinton Ltd and Saville Jones Architects	Feasibility study to provide plans for a modern sports centre to provide for residents and current and potential new visitors
1999	Jersey Sports Village	Saville Jones Architects	Updated proposals to bring the Fort to life in a new way by creating a workable, attractive sporting facility.
1999	Jersey Sports Village	Adams Kara Taylor Civil and Structural Engineers	Structural Scheme Design Report
2002	Proposed Redevelopment of Fort Regent Phasing Document	Saville Jones Architects	Report on redevelopment of Fort Regent in terms of phasing to suit allocation of funding over a 10 year period
2002	Proposed Conference Facility	Saville Jones Architects	Feasibility of including a conference facility within the redevelopment of Fort Regent
2003	Jersey Conference Centre Study	The Tourism Company	Feasibility of developing a conference centre in Fort Regent
2006	Conservation Study	Anthony Gibb	The conservation statement was prepared to ensure protection of the cultural and natural resources of the site and to determine what is important about the site and why to inform any future development
2014	Rediscovering Fort Regent	A team was created by Ross-Gower Associates and Page Architects	Developed a vision and a briefing document to identify how to improve access, create additional space, reconfigure and refurbish internal spaces,

		including Tilliards, WSP, IPW and HOK Architects (The HOK Team).	increase activity and develop commercial opportunities at Fort Regent.
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3.5 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE AMOUNT SPENT ON INCOME SUPPORT PAYMENTS AND ALLOWANCES:

Question

Could the Minister provide a breakdown for every year since its introduction of the total amount spent on –

- (a) Income Support payments;
- (b) Short Term Incapacity Allowance; and
- (c) Long Term Incapacity Allowance;

including an explanation as to how much of the rising cost of each of those payments is attributable to a higher number of claimants, rather than the component amounts being raised?

Answer

This information is published each year in the departmental annual report¹. Values for the 5 year period from 2010 to 2014 inclusive are provided below.

Each table shows the total spend and the number of claims. Short Term Incapacity Allowance and Long Term Incapacity Allowance are contributory benefits and benefit rates are increased each year on 1 October in line with the annual rise in average earnings. Income Support payments are based on an assessment of the household income and assets and the range of components available to the individual household. All current Income Support component rates are published on www.gov.je². All historical rates are available at www.jerseylaw.je³.

- (a) These values refer to Income Support weekly payments and exclude transitional payments, residential care payments and special payments.

Income Support weekly benefit	2010	2011	2012	2013	2014
Total Spend (£'000)	61,670	66,940	71,349	72,953	73,866
Total Number of Claims as at 31/12	6,299	6,387	6,636	6,552	6,486
Total Number of Participants as at 31/12	10,917	11,355	11,908	11,761	11,665
Approximate average weekly claim value per household	£188.28	£201.55	£206.77	£214.12	£219.01
Approximate average weekly claim value per participant	£108.63	£113.37	£115.22	£119.29	£121.77

¹ For example, see <http://www.statesassembly.gov.je/AssemblyReports/2015/R.111-2015.PDF> for the 2014 report. NB - Income Support data first published in 2011.

² See <http://www.gov.je/Benefits/IncomeSupport/Pages/Rates.aspx>

³ See <http://www.jerseylaw.je/Laws/Alphabetical/I>

(b) Short Term Incapacity Allowance (STIA)

Short Term Incapacity Allowance	2010	2011	2012	2013	2014
Cost of STIA claims £'000	12,736	12,692	13,650	12,938	12,413
Number of STIA claims paid	29,269	28,652	27,260	25,703	24,743
Number of days paid	527,563	520,157	543,149	509,714	476,243
Approximate average weekly claim value	£168.99	£170.80	£175.92	£177.68	£182.45
Standard rate of benefit (£ per week) as at 31/12	£179.97	£184.45	£187.25	£191.38	£196.42

(c) Long Term Incapacity Allowance (LTIA); This table includes Invalidity Benefit as well as LTIA which replaced Invalidity Benefit in October 2004. Claimants with ongoing claims from before this date are able to continue to claim the previous benefit.

LTIA and Invalidity	2010	2011	2012	2013	2014
Total Spend Invalidity benefit (£'000)	12,457	11,239	10,043	9,016	8,087
Total Spend LTIA (£'000)	11,901	12,635	13,416	14,567	14,858
Total Spend across long term incapacity (£'000)	24,358	23,874	23,459	23,583	22,945
Number of Invalidity claims in payment as at 31/12	1,086	967	859	759	667
Number of LTIA claims in payment as at 31/12	3,422	3,533	3,670	3,815	3,958
Total number of Long Term Incapacity claims	4,508	4,500	4,529	4,574	4,625
Approximate average Invalidity weekly claim value	£220.59	£223.51	£224.84	£228.44	£233.16
Approximate average LTIA weekly claim value	£66.88	£68.77	£70.30	£73.43	£72.19
Standard rate of benefit (£ per week) as at 31/12	£ 179.97	£ 184.45	£ 187.25	£ 191.38	£ 196.42

3.6 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING HIGH NET WORTH INDIVIDUALS PAYING TAX IN JERSEY:

Question

How many High Net Worth Individuals are there in total residing and paying tax in Jersey?

What is the total Income Tax received from those individuals? Of that tax take, how much of it is paid in the 20% tax bracket of their income, and how much is paid in the 1% tax bracket of their income?

How many of those High Net Worth Individuals do not pay any more in tax than their prescribed minimum required contribution?

How many of those High Net Worth Individuals pay Income Tax of less than £10,000 more than their prescribed minimum required contribution?

Answer

It is assumed that the question refers to High Value Residents (“HVR”), who are approved as having Entitled status under Regulation 2(1) (e) of the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013, or previously having been granted 1(1)(k) status.

In 2014 there were 159 HVR living in, and liable to tax in, Jersey. Of these, 83 arrived pre 2005 and 76 post 2005.

Their total 2014 income tax contribution⁴ amounted to approximately £12m.

In 2014 about £1.3m of this income tax was generated at the 1% tax rate, representing approximately 11% of the total income tax take. Approximately £600,000 was generated at the 10% tax rate (the tax legislation that took effect from 2005 applied this rate to certain income. it is no longer relevant). The remainder would be generated at the standard rate.

Of those HVR who came to Jersey after 2005, the majority, almost 60%, paid more than their annual minimum tax contribution in 2014. (45 out of 76 taxpayers).

About 28% of those HVR who came to Jersey after 2005 paid less than £10,000 additional income tax in excess of their annual minimum contribution (22 out of 76 taxpayers). It should be noted these figures include 8 new arrivals whose contributions for 2014 (only) are time apportioned and therefore not representative of a full year's liability.

3.7 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE ACTION POINTS RAISED IN THE 2016 HOUSING STRATEGY:

Question

Further to the action points raised in the March 2016 Housing Strategy, could the Minister –

- (a) outline the policies described in Action point 1.2, and, if they do not yet exist, advise what are they likely to include;
- (b) advise how she intends to incentivise vacant property owners in accordance with action point 2.6;
- (c) outline how she intends to enforce the minimum standards for the physical condition, repair and maintenance of all categories of rental accommodation referred to in action point 3.3;
- (d) state how she intends to “encourage residents to make homes more energy efficient and therefore cheaper to run” in accordance with action point 3.4;
- (e) commit to opposing any further cuts to support for recipients of Long Term Incapacity Allowance, given that action point 4.2 says: “Promote independent living for residents with specific needs”;
- (f) advise whether the review of the current system of residential regulation to create a more equitable rental market under action point 4.4 includes a review of the impact of the introduction of rent control?

Answer

The Housing Strategy outlines an aspiration that all islanders should be able to live in secure, high-quality homes that they can afford, and establishes a set of objectives towards achieving this aspiration, including:

- ensuring balanced housing supply;
- making the best use of housing resources;
- improving standards; and
- creating strong communities.

⁴ This is the 2014 year of assessment and these figures are subject to audit.

The Housing Strategy will be supported by a series of specific policy measures, which will be developed in accordance with the timescales that are set out in the Strategy and will be subject to consultation with stakeholders. As such, the overall response to points (a) to (f) of the question is that the Housing Strategy provides an overview of initial thinking in terms of policy development, and that the development of further evidence, evaluation of options and consultation on specific policy proposals will provide the answers to these questions as the Housing Strategy is implemented in the coming years. Where specific points can already be made, these are outlined below.

On point (a), I intend to publish an affordable housing paper in Quarter 3 of 2016. This paper will provide an assessment of the term 'affordability' in relation to property purchase prices and household incomes, and how affordability can be improved through measures such as affordable home ownership products. The eventual policies will make use of the results of the latest Housing Needs Survey to ensure that there is an appropriate mix of tenure types (affordable homes to rent and to purchase) to meet demand for affordable housing.

In respect of point (b), the Housing Strategy includes an action to identify ways to make vacant properties available to the market. I would expect this work to be started in Quarter 2 of 2016 and completed in 2017. One policy option might be to consider parish rates in the context of long-term vacant properties, which would need to be considered in cooperation with the Comité des Connétables.

Improving the condition of homes is a primary objective in the Housing Strategy. In response to point (c), draft legislation is, therefore, being prepared to introduce minimum standards of repair and maintenance for all categories of rental accommodation, including a means for the Environmental Health Department to monitor and enforce minimum standards. The draft Health and Safety (Rental Dwellings) Law should be brought forward by Quarter 3 of 2016 and work is already underway.

Along with the condition of homes, the Housing Strategy also recognises that homes need to meet higher energy efficiency standards (point (d)). The Strategy is aligned with the Energy Plan Pathway, which the Minister for Planning and Environment published in 2014, and I will be working closely with the Minister to encourage investment in energy efficiency measures to reduce domestic energy consumption such as changes to the Building Bye-Laws.

In response to point (e), whilst it is not directly related to the Housing Strategy, the Minister for Social Security has not reduced the value of Long Term Incapacity Allowance, but has changed the treatment of the overlap between Income Support and LTIA benefit income. As part of the Housing Strategy, I am working with the Minister for Social Security and affordable housing providers to meet the housing needs of vulnerable people, including people with disabilities, care leavers, and ex-offenders, to support them to live independently.

Finally, as point (f) of the Deputy's question indicates, the Housing Strategy includes an action to review the current system of residential qualifications to create a more equitable rental sector, which I anticipate be carried carry out by early 2017. This does not include a review of the impact of the introduction of rent controls. As I indicated in R.87/2015 'Rental Sector in Jersey – proposed policy direction,' I am not minded to introduce rent controls. The advice provided by the Economics Unit was clear that rent controls reduce the availability of rental accommodation and reduces the quality of rental accommodation

Rather, my focus is on supporting affordability through an increased supply of affordable homes for rent and purchase, and delivering on our Island Plan commitment to build 1,000 affordable homes up to 2020. Supply is tightly balanced, which makes it essential that all sites identified in the Island Plan are brought forward, including on rezoned and former States-owned land, and on existing estates such as La Collette.

Overall, the measures set out in the Housing Strategy are intended to improve people's housing situations and help them to achieve their housing aspirations. The Strategy recognises that there are considerable challenges and we cannot make things better overnight – but we can move firmly and clearly in the right direction.

3.8 DEPUTY J.A. HILTON OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE NUMBER OF ISLANDERS DIAGNOSED WITH ASBESTOSIS:

Question

“Can the Minister confirm how many people in Jersey have been confirmed as diagnosed with pleural plaques, asbestosis and mesothelioma in the last five years?”

Answer

The question cannot be answered directly because:

- a) out-patient attendance diagnoses are not captured by condition, just by volume and by consultant;
- b) without retrieving each patient record, the date of diagnosis is not readily available so we cannot state how many have been ‘diagnosed’ in the last 5 years;
- c) we are not able to state how long someone has been in Jersey, just that they have at some point in the last 5 years accessed our service;
- d) patients may have more than one of the conditions stated above so there is a potential to double count.

However, subject to these caveats, there have been 112 patients over 5 years who have had an in-patient episode in the hospital where the primary or secondary coded diagnosis was one of the conditions set out above.

3.9 DEPUTY J.A. HILTON OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING CASES OF ASBESTOS RELATED DISEASES:

Question

“Can the Minister confirm that all cases of asbestos related diseases attributed to asbestos exposure are communicated to her Department?”

Can the Minister further confirm how many people have been communicated to the Health and Safety Executive in the last five years as having been diagnosed with pleural plaques, asbestosis and mesothelioma?”

Answer

I can confirm that there is no legal requirement for any cases of asbestos related diseases attributable to asbestos exposure (or any other specific diseases or types of illness) to be reported to the Social Security Department.

The Inspectorate has had one case of mesothelioma reported to it in the past 5 years. There are no other recorded cases of the diseases listed in the question being communicated to the Department within this time period.

3.10 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING OUTDOOR BASKETBALL COURTS:

Question

Will the Minister provide a list of all outdoor courts which are available exclusively for basketball, for public use, as well as the opening times of these areas?

Answer

There are no outdoor courts which are ‘exclusively’ for basketball. Wherever possible, facilities are provided for multi sports when it is appropriate as this makes better use of available resources.

Outdoor basketball courts and baskets on public facilities are at:

- Les Quennevais ball court - open to public at all times free of charge
- Highlands College ball court – open to public at all times free of charge
- Fort Regent ball court – open to the public at all times during Fort Regent opening hours free of charge.

In addition to the outdoor courts, basketball facilities are available in many sports halls in Jersey. These include:

Fort Regent (2 courts), Les Quennevais Sports Centre, Springfield, Le Rocquier School, Grainville School, Haute Vallee School, Oakfield Sports Centre, Langford Sports Centre, St Michael’s School Sports Hall, St George’s School Sports Hall. Many of the Youth Service facilities have basketball courts with hoops. They are not all full size but do allow basketball to be played. They are at Le Squez, Gorey, Maufant, Grand Vaux, St Peter’s Community Centre, St John, St Ouen and St Lawrence.

3.11 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING THE LEVEL OF PRIORITY GIVEN TO CULTURE:

Question

Will the Minister state what priority he gives to culture in his portfolio, whether culture is currently a high enough priority and what ratio of economic multiplier, pound for pound, can be expected from investment in culture in Jersey?

Answer

Having only recently taken on responsibility for the Culture portfolio, I would like to reassure the Deputy that it represents one of the highest priorities within the expanded EDTSC Department, not only in terms of performance or engagement, but in developing important skills, nurturing creativity, contributing to a vibrant and inclusive community and providing the quality of life required to attract and retain talent

In the short time since the transfer of functions was completed, Assistant Minister Deputy Norton - holding delegated responsibility for Culture - has committed a significant amount of his time to meeting Arts and Heritage organisations, devising plans and proposals for their futures. Under EDTSC’s draft submission to Treasury for MTFP 2017-19, Culture has largely been protected, taking

a cut of less than 1% during a period when the Department's budget is due to fall 21% from its previous 2015 cash limit.

In terms of economic multipliers there is no formal measure used by the States to evaluate the economic benefits of Culture sector, given the lack of accurate data regarding on and off Island expenditure, plus the effort required to define both culture and cultural expenditure.

Over the period 2011- 2014 however, based on publicly available accounts, the ratio of levels of self-generated funding by the three primary arts organisations in Jersey (Opera House, Jersey Arts Centre, Jersey Arts Trust) as a proportion of States grant funding was £1.70:£1, (i.e. £1.70 of self-generated income for every pound of States investment) in 2014 (latest year for which figures are available). This represents a significant increase from the 2011 figure of £1.05:£1.

The level of self-generated income by the three organisations has increased from just over 50%, to over 63% in the same period, meaning that the States now contributes about one pound in every three of their income, compared to one in every two in 2011.

The Boards and management of these arts organisations should be commended on their efforts in securing significant private sector funding for their respective programmes.

3.12 DEPUTY M. TADIER OF ST. BRELADE OF THE PRESIDENT OF THE JERSEY SECTION OF THE ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE REGARDING MEMBERSHIP OF THE ASSEMBLÉE:

Question

Will the President state how many of the current 49 elected States Members have a verified level of competence in French, including who those are and to what level? Is there a sufficient proportion of Francophone members to justify the bilingual status of the States Assembly and its membership of the Assemblée Parlementaire de la Francophonie (APF)?

If no member of the Assembly spoke French, would it be possible for the States to remain a member of the APF? If not, what would the minimum number of Francophone members need to be before membership of the APF was deemed unviable?

Answer

Membership of the APF is open to jurisdictions whose official or administrative language is French, or where French is currently spoken. Jersey qualifies for full membership because French is an official language of the island. There is no requirement for a certain proportion of parliamentarians in APF member countries to speak French to a set standard.

Jersey continues to play an active part in the APF, including hosting 50 delegates to the APF's Europe regional conference in October 2015.

The Alliance Française holds information about the level of competence in French of States Members. It is currently closed for Easter but the information the Member has requested will be made available as soon as it reopens.

3.13 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING CANNABIS POSSESSION:

Question

Will the Minister state –

- (i) how many individuals have been cautioned for Cannabis possession in the past 5 years;
- (ii) how many of those were prosecuted, and
- (iii) what the outcome of the prosecutions were; including, in each case, how many of those individuals claimed to be 'medicinal users'?

What has the estimated cost been, over the last five years, for dealing with Cannabis enforcement, including Police time, Customs, Crown Officers, Court costs and prison accommodation?

Answer

- (i) 665 individuals have been arrested by the police for cannabis possession in the past 5 years (1 April 2011 – 31 March 2016). It has not been possible to distinguish if the same individual has been arrested more than once, at different times over the 5 year period.
- (ii) These individuals accounted for 714 cases of cannabis possession being referred to the Courts or Parish Hall for disposal.
- (iii) Details of the outcomes of these prosecutions are overleaf. It is not possible to distinguish how many of these individuals claimed to be 'medicinal users'.

It is, unfortunately, not possible for the services listed in the question to accurately estimate the cost of cannabis enforcement. For example, the prosecution of an individual for being in possession of cannabis can take different routes through the criminal justice system depending on the circumstances of the case. An individual might be dealt with by the Centenier at a Parish Hall enquiry, or charged for a court hearing which may result in a brief appearance or a case that goes to trial with a number of direction hearings. It should also be noted that the Prison Service is unable to attribute costs to the management of a specific category of offender.

The States of Jersey Police has, in recent years, reviewed and implemented new procedures for dealing with an individual found in possession of cannabis, with the aim of making the process more expeditious. This negates the need for the drugs to be officially analysed by the States Analyst, and allows the case to be processed through the judicial system quicker and more efficiently.

CANNABIS POSSESSION: APRIL 2011 - MARCH 2016						
	Apr- Dec 2011	Jan- Dec 2012	Jan- Dec 2013	Jan- Dec 2014	Jan- Dec 2015	Jan- Mar 2016
COURT DISPOSALS						
Binding Over	9	10	14	5	6	3
Community Service	5	11	13	8	3	0
Exclusion Order	2	0	0	1	0	0
Fine OR Imprisonment	40	30	20	19	25	4
Imprisonment	15	15	19	7	9	1
Probation Order	14	16	23	13	14	3
Probation Order AND Community Service	0	0	0	0	0	3
Absolute discharge	0	0	0	0	0	1
No evidence offered (case dismissed)	1	5	7	7	4	0
Case withdrawn	3	6	5	6	4	1
No separate penalty awarded	5	13	4	8	3	0
Bound Over to Leave the Island	0	0	0	1	0	0
Lie on file	0	0	1	0	0	1
Arrest ordered	9	2	4	3	2	1
Failed to appear	0	3	1	3	0	0
Sub Total	103	111	111	81	70	18
PARISH HALL DISPOSALS						
Written Caution	22	29	22	25	29	5
Written Caution (as a result of a deferred decision)	10	16	13	16	21	5
Words of advice	1	0	0	0	0	1
No further action taken	0	1	2	0	2	0
Sub Total	33	46	37	41	52	11
Overall Total						
	136	157	148	122	122	29
Total last 5 years (April 2011 - March 2016)						714

3.14 DEPUTY M. TADIER OF ST. BRELADE OF THE CHIEF MINISTER REGARDING THE REDEPLOYMENT OF DISABLED AND OLDER PUBLIC SECTOR EMPLOYEES:

Question

What consideration does the Chief Minister propose to give to the redeployment of disabled and older public sector employees who face redundancy; and what provisions, if any, are being put in place to ensure that such employees are not discriminated against when seeking alternative employment in the future, given that there is currently no age or disability discrimination legislation in place?

Answer

Public employees who are displaced as a result of organisational change and who face compulsory redundancy are given assistance from the redeployment and outplacement team of specialists based in Social Security, the Back to Work Team. This facility is available to all employees, including those with a disability and older members of the workforce.

A dedicated resource has also been set up to support States of Jersey staff made compulsorily redundant. The Outplacement Service will provide practical and emotional support to help staff explore their current job skills and work out their next steps.

This confidential service will help staff with career planning and research, writing CV's, application forms and covering letters and can provide bespoke training in skills development and personal resilience and motivation. Through the Back to Work Recruitment team, it has access to employers and vacancies and will ensure links with employers, wider support resources, external training providers, qualified career counsellors and local recruitment consultancies.

In addition, the service will monitor the States of Jersey Redeployment Register and match individuals to any relevant vacancies.

Regulations are being lodged today by the Minister for Social Security that would protect people in Jersey against age discrimination in recruitment and employment. If approved by the Assembly, the Regulations will come into force in September.

3.15 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE POSSIBLE MERGER OF JERSEY TELECOM AND AIRTEL VODAFONE:

Question

With regard to the possible merger of Jersey Telecom and Airtel Vodafone, will the Minister advise why he informed the public that the deal was going ahead at the same time as Airtel Vodafone stated that the deal was off? Will he set out the current position and the role, if any, of the Channel Islands Competition Regulatory Authorities, in respect of any delay to, or the calling off, of the merger?

Answer

The Minister did not make a public announcement on this matter. When he was telephoned, while out of the Island, by a journalist on the morning of Friday 1st April 2016 and questioned as to the status of discussions, he responded that he understood discussions between JT and Airtel were ongoing. At that point in time that was exactly the position as known to the Minister. The press release issued by the local management of Airtel announcing that they had disengaged from merger discussions was not issued until later on that Friday afternoon. Between these two times there was speculation in the media as to what Airtel had or had not stated and much confusion as to whether such statements were on or off the record.

CICRA had in the earlier stages of merger negotiations carried out a stage 1 assessment of the proposals and its considered view was that there were issues that may lead to the refusal of approval for the merger or an approval with conditions. This being the case, it advised on 26th October 2015 that it would subject the transaction to a stage 2 detailed review if it were formally to proceed. This is entirely standard process and was therefore a known and expected position which was factored into the ongoing commercial negotiations. There has been no subsequent change to this known position.

3.16 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING A SUMMONS ISSUED TO THE STATES OF JERSEY DEVELOPMENT COMPANY:

Question

Would the Chairman advise members of the reasons for the delay in determining whether or not to uphold or dismiss the appeal of the States of Jersey Development Company against the summons issued by the Corporate Services Scrutiny Panel who are seeking information about the International Finance Centre and will he further explain what changes, if any, the Committee will introduce to prevent such delays occurring in the future?

Answer

The appeal by the States of Jersey Development Company (SoJDC) against the summons issued by the Corporate Services Scrutiny Panel has raised a number of complex points of law and parliamentary privilege. The Committee heard from representatives of SoJDC and the scrutiny panel on 14th January and decided to defer its decision pending receipt of submissions on points relating to human rights law.

The Committee met to consider those submission on 21st January, reached its decision and instructed H.M. Solicitor General to prepare a draft decision document which would set out in full the reasons for its decision. The Committee considered that it would be inappropriate and unhelpful to announce its decision without its full reasons, which address all of the legal points raised during the appeal, being made available at the same time. The time taken to prepare the draft decision document reflects the complexity of the subject matter and the importance of providing thorough and robust reasons for the Committee's decision.

3.17 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING THE GROUNDS FOR REJECTING QUESTIONS AND PROPOSITIONS SUBMITTED BY STATES MEMBERS:

Question

Will the Chairman set out for members the grounds by which the Bailiff or Deputy Bailiff may reject questions and/or propositions submitted by States Members and the justification for non-elected members of the States of Jersey to take such decisions, which may prevent elected members from scrutinizing the government of the Island or raising matters of public concern?

Answer

The Bailiff's role in approving written, oral and urgent oral questions, as well as propositions, is set out in Standing Orders 11, 13, 15 and 21 respectively. It is common practice for the presiding officer of a parliamentary body to be given such responsibility.

3.18 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE EFFECT OF THE LEAK OF CONFIDENTIAL DOCUMENTS FROM MOSSACK FONSECA UPON JERSEY AS AN INTERNATIONAL FINANCE CENTRE:

Question

Will the Chief Minister advise members what effect, if any, the leak of confidential documents from Mossack Fonseca in Panama is likely to have on Jersey as an international finance centre?

Answer

As the Chief Executive of Jersey Finance Limited has said there will always be a risk of Jersey being caught up, albeit most unfairly, in any general reaction by the international community, or individual jurisdictions, to the “Panama Papers” revelations . However there is much comfort to be drawn from the response of the OECD Secretary General, and others, to the revelations in focussing on Panama as a jurisdiction that has failed to adopt the international standards on transparency and exchange of information in tax matters, standards that are designed to ensure that there is no hiding place for tax evaders and those engaged in abusive tax avoidance.

The following action taken by Jersey has been well recognised by the OECD, by the UK Government and by other jurisdictions, and is reflected in an increasingly positive view of Jersey’s standing as a compliant and cooperative jurisdiction in meeting the international standards on transparency and exchange of information –

- Jersey has been a party to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters since June 2014. Together with the TIEAs and DTAs that have been entered into, Jersey is currently in a position to exchange information on request with some 80 countries;
- Jersey is fully committed, as an ‘early adopter’, to automatic exchange of information in accordance with the international Common Reporting Standard and next year will be providing information to over 50 countries;
- Jersey has received commendations from the Secretary General of the OECD and the EU Tax Commissioner on the extent of Jersey’s commitment to and compliance with the international standards on transparency and information exchange;
- Jersey has a Central Register of beneficial ownership backed by effective regulation of trust and company service providers which has provided law enforcement authorities with adequate, accurate and current information on the beneficial ownership of Jersey incorporated companies . Through the trust and company service providers beneficial ownership information is also available in respect of foreign incorporated companies and trusts being administered in Jersey.
- Jersey has gained international recognition of its leading position from the World Bank, the IMF and Moneyval (the FATF style regional body for Europe) for the standard of compliance with the international standards of transparency and information exchange.
- Jersey is supporting the OECD BEPS programme and is currently engaged in consultation on the arrangements for information exchange through country by country reporting by MNEs .
- Jersey has taken steps to discourage the use of Jersey by those engaged in tax evasion and abusive tax avoidance. Following a statement made by the Chief Minister in July 2014 Jersey has further tackled the issues of tax evasion and abusive tax avoidance on three fronts:
 - i) Jersey Finance Ltd has issued a best practice document to finance industry practitioners;
 - ii) the financial regulator (JFSC) is looking for evidence of tax schemes being administered when undertaking on-site examinations;
 - iii) the government is refusing applications for licenses for the setting up of a business and the employment of staff where the activities are considered to pose a risk to the Island’s international reputation.

Jersey has long adopted this policy of seeking to be among those jurisdictions that are in the forefront in the adoption of the international standards on transparency and information exchange. It is firmly believed that the continued pursuit of this policy will help to secure a successful future as an international finance centre upon which the employment and incomes of Island residents and the funding through tax revenues of high quality public services will continue to depend. The international recognition of Jersey as a cooperative jurisdiction complying with the international

standards has stood the Island in good stead to-date and the benefits derived from this reputation are not expected to be diminished by the events in Panama.

3.19 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE SUBMISSION OF COMPLAINTS AGAINST THE JUDICIARY:

Question

What mechanisms are there for people who are dissatisfied with the work of the Crown Officers, the Judiciary, and the legal system in general, to (a) complain, or (b) express their dissatisfaction, and to whom should such complaints be made? How can such mechanisms be strengthened and made more accessible to ordinary members of the public in Jersey?

Answer

The following mechanisms are in place:

Bailiff / Deputy Bailiff

Complaints in respect of the alleged misconduct of the Bailiff and Deputy Bailiff are made in writing to the Lieutenant Governor in accordance with the Bailiff Complaints Procedure.

The Bailiff Complaints Procedure is available on the gov.je website at:

<https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/ID%20Bailiff%20Complaints%20Procedure%2020150901%20JR.pdf>

The Code of Conduct for the Members of the Judiciary of Jersey referred to in the Bailiff Complaints Procedure is available on the gov.je website at:

<https://www.gov.je/Government/NonexecLegal/JudicialGreffre/Pages/CodeConduct.aspx>

Judiciary

Complaints in respect of the alleged misconduct of any Commissioner of the Royal Court, the Magistrate, the Assistant Magistrate, any Relief Magistrate, any Ordinary Judge of the Court of Appeal, the Judicial Greffer, the Deputy Judicial Greffier and any officer of the Judicial Greffe who is authorised to discharge the judicial function of the Judicial Greffer are made in writing to the Bailiff in accordance with the Judicial Complaints Procedure.

The Judicial Complaints Procedure is available on the gov.je website at:

<https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/ID%20Judicial%20Complaints%20Procedure%2020150901%20JR.pdf>

The Code of Conduct for Members of the Judiciary of Jersey referred to in the Judicial Complaints Procedure is available on the gov.je website at:

<https://www.gov.je/Government/NonexecLegal/JudicialGreffre/Pages/CodeConduct.aspx>

Attorney General and Solicitor General

Complaints in respect of the alleged misconduct of the Attorney General and Solicitor General are made in writing to the Lieutenant Governor in accordance with the Law Officers' Complaints Procedure.

The Law Officers' Complaints Procedure is available on the gov.je website at:

<https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/ID%20Law%20Officers%27%20Complaints%20Procedure%2020150904%20ALS.pdf>

Other Complaints Mechanisms

Lawyers working in the Law Officers' Department

Complaints in respect of the alleged misconduct of lawyers working in the Law Officers' Department are made in writing to the Attorney General in accordance with the Law Officers Department Disciplinary Procedure and Code of Conduct for Lawyers:

The Law Officers' Department Disciplinary Procedure is available on the gov.je website at <https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/LD%20LOD%20Disciplinary%20Policy%20and%20Procedure%202014-07-08%20BJL.pdf>

The Law Officers' Department Code of Conduct for Lawyers is available on the gov.je website at <https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/LD%20Code%20of%20Conduct%20for%20lawyers%2020140708%20BJL.pdf>

Advocates and Solicitors of the Royal Court of Jersey

Complaints in relation to alleged professional misconduct and poor service of members of the Law Society of Jersey are made in writing in accordance with The Law Society of Jersey (Disciplinary Proceedings) Rules 2010 and the Law Society of Jersey Code of Conduct.

Information on making a complaint can be found on the Law Society of Jersey website at <http://www.jerseylawsociety.je/public/complaints/>.

The Law Society of Jersey (Disciplinary Proceedings) Rules 2010 are available on the jerseylaw.je website at [http://www.jerseylaw.je/Law/display.aspx?url=lawsinforce%2fconsolidated%2f07%2f07.570.40_TheLawSocietyofJersey\(DisciplinaryProceedings\)Rules2010_RevisedEdition_1January2011.htm](http://www.jerseylaw.je/Law/display.aspx?url=lawsinforce%2fconsolidated%2f07%2f07.570.40_TheLawSocietyofJersey(DisciplinaryProceedings)Rules2010_RevisedEdition_1January2011.htm)

The Law Society of Jersey Code of Conduct is available on the Law Society of Jersey website at <http://www.jerseylawsociety.je/lawyer/code-conduct/code-conduct/>

Legal System in General

The States Assembly confirmed, following P.92/2013⁵, that the Chief Minister is responsible for justice policy and resources. The Proposition explained that:

“This means that the Chief Minister has –

(i) democratic responsibility within the executive branch of government for the components of the overall justice system...(e.g. the overall criminal, civil, family and administrative justice system; the courts, tribunals, access to justice and legal aid);

⁵ <http://www.statesassembly.gov.je/AssemblyPropositions/2013/P.092-2013.pdf>

(ii) responsibility for safeguarding human rights, data protection, legal services, constitutional reform, and strengthening democracy, as part of the overall justice and constitutional affairs portfolio;

(iii) responsibility for the Legislation Advisory Panel.

Any dissatisfaction with the legal system in general should therefore be addressed to the Chief Minister.

P.92/2013 further explained that:

“...this clarification of the Chief Minister’s responsibility for overall justice policy and resources is not intended to affect the existing framework within which relevant offices and arm’s-length bodies perform their functions; and therefore does not suggest that the Chief Minister has responsibility for individual cases, operational or administrative matters, legal or constitutional advice provided by officers of the Crown, or day-to-day resource management – all of which remain the responsibility of the relevant offices and arm’s-length bodies. The States Assembly will wish to recognise the importance of maintaining the independence of the courts and the prosecution and data protection authorities as part of upholding the rule of law.”

As such, any matters falling outside the Chief Minister’s responsibility should be addressed using the complaints mechanisms set out above or addressed to the relevant office.

In accordance with his responsibility the Chief Minister has established an Access to Justice Review⁶, chaired by Senator P.F. Routier M.B.E. Details of the Review can be found at <https://www.gov.je/CrimeJustice/AccessToJusticeReview/Pages/index.aspx>.

The Review is still open to submissions from the public who have experience of access to justice in Jersey. Details on how to provide a submission can be found at <https://www.gov.je/CrimeJustice/AccessToJusticeReview/Pages/CommentAccessJustice.aspx>.

3.20 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING ADDRESSING TAX SECRECY:

Question

What effect, if any, is the recent leak of documents from Mosseck Fonseca likely to have on the Chief Minister’s response to the requirement set out by the UK Prime Minister in 2011 to “sweep away” tax secrecy and to “shine a spotlight on who owns what and where the money is really flowing”?

Answer

Tax secrecy is being swept away by the G20, OECD and EU initiatives on transparency and information exchange with which Jersey is fully committed. This commitment is well recognised by the international community . The importance of this commitment is reflected in the response of the OECD Secretary General, and others, to the “Panama Papers” revelations in focussing on Panama as a jurisdiction that has failed to adopt the international standards on transparency and exchange of information in tax matters, standards that it is stated are designed to ensure that there is no hiding place for tax evaders and those engaged in abusive tax avoidance.

⁶ http://www.statesassembly.gov.je/AssemblyPropositions/2013/P.158-2013.pdf?_ga=1.237864512.1902697789.1436360890

[Note: the question from Deputy Southern is similar to the question from Deputy Higgins. However they stand alone and therefore it is considered that the content that follows should be included even though it duplicates what is in the answer to the question posed by Deputy Higgins.]

The following action taken by Jersey has been well recognised by the OECD, by the UK Government and by other jurisdictions, and is reflected in an increasingly positive view of Jersey's standing as a compliant and cooperative jurisdiction in meeting the international standards on transparency and exchange of information –

- Jersey has been a party to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters since June 2014. Together with the TIEAs and DTAs that have been entered into, Jersey is currently in a position to exchange information on request with some 80 countries;
- Jersey is fully committed, as an 'early adopter', to automatic exchange of information in accordance with the international Common Reporting Standard and next year will be providing information to over 50 countries;
- Jersey has received commendations from the Secretary General of the OECD and the EU Tax Commissioner on the extent of Jersey's commitment to and compliance with the international standards on transparency and information exchange;
- Jersey has a Central Register of beneficial ownership backed by effective regulation of trust and company service providers which has provided law enforcement authorities with adequate, accurate and current information on the beneficial ownership of Jersey incorporated companies. Through the trust and company service providers beneficial ownership information is also available in respect of foreign incorporated companies and trusts being administered in Jersey.
- Jersey has gained international recognition of its leading position from the World Bank, the IMF and Moneyval (the FATF style regional body for Europe) for the standard of compliance with the international standards of transparency and information exchange.
- Jersey is supporting the OECD BEPS programme and is currently engaged in consultation on the arrangements for information exchange through country by country reporting by MNEs .
- Jersey has taken steps to discourage the use of Jersey by those engaged in tax evasion and abusive tax avoidance. Following the statement by the Chief Minister in July 2014 Jersey has further tackled the issues of tax evasion and abusive tax avoidance on three fronts:
 - i) Jersey Finance Ltd has issued a best practice document to finance industry practitioners;
 - ii) the financial regulator (JFSC) is looking for evidence of tax schemes being administered when undertaking on-site examinations;
 - iii) the government is refusing applications for licenses for the setting up of a business and the employment of staff where the activities are considered to pose a risk to the Island's international reputation.

Jersey has long adopted this policy of seeking to be among those jurisdictions that are in the forefront in the adoption of the international standards on transparency and information exchange. It is firmly believed that the continued pursuit of this policy will help to secure a successful future as an international finance centre upon which the employment and incomes of Island residents and the funding through tax revenues of high quality public services will continue to depend. The international recognition of Jersey as a cooperative jurisdiction complying with the international standards has stood the Island in good stead to-date and the benefits derived from this reputation are not expected to be diminished by the events in Panama.

3.21 THE CONNÉTABLE OF GROUVILLE OF H.M. ATTORNEY GENERAL REGARDING THE HUMAN RIGHTS COMPLIANCE OF THE ADMINISTRATION OF THE RED DIESEL TAX FREE CONCESSION:

Question

Could H.M. Attorney General advise the Assembly under what circumstances it is proportionate and human rights compliant to require users of red diesel to sign a document that gives customs officers the right to make random, un-announced visits on property that could be part of a user's home, given that there is little or no evidence that abuse of the red diesel tax free concession has been taking place?

Answer

Diesel ordinarily attracts duty under the Customs (Jersey) Law 1999, but by an Order made under Article 41 of that Law, seven million litres of fuel are supplied duty free for agriculture, construction, aircraft marine and other prescribed uses.

Paragraph 9(3) of the Excise Duty (Relief and Drawback) (Jersey) Order provides for the Agent D'Impots to give directions for the administration of the relief. The question relates to a compliance measure ("the document") introduced in December 2015 by the Customs and Immigration Service under that power. The measure follows a 2015 review of the administration of red diesel. Previously, the only compliance measure was to make random roadside checks – set out in the answer of the Minister for Home Affairs to a written question tabled by the Connétable of Grouville on 8th March 2016.

When considering the proportionality of the measure and the extent to which it affects the privacy rights of individuals, it must be stressed that signing the document is voluntary. Red diesel may be obtained directly from seven approved garages in Jersey. Agreeing to the document enables end users to receive large supplies which can be stockpiled. In return for being permitted to receive such substantial supplies, the end user must agree to compliance measures.

It is difficult to see how such a voluntary measure can be a violation of the human right of privacy.

The relevant part of the document that the question refers to is this:

*"In order to benefit from the relief of excise duty on hydrocarbon oil the 'End User' must abide by the following **TERMS AND CONDITIONS**;...*

7. To agree as a condition of this relief, that Customs Officers will be granted access to properties where duty free fuel is stored to take samples of the contents of any drum, storage tank or other container or the fuel tank of any vehicle or appliance belonging to the End User or their business in order to determine whether or not there has been a contravention of, or failure to comply with, any provision of Part 2 of the Excise Duty (Relief and Drawback) (Jersey) Order 2000 or any contravention of, or failure to comply with, the Terms and Conditions.

NB: Article 52 (1) (C) of the Customs and Excise (Jersey) Law 1999 relates to the power to search vehicles or vessels and allows officers to search any vehicle, regardless of its owner, on the premises of an End User if they have reasonable grounds to suspect an offence has been committed."

The Terms and Conditions add a measure which is targeted to the specific area where non-compliance is most likely to be detected, that is, where the fuel is stored in large quantities.

Human rights and proportionality

Even if the voluntary nature of the agreement is not immediately fatal to human rights claims, taking a sample from a petrol tank targeted at end user premises involves a low level of invasion of privacy rights under Article 8 of the European Convention. As such, a court would give a broad margin of discretion to Customs and Immigration as to whether the measure is proportionate and thus a justified restriction on privacy.

The only suggestion that the measure is disproportionate is that, because there is “little or no evidence” of non-compliance, either: (a) there is no legitimate end in terms of securing compliance as compliance is already secure; or (b) the measure fails to strike a fair balance as it authorises searches but brings no advantage.

However, the margin of discretion given by human rights law is such that it is difficult to see a court disagreeing with the professional judgment of an enforcement agency that the detection of existing non-compliance, or the deterrence of future non-compliance, would be best served if the receipt of large quantities of fuel were made contingent on agreeing to random sampling where the fuel is held. It may be that there is “little or no evidence” of current abuse because the present random roadside measures are inadequate.

Even if there is in fact no current abuse, the potential for abuse is well known from the United Kingdom, and it is most unlikely that a court would condemn a measure on the basis that it is not justifiable to act before a foreseeable risk becomes a reality. These are matters on which a court, in the language of human rights jurisprudence, would apply a “broad margin of discretion” and “defer” to the judgment of the enforcement authority.

4. Oral Questions

Senator I.J. Gorst

Sir, before we move to the first question, could I just say to the Assembly that Deputy Southern has question 9, which is addressed to me, and I was asking Senator Ozouf to answer that question because it falls in his delegated remit, particularly as I will be making a statement later in the morning as well about these particular matters. He may not be back in the Assembly until 11.00 a.m. and I wonder if that question could be rolled over until his absence and I just put Members on notice of that. Thank you.

The Deputy Bailiff:

We will deal with that obviously when we come to question 10, Chief Minister, and we will see what the position is.

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

Can I just advise Members that I may be absent towards the end of the morning because I am going to be attending a funeral?

Deputy G.P. Southern of St. Helier:

My question was directed at the Chief Minister not his Assistant, even though he appeared on television as a Minister last night, he is not.

[9:45]

Deputy M. Tadier of St. Brelade:

May I raise a point of order? Every time that we get into this situation Reform Jersey has a policy, which we have clarified with the Greffe staff, that unless we otherwise state that all oral questions that are submitted will go to the Minister. It is only if we specify that we accept that they can be tabled by another Minister or Assistant Minister.

The Deputy Bailiff:

Standing Orders provide that it is possible for Members to specify that the person to whom the question is addressed must answer the question. If it has been specified in any particular case then clearly it falls within that Standing Order. But shall we address this when we come to it?

4.1 Deputy R. Labey of St. Helier of the Minister for Home Affairs regarding religious groups' access and input to the Prison Service's Discharge Planning Group:

Aside from the chaplaincy team of the Freedom for Life Ministry, which of the Island's other trusts or organisations dedicated to the rehabilitation of ex-offenders have access and input to the Prison Service's Discharge Planning Group during its deliberations on placements?

Connétable D.W. Mezbourian of St. Lawrence (Assistant Minister for Home Affairs - rapporteur)

If I may answer that in the absence of the Minister and may I start by thanking Deputy Labey for his interest in the rehabilitation of ex-offenders? Approximately 8 weeks prior to a prisoner's release the prison's sentence planning officers, in partnership with the Probation and Aftercare Service, start to produce a discharge plan. Each plan is case specific and prisoners are given the opportunity to meet with external agencies to help find accommodation, work or indeed to clarify such things as social security benefits. Over 70 per cent of prisoners return to their home address or to family or friends and do not require assistance in finding accommodation. The prison service does not book accommodation for prisoners but representatives from Andium Homes, the Shelter Trust, Sanctuary House and the Grace Trust are regular attenders at the prison and may have an input to a discharge plan, in addition to the voluntary agencies that Deputy Labey has referred to in his question.

4.1.1 Deputy R. Labey:

I thank the Assistant Minister for that. She says that other organisations may have an input. Would the Assistant Minister, or the Minister perhaps, take a look at this to see whether that is happening and consider revising the situation so that organisations like Shelter, who have qualified staff who look after their clients on a daily basis, can be involved in the decision-making processing a little bit more?

The Connétable of St. Lawrence:

We are always keen to improve any of the processes that we undertake. The Shelter Trust is in fact involved in the discussions that prisoners have before they are released from prison but there is always probably room for improvement and I would suggest to the Deputy that perhaps we can meet to look at this in more detail, if that is acceptable to him.

Deputy R. Labey:

That is an excellent suggestion. I thank the Assistant Minister for her reply.

4.2 Deputy C.F. Labey of Grouville of the Minister for Treasury and Resources regarding the removal of private pension scheme restrictions:

What consideration has the Minister given to removing the restrictions currently imposed on private pension schemes, to enable a person to access their own capital sums of money and give them choice to be able to invest in other opportunities which may present themselves and which could create

greater opportunities for regeneration, employment and economic growth and if so what action, if any, will he take to achieve this?

Senator A.J.H. Maclean (The Minister for Treasury and Resources):

In summary, personal pension schemes are tax advantaged because they generate a stream of continuous income for the pensioner, which means that they are better able to plan for their retirement and less likely to require financial support from the States. In recent years a number of restrictions on personal pension schemes in Jersey have been relaxed, making such schemes much more flexible. For example, those who can demonstrate that they have a certain level of guaranteed income for the remainder of their life can access the entirety of their pension fund as they choose. I will continue to monitor pension developments in other jurisdictions and listen to the views of interested parties and professional bodies. However, it must be stressed that pension schemes are long-term savings vehicles and fundamental changes should only be made after detailed research and careful consideration.

4.2.1 The Deputy of Grouville:

Supplementary, please? The Minister has said that access to the entirety of the pension can be achieved. Could he tell the Assembly please who sets the minimum retirement income that is required ... if that pension is to be accessed who sets this? Does he appreciate that the level that it has been set at is virtually unachievable and pension providers will, I am sure, tell him that it has rarely ever been achieved?

Senator A.J.H. Maclean:

The level is set in the law. I do not agree with the Deputy that the level is unreachable. It is set at £10,000 of annual income, so in other words a pensioner would have to be able to demonstrate that they have a guaranteed income through, for example, a state pension scheme that would guarantee £10,000 of income in any given year and through for the entirety of their retirement period. On that basis they could then enter into first of all taking up to 30 per cent as a tax-free lump sum of their pension pot. They could then enter into a drawdown contract, which effectively would allow them properly structured to access the remainder of their pension forthwith. I might say to Members that a number of individuals in the Island have taken advantage of this very great deal of flexibility.

4.2.2 The Deputy of Grouville:

Does the Minister recognise that the Island could or should have a pension regulator and taking advice from the industry itself is not the best way forward?

Senator A.J.H. Maclean:

I agree in part with the Deputy insofar as I do believe that advice needs to be gained and experience from other jurisdictions and as broad-based as possible. We do in fact gain advice with regards to pensions from a number of different areas, including the Jersey Pensions Association. I believe that a watching brief on the changes only some 12 months ago to the U.K. (United Kingdom) pension scheme, which gives access to individuals to the entirety of their pension pot, I know the Chancellor in the U.K. is delighted to have the extra tax revenue that that will generate in the short term but I think the planning in Jersey has always been for the long term. Our concern is the ability for individuals to be able to look after themselves in the long term and not become a burden on the state. But I think the Treasury Department have demonstrated in recent years changes to our pensions have increased the level of flexibility and we continue to monitor the situation so that more people can have the opportunity to gain greater access to their pensions when they are in a position to be able to do so and look after themselves for the long term.

4.3 Deputy R.J. Renouf of St. Ouen of the Minister for Infrastructure regarding the findings of a recent Complaints Board regarding the Connex bus contract:

What is the Minister's response to the findings of a recent Complaints Board regarding the actions taken in accordance with clause 18.3 of the Connex bus contract and, given the board's recommendation in paragraph 6.2 of its findings, what steps, if any, will he take to ensure that the situation which gave rise to the complaint could not happen again?

Deputy E.J. Noel of St. Lawrence (The Minister for Infrastructure):

Firstly I would like to thank the Complaints Board for their hard work and professionalism in what was a complex and time-consuming case, as well, of course, the Deputy himself in his previous role as the chair of that board who considered the parties' initial submission. I was, of course, pleased that the board did not uphold Unite's complaint and found that my predecessor had interpreted his duties absolutely correctly, which I never doubted. Given the interests and coverage at the time I suggest that it is informative for Members to read this report and I urge them to do so, if they have not already done so. I am also happy to confirm that the equivalent of clause 18.3 was updated in line with modern U.K. bus transfer practice to ensure that a similar situation, whereby the Minister's ability to obtain the information is frustrated by others hoping to gain, cannot indeed happen again. The success of the new bus service is testament to the co-operation, hard work and professionalism of all involved from the LibertyBus staff at all levels to my officers, and this is in the spirit we would like to move forward.

4.3.1 The Deputy of St. Ouen:

Could the Minister advise the Assembly when the bus contract is up for renewal?

Deputy E.J. Noel:

I am not sure of that date off the top of my head but I will obtain it and forward it to all Members.

The Deputy of St. Ouen:

I am grateful to the Minister for his answer.

4.4 Connétable A.S. Crowcroft of St. Helier of the Minister for Infrastructure regarding the cost of bus travel in Jersey:

Will the Minister take steps to make the cost of bus travel in Jersey as attractive as our sister Island of Guernsey where fares are half the price and there is a round-the-Island flat fare of £1 designed especially for tourists and, if not, why not?

Deputy E.J. Noel (The Minister for Infrastructure):

I welcome this question. The model of the bus operation in Guernsey is very different to that of Jersey. While we are happy to be benchmarked with any of our services with Guernsey it is important that we compare like for like. The States of Jersey act as a bus regulator not as the operator. Unlike Guernsey we do not own the vehicles or carry the revenue risk. Being able to set fares at the appropriate level LibertyBus is commercially incentivised to continue improving growth of the Jersey service. In Guernsey the bus company does not have this incentive. It merely runs and maintains the buses on behalf of the States of Guernsey. The States of Guernsey specify fares and the levels of service to be operated. For example, the buses start later in the day and finish earlier at night and run less frequently than in Jersey. In Guernsey the bus fleet is older with less attractive passenger environments than those vehicles in Jersey. The States of Guernsey indeed will soon have to allocate additional taxpayers' money to start renewing their buses. Changing the adult fare in Jersey to the same £1 charge as in Guernsey would reduce our operator revenue by allowing £1.6 million per annum, and this is money simply that my department does not have and I could not support such a

policy. To give Members some comparison data: in Jersey our subsidy, excluding the school buses, is just over 80 pence per journey. In Guernsey it is about £3 per journey.

4.4.1 The Connétable of St. Helier:

I would like to thank the Minister for that very helpful and concise answer to my question. Is the Minister going to take further the suggestion I have made to him that we try to seek more attractive pricing in the bus network, even if that does mean a bid for more money to help subsidise the cost?

Deputy E.J. Noel:

That can only be done in one of 2 ways. One is providing further taxpayers' money to subsidise the bus service further or perhaps, indeed, since all the buses come in and out of St. Helier, that maybe the Parish would want to contribute to bring the fares down.

Deputy S.Y. Mézec of St. Helier:

There were 2 others that had their lights on.

The Deputy Bailiff:

I have noted Deputy Mézec, then I have noted Deputy Labey. I am afraid I have not seen other lights so, Deputy Tadier, did you have your light on?

Deputy M. Tadier:

I did, but he can go first.

4.4.2 Deputy S.Y. Mézec:

Is the Minister aware that parking in Guernsey is currently free of charge and does he accept that in terms of affecting people's behaviour and encouraging people onto buses and to help reduce congestion and pollution that there is another method of affecting people's behaviour other than just making everything more expensive, and it is to make things cheaper instead? So would he agree to look at this as a potential strategy moving forward so that we do not simply punish poor people who have to travel?

Deputy E.J. Noel:

I am fully aware of the charging for car parks in St. Peter Port. There is nothing free. Yes, we could reduce the cost of parking, we could reduce the cost of Islanders using our buses but that comes at a cost and who would pick up that cost? It would be the taxpayer or perhaps, in the case of parts of St. Helier, maybe the Parish of St. Helier, as I alluded to earlier.

[10:00]

All these things are possible but it does need to be financed, they are not free.

4.4.3 Deputy R. Labey:

Would the Minister consider with LibertyBus making the £2 cash ticket valid for an hour which would prevent passengers passing in and out of town on a single journey from being unfairly penalised?

Deputy E.J. Noel:

I am happy to take that suggestion of the Deputy to LibertyBus and see what they can do. But, as I said, they carry the risk for the fares. We no longer do. Under the old contract with Connex we did carry the risk and I believe our subsidy was in excess of £7 million a year versus the £4 million a year that it currently is. The answer from Liberty will probably be: "Yes, we would be willing to do that but your subsidy has to go up."

4.4.4 Deputy M. Tadier:

Does the Minister accept that while there is a reduced fare for using an AvanchiCard that it is discriminatory, arguably, to tourists who either are not inclined or do not know about the AvanchiCard, and also to those on low incomes who do not necessarily have sufficient funds at any one time to be able to top up such a card? Because of that it is both regressive and sending out a bad message to our tourist industry, which Guernsey very quickly learned from.

Deputy E.J. Noel:

I completely disagree with Deputy Tadier there. The AvanchiCard system works well. It is a great way for Islanders to save money and to budget their spend. You can put up to as little as £10 on an AvanchiCard I believe. LibertyBus do cater for our visitors. They do have a separate range of AvanchiCard-like products for visitors to the Island, which are very attractive in their pricing and their flexibility.

4.4.5 Deputy M. Tadier:

I know that Avanchi is good and that is why I have one myself, not just because I am parsimonious when it comes to my own money. But given that it is such a good scheme that the Minister endorses would he make those cards available on the bus for purchase so that you can top up those cards when you get on the bus so that you do not have to pay a cash fare when your money gets too low?

Deputy E.J. Noel:

I believe that LibertyBus you can top up your AvanchiCard online or at the bus station itself. I believe that Liberty are looking at other ways for individuals to be able to top up their cards. But the beauty about it is that you still do get a receipt and that receipt tells you how much you have got left on your card, so most people have ample time to make sure that they have sufficient fares on their card to carry out their journey.

4.4.6 The Connétable of St. Helier:

I think Deputy Labey has raised an issue I wanted to raise, which is the problem encountered by someone who wants to stop their bus journey and make a visit, whether it is to a relation or perhaps to stop in St. Aubin on the way to the airport. I am encouraged to hear that he is going to look at the possibility of a ticket which will allow one to do just that, to hop on and hop off a bus. Would he also pass on for me, and I think many bus users, our thanks to LibertyBus for the improvements they have made in their services around the Island?

Deputy E.J. Noel:

I most certainly will do both those things.

4.5 Deputy A.D. Lewis of St. Helier of the Minister for Treasury and Resources regarding recent negotiations for the partial sale of JT:

Further to the breakdown of recent negotiations for the partial sale of J.T. (Jersey Telecom), would the Minister, as shareholder representative, advise what plans, if any, are being considered for the future full or part sale of J.T.?

Senator A.J.H. Maclean (The Minister for Treasury and Resources):

I am making a statement with regards to J.T. later today where I will be updating Members on matters that are relevant to this question. In the interests of time I hope that the Deputy and other Members will find this acceptable. The Deputy has also been updated through the process so he has more knowledge than quite a number of Members but, as I say, I am making a statement later on today, hopefully before lunch.

4.5.1 Deputy A.D. Lewis:

In correspondence with the Public Accounts Committee on 9th March the Minister stated there is a lack of clear policy for shareholder objectives for many state-owned companies such as J.T. In fact, the Minister went on to say that this is currently creating a vacuum which needs to be resolved. Can he explain what he has done to resolve this?

Senator A.J.H. Maclean:

Yes, first of all these matters are, to a greater extent, cross-departmental. What I can tell the Deputy, and which I was going to allude to in the later statement, is that the Chief Minister's Department, which has responsibility, among other things, for regulation, is also currently in the process of developing a telecommunications policy in line with Oxera's report. That particular report, Jersey's regulatory and competition framework review, was completed in November of last year. Only when the outcome of that has been agreed would any resulting decisions on the sales of shareholdings, in this case relevant to J.T., be taken forward. I will detail more of that when I give my statement later.

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

Because we do have a chance to ask questions and then questions after the statement, I hope this question is in order. Could the Minister tell me where I could go anywhere and find a document that tells me the reasons or the benefits for keeping J.T., selling J.T., part J.T., because I think States Members would need to read this document in conjunction with some other information the Minister may have?

Senator A.J.H. Maclean:

Of course the question is in order and it is a very good question. I will be alluding to it again in the statement later on. Work has been undertaken since my previous statement in relation to the merger with J.T. and work by Oxera, that I have just referred to, and others, have looked into issues similar to the ones that the Deputy has just mentioned - both Deputies I may say - all of which are particularly relevant to the future part or complete sale of J.T., should indeed this Assembly agree that particular move in the future. I have also stated previously, and will again affirm it in the statement, that ultimately a sale of part or all of J.T. is a matter for this Assembly.

4.5.3 Deputy J.A. Martin:

And that document is obtainable to all States Members for me to read; that was my question?

Senator A.J.H. Maclean:

Not at this particular point, no. But the information clearly, if we get to a point where a sale is being considered for part or all, relevant information would need to be made available to all States Members to be able to properly consider such a proposal.

4.5.4 Deputy M. Tadier:

Would the Minister state whether he thinks that J.T. is a failing business or a successful business? If it is the latter, why is it that we are seeking to sell a successful business which is bringing tax revenues into the States?

Senator A.J.H. Maclean:

I think that J.T. is a very successful business that all Members of this Assembly and the Island should be very proud of. Since incorporation we have seen it more than double its turnover, 2½ times increase in turnover, profitability. We have seen it diversify its business model; more than 50 per cent of profits now come from outside of Jersey. All of these factors are critically important to the Island. The second part of the Deputy's question is if we have got such a good business why would we

consider selling it? That is fundamental to the earlier Deputy's question about the reason why we might consider selling an investment. Quite simply it is concentration ... well, a number of factors but concentration of risk is one element that Members might like to focus on at some point in the future. If we have an investment worth book value, just under £200 million, in real terms considerably more than that, would it be better to deploy that money and invest it more broadly and therefore divest ourselves of potentially some risk by having such a significant amount of money invested in a particular asset class? That is one of a number of considerations around selling part or all of an investment of this nature. I might also add that of course the debate into whether the States values the income from an asset such as that or capital growth, and this comes into the reason for holding the business. It is a big subject I am sure we will come back to.

4.5.5 Deputy M. Tadier:

Supplementary. It is not because we are facing a structural deficit which the Minister for Education in one of the hearings admitted last week, and it is not because we are trying to sell the family silver because the current Minister for Treasury and Resources and previous Ministers have raided every possible pot to try and make ends meet before acknowledging that their tax and spend model is completely and utterly broken?

Senator A.J.H. Maclean:

No, that is completely and utterly untrue. What we are simply seeking to do is looking at assets such as J.T. and saying if we were to consider selling part or all could we better deploy the funds that would result from such a sale and I would suggest to Members, and I have said this previously on public record, that I believe that such funds from a potential sale would be deployed into the Strategic Reserve. That would be the appropriate place to put it. It would then, of course, be in a position where it could be professionally invested far more broadly than a single asset class. That is what the matter is all about and one which I am sure Members will have an opportunity to consider further in due course.

The Deputy Bailiff:

I have a number of Members wishing to ask questions. Could I just remind Members that there is going to be a statement made by the Minister on this subject later and there will be 15 minutes of questioning?

4.5.6 Deputy G.P. Southern:

Carry on with questions in question time anyway. Is it not the case that it is not a central issue of the sale or non-sale of J.T., it is getting our competition law right and getting C.I.C.R.A. (Channel Islands Competition Regulatory Authorities) to have enough teeth to put into actuality the fact that the competition is supposed to bring down prices? Should we not regulate better and get that right and then we would not need to talk about this sale or non-sale of J.T.?

Senator A.J.H. Maclean:

It could be looked at as being both. Yes, of course the regulatory side needs to be functioning efficiently and effectively, and there has been a review and a report on that, which States Members will have attended at the end of last year. There are changes afoot with regard to C.I.C.R.A., the regulator. But equally one might take the position that if the asset was going to be sold, one of the key issues, it is a strategic asset to the Island. The infrastructure is critical for consumers but also businesses, and we would need to be in a position that we have ensured and satisfied ourselves that we have protected the public interest in that regard. Without an effective regulator I would suggest that the ability to do that would be severely compromised. So in answer to the Deputy's question, it is potentially both.

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

Just to follow on from the answer that the Minister gave to Deputy Martin. He said on the Oxera report he would share the relevant information. When we have got the report that has been done surely all the information is relevant in the Oxera report or are we just going to get the bits that support what the Minister wants to do rather than anything that does not support it?

Senator A.J.H. Maclean:

Conspiracy theories abound clearly. What I was referring to was the Oxera report is just one report and there are other relevant pieces of information that Members would need to have if they were going to make a consideration of a potential part or full sale. All information that can be released will be released. All information will be made available to the necessary panels and Scrutiny Panels, and I might add that I have done my best to ensure that both the P.A.C. (Public Accounts Committee), the P.A.C. Chairman, and indeed Corporate Services, have been updated through this recent process and will continue to be so as we move forward. There is some commercially sensitive information relating to other parties, other businesses. Of course that needs to be taken into consideration.

4.5.8 Deputy A.D. Lewis

The Minister will be aware that Jersey Telecom is one of the few, in fact I only know of one other phone company that is owned by a government. He will also be aware that the C. and A.G.'s (Comptroller and Auditor General) report, which I think is probably one of the reports he was referring to, she did state in her report, or ask in recommendation 1, whether the States wish to continue to own J.T. in whole or in part and to articulate clearly all the objectives of ownership. In other words, decide as to whether this is something we should own or not. Has the Minister given this full consideration when it has been some 2 years now since that report was written? Does he not feel now this is a matter of urgency to decide as to whether this asset is something which we should continue to own and why?

Senator A.J.H. Maclean:

Absolutely, and that is exactly what we have been doing. I have to say that the merger process that has been undertaken has been a focus for not just the Treasury Department but, as I mentioned earlier, other departments that are involved in the decision making for a matter such as this.

The Deputy Bailiff:

Question 6 has been withdrawn and that brings us to question 7.

4.6 Deputy S.Y. Mézec of the Minister for Infrastructure regarding ongoing negotiations with employee representatives:

Following the announcement that Infrastructure workers have voted in favour of strike action in response to the way that the negotiations to outsource their jobs have been carried out, will the Minister agree to hold urgent face-to-face meetings with employee representatives?

Deputy E.J. Noel (The Minister for Infrastructure):

First, it is helpful to remind the Deputy of what the specific outcome of the Unite ballot was, as advised to the employer. Unite advised the employer of the following ballot results. Of the 316 employees that were balloted 170 voted. Of the 170 who voted 89 voted in favour of taking strike action, 77 voted against taking strike action and 144 voted for taking action short of strike, which is approximately 45 per cent of those eligible to vote.

[10:15]

The position as the employer, which is the States Employment Board, is, and I quote: "We will continue to work closely with representatives of Unite concerning changes to the Department for

Infrastructure given the above results. It is our hope that the dialogue we have worked hard to establish will remain the preferred channel for negotiation.” The full-time Unite union official has contacted the States Employment Board and has agreed that this matter should be dealt with in line with the agreed States collective disputes procedure. This meeting will be held shortly. This matter is one for my officers and not appropriate that I get involved at this time given the agreed process with Unite and indeed with any union.

4.6.1 Deputy S.Y. Mézec:

If we are talking about vote results, let us just remind ourselves that the results of this ballot is a much greater margin than his own election to the States of Jersey and also the Council of Ministers as a whole, but I think that is irrelevant as was probably the point made before. My question now is what contingency plan does he have in the event of strike action occurring and the disruption it will cause?

Deputy E.J. Noel:

My department has a number of contingency plans depending on the type of industrial action taken, if indeed any industrial action is taken. But let us be assured that we will try and avoid industrial action where at all possible, which is why the process is going through the agreed States collective disputes procedure.

4.6.2 Deputy G.P. Southern:

A 3-parter, if I may. Will the Minister publish his possible contingencies and can he clarify to Members what numbers and what timescale he is now talking about for the outsourcing of the services concerned with this particular strike?

Deputy E.J. Noel:

Firstly, no, I will not publish those contingency measures for obvious reasons. The numbers, as Deputy Southern knows, are changing on a daily basis as we work with our staff to find alternatives to them having to undergo compulsory redundancy.

4.6.3 Deputy G.P. Southern:

Can the Minister clarify what he means by “the usual reasons”? Why is he keeping these secret?

Deputy E.J. Noel:

Because if you are going to have to put in contingency measures to counteract industrial action you do not let the unions know what those measures are because they could change their industrial action and scupper your contingencies, which are there to ensure that we continue to provide services to Islanders on a daily basis as required.

4.6.4 Deputy M. Tadier:

Is it because the contingencies may involve recruiting members from the private sector on a temporary basis or otherwise during strike action? Is that the risk? Is that the usual practice?

Deputy E.J. Noel:

I have already said I am not going to disclose what our contingency measures are.

4.6.5 Deputy M. Tadier:

I am sorry, I thought under the code for Ministers that Ministers were required to be open and transparent in their dealings, especially with the States. So could the Minister perhaps give an answer to that?

Deputy E.J. Noel:

I am quite willing to give an answer to that. I am being open and transparent but I am also ensuring that the services that I am tasked to provide Islanders continue to be provisioned.

The Deputy Bailiff:

Final supplementary, Deputy Mézec?

Deputy S.Y. Mézec:

No, Sir.

4.7 Deputy K.C. Lewis of St. Saviour of the Minister for Education regarding the loss to families caused by the withdrawal of 20 hours of free nursery care:

What action, if any, is the Minister taking to mitigate the loss to families caused by the withdrawal of 20 hours of free nursery care?

Deputy R.G. Bryans of St. Helier (The Minister for Education):

Thank you to the Deputy. If I could just grab your indulgence for a second. I would like to make a sort of public apology to all States Members and the public at large. I am deeply sorry that I was away from the Island at the time when my presence was necessary to answer concerns regarding the N.E.F. (Nursery Education Fund) Fund. I deeply regret that and a series of small miscommunications amounted to people believing that I was going to be on the Island when I was not. I am really truly sorry for that and I accept full responsibility. In answer to the Deputy's question, the important thing is the majority of places will still be free on the N.E.F. Fund. Means testing as a principle is right. It means the States funds have to be targeted to those who need it most. We gave notice of the problem or the proposal, I should say, as early as possible.

4.7.1 Deputy K.C. Lewis:

I thank the Minister for his reply. I think it is a well-known fact that there are many young families who are paying more for nursery care than they are for their mortgages. Will the Minister agree to take no action on nursery care fees until a complete cost benefit analysis has been undertaken with both parents and nurseries?

Deputy R.G. Bryans:

It is common knowledge, I think, that Scrutiny have a public meeting on Wednesday, which I will be attending, and then subsequent we have already agreed to meet with the private sector and parents. I received the petition, which we will go through and we will talk to everybody in receipt of this. The decision has still been made that we will be doing this, but the actual detail has yet to be finalised.

4.7.2 Deputy J.A.N. Le Fondré:

Could the Minister clarify why it would appear that a number of his ministerial colleagues are claiming that they were unaware of the changes until the media release? Was this not properly discussed at the Council of Ministers before it was implemented?

Deputy R.G. Bryans:

I cannot answer for those because I do not know what the considerations were. It was certainly posted in all the documentation that we have concerning our workshops and it was placed as a news release sent to all Ministers a week prior to the release going out. So I cannot answer on behalf of my Ministers.

4.7.3 Deputy M. Tadier:

Would the Minister confirm if during his time, I presume it was a holiday in Cuba while all this was going on, whether he learnt anything about their education system given that they have got one of the highest, if not the highest, literacy rates in the world? In particular, did he learn anything about their model of nursery care in Cuba that he might be able to apply back here in Jersey?

Deputy R.G. Bryans:

Thank you, Deputy. I wish I could say yes. It was my intention to visit a couple of schools round there, but unfortunately I was ill when I first arrived and the first 2 opportunities to do that disappeared. In reply to your 2 questions, the answer has been no on both parts.

4.7.4 Deputy S.Y. Mézec:

In his answer to the first question he said, and I quote: “The principle of means testing is right.” Given that the 2009 business plan for education amendment, which established the 20 free hours in the first place said: “The principle of means testing in nursery education is wrong because non-means testing provides the broadest learning opportunities for those children and takes away the stigma from children from poorer backgrounds in nursery”, would he agree that the principle of means testing is wrong?

Deputy R.G. Bryans:

No, I would not. This is a really important part of what we are doing. This is making sure that those who can afford nursery care will do so in the future. For those who cannot, the vulnerable will still be protected. What we are doing with the funds that we save from this particular situation will be redirected to special educational needs and pupil premium, which is what we targeted to help those more vulnerable pupils.

4.7.5 Deputy S.Y. Mézec:

Supplementary, if I can? Does he accept, then, that moving away from this principle of providing the broadest learning opportunities for children, and taking away the stigma attached to children from poorer backgrounds, is a step backwards from acting in the best interests of those children and would he accept that this is simply about saving money and not acting in the best interests of those children?

Deputy R.G. Bryans:

No, I would not. We are not here as a principle behind the proposal. It is not about stigmatisation at all. It is making sure that those people who can afford nursery care, as I say, are going to pay for it. For those who cannot, they will still be covered and we are redirecting the money to those principal children who need it most. That is where we are working from, from this position.

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

If the Minister believes that means testing is the right way forward, can he explain why that in his proposals this only applies to families with children in private nurseries and not to those families earning £75,000 or over in States nurseries? Surely this proposal is entirely unfair if the Minister believes that means testing is the way forward.

Deputy R.G. Bryans:

I think the Deputy has a very good point. In fact this is part of the detail that we have to work out over the next 6 months. In consideration of his question, I think we will have to reconsider the situation, the differences between the States and the private sector.

4.7.7 Deputy J.A. Martin:

In the previous answer the Minister said of course he is going to consult and he wants to hear what the nurseries and parents have said. But we have already made a decision, so which is it, please?

Deputy R.G. Bryans:

Thank you, Deputy. Yes, we have made the decision about the actual route that we are taking, but the actual detail of that decision has yet to be worked out in consultation with the private sector and the parents.

4.7.8 Deputy J.A. Martin:

And that will be brought back to the States for a decision?

Deputy R.G. Bryans:

I think Deputy Southern has a question about that regarding the debate for the States, but that is part of the M.T.F.P. (Medium Term Financial Plan).

4.7.9 Deputy G.P. Southern:

The Minister quoted and stating that this has no impact and no relation to the 1,001 Days initiative. How can he justify that when 1,001 Days takes a child to the age of 2, approximately?

Deputy R.G. Bryans:

The 1,001 Days is again ... I am glad the Deputy has raised this issue, relates directly to the more vulnerable members of our society. It is designed to, in terms of special educational needs and the pupil premium, are those 2 elements that we have decided to focus on when reducing the savings from this particular proposal. He is quite right that the Early Years and the 1,001 Days takes us up to the age of 2, and it is also worth mentioning that the consideration that we have for this proposal will only be one year within those 2 years.

4.7.10 Deputy G.P. Southern:

Supplementary, if I may? The Minister surely, does he not agree, he has got the wrong end of the stick on this? The initiative of 1,001 Days applied across the board to give all young people the best possible start in Jersey because we can afford it. Does he not consider that is a principle that underpins 1,001 Days?

Deputy R.G. Bryans:

Yes. I am part of the taskforce that is related to the 1,001 Days so I am fully aware of what the 1,001 Days and the Early Years taskforce is focused on. I support exactly what he is trying to say, but this is why we are trying to redirect the funds from those who can afford it to those who cannot.

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

The Minister stated that this decision was an outcome of the Nursery Education Funding, so can he explain if this is about savings, and purely savings, roughly £250,000, why is it that the Council of Ministers agreed to increase childcare tax relief by £2,000, costing the States £100,000 in revenue, and bearing in mind that the threshold of £75,000 under the criteria for childcare tax relief you would have to be a married couple with a mortgage and a child under 16 and earning £106,000 in order to claim that childcare tax relief. So can the Minister explain how joined up this Council of Ministers is with regards to childcare? **[Approbation]**

Deputy R.G. Bryans:

The Deputy once again has excelled at providing figures in this particular area. I would have to get back into the detail to have a look at what it is she is talking about. But, yes, we have looked at all

these particular areas and we have had those discussions around the Council of Ministers. But the decision in this particular case is more about making sure that we have got, as I have already said, a position where we have got a rising demographic, so we have got more nursery care and more provision being asked for, and that situation was unsustainable. So that was the particular driver for that. If we wanted to get into the detail I would have to come back to the Deputy on that.

4.7.12 The Deputy of St. John:

If the Minister believes that £75,000 is an appropriate threshold for this particular Nursery Education Funding, what will he be doing to urge the Minister for Treasury and Resources to resolve the marginal relief tax system?

Deputy R.G. Bryans:

The Minister for Treasury and Resources and myself have had several discussions around this particular area. As I say, we are looking at the £75,000, we are going back into the discussions with the private sector and the parents to make sure this is the correct figure. We wanted to get this information out as quickly as possible so the parents had the opportunity to come back and discuss it with us. So the discussions in relation to that particular figure are ongoing.

4.7.13 Deputy A.D. Lewis:

I have been contacted by a number of constituents on this matter and they are, frankly, confused. The understanding of them is that nursery care in the state sector was set up in order to meet educational needs. In other words, provide people with an early start at 3½, and that I believe was a States policy. The subsidy in the private sector was to enable more places to be provided because the States simply were not providing enough places. Is the Minister still committed to providing preschool education from 3½?

Deputy R.G. Bryans:

Yes, which is in fact why we are increasing the number of nurseries within the state schools. So we are putting in 3 new nurseries into Springfield, Trinity and St. Mary. So we are still focused on providing that provision.

4.7.14 Deputy A.D. Lewis:

Surely that is going to cost more than subsidising the private sector?

Deputy R.G. Bryans:

No, it is not. We have done the figures on this and I can provide the information for the Deputy.

[10:30]

4.7.15 Connétable J. Gallichan of St. Mary:

Most of the points I wanted to raise have been raised in excellent questions by Deputy Maçon and the Deputy of St. John, but I would just like to ask the Minister: does he understand the climate of the feeling of inequality that prevailed at the time that the Education and Home Affairs Scrutiny Panel in 2008 produced their Early Years report, and that was specifically addressed by the equality of provision. Does he not consider this as a retrograde step and will re-engender the feeling of inequality that existed there?

Deputy R.G. Bryans:

Yes, the Connétable got in touch with me and asked me to look at that. I have not had a chance to do so and I understand why this was brought in, in the first place. I thank her for that. This is bad news. It is not good news at all. I am not trying to dress it up. I am trying to be as open and honest as I

possibly can about it. It is very difficult. We live in difficult times. All I can say, the discussions will still go on. I understand the ... I do not feel it is a retrograde step in that sort of context. But I do feel it is something that we need to really pay a little more attention to as we go forward over the next 6 months.

4.7.16 The Connétable of St. Mary:

The Minister said several times today that this is not good news and it is going to happen. But in setting the bar at £75,000, has he really considered, for a young family with perhaps another child costing perhaps £9,000 in childcare, who is before the nursery age, a mortgage, pension provisions that we have talked about at length this morning, does he not understand that, although it seems like a huge amount of money, for a homeowner and in this economy, in this Island, it is not, and that we should be looking at people who have spare capacity, not those people who are struggling, to make sure that they do not need help and assistance from the State at some other time in their lives.

Deputy R.G. Bryans:

As usual, the Connétable articulates her point very well. I am acutely aware ... I think it is public knowledge that I have a daughter and a granddaughter in exactly the situation that she describes, so I am acutely aware of that situation. Like I say, as she said at the tail-end of her point there, that is what we are trying to do, we are trying to make sure that those who can afford it will pay for it, those who cannot will not.

4.7.17 Senator Z.A. Cameron:

This policy does not seem to fit, for me, with the Council of Ministers' 1,001 Days policy on maximising the brain development in the early years. It is my understanding that there is plenty of evidence from the U.K. and the rest of Europe that targeted means-tested nursery provision that limits the diversity of that provision has not been effective in maximising brain development in these years, compared to universal provision. A pound spent on education at this time ...

The Deputy Bailiff:

Senator, it has to be a question. It is perfectly permissible to set up the question by reference to one or 2 of your understandings, I think, but to list detailed information and then expect the Minister to comment on it is really not the function of Question Time.

Senator Z.A. Cameron:

I would just like to hear from him the evidence to the contrary that justifies this thing that will not benefit our economy in the future by maximising the chances of the children in Jersey.

Deputy R.G. Bryans:

As the Bailiff has directed, I cannot answer specifically related to the question regarding what is happening in the U.K., but this is a difficult situation for us where we find ourselves. It is, in relation to what we set out in our principles with regard to education, to provide, as much as we can, access to early nursery provision and early years teaching. Again, I go back to this is why we are opening up the 3 nurseries in the States provision. The reason for that, and this goes back some time, this is not just something we have decided on recently, it goes back to the last administration, all schools have looked for nursery provision, we only had 5 that did not have it, so we are putting 3 of those back in. Unfortunately that leaves 2 left, which I think is St. Luke's and Les Landes. Schools feel this is a necessary thing; we want to accommodate that, we want to balance it with what the private sector are doing.

4.7.18 Deputy K.C. Lewis:

I am not sure, I do believe that the Minister is aware of the climate of fear among young parents at the moment. My final supplementary was touched upon by Deputy Martin but I would like some clarification. The Minister said that the decision has been made, but there are meetings coming up with both Scrutiny and indeed parents. Just exactly how much room for manoeuvre is there?

Deputy R.G. Bryans:

There is room for manoeuvre and we have already looked at it since I came back and we have gone through the information that we have already been provided. There will be room for manoeuvre, but I need to sit down and listen to what parents have to say so, as I say, I will be attending the Scrutiny meeting on Wednesday, and then we will be setting up a meeting post that situation to explain where we are and what the information is that we have accrued and where the decision or where the wiggle room is as the case, as Deputy Lewis has asked, where we have got some space for manoeuvre.

Senator I.J. Gorst:

Sir, could I reiterate the request I made earlier in the sitting, please?

The Deputy Bailiff:

Deputy, the point I think made by the Chief Minister is that he wishes Senator Ozouf to answer the question and Senator Ozouf is not present in the Chamber.

Deputy G.P. Southern:

He is not here, Sir, and it is my turn. I think Standing Orders are fairly clear on that. We have a Minister here and we have a questioner here, so why can we not proceed?

Senator I.J. Gorst:

I was endeavouring to be helpful; I will be making a statement on these matters later in the sitting. The Assistant Chief Minister has delegated responsibility for it. The questioner did not ask that it was specifically taken by the Minister because I double-checked that, but of course I am prepared to answer if that is the wish of the questioner.

The Deputy Bailiff:

I think it clearly is the wish of the questioner, Chief Minister. Standing Order 13(3)(a) provides that a questioner may, when giving notice of the question, indicate the questioner wishes to have the question answered by the Member to whom it was addressed. Now that notice was not given specifically on this occasion, so in theory it would be possible for Senator Ozouf to answer the question on your behalf. However, we have reached the point where the question has been called and Senator Ozouf is not here to answer it, and therefore I think the correct interpretation of Standing Orders is it falls to be answered by you, Chief Minister. **[Approbation]**

4.8 Deputy G.P. Southern of the Chief Minister regarding the registration of financial services companies based in Jersey:

What steps, if any, will the Chief Minister take to ensure that all financial services companies based in Jersey are registered in the Island rather than in Panama, the British Virgin Islands and similar jurisdictions, to ensure that they are all subject to the stringent regulation, which we are so proud of, of the Jersey Financial Services Commission?

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

All financial services businesses based in Jersey that carry out regulated financial services activity are regulated by the Jersey Financial Services Commission, regardless of where they are registered. Regulated activities include deposit taking, provision of investment advice and services, insurance,

money services business, and the management and administration of trusts, foundations and companies. These activities are provided through banks, investment managers, fund managers and administrators, together with trust and corporate services providers.

4.8.1 Deputy G.P. Southern:

Could the Minister suggest why a company registered here, such as Credit Suisse or Coutts Jersey, should suggest to its clients that they should register companies in Panama or the British Virgin Islands when we are a financial services institution with the best regulation in the world; why should they advise someone to go to a less well-regulated jurisdiction? If he cannot say why that might occur, can he ask the J.F.S.C. (Jersey Financial Services Commission) and see if they have a reason?

Senator I.J. Gorst:

There could be any number of reasons. I am not a financial adviser and it would not be right for me to start second-guessing why, for any particular individual client or structure, it depends where the asset is situ that they might be putting into that company, it depends on where they are raising capital for the venture they might wish to invest in, it depends on where they might wish to invest that, it depends where the investors might be resident, there are any number of reasons why an individual financial services firm might recommend a particular jurisdiction. We are in a competitive market place and we do our best to ensure that people want to come and use Jersey, even if instruments are registered elsewhere because of the quality of our regulation.

4.8.2 Deputy G.P. Southern:

So, will he answer the second part, which was: will he ask J.F.S.C. to investigate in order to come to us with some explanations?

Senator I.J. Gorst:

The Deputy is asking me about what could be a thousand myriad different situations on why advice might be provided by a financial institution to a particular client or group of clients, it is just not feasible. So once again, I am afraid, it shows that the Deputy appears to misunderstand totally how financial services operate.

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

Does the Chief Minister think it is right, following on from Deputy Southern's question, that Jersey institutions would be party to setting up shell companies in the likes of Panama and elsewhere, and also companies, which use bearer shares, which, once the bearer shares have been transferred, there is no notice of who owns those shares? So there are devices being used elsewhere, which we would not, but would he accept, or think it proper, that Jersey firms give that advice to clients and help them do that?

Senator I.J. Gorst:

The Deputy is making assumptions that advice is being issued by Jersey firms to their clients and I currently do not see evidence of that. We know that, in the past, practices have taken place that do not meet the current international standards, and we are very strong on ensuring that people who operate in Jersey, and have set up a financial services company in Jersey, meet the very highest standards when it comes to regulation. Back in 2012, and again in 2014, I made it very clear, and in fact was one of the first individuals to do so, to say that Jersey does not want its companies to be involved in encouraging or operating abusive or aggressive tax schemes. Others now are starting to follow our lead.

4.8.4 Deputy M.R. Higgins:

The Chief Minister is saying that our industry is following all the rules, *et cetera*. But is not the truth of the matter that we are always on the back foot because we do not know what every single firm is doing and every type of device or company structure that they are using, and the only time we find out is when it is being revealed in the press or whatever. The Minister cannot give those assurances because he does not know that every single company is playing ball. Is that not the case?

Senator I.J. Gorst:

The Deputy wishes us to live, I am not sure what the term of the land is, but the accusation that he makes against financial services is the same accusation that one could make about any given sector anywhere in the world. One cannot know 100 per cent what every single individual, just as I do not know what every States Member does in their spare time. But what I do know is that we have a first class regulator, that we have signed agreements, which will supply information automatically with countries around the world, so that, if there is a concern that something is amiss, it can be dealt with firmly and strongly and appropriately, so that our institutions and Jersey is not used for tax evasion, for money laundering, and for the financing of terrorism and crime. That is the international standard and that is the best approach and that is an approach that we can be proud that we are at the forefront of.

4.8.5 Deputy J.A.N. Le Fondré:

I think the Minister has probably answered it, but just to clarify, can the Chief Minister confirm that, in any event, the administration and services provided in Jersey in relation to such entities will be covered and subject to our stringent and high-quality regulations?

Senator I.J. Gorst:

I thank the Deputy for his question. He has practised in this area and therefore he knows, as I said in my opening answer, that the answer to his question is a very firm and strong yes, and that is the internationally adopted approach, it is the best approach, and we meet it to the highest standards.

4.8.6 Deputy M. Tadier:

The Chief Minister has talked about many jurisdictions following Jersey's example, but will the Chief Minister follow the example set by the U.K. Prime Minister and set up and fund an investigation by the J.F.S.C., the Financial Crimes Unit and the Comptroller of Tax, into any possible instances of aggressive tax avoidance and evasion by the use of Panama-registered companies by Jersey-registered companies?

[10:45]

Senator I.J. Gorst:

Of course we are taking notice of information that might come into the public domain that might have reference to Jersey operations and appropriate action and investigation will be undertaken by the appropriate authorities. But I just remind the Deputy, as I reminded Deputy Higgins back in 2012, and then again in 2014, I spoke very clearly about not wanting Jersey to be used for aggressive and abusive tax avoidance and tax evasion. Since then, Jersey Finance has issued a best practice document to the finance industry professionals, making that clear. The financial regulator looks for evidence of tax schemes being administered when undertaking on-site examinations. The Housing and Work Advisory Panel take into consideration these matters prior to issuing new licences. So we are at the forefront, contrary to what the Deputy tries to suggest.

4.8.7 Deputy M. Tadier:

There is no suggestion, but I think a similar statement could, and is, and has, been made by the U.K. Prime Minister when he set up this investigation. He is not saying that everything in the City of

London is toxic or corrupt; he is saying that they also have mechanisms, but because their reputation is important he is willing to spend money on such a critical industry to the U.K. and London economy to make sure that the world knows it is squeaky clean. Will the Chief Minister perhaps not take a leaf out of the book of his U.K. counterpart?

Senator I.J. Gorst:

We have already taken the lead. The fact that the Deputy does not understand the lead that we have taken in this regard to tax evasion and tax avoidance is disappointing. So perhaps it is for others to put in place the structures and the process that we already have put in place, particularly when it comes to aggressive and abusive tax avoidance. But we will of course continue to work with the United Kingdom Government to ensure that institutions and structures in Jersey are not used in such a way that would undermine the law of the United Kingdom.

4.8.8 The Connétable of St. Mary:

Does the Chief Minister not agree that the regimes that we have in place and the regulations we have in place and the onerous responsibilities that are placed on individuals working in our finance industry, who become personally liable in some cases, and in other cases, when the financial regulator may give notice about their suitability to continue working and practising in the finance industry, that the matter is becoming almost self-policing? Do you not consider that this is a huge hurdle that anyone wishing to do unscrupulous business in the Island would have to bear in mind and would have to overcome, and does he not feel that this really adds to our own self-regulation?

Senator I.J. Gorst:

I thank the Connétable for her question. She is absolutely right. Tax evasion has been a criminal offence in Jersey for many years, others now are catching up. It is about time some Members of this Assembly, rather than being critical and being fed information by our detractors, they understood what happened in our financial services sector and started telling the world the truth of the matter that we are leading and that others should consider following us. Individuals operating in this sector are personally liable if they get something wrong, in such a way that they are not elsewhere, in such a way that we see the United Kingdom Prime Minister suggesting might be a step he is going to take or they are going to take in the United Kingdom, arising out of the so-called Panama papers. We have been doing that for years.

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

With the transparency agreements that Jersey is entering, can the Chief Minister assure us that we have access to local residents' income outside the Island and that we are, therefore, taxing the incomes that are made outside this Island and are due for tax payment in the Island? In other words ...

The Deputy Bailiff:

I am sorry, Connétable, that question is far too off-beam from the original question. I do not allow it as a supplementary. Final supplementary, Deputy Southern.

4.8.10 Deputy G.P. Southern:

It could be a written next time. Follow it up. I do admire the Chief Minister's passion, and his words, but I am looking for action here. I turn a page on ... if you do not mind I will ask the question, if I may. **[Laughter]** I am turning the page on the U.K. Prime Minister's book of possible actions that he could take. The U.K. Prime Minister has allowed the publication of his tax assessments. Will the Chief Minister discuss the strengthening of the Ministerial Declaration of Interests with P.P.C. (Privileges and Procedures Committee) in order to show that Ministers are above board?

Senator I.J. Gorst:

For the benefit of the Deputy, I am pleased to confirm that all my income arising arises offshore, because Jersey is considered to be offshore. Of course Ministers will consider whether there needs to be a strengthening of declarations and how that is declared, but let us remind ourselves that, unlike any other place in the world, Jersey pays every single States Member exactly the same and therefore it would be income arising outside of their States salary that would need to be considered, but assets and income should already be declared in their declaration of interests, which is lodged with the Greffe and is available for public scrutiny. But of course we will consider whether that needs to be strengthened or not.

The Deputy Bailiff:

Question 10 falls away because Deputy Rondel is *malade*.

4.9 Deputy M. Tadier of the Minister for Home Affairs regarding harm reduction as the key focus of Jersey's drugs policy:

Does the Minister consider that the primary focus of Jersey's drugs policy should be harm reduction and, if so, what action, if any, is being taken in this regard in the Island?

The Connétable of St. Lawrence (Assistant Minister for Home Affairs - rapporteur):

I thank the Deputy for his question and interestingly the primary focus of the present substance misuse strategy, which is one of the 3 priorities of the Building a Safer Society Strategy, is in fact harm reduction. Action is being taken in a number of areas in order to ensure that Jersey's drugs policy results in harm reduction. For example, the Alcohol and Drugs Service ensure that young drug users who come into police custody, or before Parish Hall Enquiry, have access to treatment and support before they come into contact with the courts. Substance misuse education is a condition for all young people on a probation order. Drug awareness programmes are available for young offenders at the prison. The Prison Me No Way services, the police, customs, and the prison, conduct joint programmes for secondary school parents focusing on new psychoactive substances. Of course our law enforcement agencies will rigorously investigate offences involving all types of controlled drugs, but with a particular emphasis on Class A, as these are judged to pose the biggest risk to Islanders. The Building a Safer Society ...

The Deputy Bailiff:

Connétable, if you could bring your answer to a conclusion please ...

The Connétable of St. Lawrence:

Yes, I have done.

The Deputy Bailiff:

... you are well over the one minute 30 seconds that we would generally allow.

4.9.1 Deputy M. Tadier:

Notwithstanding what the Minister has said about much of the good work that goes on in this area, does she not agree that there is a risk that in her department specifically, and I am particularly referring to written answer 13 given today where 665 individuals have been arrested by the police for cannabis possession in the last 5 years, that far too much money and energy gets spent on what is a relatively - and I stress the word and use it advisedly - relatively less harmful drug compared to other legal and illegal drugs that we have in our society, and not enough money is spent on tackling issues where that money could otherwise be used in prevention or education?

The Connétable of St. Lawrence:

I would disagree with the Deputy. I have just given examples of where money is being spent advisedly and in fact if the Deputy looks at the recent stats report, there is clear evidence there of how the strategy to reduce the harm caused by substance misuse is working. Of course, the decision, and I think the Deputy is veering towards asking whether cannabis and cannabis products should be legalised, the decision was made by the Assembly recently that it would not support that legalisation. The decision regarding the drugs that are classed as illegal is made by the Minister for Health and Social Services based on the advice of the Jersey Misuse of Drugs Advisory Council.

4.9.2 Deputy M. Tadier:

I think the point is that I do not think that many of the statements that I and the Minister have made today have been mutually exclusive; I would like to think that we are coming from the same direction, which is harm reduction. I am disappointed that a breakdown of costs that it costs to police cannabis in particular in the different domains of police, customs, court times and prison accommodation, could not be afforded, because my point that I am putting forward is that money, which will not be insignificant ...

The Deputy Bailiff:

Deputy, could you bring this to a question please?

Deputy M. Tadier:

Yes. My point, and I am asking if the Minister, and the Assistant Minister in this case, would agree is that the very vast amount of money that is spent on dealing with this particular drug, which is relatively less harmful than many other drugs, including cannabis and so-called legal highs, could be spent much more effectively to supplement the already good work that is going on in her department. Would she consider that and take that forward for discussion with her Minister?

The Connétable of St. Lawrence:

Yes, I am happy to take that forward and discuss it with my Minister. However, I would reiterate that of course the law enforcement agencies are required to undertake their work and cannabis at the moment is an illegal substance.

4.10 Deputy R. Labey of the Minister for Infrastructure regarding the Island's legal limit of 250 watts power output for electric bikes:

Does the Minister consider that the ... I am so sorry, that is not my question. **[Laughter]** I am sorry, I will read that again. Is the Minister satisfied that the Island's legal limit of 250 watts power output is keeping pace with developments in the manufacture of electric bikes?

Deputy E.J. Noel (The Minister for Infrastructure):

I and my department are fully supportive of electric bikes, so much so that we are working with local suppliers to launch a scheme in the coming months to support and promote their usage as an attractive alternative to using the car. There continues to be rapid change in technology and it is important that appropriate regulation governing the use of these vehicles is kept under constant review and remains fit for purpose, something in fact that we are already doing. However, we also need to act responsibly. With regard to speed class machines, which have a continuous power output of over 250 watts and a top speed of up to 28 miles per hour, we believe that, at this time, it is appropriate to continue to categorise them as low-performance mopeds, or, depending on the motor rating, as conventional mopeds, which require type approval. This classification requires the compulsory wearing of a helmet, insurance, driving licence, and age limit, as well as, in some cases, number plates. This is

entirely consistent with both the U.K. and the E.U. (European Union) position and will, of course, remain under review. When our electric bike scheme is in fact introduced, hopefully prior to the summer recess, I would like to invite the Deputy to take part in our pilot testing and our promotional events.

4.10.1 Deputy R. Labey:

I thank the Minister for that. So, if my 350 watt electric bike goes no faster than the Minister's 250 watt bike, but gets me up South Hill with greater ease, and I might even be able to overtake him on Mont Félard, is it not ridiculous that I cannot legally take my 350 watt bike on the road?

Deputy E.J. Noel:

You can legally take your 350 watt bike on the road, providing it is type approved and providing you have the appropriate insurance, helmets, *et cetera*, you are entitled to do so. What you are not allowed to do is to take it on a cycle path or a shared-use path, because these machines do travel at speeds greater than a normal electrically-assisted cycle, and experience elsewhere in the world, China, for example, is the largest market by an enormous amount for the electric cycles, and they are experiencing difficulties with increased injuries by the mixing of these 2 different types of vehicles.

[11:00]

The Deputy Bailiff:

Final supplementary. Very well.

Deputy M. Tadier:

I think there is a problem with you seeing my light today. I did have it on.

The Deputy Bailiff:

Yes. I apologise for that, Deputy. If you shined your light, for some reason I do not appear to ...

Deputy M. Tadier:

That is all right.

The Deputy Bailiff:

Sorry, did you have a question then?

4.10.2 Deputy M. Tadier:

Yes, sorry, I hope it is not too far away from the original, but it relates specifically to the matter of Segways. Could the Minister confirm whether, under Jersey Law, it is possible to have Segways on the road and, if not, does he agree that we could be missing a trick because these seem to be ideally suited for some of the transport needs and indeed some of the tourist needs that could potentially arise in our Island?

Deputy E.J. Noel:

It is my understanding that such machines are not allowed on our roads or indeed our cycle tracks and shared spaces with pedestrians. I am open minded, we can look at that again, but I do not believe that in other jurisdictions they are welcomed either.

4.10.3 Deputy M. Tadier:

I was not specifically talking about roads, but I have certainly been on holiday and seen Segways being used perhaps in parks or in open areas where bicycles and pedestrians are. Could the Minister clarify that or confirm that he would give that some consideration?

Deputy E.J. Noel:

As I have already said, I do not believe it is currently allowable under our legislation but, as I said, I am open-minded, I am willing to look at it, and if it is deemed safe to do so then we may progress the matter further.

The Deputy Bailiff:

Did you then have a final supplementary, Deputy?

Deputy R. Labey:

No, Sir, no need to labour the point on this one, I think.

4.11 The Deputy of St. Ouen of the Minister for Health and Social Services regarding the timetable for lodging a proposition on the choice of a site for the new hospital:

Will the Minister set out his proposed timetable leading to the lodging of a proposition on the choice of a site for the new hospital?

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

We do not want to rush these things, do we? **[Laughter]** States Members will be aware that following the decision by the Council of Ministers to withdraw the People's Park site, that a period of reflection is underway in relation to the site selection for the future hospital. The Deputy and other States Members kindly attended a workshop organised as part of this period of reflection on 21st March and they will be aware now how complex the matter is and how difficult it is to resolve. But I was encouraged that so many Members accepted the need for significant investment in the new hospital and took part in that workshop. The further workshop is planned for 28th April for those Members who were unable to attend due to prior commitments, such as Scrutiny hearings, and then I will continue my discussions with fellow Ministers and draw up a new timetable based on that information.

4.11.1 The Deputy of St. Ouen:

How does the Minister respond to the degree of bewilderment on the part of Islanders who were urged to engage in an active consultation over 4 best options of which 3 still remain? What remains of that consultation and how long does the Minister need for further reflection?

Senator A.K.F. Green:

I need a bit longer. I said that I would engage with Back-Benchers, there seemed to be an element of goodwill following the withdrawal of the People's Park site, and I want to capitalise on that goodwill and work with the Back-Benchers who stated before that they were partially upset because they had not been involved in reaching that decision. With regard to the 3 other sites, the period of engagement that we did undertake, people were asking us, including States Members, to revisit some of the sites, not to carry out expensive reviews, or anything like that, but to revisit some of the sites to see whether it would be appropriate to look at them differently. I want to involve States Members in that work. We had an excellent workshop on 21st March; I want to involve the remaining States Members if they are able to attend on 28th April, and then I will come back. We are closer than we have ever been, I believe, to finding an acceptable solution.

4.11.2 Deputy M. Tadier:

Given that the Deputy of St. John has asked my question very eloquently ... St. Ouen; I think did I say St. John? Did not mean any offence. **[Laughter]**

The Deputy Bailiff:

I am sure no offence would be imputed, Deputy, in either direction, I am sure.

Deputy M. Tadier:

I know there is a Parish separating them, and that is probably for good reason. Is it that the only conclusion that the public can come to over the fact that we had 4 perfectly good options on the table that the Minister was so adamant that he wanted to consult on and that these have been now withdrawn is because the consultation was nothing other than a sham and they had an outcome which they already knew, and when they realised that they could not get the public on board with their single preferred option that it had to go back to the drawing board. Is that not the reasonable conclusion?

Senator A.K.F. Green:

No, and it was not that we could not get the public on board; I was not convinced that the States were prepared to see the People's Park considered by the public.

4.11.3 Deputy M. Tadier:

Does the Minister accept that they are not necessarily mutually exclusive, that States Members, including ones who are normally whipped very effectively by his Chief Minister, were not able to be whipped on this occasion because they were listening to the public for a change? Perhaps that is a piece of advice that the more general Council of Ministers could do with in their general policies going forward in the next couple of years.

Senator A.K.F. Green:

The Member is entitled to his views, but that is not one I share.

Deputy S.Y. Mézec:

My question was almost word for word the one that the Deputy of St. Ouen has asked.

4.11.4 Deputy J.M. Maçon:

Can the Minister confirm that, therefore, it is still his intention that we will have a decision on the new hospital site before the end of this year?

Senator A.K.F. Green:

Yes.

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

Can the Minister confirm that he is considering sites in the green zone?

Senator A.K.F. Green:

It is a possibility that I may consider sites in the green zone. I have yet to have the second workshop, as I said, to do with other States Members who may wish me to look at that, or they may wish me to look at other things.

4.11.6 The Deputy of St. Ouen:

Many of us, I am sure all of us, who attended the first workshop that the Minister arranged, were grateful for the explanation of the process involved but if, as the Minister has said, it is his intention to have a decision on the site by the end of the year, can he give us now a more detailed timetable that goes beyond 28th April; just 12 days' time?

Senator A.K.F. Green:

I have not had that workshop with the remaining States Members; when I have done that and I have had a chance to talk about it with the Council of Ministers then I will produce my timetable. This is

the biggest capital project the States has ever seen; if we take a little bit longer to get it right for the people of Jersey, then so be it.

4.12 Deputy A.D. Lewis of the Minister for Infrastructure regarding the valuation of the States property portfolio:

When was the last time that the States property portfolio was valued, in total or in part? Is a fully developed plan in place to maximise the value of the States property portfolio and, if not, why not?

Deputy E.J. Noel (The Minister for Infrastructure):

As the Deputy is no doubt aware in his role as Chair of the Public Accounts Committee, the public property portfolio is valued in accordance with the States of Jersey Financial and Reporting Manual, which follows international financial reporting standards. The requirement is to undertake a full valuation every 5 years and an interim valuation in the third year following a full valuation. Both types of valuation value all properties in the States portfolio. The interim valuation was carried out as at 31st December 2015 and the last full valuation was performed in 2012. There is no plan to seek to maximise the monetary value of the States property portfolio. The bulk of the portfolio is operational property, such as schools, the health estate, specialised buildings, for example the prison, this States building itself, and the Magistrate's Court are good examples. These properties are held to support services provided by States departments. The accounting or book value is of secondary importance to the properties being fit-for-purpose to deliver those services in an efficient, cost-effective manner. That said, J.P.H. (Jersey Property Holdings) seeks to maintain the portfolio in an appropriate condition within the budget available; however, the department does seek to achieve best value from the relatively small commercial portfolio which is rented to third parties. When properties become operationally redundant, or vacant, due consideration is given as to whether their disposal value could be enhanced by seeking prior development consent.

4.12.1 Deputy A.D. Lewis:

Could the Minister explain why in 2011 this advertisement was posted in the *Jersey Evening Post* inviting an expression of interest for a full asset valuation of the States properties? Was an independent valuer appointed or was it done internally?

Deputy E.J. Noel:

I cannot see that advert from here, but if the Deputy is referring to the tender process for the original valuation done in 2012, yes, that was carried out by independent valuers.

4.12.2 Deputy J.A.N. Le Fondré:

I would like to pick up on the second part of Deputy Andrew Lewis's question, which was about the maximisation of the States property portfolio, at the end of the day. Could the Minister confirm when the agreed States policy for the introduction of an internal charging mechanism for departments using property will be implemented? It has been in place as a policy for 10 years.

Deputy E.J. Noel:

Indeed, it has been a policy for 10 years. As my colleague from St. Lawrence knows from his former capacity as Assistant Minister for Treasury and Resources responsible for property, we are still waiting to implement that. What we are hoping is that it will be part of the office modernisation programme, which we hope to address shortly. We have a preferred site and we will be working with departments to ensure that it gets progressed in swift order, and hopefully with the first staff members moving in there into the latter part of 2018, early 2019.

4.12.3 Deputy J.A.N. Le Fondré:

So the Minister is confirming a charging mechanism will be part of the office modernisation strategy; could he confirm exactly when it will be implemented?

Deputy E.J. Noel:

What I said is that it will be considered as part of that.

4.12.4 Deputy R. Labey:

Could the Minister let us know how much the States property portfolio is insured for?

Deputy E.J. Noel:

I have not got those figures to hand because there is an element of self-insuring, because that is carried out by Treasury; it is more a question for the Minister for Treasury and Resources in terms of insurance value, but I can give an indication that the property portfolio, excluding those that are outside in ports and in our social housing, *et cetera*, comes to just under £800 million.

4.12.5 Deputy S.M. Wickenden:

I will just follow on from a question I asked in February, which is: I look still today and we have only got one business plan for 2016 from the Council of Ministers. I did request a couple of months ago that the business plans be put up for Infrastructure with the strategic plans for the property portfolio from Jersey Property Holdings; I was assured that would happen. Could I get a better timescale of when this may happen?

Deputy E.J. Noel:

At the time I gave the timescale that I would hopefully have the information for the Deputy and other States Members by June. That timetable has not changed.

4.12.6 Deputy A.D. Lewis:

Following on from Deputy Le Fondré's question: can the Minister confirm what incentives exist to use space efficiently in the States buildings? If I go back to 2005, in the proposition to set up Property Holdings lodged in 2005, there were a number of things that were stated here, and I wanted to know if the Minister feels that these things are now being achieved by Property Holdings. It said here that: "High levels of time are spent on delayed or aborted property initiatives." There was a: "Growing pool of unproductive and inefficient assets" and there was: "A slow and cumbersome decision-making on property disposals, development initiatives and excessive States involvement in property decision-making." All these things were the reason Property Holdings was set up to resolve. Does he believe any of those things have been resolved by setting up Jersey Property Holdings?

Deputy E.J. Noel:

Property Holdings can only work with its clients, and its clients in this respect are the various departments that occupy those operational buildings. Many of those buildings, certainly our schools, have a very high efficiency rate, particularly because we have a relatively new stock that are built to modified U.K. standards. But there is a great deal of the estate that is not fit-for-purpose; our hospital is the obvious example of that. Much of our office accommodation stock is not fit-for-purpose, which is exactly why we are bringing forward an office modernisation programme which does have criteria and space usage, and I encourage the Deputy, and in fact any other States Members, to come down to Property Holdings to receive a thorough briefing on what we are doing and what we aim to achieve in the coming months and, indeed, years.

4.13 Deputy G.P. Southern of the Minister for Education regarding consultation with stakeholders regarding the provision of nursery education:

Will the Minister explain to Members why he considers that it is: “Neither necessary nor appropriate”, his words, to bring his proposals on the provision of nursery education to the States for approval, and why there has been no consultation with stakeholders?

[11:15]

Deputy R.G. Bryans (The Minister for Education):

Thank you to the Deputy. First, the answer is quite simple: that this will be debated as part of the M.T.F.P. debate, so I felt it unnecessary to bring it to the Assembly until we had ironed out the detail, which leads me to the next part of his question. The first people we spoke to prior to the news release going out to the public, were the private nursery owners, and the Director provided, at that point in time, a full briefing.

4.13.1 Deputy G.P. Southern:

In the Minister’s own words, again, I believe that was not consultation, it was a briefing meeting in which the Minister and his officers explained what they intended to do. Is that not the case?

Deputy R.G. Bryans:

Yes, to some extent the Deputy is quite right. There was a document forwarded to me by a member of the public, which I had not seen before, which is quite interesting. It is a U.K. Government set of principles on consultations for 2016. I read it with some interest, and I would suggest if any Member wants to read it, I can send it on to them, but these principles move from A to K and principle B: “The consultation should have a purpose” and it says in the last sentence of that particular paragraph: “Do not ask questions about issues on which you already have a final view.” So in that context we have the issue that we are to make this cut, but what we have to do, and what we have said we will do, and I reiterate from what I was asked from the earlier question with Deputy Lewis, is still talk to those people who this affects most. So we will be talking to the private sector, we will be talking to those parents who are affected by this. I am attending the Scrutiny meeting on Wednesday and we will hold further meetings, which are already in the diary to some extent, and a further public consultation or meeting, within the next 6 months.

4.13.2 Deputy M. Tadier:

The Minister talked about not needing to bring this to the States for approval because, in fact, it would feature at some point in the M.T.F.P. and then that would be our chance to have a debate on it. Does he not agree that is not quite the same thing, because by the time it gets to the M.T.F.P. it would have to have been put in there by the Minister and his colleagues? Is the point not that many States Members, possibly a majority of States Members, do not even want this to go into the M.T.F.P. at all and so having a debate on it would be a chance for the States to impart their opinion to the Minister and give him a direction one way or the other, perhaps to implement a different cut or no cuts at all?

Deputy R.G. Bryans:

Thank you to the Deputy. I have said quite often in various answers to different questions relating to education, any States Member that has a consideration or a concern with anything that we are doing has the open opportunity to attend the department and speak to myself and my officers about this, and I would reiterate the same situation as I said before: I will be attending the Scrutiny meeting and I will be attending the other meeting, and any States Member who wishes to do so, as happened with the higher education funding consultation, can do so and speak to us in that way.

4.13.3 Deputy M. Tadier:

Does the Minister accept that there is a difference between us or the public coming to talk to the Minister about a decision that he has already made and having a proper debate with States Members to take their views on board, and the public for that matter, before he decides which policy to implement? Is there not a fundamental difference there?

Deputy R.G. Bryans:

There is a difference to some extent, but I think the important fact here is that those who this affects most are the people that we want to get to, to make sure we alleviate. I apologised before at the very beginning, I think there was a notion that there was a callous indifference by myself regarding this particular situation and, in fact, that was quite the reverse. I was wrong-footed, as I said before, by a series of miscommunications. So I was away from the Island at a point in time I should have been here and should have had the opportunity to speak to the public and speak to those people it concerns most. The important thing is that we sit down with the relevant people ... and I agree with the Deputy; I think there is an opportunity to talk to Assembly Members, but this will be there for the debate in the M.T.F.P.

4.13.4 The Deputy of Grouville:

Does the Minister not appreciate that this decision runs contrary to the Strategic Plan set out by the Council of Ministers in that it will discourage economic growth because parents, a parent, will decide to give up work because it is no longer financially viable, it will deplete tax returns and employers will be complaining that they can no longer get staff? Does he not appreciate it works contrary to their own strategic plan, his strategic aims?

Deputy R.G. Bryans:

I do not agree that it works contrary. It is one of those difficult decisions, as I have already said. The problem we have at the moment is the current scheme is not sustainable. More nurseries are joining in fee-paying schools, and we simply do not have the money to fund it in its current form. So this is one of the other drivers: that we have to address the needs of the more vulnerable members of our society, which again the money is being redirected to special educational needs and to Pupil Premium. So I agree that it is one of those difficulties; these are hard decisions that parents have to make, but we have made the decision.

4.13.5 Deputy J.A. Martin:

The Minister says this is difficult; I have heard it so many times, he is making difficult decisions. We are elected to make difficult decisions in this House, each and every one of us, and I am very, very annoyed that the Minister says we can discuss this under the M.T.F.P. It was rejected as an amendment when it was brought in and now he thinks an M.D. (Ministerial Decision) can carry this very, very unfair, very controversial vote that will disadvantage children into the future. Please reconsider; bring this for a debate to the House.

The Deputy Bailiff:

The question is, Deputy?

Deputy J.A. Martin:

Will he reconsider and bring this as a debate to the House? Sorry, Sir.

Deputy R.G. Bryans:

At this point in time, no; the consideration is as we made it in the first place. Our role as Ministers, and I understand where the Deputy is coming from with regard to each Member making difficult decisions, but Ministers make decisions and then Scrutiny scrutinise those decisions, and that is what

has come out of this matter at this point in time. So, as I said, we have set course, we are going to meet with all of those people that this concerns and see if we can resolve some of the issues that have been brought about.

4.13.6 Deputy J.M. Maçon:

Going back to the beginning of today when the Minister apologises, taking a Deputy Le Hérissier moment, what lessons have been learnt and what will be done differently in the future when delivering bad news?

Deputy R.G. Bryans:

The apology relates to the fact I was away at a time when I should have been here, not in relation to delivering bad news. There are lessons to be learnt. One of the things I am really fortunate about having such a great department is we sit down and we learn from these experiences. We have a meeting tabled for tomorrow to go through what was happening, what we did right and what we did wrong, and there are great learning points to be taken from this. This is, as I said before, and I know Deputy Martin accepts that we reiterate this mantra that this is a difficult decision, but it is a difficult decision. Why? Because it is very emotional and it seems to focus on people who are making decisions, as Deputy Labey says, about their children, about the economic careers that they have set course on. We are aware of that; we are trying to alleviate that problem as much as we can.

4.13.7 Deputy J.M. Maçon:

Therefore, does the Minister not agree that one of the key messages, not only for him but for any Minister, is that consulting with the public and getting the information out there should be something to be done as soon as possible, rather than wait for Scrutiny to come along and call a public meeting?

Deputy R.G. Bryans:

That is precisely why we put the information out as we did. This is 18 months in advance of this decision being made; this is not going in in 2016, it is going in in 2017 and we still have 6 months to consider it.

4.13.8 Deputy J.A.N. Le Fondré:

The Minister has made reference to means testing of the individuals, and this is obviously part of the whole issue, but the wider context is about cost to education and the individuals receiving free education on the Island. Could the Minister clarify whether the subsidy that is received will continue to be available to non-qualified individuals who bring children to this Island when seeking work? Or, for example, would the Minister be open to having discussions with the Minister for Treasury and Resources to see whether there is any way of recharging such costs to the employers of such individuals?

Deputy R.G. Bryans:

That is a consideration I have not thought about before, so I am quite happy to talk to the Minister for Treasury and Resources about that. Thank you.

4.13.9 Deputy S.M. Wickenden:

As the Council of Ministers discussed this and they are linking up together, as we heard before, how does this decision affect the affordable housing figure, which is at the same £75,000 household income? How is it linked up?

Deputy R.G. Bryans:

I am not sure that it is; I am not sure of the context of the question the Deputy is asking me.

Deputy S.M. Wickenden:

If affordable housing is charged at £75,000 and you are now taking away the subsidising of people that are on £75,000, has the Minister talked about if that changes the figure for affordable housing?

Deputy R.G. Bryans:

Thank you to the Deputy. Just to clarify some of the issues that have related to this that have come out through the media. The notion of this particular cut and the savings that have been made from it, was discussed over a year ago, that was the first time we placed it on the agenda, and subsequently it has changed somewhat since we first did that, as has been widely reported. In regard to that consideration with regard to housing, the Minister for Housing will be fully aware of the figures that we have done. I could not answer on the Minister's behalf what her feelings are about that particular situation.

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

Will the Minister clarify that the intended means testing within his proposal is only aimed at those parents who have their children within private nurseries and not any other parents who have children in nursery care?

Deputy R.G. Bryans:

That is a consideration and, in fact, I think I said earlier, what we will do, part of the discussions I will be having with the department, is looking back at what we have created with regards to our own States nursery provision. I think Deputy Maçon was talking about what he considers the inequity between the 2, so that again will be another part of our discussion.

4.13.11 Deputy S.M. Brée:

I am hard-pressed to understand why the Minister will not extend means testing, if he insists on doing it, to all parents who have children in nursery care, irrespective of whether it be private nurseries or States nurseries. I am sorry, but I cannot understand why the Minister is not willing to do that and my question is: will the Minister do that as part of his proposal so as not to discriminate against private nurseries?

Deputy R.G. Bryans:

Sorry, that is what I was attempting to say; I need to make it more explicit. That will be part of the considerations as we move forward, so we will be looking at both of those areas. Thank you.

4.13.12 Deputy G.P. Southern:

It is hard to know what to ask to produce some clarity on this, we have gone all round the houses. Perhaps I would accept the document from the Minister, I believe I have seen it in the past, but just to refresh my mind and just to check whether he is doing any of the A to K on the list of good consultation. But the Minister refers to: "This has been launched 18 months ahead of anything happening." No, it has not; we will be debating the second half of the M.T.F.P. before the end of this year, so it is going to happen this year and we still have not got clarity there. To rely on acceptance of the M.T.F.P. which, by and large, is sets of figures in general applying to particular departments, if that, we will not be accepting the principle, on which he says he has already made his mind up. He has made his mind up on the principle ...

The Deputy Bailiff:

Deputy, are you able to focus this?

Deputy G.P. Southern:

I am getting there, Sir. Does the Minister not consider that a debate within the M.T.F.P. would be totally superficial and shroud-waving: "If not this, then this"?

Deputy R.G. Bryans:

No, I do not think it is shroud-waving and no, I do not think it is what he said.

5. Questions to Ministers without notice - The Minister for the Environment

The Deputy Bailiff:

Very well, that ends Questions with notice. We come to a period of Questions without notice, and the first Minister to take questions is the Minister for Environment. Deputy McLinton?

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

A prime example, recently, Val de La Mare Reservoir was taken out of service due to what I will describe as a quite extraordinary cocktail of chemicals that have been unleashed upon our Island. Would the Minister agree that we are in danger of poisoning the very soil that sustains us, the very water that refreshes us? What does his department intend to do about it?

Deputy S.G. Luce of St. Martin (The Minister for Environment):

The Deputy is quite right. In a recent test the Jersey Water Company identified a chemical called oxadixyl in water present in Val de La Mare Reservoir. I will just tell Members, this was an active ingredient in a trade name chemical called Trustan, which was extensively used in the late 1990s and early 2000s as a blight spray. It will come as no surprise to Members that, with our wonderful potato industry, this chemical was widely used. The half-life, if I can go into technical details, in daylight on the ground and in the air is only a matter of months. So it was a great surprise to Jersey Water, as it was to us, as it was to the farming community, that this active ingredient was still present and present enough in quantities in ground water to render the water in Val de La Mar above the limits that Jersey Water allow to put into the mains system.

[11:30]

Jersey Water is regulated by my department and any chemical or pesticide above the levels of 0.1 milligrams per litre is not allowed. That is a regulated limit. In the case of oxadixyl, the level has to go to 3 before it becomes anything around a health issue, so that is a 30-fold increase. So my initial reaction to the Deputy is to thank him for the question and just say 3 things, if I may. Although we are testing a great deal more than we were previously, the drinking water, Jersey Water drinking water and borehole drinking water, is safe. We are currently testing 6 times more than we would do normally ...

The Deputy Bailiff:

If you could bring the answer to a conclusion, please.

The Deputy of St. Martin:

Yes, sorry, Sir. Drinking water is safe, we are accumulating a vast amount of data to try to understand better the problem and Jersey Water, in conjunction with the Department for the Environment and the agricultural industry, are working together on a solution.

5.1.1 Deputy P.D. McLinton:

Given that the potato industry on this Island thrived well before the introduction of chemicals into the soil, would the Minister not consider leading a charge to return the soil on our Island to a chemical-free, or at least as chemical-free as possible, state by using more natural fertilisers, *et cetera*, and will his department look into that if he is minded to?

The Deputy of St. Martin:

My department will look into it, and I have already committed myself, through the water plan, a new water plan, which will be published later this year, to look at different ways in which we may farm into the future. There is no question, as the Deputy says, we have had an intensive potato industry here on the Island for well over 100 years now, and I feel that we are starting to reap the rewards, if you like, unfortunately in the way of we are one of the few places in Europe that grow potatoes in a monoculture, in the same fields on an annual basis. There is no question in my mind that the amount of chemical and pesticides that we have used over 100 years has not helped the soil and we need to look at ways to do better. Certainly, my department is looking at alternative crops, we are looking at ways to use more focused and more environmentally-friendly chemicals into the future, and certainly through the water plan, we will be looking to find ways to put less chemicals and pesticides into the soil.

5.2 Deputy J.A. Hilton:

Can the Minister confirm all livestock slaughtered for human consumption in Jersey is slaughtered humanely and according to the laws of the Island and exceptions are not made for religious purposes?

The Deputy of St. Martin:

I can assure the Deputy that all animals slaughtered at the abattoir in Jersey are slaughtered humanely. They are slaughtered by trained staff and that slaughter takes place in the presence of an official government vet. The other thing I can assure the Deputy is animals slaughtered at the abattoir are stunned, and that non-stun slaughter is not permitted in the Island.

5.2.1 Deputy J.A. Hilton:

Can the Minister also confirm that, where imported, meat products where animals have been slaughtered for religious purposes are clearly labelled in order that consumers can be in no doubt about what they are purchasing and consuming?

The Deputy of St. Martin:

I can say to the Deputy I am aware of one retail outlet on the Island that does sell this type of product, but I will need to come back to her with my categorical assurance on the labelling. I believe that is probably done through trade descriptions, but I will get that assurance for her and get back to her.

6. Questions to Ministers without notice - The Minister for Health and Social Services

The Deputy Bailiff:

If there are no other questions for this Minister then this brings question time to the Minister to an end. The next period of questions is for the Minister for Health and Social Services. Deputy Southern?

6.1 Deputy G.P. Southern:

How much does the Minister have in his restructuring pot presently and what plans does he have for service provision restructuring and voluntary or compulsory redundancies in 2016. If he cannot say now what plans he has got in place, when will he be producing those?

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

The Department of Health does not have a redundancy pot as such, we come under the auspices of the States Employment Board and the Deputy will be aware that the staff can apply for voluntary redundancy or voluntary severance subject to the department's approval and subject to the funding being available under the reorganisation, and that money comes via the States Employment Board and the Treasury.

6.1.1 Deputy G.P. Southern:

What plans are in place and when can he say any plans that he has for restructuring?

Senator A.K.F. Green:

Most of the restructuring plans that we have relate to taking on additional work under P.82 and involve the employment of more nurses, particularly, but certainly frontline staff. I do not have the figures in front of me but there is a net growth of staff that will be working in Health, not a loss.

Deputy G.P. Southern:

A final clarification, if I may, Sir; I think it is a clarification ...

The Deputy Bailiff:

I think there will be time for you to come out again, in any event, Deputy Southern. Deputy Mézec?

6.2 Deputy S.Y. Mézec:

Just to get on public record the answer to what would have been question 10, which has not been asked because of Deputy Rondel not being here. Would the Minister advise the Assembly what the current age is of the C.T. (computerised tomography) scanner at the Jersey General Hospital, when it is due for replacement and whether a second scanner is planned to be introduced?

Senator A.K.F. Green:

The C.T. scanner was installed in October 2010, it has a replacement date of 2018 and a second C.T. scanner will be included in the future hospital plans.

6.3 Deputy J.A. Hilton:

I wanted to ask the Minister a question around the Limes. I understand there has been a further landslip concerning the nursing home on the north coast, and I wanted to ask the Minister whether he would reconsider his decision to close the Limes down in that respect?

Senator A.K.F. Green:

In short, no, I will not reconsider it. The Limes is now closed, it is empty. Cheval Roc unfortunately is also closed at the moment due to a landslide. I have to say the management there behaved impeccably and utterly professionally and I wish them luck in getting the rock base stabilised so that they can re-open.

6.3.1 Deputy J.A. Hilton:

Prior to the Cheval Roc opening there was a serious shortage of nursing beds available in the Island. Is the Minister confident that he can serve the needs for nursing beds with the Cheval Roc and the Limes now being closed?

Senator A.K.F. Green:

We are flying a little bit by the seat of our pants. We have just one or 2 vacancies at the moment, and things change on a daily basis, but opening up a premises that is not fit-for-purpose and not safe is not the correct answer.

6.4 Deputy R. Labey:

Could I ask the Minister what has been his response and his department's response to the recent employment tribunal which found against his department on an issue of constructive dismissal?

Senator A.K.F. Green:

Clearly, we learn from every experience, but it would be inappropriate for me to discuss that particular case. I can assure the Deputy we take seriously all these tribunals and findings and learn the lessons that are learnt from the past.

6.4.1 Deputy R. Labey:

We keep hearing that lessons have been learnt; would he agree with me that constructive dismissal is a particularly nasty way of getting rid of somebody? It has no place in any management, let alone a hospital management. What assurances can he give that they have got a grip on this?

Senator A.K.F. Green:

I agree with the Deputy, it is not acceptable. What I will not do is discuss the individual case. I can assure the Deputy that we take these matters seriously; that is why we have a Human Resources Department.

6.5 The Deputy of St. Ouen:

Are the pilot projects for the delivery of new methods of primary care fully operational? How many are there running and when will those projects be assessed by the Minister?

Senator A.K.F. Green:

I will answer them in a slightly different order. We have had bids in, they are not fully operational; in fact, they have not all been finalised yet, but we have got the bids in and officers are working their way through it to discuss what that would look like, what success looks like, how we will measure the outcomes and the like. We should be in a position to announce those fairly soon.

6.6 Deputy M. Tadier:

Could the Minister perhaps clearly state, following the consultation, of the 3 remaining options that were in the original hospital consultation, which of those is the Minister's preferred option?

Senator A.K.F. Green:

I do not have a preferred option of those 3, they are still on the table and, as States Members have asked me to over the Assembly and at the workshop, I am just looking at other options, revisiting sites that were rejected just to see if we can get the best site, the best outcome for the people of Jersey.

6.6.1 Deputy M. Tadier:

I do not think that answer is a tenable one, given the fact that at one point there were 4 options on the table. If the Minister had his preferred option he would have considered all of them. So even if he does not have a preferred option now, could he state which was his preferred option at the time of the 3 remaining sites? I do remind the Minister we do need to be open and transparent under the Code of Ministerial Government.

Senator A.K.F. Green:

We are being open and transparent, and that is why I am running workshops with States Members. Until I have done that, I am not in a position to answer that question.

6.7 Deputy G.P. Southern:

A point of clarification from previously: is the Minister saying that his plans for restructuring of service provision do not include a reduction in staff overall but an increase in staff overall? That seemed to be what he is saying.

Senator A.K.F. Green:

I did say, but the increase in staff relates to frontline staff, primarily nursing.

6.8 Deputy A.D. Lewis:

Is the Minister satisfied that there is sufficient access to dental health services for all, particularly young people and low earners, and is there evidence that people are not seeing their dentist as often as they should due to the cost?

Senator A.K.F. Green:

I did not quite catch the end, but was it dentists?

Deputy A.D. Lewis:

Yes.

Senator A.K.F. Green:

Yes, okay. I am concerned that some people do not access dental care because of the cost and I know that the dental health of children has improved, but I am still very concerned about the younger children. For example, it came to light recently, through one of the very good charities working in the area, that a number of children at one of the town schools does not even own a toothbrush, let alone attend a dentist. This is work that I have got ongoing in my department. I do not know that there is a quick fix with regard to the cost, but maybe the tax on carbonated drinks might help, I do not know.

6.8.1 Deputy A.D. Lewis:

The Minister mentioned issues with young people perhaps not even having a toothbrush. What promotional activity is going on in schools regarding dental health?

Senator A.K.F. Green:

There is some activity, but much of it is done, I have to say, by an excellent charity. I think from memory ... I cannot remember, I think it is Super Smiles. I have met with them and they are on the review group working with my department and Social Security to see how we can target both the help and access to that care. So there is a group looking at it at the present time. As I say, the report that we had recently showed that dental health of children was better than it had been, but I am still very concerned that it is not good enough.

6.9 The Deputy of St. John:

In P.82/2012 there was specific reference to bed occupancy with regards to the General Hospital. It stated: "Without service changes, Jersey's General Hospital will start to run out of beds by 2017." Can the Minister advise whether that is still the case?

Senator A.K.F. Green:

Yes, and that is why we are spending so much time and working at keeping people in the community. It is not just a desire of myself and the officers, but also a desire of the public who told us in their response to P.82 that they wished, wherever possible, to be treated at home. Last month and just before Christmas, we got very close to running out of beds. We did not have a bed to spare; we were fortunate that we did not have to cancel surgery, but we got very close to it. So it is still the case. So that is why I need to find that correct site, get the support of the Assembly, and get on with building the new hospital, which will have more beds than the current one and not as many as we would have had had we not made those changes in community service.

6.9.1 The Deputy of St. John:

It is not just about finding a new site though, it talks about service changes. What specific service changes does he see coming in to alleviate this issue sooner rather than later?

Senator A.K.F. Green:

We are already working with buying services from Family Nursing, going about it in a slightly different way and then providing nursing support in the community.

[11:45]

We have a step-up-step-down facility where patients can be supported in the community but get access back into hospital if it is appropriate to do so. We have the Rapid Response team, which sounds very dramatic but what it means is that somebody requiring, for example, IV, intravenous, antibiotics will no longer have to stay in hospital to get it, they can receive that care in the community from either Nursing Home Care or the Rapid Response team, which is part of Nursing Home Care.

6.10 Deputy J.A. Hilton:

The Minister has just stated quite clearly that we came very close to having absolutely no beds available at Christmas, and we are going to be faced with that situation again because now it is even worse because we have closed the Limes down and the Cheval Roc is not operating. I would like the Minister to tell me why he believes that closing the Limes is acceptable? We know that we have other nursing homes and residential homes that do not meet the standards as laid down in the Regulation of Care Law, which is coming into effect next year, so I would like to understand from him why the Limes is not acceptable now but it was a few weeks ago?

Senator A.K.F. Green:

It is quite simple: when the Fire Service tell you that you would not be able to evacuate the building. If there was a fire you would not get the patients out safely. I think that is a very good reason to close the building.

6.11 Deputy M. Tadier:

Because I did not get any joy from the first time I asked my question, I will have to rephrase the question and hopefully the Minister can give me an answer, otherwise I will have to put a complaint into the Chief Minister. Can the Minister confirm out of the 3 options of the Waterfront, of Overdale and of a rebuild on the current site, which of those was and is the clinically-best option?

Senator A.K.F. Green:

The clinically-best option of those 3, I believe, is the Waterfront; the clinically-best option.

6.11.1 Deputy M. Tadier:

Given the urgency that the Minister has talked about today in getting the new hospital built and underway and which he had told us previously in the debates, why does he not fight for that particular option with his Council Ministers and what has the holdup and resistance been to using the waterfront as the preferred option in the absence of People's Park?

Senator A.K.F. Green:

Although very important, it is not just about that the clinically-best option is considered, it is also about accessing it. The winds and rain that we had not that long ago would have necessitated old Mrs. Ecobichon making her way from Patriotic Street across a bridge to the Waterfront. I would like to do better than that and that is one of the reasons why I am looking at how we access our medical facilities, not just what goes on within it.

6.12 Deputy G.P. Southern:

Can the Minister inform Members what the current waiting list is for assessment for long-term care in his Social Work Department?

Senator A.K.F. Green:

I cannot answer it specifically. I do know it is greatly improved on what it was but I do not know the figure and I will get back, to be fair, to the Deputy.

Deputy G.P. Southern:

Will you circulate the figure?

Senator A.K.F. Green:

I will get back with an answer.

[The Minister for Health and Social Services subsequently wrote to Deputy Southern, as follows:

“Dear Deputy Southern

At Questions Without Notice last week you asked me to inform Members what the current waiting list for assessment for long-term care is in my social work department.

I said I would come back to you with the figures.

As I indicated in my answer, the situation has generally improved over the last few months. At the time of the integration of the adult/older adult social work teams at Christmas, the combined waiting list stood at just under 200. By the end of February, this had been reduced to 105 and then fallen further to 84. The latest figure shows a rise to 109, prompted by winter pressures when more people were taken ill.

Yours sincerely

**Senator Andrew Green MBE
Minister for Health and Social Services”].**

6.13 Deputy J.A. Martin:

Returning to the Limes, the Minister has now stated that it is closed. Can he confirm whether it is still under Health or has it moved to Property Holdings? Obviously the plans for the future of this building had been discussed around the Council of Ministers before it closed, can he confirm all this and tell us what these plans are?

Senator A.K.F. Green:

Dealing with the latter first, it was not discussed around the Council of Ministers. I announced to the Council of Ministers once I became aware of the Fire Service’s concerns that I was bringing forward the closure of the Limes. It just was not sustainable. You cannot ignore what you know. As Minister, when I am told that that building is unsafe, I cannot ignore that. Is it still under our care? Yes, it is because we are deep-cleaning it now. There are no patients there; we have some equipment to move. It will be then handed back to Property Holdings who will seek bids from other departments, including my own department, by the way, who may make a bid for a different use. Or if no department wants

it, they will consider, I would imagine, selling it, but that is a matter for the Infrastructure and Property Holdings.

6.14 Deputy G.P. Southern:

In the course of a Scrutiny Panel into recruitment and retention, in particular of medical staff, in particular of nurses, we received, I think it was, 4 different figures for the nursing vacancies. Will the Minister commit himself to a single measurement of nursing vacancies and commit his department to maintaining that so we can compare like with like in the future?

Senator A.K.F. Green:

Yes, and I am really sorry that the figures went out as they were showing a totally untrue picture which, had it been true, the Deputy and the panel would have been quite right to have been concerned about it. I can confirm that we currently have 32 nurses' vacancies. That is 4 per cent of establishment, 11 are waiting to start employment and some of those vacancies have been created by the new post created by P.82.

6.14.1 Deputy G.P. Southern:

Does that include auxiliary nurses?

Senator A.K.F. Green:

Yes.

6.15 Deputy M.R. Higgins:

Going back to the Limes, can the Minister explain whether the Limes could have been used as a residential rather than a nursing home as a carrying-on function or whether the advice he received about the fire safety applied to any use of the building? I can understand if he took the decision in the case of nursing patients because of the extra equipment and difficulties getting them out of the building, but did he consider changing its use to a purely residential one?

Senator A.K.F. Green:

It is a very good question and I thank the Deputy for that because it was designed as a residential home, not a nursing home. We did consider it but why would we open up a residential home when there is plenty of spare capacity in the private sector? Given that we had the long-term care scheme now, it is an affordable option for anybody wishing to access residential care. So it was not appropriate to reopen it but it had been designed as a residential home.

6.16 Deputy M. Tadier:

Does the Minister accept that there is a lot of good work done in our society by pensioners as carers, often for their partners or family members? If so, does he agree that there is a problem potentially with not being able to claim both carer's allowance and a pension and, if so, would he elaborate on his thoughts on that last part?

Senator A.K.F. Green:

I will confirm for the Deputy that I do appreciate the amount of caring done by all carers, and particularly those of the older generation. Benefit analysis is a matter for the Minister for Social Security, not for the Minister for Health and Social Services.

6.16.1 Deputy M. Tadier:

In terms of health outcomes, does the Minister accept that there is a risk by not valuing the good work, not just by words, but also financially, that we could be putting ourselves in a position of risking the

health of both the carer and the person being cared for and, therefore, it is not just a matter for Social Security but a matter for joint work between his department and the Minister for Social Security?

Senator A.K.F. Green:

We have a Carers' Strategy. The benefit is a matter for Social Security, but I do accept that there is a crossover in terms of ensuring that we are supporting people appropriately who are providing care because they save us millions of pounds a year. Again, I reiterate, I really do appreciate the work that they put in. There are many people who are carers who do not even regard themselves as carers; just see themselves as carrying out the role for their loved one.

6.17 Deputy G.P. Southern:

What conversation, if any, between the Minister for Social Security and himself has taken place over access for those on low income to G.P. (General Practitioner) visits?

Senator A.K.F. Green:

None recently.

6.17.1 Deputy G.P. Southern:

Can the Minister explain why there has been no conversation on that when it is a serious issue and when he expects to be talking with the Minister for Social Security about provision for those on low income?

Senator A.K.F. Green:

Because unless the Deputy tells me otherwise, in terms of access to medical care, if you are on a low income there is provision for that within the benefit system.

6.17.2 Deputy G.P. Southern:

The Minister for Social Security has committed herself to examining the whole area of medical costs for those on low income and should be consulting with the Minister for Health and Social Services over long-term outcomes on this, does he not agree?

Senator A.K.F. Green:

I am sure when there is something to consult on, they will. I have no doubt that my officers and her officers are working together on this and when they have something to consult on, I am sure they will.

6.18 The Deputy of St. Ouen:

Is the Minister in discussion with Andium Homes or the Minister for Housing concerning the housing of key staff within the hospital, particularly nurses, both for rental purposes and for the purchase of houses by nursing families?

Senator A.K.F. Green:

Yes, to all parts of that question.

6.19 The Connétable of St. John:

Could the Minister look into the wonderful charity of Radio Lions who broadcast within the hospital but unfortunately patients in the hospital cannot listen to it unless they bring their own pair of headphones? Could that be addressed so that this wonderful charity's good work can be fully appreciated by all the patients in the hospital?

Senator A.K.F. Green:

I, like the Connétable, really value the work that Radio Lions do and, to that end, my Assistant Minister, Deputy McLinton, has been working with them, both to help them during this period of the old hospital but just as importantly talking about what their service might look like in the new hospital. There is definitely a place for them. I was not aware of the headphones one and I need to look at that.

6.20 Deputy M. Tadier:

Could the Minister confirm whether Wi-Fi is available for patients at the General Hospital and, if not, does he think it might be a good idea, given the fact that we are promoting ourselves as a digital Island, to provide that service for people when they fall ill?

Senator A.K.F. Green:

It is not available everywhere and it is something that we will be considering in the redesign at the new hospital.

6.20.1 Deputy M. Tadier:

A supplementary? Would it not be possible to do that before? It simply requires setting up a router, perhaps several routers on different floors, giving people the password so that when they are incapacitated they can be treated, I think, humanely nowadays because people expect to have Wi-Fi so they can conduct their social and personal affairs. Is that not reasonable?

Senator A.K.F. Green:

Oh, if it were so simple; if the Deputy knew. It has taken nearly 3 routers, 4 attempts to just get Wi-Fi around my modest house. With all the concrete and everything else that we have in the modern hospital it really needs to be wired in at the beginning. But I understand the desire for Wi-Fi everywhere but we are not in a position to do that at the present time.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

7. The Minister for Treasury and Resources will make a statement regarding Jersey Telecom

The Deputy Bailiff:

If there are no further questions for this Minister, then that brings this question time to an end. There is nothing under J. We come to K, Statements on a Matter of Official Responsibility, and there are 2 of those and the first, the Minister for Treasury and Resources will make a statement regarding J.T. Minister.

7.1 Senator A.J.H. Maclean (The Minister for Treasury and Resources):

On Tuesday, 23rd June 2015 I made a statement in this Assembly setting out details of an offer I had received relating to J.T. from the ultimate owner of the Airtel business in the Channel Islands, Mr. Sunil Mittal. The offer was a proposal to merge the J.T. and Airtel businesses in the Channel Islands in return for a percentage ownership in the combined business, along with a subsequent share purchased by Mr. Mittal to take his interest up to 25 per cent plus one share of the merged business. The board of J.T. confirmed that it viewed the offer as worthy of serious consideration. Members will now be aware of the press release issued by Airtel late on Friday, 1st April 2016, announcing that they had disengaged from the merger discussions. This was unexpected. Following this surprise announcement, I am now in a position to update Members on those activities undertaken following the offer being made. I trust that Members will recognise that there is a significant amount of commercial sensitivity around the negotiations that took place between the parties and that I have a duty to be mindful of that. However, I have kept members of the Corporate Services Scrutiny Panel fully briefed. Following receipt of the offer, it was necessary to assess the commercial and strategic aspects

of the offer from the shareholder perspective which has involved working with colleagues across the States and the Council of Ministers. To this end, a Political Oversight Group was formed. The key challenge from the outset has been that of timescale, recognising the challenge that uncertainty could create for both J.T. and Airtel as they continue to negotiate and consider issues arising from the merger, including the need to achieve regulatory approval.

[12:00]

Work undertaken through the Political Oversight Group included the commissioning of an independent assessment of the proposed deal. A review was also undertaken using Oxera to identify whether there were any strategic reasons why the States should retain ownership in full or in part, in other words, were there any risks to selling part of J.T. at this point? It was clear from Oxera's work that in theory there were no really fundamental reasons why ownership was necessary but that a number of safeguards or mechanisms would need to be in place and working effectively to ensure public interests were protected. In addition, Oxera also produced its regulatory and competition framework review, the J.C.R.A. (Jersey Competition Regulatory Authority) for the Chief Minister's Department in November 2015. This made a number of observations and recommendations which amplified our concerns and emphasised the need for greater clarity to be achieved around the rationale for continued ownership of J.T. and other States-owned utilities. The proposed merger would also have required approval from C.I.C.R.A. That process could have taken 6 months or more. Given all the facts, it became clear that I would not be in a position to recommend to the States a decision to proceed with any transaction to dilute or dispose of the States interest in J.T. in the timescales not unnecessarily required by Mr. Mittal. This was also the view of the Political Oversight Group. That being the case, and in the interests of responding to the offer in the necessary timescales, and after discussion with the J.T. board, I informed Mr. Mittal in early January 2016 of the following: (1) I believed there were a number of issues, States and regulatory processes surrounding the sale of part of J.T. which could not be addressed in the timescales his business required and (2) that the board of J.T. was, therefore, free to take forward discussions regarding the purchase of any or all of the Airtel business in the Channel Islands directly with him or his advisers but without any sale of J.T. shares at this stage. The J.T. board were supportive of this position and believed there was a deal to be done which was good for J.T., delivering clear benefits and enhancing its longer-term value. Mr. Mittal was understanding of the issues and agreed to continue negotiations with J.T. on this revised basis. The 2 companies therefore continued discussions and negotiations with a view to agreeing a transaction which, if agreed, would be subject to regulatory approval by C.I.C.R.A. This process had been ongoing until the announcement made by the local Airtel office. I must say, the manner of the announcement was unfortunate, particularly as that news had not been shared with either myself or J.T. in advance. These things happen in commercial negotiations, but J.T. have made it clear that they remain interested in Airtel's assets, particularly those in Guernsey, and remain open to further discussions as and when the opportunity arises. A final point to make is that, as a result of my statement from June last year, a number of additional parties have come forward to express an interest in purchasing all or part of J.T. These are from a variety of organisations. Finally, work is progressing under the Assistant Chief Minister Senator Philip Ozouf to develop a telecommunications policy for the Island. Once this has been completed, and only then, will we consider in more detail whether it might be in the public's best interest to consider selling shares in J.T. As I have previously stated, any decision to sell part or all of the share capital of J.T. will be a decision of this Assembly. Thank you.

The Deputy Bailiff:

There is now a period of 15 minutes within which Members can ask questions of the Minister. Deputy Andrew Lewis.

7.1.1 Deputy A.D. Lewis:

Mindful of the Oxera report into C.I.C.R.A. and its many recommendations, is the Minister satisfied that C.I.C.R.A. are in a position currently to deliberate over a possible purchase of a competitor?

Senator A.J.H. Maclean:

Yes, I believe that they are. I think there are 2 issues here: one was the merger deal. C.I.C.R.A. went through a process which is clearly stated by them for such matters of mergers. Stage 1 they completed which identified that they needed to move to stage 2. I think the issue was this stage 2. Although they undertake to complete stage 2 considerations of such mergers within 6 months, in reality they take considerably longer than that, or can do. For commercial reasons with the Airtel business, and J.T. for that matter, it was going to be very difficult to progress that element of the business. That, in no small part, was why the parties thought that to progress negotiations with regard to a purchase of part or all of the business but not a merger involving shares was more likely to be a way to proceed. I believe that the necessary resources do exist within C.I.C.R.A. and indeed they have the ability to buy in anything additional that they might need on top of that for that element of the deal.

7.1.2 Deputy R. Labey:

The Minister has referred to the diversification of J.T. increasing turnover and revenue; have J.T.'s global acquisitions shown a profit? What, broadly speaking, has been the percentage gain on that investment?

Senator A.J.H. Maclean:

I am pleased the Deputy has asked the question. Broadly, yes, and J.T. have given presentations to States Members about all aspects of their business. But now we are in a position compared to a pre-incorporation where J.T. gets more than 50 per cent of its profits from outside of the Island for the very businesses and, in particular, 2 acquisitions that they have made over the last 4 or 5 years. One in particular has been incredibly successful and as a result has been the largest single contract the J.T. Group have ever received and that is with a company called Kraft, the owners of Cadbury, where J.T. provides services in North America largely from staff based here in Jersey. It is a fantastic model and that particular contract is worth tens of millions of dollars to J.T. We have a business here, as I said earlier this morning, in J.T. which is very professionally run and managed, great oversight from a board, that is very successful and profitable and something that both members of this Assembly and the Island I think should justifiably be very proud.

7.1.3 Deputy K.C. Lewis:

"The proposed merger would also have required approval from C.I.C.R.A. That process could have taken 6 months or more." As it is my understanding that C.I.C.R.A. is in the process of being upgraded and improved, would this cut down on the time needed for C.I.C.R.A. to look at this particular possible sale which will be in the best interest of the people of Jersey?

Senator A.J.H. Maclean:

As I stated a moment ago, the website for C.I.C.R.A., in fact their stated terms, indicate that such mergers' consideration under stage 2 of that process can take up to 6 months. Indeed, in the future, and this is a matter for the Chief Minister's Department, in particular Senator Ozouf who has responsibility for the regulator, the Competition Regulatory Authority, there has been a piece of work undertaken by Oxera looking at the future size, shape and operation. That was presented to States Members and indeed I think it would result in a far clearer focus for the regulator which would be in the interests of delivering what small jurisdictions require.

7.1.4 Deputy A.D. Lewis:

In the penultimate paragraph in the Minister's statement he says that there has been a number of interests expressed by other parties in the purchase, or possible purchase, of J.T. Will the Minister now be preparing with his directors at J.T. a proper sales process, a proper document, a proper tender process, if necessary, as you would with the sale of a company in a normal process which has not happened to date because you had a contact from one individual? Will there be a proper process pursued now in the best interests of maximising value of J.T. if it was to be sold?

Senator A.J.H. Maclean:

Yes, I can confirm that if indeed the decision is taken that it would be in the public interest to pursue a sale of J.T., of course a proper process would be followed. All I can say to the Deputy at this particular point, which I think is made clear both in my statement and earlier remarks, is that we are yet to reach that particular position. A lot of work has been now undertaken with the Oxera report, with the independent adviser that we got to assess, not just this deal, but the valuation of the business and so on. I think we need to bring all those pieces together as a matter of some urgency. That work is being undertaken and is close to completion, together with critically the policy for the telecommunications sector which is the responsibility of the Chief Minister's Department and Senator Ozouf.

7.1.5 Deputy A.D. Lewis:

A point of clarification? Is the Minister saying then that the policy is nearly ready to go because this has been under development for the last 2 to 3 years? So is there now a telecommunications policy that will be presented to the States very shortly to enable any transactions to take place because currently there appears to be no policy in this area?

Senator A.J.H. Maclean:

No, certainly a policy is close to completion and I believe, of course, Senator Ozouf would be able to confirm this point. It is very close to being in a position where it can be consulted upon which is the next stage. So we are making great progress or certainly I am satisfied that this is being addressed in a timely fashion now.

7.1.6 Deputy G.P. Southern:

The Minister referred to the work with the Kraft organisation which was immensely profitable. Is this activity taxable at 20 per cent for utilities or is it zero-rated? In any case, if it is so profitable, why would the Minister consider selling off such a profitable organisation?

Senator A.J.H. Maclean:

A very good question. Yes, the profits from that activity are taxable at 20 per cent and, as I have pointed out, most of the activity in managing that particular contract is handled here in the Island. It is a fantastic model and I think congratulations to J.T. for securing it. The issue that the Deputy has raised about why would we consider selling such a success, I think this goes back - and the Deputy may indeed himself have been involved at the time - when J.T.'s sale was considered back in 2006/2007 and an Oxera report was undertaken at that particular point. What it identified as one point, and I think it was the view of the previous Minister for Treasury and Resources, was that there was a concentration of risk by having such an investment in an asset in a telecommunications sector, a sector which most recognise as being volatile. J.T., the board and the management, as I have pointed out, have done a splendid job in diversifying the business but nevertheless the sector as a whole is still a sector that has a certain degree of volatility attached and associated with it.

7.1.7 Deputy G.P. Southern:

As the Minister knows full well, I was leading that particular piece of Scrutiny and I do not recollect risk in this particular sector being a major factor for the recommendation not to sell, or for the decision, rather, not to sell. I suggest the Minister goes back to that report and rereads it.

The Deputy Bailiff:

Sorry, could you ask the question, please, Deputy?

Deputy G.P. Southern:

Will the Minister consider going to the report and rereading it?

Senator A.J.H. Maclean:

I find myself continually reading and rereading such reports. They are clearly useful. Indeed, that original 2007 report was updated for this particular process. As I have said, a risk is not a matter that needs to be considered and it would be one of the considerations I would expect Members to be focused on indeed if we do bring a proposal forward for the sale of part or all of the shares in J.T. in the future.

7.1.8 Deputy J.A. Martin:

This whole statement really confuses or concerns me. In the penultimate paragraph the Minister states that they are looking at a telecommunications policy in the Island, and: “Once this has been completed and only then will we consider in more detail as to whether it might be in the public’s best interest to consider selling shares in J.T.” Could the Minister then confirm why has he been pursuing this since June 2015, and if the other party had not have pulled out would have probably been sold half of J.T. already?

Senator A.J.H. Maclean:

I do not think the Deputy has taken the second part of her comment seriously on the basis that it is this Assembly that makes decisions as to whether the J.T. business is sold or not and, of course, that would come here for due deliberation and a vote. But, quite frankly, this matter has been under consideration. There are many, many facets to considering the sale of this business and the Deputy has just referred to one particular point. So it is not a question that any time has been wasted but all the parts need to come together in making this due consideration of whether indeed a sale is going to be pursued or not.

7.1.9 Deputy J.A. Martin:

Well I think the Minister has confirmed that this decision will be at least decided by the States Assembly, not like other Ministers. It is not really a question, sorry.

Senator A.J.H. Maclean:

Yes, I have said this on numerous occasions: that a sale of an asset such as J.T. would be a matter that would come before this Assembly. It was in the statement, I said it in a previous statement, and I have said it on other public occasions.

[12:15]

7.1.10 The Deputy of Grouville:

In light of C.I.C.R.A.’s recent performance, does he think it capable of making such an important decision now and before the improvement plan has been implemented?

Senator A.J.H. Maclean:

Well, as the statement has made clear, this is not a matter of a merger that C.I.C.R.A. are going to have to consider at this particular point. Of course, now that Airtel have made the announcement that they are disengaging from any further discussions, there is nothing for C.I.C.R.A. to decide upon. I know that the Assistant Chief Minister is focused on putting in place the improvement plan for C.I.C.R.A. following the review undertaken by Oxera and that will be done with a degree of urgency.

7.1.11 Deputy A.D. Lewis:

Following up on a question earlier, why was the Minister considering a part sale when there was no policy in place at the time which he spoke about earlier on? Why was there no sales prospectus prepared to properly establish what the market for such a company might be when negotiations began with Airtel?

Senator A.J.H. Maclean:

Quite simply, a part sale was considered because that was what the offer was. We were responding to and reacting to an unsolicited offer that was presented to us and we went through a process, as my statement back in June of 2015 made absolutely clear. In the future, any sale will depend on whether it is in the best interest of the public. That would be assessed on many different matrices.

Deputy A.D. Lewis:

The Minister was able to do that then without a policy in place, is that what he is saying?

Senator A.J.H. Maclean:

It is very simple; we received an offer and as a result of receiving the offer a number of issues had to be considered. The fact that there was not a clear policy for telecommunications was a matter that needed to be addressed and that was put in train as part of the process. We were not looking to sell the business, somebody approached us. When you get an approach, you have to deal with all aspects of that to see if it is in the best interests of the public, and we have done exactly that.

8. The Chief Minister will make a statement regarding beneficial ownership of companies

The Deputy Bailiff:

If there are no other questions for this Minister, then that brings the period of questions to this Minister to an end. There is another Statement on a Matter of Official Responsibility that we have been notified of and that is to be given by the Chief Minister on the beneficial ownership of companies. Chief Minister.

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

I just want to apologise that the documents will not be on Members' desks until after lunch. Yesterday, the Council of Ministers agreed to sign an exchange of notes on the sharing of beneficial ownership information between the Government of the United Kingdom and the Government of Jersey. Members will have sight of these documents on their desks after lunch. The notes and the accompanying technical protocol are the result of many months of discussion between the U.K. Government, the Overseas Territories and the Crown Dependencies, and yesterday the U.K. Prime Minister, David Cameron, welcomed our commitment to work with the U.K. in the pursuit of those engaged in tax evasion and fraud. The U.K. Government's main objective has been to obtain agreement on the setting up of a central database of beneficial ownership of companies and Jersey has had such a register since 1989. We are unaware of any other jurisdiction with a central register whose contents are subject to the same degree of vetting for accuracy and adequacy as our own. Our leading position has been recognised by U.K. Ministers as well as internationally. For Jersey, this agreement

essentially means business as usual, albeit we are enhancing through technology the speed at which requests can be answered. This reflects Jersey's leading position in providing adequate, accurate and current beneficial ownership information through its central register, supported by the effective regulation of trust and company service providers. The agreement also underlines our continued commitment to law enforcement co-operation between the Governments of Jersey and the United Kingdom. Jersey has a long history of passing accurate beneficial ownership information to U.K. law enforcement authorities to the declared satisfaction of those authorities. Jersey already shares information about tax with our network of Tax Information Exchange Agreements. In future, we will automatically share that information under the Common Reporting Standard of which Jersey is an early adopter. The new agreement will introduce by June 2017 a new requirement for information to be provided within 24 hours and when urgently required, within one hour. This is in response to a need for information without delay where terrorist activities are involved and is of particular significance in the light of recent events in Paris and Brussels. We strongly support this new standard. The shared commitments highlighted in the documents are linked to the action plans on beneficial ownership transparency that followed the G8 Summit in Lough Erne in May 2013. They are also seen as an important part of the preparation for the Anti-Corruption Summit that the U.K. is chairing in London on 12th May. Before the commitment was made, we had started consulting with the finance industry on further enhancing the timeliness of the information held on the central register. Jersey's commitment to international standards on transparency and information exchange is also demonstrated in the action taken in recent years. For instance, this Government has been a party to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters since June 2014. Together with the Tax Information Exchange Agreements and Double Taxation Agreements that have been entered into, Jersey is currently in a position to exchange information on request with some 80 countries. This Government is fully committed as an early adopter to Automatic Exchange of Information in accordance with the International Common Reporting Standard. Next year we will be providing information automatically to over 50 countries. Jersey has received commendations from the Secretary General of the O.E.C.D. (Organisation for Economic and Co-operation and Development) and the E.U. Tax Commissioner on the extent of Jersey's commitment to and compliance with the international standards on transparency and information exchange. Jersey has gained international recognition of its leading position from the World Bank, the I.M.F. (International Monetary Fund) and Moneyval for the standard of compliance with the international standards of transparency and information exchange. This Government is supporting the O.E.C.D. B.E.P.S. (Base Erosion and Profit Shifting) programme and is currently engaged in consultation on the arrangements for information exchange through country-by-country reporting. This Government is held in high esteem by the U.K. National Crime Agency for the co-operation they obtain from the Jersey Joint Financial Crime Unit. This Government's policy has long been to be at the forefront of the adoption of the international standards on transparency and information exchange while also having regard for data protection and personal privacy. We welcome the action taken by the E.U. through the Fourth Money Laundering Directive and by the U.K. Government through the commitment it has obtained from all Overseas Territories and Crown Dependencies that will see the wider establishment of a central database of beneficial ownership of companies. Jersey has been and remains a leader in providing the authorities with accurate information on beneficial ownership. Jersey has had a central register for nearly 30 years. During that time, we have consistently co-operated with law enforcement and tax authorities around the world playing our part in the global fight against financial crime. Other jurisdictions have sought to learn from our experience and we continue to offer our services in this respect. We are joining with the U.K. in responding to the need for a faster response to requests for information and we welcome the action that others are now taking to follow our lead in providing accurate and regulated beneficial ownership information to authorities. This will lead to a more effective global attack on those engaged in money laundering, corruption, tax evasion and the financing of terrorism. As set out

in our financial framework, we have a well-evidenced plan for our increasingly diversified and technology-driven finance sector. We will continue our work to remain the jurisdiction of choice for high quality business and get the recognition that Jersey deserves for playing a full part in its shared global responsibility for fighting financial crime. [Approbation]

The Deputy Bailiff:

There now follows a period of 15 minutes for Members to put questions to the Chief Minister. Deputy Southern.

8.1.1 Deputy G.P. Southern:

In order to be seen to be, as he says “playing our part in the global fight against financial crime”, will the Chief Minister ask the J.F.S.C. to request access to the documentation surrounding the setting up of companies through Mossack Fonseca by Credit Suisse and Coutts (Jersey) to ascertain whether there are any grounds to investigate these transactions further?

Senator I.J. Gorst:

I think the Deputy tried to ask me that question earlier in the sitting. All regulated entities are subject to review and inspection by the Jersey Financial Services Commission and the 2 mentioned by the Deputy are no exception to that and they must show, as all regulated entities must show, and prove to the satisfaction of the J.F.S.C. that they are meeting the necessary regulatory provisions that we in this Assembly approve and agree.

8.1.2 Deputy G.P. Southern:

If I may, a supplementary? In order to protect our reputation in parallel with that of the City of London, will he not do this as a bare minimum? Because in the U.K. they have been asked to reveal the documentation within 15 days. It is happening now, why are we not doing similar?

Senator I.J. Gorst:

There are some points that the Deputy, no matter how many times I say them, seems to ignore them because it does not play into his narrative of his understanding of our financial services industry that we have in our community. We have trusted company service provider regulation unlike elsewhere in the world. The Deputy can take satisfaction from that. We do not need to be reactive in the way that the Deputy is suggesting because we have proactive regulation of those service providers already in place.

8.1.3 Deputy S.Y. Mézec:

I watched the Prime Minister’s statement in the House of Commons yesterday and the questions he took from it and he reiterated at one point his preference that the British Overseas Territories and Crown Dependencies do, at some point, move towards making the Register of Beneficial Ownership public. He did say he did not want to enforce it immediately on Crown Dependencies for obvious practical reasons. Does the Chief Minister believe that this is something that will happen at some point in the future and, if so, when does he think that it is likely to happen?

Senator I.J. Gorst:

That is a matter for the international standard setters. The Deputy will know - I hope he knows; they seem to be suggesting they know all about these matters - that the O.E.C.D. are meeting on Thursday to consider their response to the so-called Panama papers and we will watch with interest to see what they say about international standards and where they currently are. But the Deputy knows that that is not currently the international standard, nor is it the standard that the European Commission is introducing in the Fourth Money Laundering Directive. The standards that are being introduced

currently are standards which are bringing elsewhere up to the standards and introducing the mechanisms that we already have in place.

8.1.4 Deputy S.Y. Mézec:

A supplementary? As usual, the Chief Minister makes a whole bunch of assertions about what I do or do not believe so that he can get around answering a straight question. None of that was relevant to my question. My question was, the Prime Minister of the United Kingdom has said that he would like the Crown Dependencies and British Overseas Territories, those are the territories for which the United Kingdom is ultimately responsible for, to one day move towards making their Registers of Beneficial Ownership public. The Chief Minister has rightly said in his statement, and the Prime Minister said it in his statement as well yesterday, that the Channel Islands, Jersey in particular, are well ahead of the game and have been for a very long time. So can I ask the Chief Minister just a straight question? He does not need to give it all this bluster like he sometimes seems to believe is necessary, does he believe that at some point, given it is U.K. Government policy for the registers to be made public, that this will happen at some point? If the international community decides that it wants to do that, and in particular the U.K. we know is already doing it, will Jersey comply with that and will we enthusiastically continue to be what we already are, which is ahead of the game?

Senator I.J. Gorst:

The Deputy again is interpreting what the U.K. Prime Minister said very carefully yesterday. The U.K. Prime Minister was very clear to say that these matters would need to be the subject of an international standard and then people elsewhere could consider them. Let us just consider for a minute what our register does compared to elsewhere in the world and others who are introducing registers. We have at the point of inception of companies, information passed to the central register about the beneficial ownership.

[12:30]

Other places in the world still do not have that. They still do not have it and on top of that ...

Deputy S.Y. Mézec:

Sir, can we get to an answer at some point? This is all totally irrelevant to my question; not an answer.

The Deputy Bailiff:

Please sit down, Deputy.

Senator I.J. Gorst:

On top of that, all trusted company service providers are regulated and they hold accurate regulated information about beneficial ownership.

The Deputy Bailiff:

Chief Minister, could you explain what the relevance is of making a statement in terms of what the register currently does as opposed to what the policy might be in the future?

Senator I.J. Gorst:

Sir, I have been quite clear. When the international standard moves, when countries around the world have met the standard that we are already meeting, and the international standard is only now moving to and the European Fourth Money Laundering Directive still gives Member States time to introduce a standard which is comparable with ours, then the international standard setters might consider in the future a public register. But there is an important difference between a public register with voluntary

information submitted on to that register where it cannot be confirmed whether it is accurate and it certainly is not regulated.

8.1.5 The Connétable of St. Mary:

I thank the Chief Minister for putting all these categories of what we already do into the public domain yet again. Obviously, as an Islander, it is extremely important to me that what is our prime industry is seen to be as well-regulated as we know that it is. But I despair each time I open a paper and see another attack; that the message of how we regulate and how we control is not getting out and I would like to ask the Chief Minister, what is happening in the media? What are we saying to people now and how are we doing it? How are we getting our message across?

Senator I.J. Gorst:

I thank the Constable for her question. I think if she looks forward 2 rows and slightly to her right she will see there we have a Minister who has exemplified an eloquent and passionate presentation across the international media over the last 24 hours of the strong position that Jersey is currently in. I think that that has been a masterclass in putting the record straight and those who have interviewed, one has almost sensed them recognising and realising that the question and the presumption of their question was inaccurate, because Jersey was already doing what the international community is calling upon them to do. I think he should be congratulated for the hard work that he has undertaken on behalf of our community over those last 24 hours.

8.1.6 Deputy S.M. Wickenden:

Obviously for a long time now we have shared information with the authorities when it needs to be done for investigations, which is absolutely right, on our register. Now that we are doing it with the U.K. Government can the Minister confirm that this is not an open book to our register and that it is there for when it is required so that we will not have this information leaked that will inadvertently hurt our finance industry, and are we using the latest technologies to make sure we do this as efficiently as possible to save money?

Senator I.J. Gorst:

In answer to that last point, yes. The processes that the J.F.S.C. has got in place are some of the strongest of any institution in Jersey and they recognise that they are going to continually need to invest in such registers. As they are rolled out elsewhere in the world they, themselves, potentially, will become the object of cybercrime and that again is work that the Assistant Chief Minister is undertaking. This is a move to automatic information. We saw that with the Common Reporting Standard. We signed up to that. We were an early adopter and again this is a move to automatic exchange of beneficial ownership information with U.K. crime-fighting agencies. Something that we have been doing currently on a request basis. So we have got a record of doing that. We have got a history of doing it well and, as I said in my statement, we have been congratulated for the way that we have done it in the past and will continue to do so into the future.

8.1.7 Deputy M.R. Higgins:

I happen to agree with the Chief Minister in one sense that we have been well ahead of all the other jurisdictions in terms of holding a Register of Beneficial **[Approbation]** ... a Register of Beneficial Interests for companies. However, the Fourth Anti-Money Laundering Directive, which will be coming in, will also be applying to trusts. The Chief Minister has mentioned how, at the present time, we do control trusts and other service providers in that area, but we do not have a central register and according to U.K. proposals from 2017 they are proposing that trustees must hold accurate and up-to-date information about settlors, trustees and beneficiaries of the trusts and place this information on a central register available to domestic competent authorities. Now, can I just ask, is the Chief

Minister going to lead the way by having a central register for trust's trustees, something that was considered some time ago and was deferred to allow the trust companies to hold that information themselves and then when called upon to provide it? Are we going to go for a central register of trusts and therefore be ahead of the game as well and then we can justify claiming we are ahead of the game?

Senator I.J. Gorst:

This must be a red letter day when Deputy Higgins has agreed that something we do in our financial services places us in a leadership position. Moreover, that something that I have said from this chair, he agrees with and I thank him for his magnanimity in that regard.

Deputy M.R. Higgins:

I will not make a habit of it though.

Senator I.J. Gorst:

The Fourth Anti-Money Laundering Directive; of course, there were a lot of discussions about whether it would include trusts or not and, again, the United Kingdom Prime Minister was questioned on this very area. It does not include trusts. It is about companies and that is where the international standard is but, again, unlike elsewhere in the world because of the way that we regulate trust and company service providers, that beneficial ownership information is available at the entities and it is available to be shared with authorities in a very short timescale.

8.1.8 Deputy M.R. Higgins:

Supplementary. Can the Chief Minister reiterate that because I am looking at a document here that has come out that says that the U.K. is saying from 2017 that trustees of trusts will have to place this information on a central register available to the domestic competent authorities? Now, has there been talk about setting up a central directory of trusts to meet with the Fourth Anti-Money Laundering Directive? It certainly does according to this ...

The Deputy Bailiff:

Well, could we not have a discussion? That is a question. The question: is there going to be a central registry of trusts which will be available to authorities?

Senator I.J. Gorst:

It is my understanding that the Fourth Anti-Money Laundering Directive does not cover trusts. It might be that the U.K. is considering themselves setting up such a register but we, as I said in answer to his first question, have access to that information through the regulation of trust and company service providers, which is available for onward transmission to authorities should it be required. Therefore, there is no plan to change that model.

8.1.9 The Deputy of Grouville:

Would the Chief Minister not agree with me that there seems to be a certain amount of confusion between combatting financial crime and tax planning? Jersey is a forerunner, as he has said in his statement, in international financial services and standards. If one is to look at tax planning and the U.K. pointing the finger at Crown Dependencies, would he not agree with me that the U.K. and its non-dom regime, tax regime, and structures is as big a tax planning vehicle as anything we operate in Jersey?

Senator I.J. Gorst:

Firstly, can I say that the United Kingdom and U.K. Government Ministers, and this was confirmed not only to myself yesterday in conversation with a Government Minister, but also Senator Ozouf

happened to have a conversation with a U.K. Government Minister as well, that they are grateful for the co-operation and the partnership that we have shown with the United Kingdom Government in working together to fight tax evasion, the financing of terrorism and international crime. So it is not that they are criticising us; it is that they are congratulating us in the work that we are doing together. Of course, each individual country has its own tax code and a lot has been said about the United Kingdom tax code and one of the points being made in the United Kingdom Parliament yesterday was that if they perhaps simplified their own tax code there would not be such a need for intricate, detailed and complicated tax planning. We support that. Contrary to what some people believe we do have a simple tax code and it allows us to understand and follow tax which is payable in a straightforward way. We also have anti-avoidance measures in our tax code, something which the United Kingdom only recently introduced into their tax code. But she is right, each Parliament makes decisions about their tax code which allows people to plan so that they do not pay tax in a particular regard and there is nothing wrong with that. There is nothing illegal with it but others should not be criticised when they use those facilities.

The Deputy Bailiff:

Minister, that is somewhat over the time but, in any event, we have now reached the end of the time allocated for questions of the Chief Minister as a result of this statement.

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

The adjournment has been proposed. Very well, the States stand adjourned until 2.15 p.m.

LUNCHEON ADJOURNMENT

[14:17]

The Deputy Bailiff:

Before moving on to Public Business the following have been lodged: Collective Responsibility Statements: propositions, amendments, comments or statements lodged or submitted by a Minister lodged by Deputy Wickenden of St. Helier and Nursery funding: implementation of proposed changes lodged by Deputy Tadier of St. Brelade.

PUBLIC BUSINESS

9. Children's Property and Tuteurs (Jersey) Law 201- (P.156/2015)

The Deputy Bailiff:

Very well, we come to the first item of Public Business which is the Draft Children's Property and Tuteurs (Jersey) Law lodged by the Chief Minister and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Children's Property and Tuteurs (Jersey) Law 201-. A law to provide for the appointment and discharge of *tuteurs* and the duties and liabilities of *tuteurs* and the former *tuteurs*, to empower the Royal Court to give directions in relation to the property of any minor, to empower the States to make regulations, amending the *Loi (1959) touchant la vente des immeubles de mineurs* and for connected purposes.

9.1 Senator P.M. Bailhache (Chairman, Legislation Advisory Panel - rapporteur):

I hope you may take it from me that the Chief Minister has delegated responsibility for this particular piece of legislation to the Chairman of the Legislation Advisory Panel.

The Deputy Bailiff:

Yes, Senator.

Senator P.M. Bailhache:

There were 3 customary law procedures by which committees were established to look after the property of those who were unable or incapable of looking after it themselves. They were the *administratelle* which looked after the property of someone who had left the Island and whose whereabouts were unknown; the *curatelle* which looked after the property of someone who was mentally disordered; and the *tutelle*, which looked after the property of a minor. In each case, the family and friends were summoned to attend the Royal Court, quite often by the Connétable, and 7 *électeurs* were sworn in. From those 7 *électeurs* an *administrateur*, a *curateur* or a *tuteur* was chosen by them and he or she then took the oath before the Royal Court. The duty of the *électeurs* was, broadly speaking, to keep an eye on the *administrateur*, the *curateur* or the *tuteur* and, of course, to approve the annual accounts. In a more close-knit and local community *électeurs* understood their duties and fulfilled them very satisfactorily. But in the aftermath of the Liberation and as a consequence, I think, of the considerable immigration which took place after 1945, people became more disconnected, in part, from the customary law that had served them so well for centuries. They did not really understand the duties of *électeurs*, the remedies available to them and the bodies of *électeurs* became empty forms. The *administratelle* was abolished in 1963 and replaced by an administrator appointed by the Royal Court. The *curatelle* was abolished by the Mental Health Law of 1969 and was replaced again by a curator appointed by the Royal Court. Today the Assembly is invited to implement a recommendation of the Jersey Law Commission of 2002 and to abolish *tutelles*. The *tutelle* would be replaced by a single *tuteur* appointed by the Royal Court and a number of statutory duties in order to protect the interests of the minor would be imposed on that *tuteur*. Deputy Higgins may be disappointed that we would create an offence of *tuteur* in the French language. *Administrateur* and *curateur* were replaced by administrator and curator respectively in English and unusually I am sympathetic to the prospective views of Deputy Higgins because I am not in favour of the Franglais which affects and afflicts part of our law. But the difficulty is that the only words of which the Legislation Advisory Panel could think, tutor or guardian, both had different grammatical or technical meanings and so we resolved to keep the *tuteur* even though the *tutelle* was being abolished. Under the proposed law a *tuteur* must be appointed if the minor has either any immovable property or any moveable property to a value of £25,000 or more. The Chief Minister would be empowered, by Order, to amend that figure. Only the parent or close relative of a child, a guardian, a creditor of a child or the Attorney General may apply as of right to appoint a *tuteur*. Any other person would require the leave of the Royal Court. When the child obtains his or her majority at the age of 18 the *tuteur* would be obliged to transfer the property to the minor. There is a full report attached to the Chief Minister's proposition and I hope that Members will have found that report and the draftsman's explanatory note to be helpful. I move the principles of the Bill and would be glad to answer any questions Members may have.

The Deputy Bailiff:

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

9.1.1 The Deputy of Grouville:

I have concerns about this law because through my own bitter personal experience I have experienced a *tutelle* and, in my opinion, I found it to be intrusive to have this legal framework imposed on family life. Why is it, perhaps the rapporteur can explain this, assumed that if a parent dies the other surviving parent is incapable or untrustworthy of looking after the assets of the children? Why should this legal framework be imposed on a family? It suggests all kinds of things to me and I would just

like the rapporteur to explain why it is felt that the surviving parent is no longer capable of looking after the assets of the children. I do not know how this complies with the human rights protocols and the rights of everyone to have a peaceful and enjoyable private family life, so maybe that can be explained to me as well.

9.1.2 The Deputy of St. Ouen:

I would like to say really that I believe this legislation would be welcomed by the legal profession and everyone involved in the administration of *tutelles*. They are not a commonplace thing to happen but those involved have been working with legislation which is not really suitable for the modern age, and I believe this legislation will impose clearer requirements that make a *tuteur* more accountable, in particular the requirement to file annual accounts with the court is welcome. At the moment there is no requirement for a *tuteur* to ever account to anyone official for perhaps the 18 years they might hold funds, up to 18 years. That would now change under this legislation. There was, of course, a requirement to produce annual accounts to the *électeurs* but *électeurs* were not always in a position to chivy up a *tuteur*, were not always in the position to understand their duties. Over a period of 18 years things get forgotten. This will bring *tutelles* on to the same footing as curatorships where a curator has a requirement to file an annual account and the court officers at the Judicial Greffe can ask questions and will chase if accounts are not filed. In my experience where a child comes into inheritance but the surviving parent is left, the *tutelle* is usually formed with the surviving parent being the *tuteur* but other relations have had to come on board because there was a requirement for 7 *électeurs* and where there were not relations around or willing to serve as *électeurs* very often members of the legal profession, or their firms, did that, which did make those sort of *tutelles* quite cumbersome. I believe this legislation would make the role of a surviving parent easier in the circumstances described by the Deputy of Grouville. Only the surviving parent would be involved in the administration of the child's assets with the requirement to file annual accounts with the Royal Court. So I would welcome this legislation. I believe the majority of those involved in administration of *tutelles* would do so as well and I hope the Assembly will give it its support.

9.1.3 Senator Z.A. Cameron:

I do wonder whether the requirement to produce annual accounts when there is a surviving parent is perhaps necessary in every case. Those requirements are not without cost to the child concerned. I wonder whether really it is in that child's best interest because these processes can be very expensive.

The Deputy Bailiff:

Does any other Member wish to speak on the principles? If no other Member wishes to speak then I call on Senator Bailhache to respond.

9.1.4 Senator P.M. Bailhache:

I am sorry that the Deputy of Grouville obviously had an unhappy experience of a *tutelle*. It is true that from time to time things do go wrong. One of the very last cases in which I was involved as a judge in the Royal Court concerned a very unhappy situation where the mother and stepfather of a number of children had acted together in order to deprive the children of their rights and the *tutelle* was entirely ineffective to prevent that abuse of the children's entitlement.

[14:30]

So the presumption would be, I am sure, that in the average case, as the Deputy of St. Ouen has said, that the surviving parent would be the person to be appointed as the *tuteur*. Unless there is some good reason to prevent that from taking place that would be the usual situation. Senator Cameron queried whether the filing of accounts was over the top, too expensive, but the preparation of accounts is an absolutely essential part of the administration of the affairs of other people. If there are children

whose affairs have to be administered one cannot possibly allow a situation where annual accounts are not prepared to make it clear what the income of the child is, what expenditure has been incurred by the *tuteur* on behalf of the child and that should be recorded. That must be recorded. If it has been recorded in a set of accounts then what is the problem with requiring the *tuteur* to file those accounts with a proper authority so that they can be examined by someone accustomed to looking at the accounts of *tuteurs* and curators and others having the responsibility for the affairs of third parties to ensure that no misappropriations or inappropriate expenditure has been incurred. So I hope Members will support the principles of this law. The law will bring the administration of the estates of minors into the 21st century and I ask for Members' support.

The Deputy Bailiff:

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

POUR: 41		CONTRE: 1		ABSTAIN: 1
Senator P.F. Routier		Deputy of Grouville		Senator Z.A. Cameron
Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				

Deputy M.J. Norton (B)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

Does the Corporate Services Scrutiny Panel wish to call this into scrutiny?

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

No thank you, Sir.

The Deputy Bailiff:

We then come to the Second Reading. How do you wish to propose this? There is an amendment to Schedule 3. Would you wish to take this as amended?

9.2 Senator P.M. Bailhache:

Yes, I would hope that when we get to Schedule 3 I might be able to propose the schedule as amended by the Chief Minister but before we get there I wonder perhaps if I could take Articles 1 to 16 *en bloc* and propose those together and ...

The Deputy Bailiff:

Well, are Articles 1 to 16 seconded? **[Seconded]** Are you are proposing those *en bloc*?

Senator P.M. Bailhache:

I was. I just wanted to say a few words about them about but ...

The Deputy Bailiff:

Sorry, did you wish to speak to them? Very well.

Senator P.M. Bailhache:

These Articles of the Bill contain, obviously, the interpretation provision at Article 1. In Article 2 they deal with the provisions for the appointment of a *tuteur*, when a *tuteur* must be appointed and when and how an appointment of a *tuteur* may be made. The dividing line for moveable property has been set at £25,000. It is a pragmatic figure. If a child inherits a legacy from a grandparent or from another relative, one would expect that the executor would be prepared to accept a receipt from the parent of the child and in those circumstances it would not be necessary to appoint a *tuteur*. But once the value of the child's estate goes above £25,000 it is thought that there should be some formality, some formal procedure, and it would be obligatory for a *tuteur* to be appointed. Article 3 deals with the powers and duties of the *tuteur*. Article 4 allows the *tuteur* to be reimbursed expenses properly incurred and to be paid remuneration in accordance with a scale set by rules of court. Article 5 sets out the provisions for the discharge of a *tuteur* and the giving of directions as may be appropriate. Article 6 provides that the *tuteur* ceases to hold office upon the minor attaining the full age of 18 or dying and imposes the obligation upon the *tuteur* to transfer the property as appropriate. Article 7 empowers the Royal Court to give directions in relation to the property of a minor. Article 8 brings into effect Schedule 2 imposing duties on a *tuteur* and former *tuteurs*. Article 9 introduces a number of offences if the property is administered by somebody other than a *tuteur* and in other respects as well as set out in that Article. Article 10 is the general provision about offences committed by a body corporate or a limited liability partnership which imposes obligations on the individual who has committed the wrong. Article 11 empowers the court to make rules of court. Article 12 abolishes the requirement for the

formation of a *tutelle*. Article 13 gives effect to certain repeals. Article 14 would allow the Assembly to amend the law by regulations. Article 15 contains various saving and transitional provisions and Article 16 is the citation and commencement Article. So I move Articles 1 to 16.

The Deputy Bailiff:

Are Articles 1 to 16 seconded? **[Seconded]** Does any Member wish to speak on Articles 1 to 16?

9.2.1 Deputy J.A. Hilton:

I just wonder if the Minister could tell Members, for those *électeurs* involved in a *tutelle* currently I see that it falls under Article 12, the abolition of the *tutelle*. Who would inform those *électeurs* of a *tutelle*, which is currently running, that the law has changed? Is there some way of informing people and how soon would they have to go back to the Royal Court and appoint somebody to take over the affairs of the young person.

9.2.2 The Deputy of Grouville:

Article 2 appointment of *tuteur*, clause 6(a): “An application for the appointment of a *tuteur* may be made by a parent or relative of the minor.” Does this mean the surviving parent can appoint themselves and in so doing would **[Interruption]** ... does it mean, therefore, that a parent or relative of the minor can appoint themselves? It is an application for the appointment of a *tuteur* “may be made by a parent” but can that surviving parent appoint themselves and then that surviving parent can get remunerated for services to their child as is covered by clause 4, which would otherwise be done for nothing, I would assume, as a parent, if this legal structure was not provided or insisted upon by the Royal Court? So I would like to know if a parent can appoint or suggest to appoint themselves in the role.

The Deputy Bailiff:

Does any other Member wish to speak on the Articles? If no other Member wishes to speak I call on Senator Bailhache to respond.

9.2.3 Senator P.M. Bailhache:

Dealing first with the questions of the Deputy of Grouville, Article 2(6)(a) provides that an application for the appointment of a *tuteur* may be made by a parent or relative. The application is not the same thing as the appointment. The appointment is made by the Royal Court and it would be within the discretion of the Royal Court as to whether the parent should be appointed or whether it should be somebody else. So far as remuneration is concerned, the Article dealing with remuneration, Article 4, provides that the *tuteur* would be entitled to remuneration. That does not mean to say that the *tuteur* must claim remuneration and if a parent decided for good reasons not to charge for the time spent in the administration of the child’s affairs there would, of course, be no obligation to claim that remuneration. The question of Deputy Hilton is a good one and I might be looking to the Solicitor General for assistance in relation to this. I must say I thought that there was a provision dealing with the question of *électeurs* who were already in office under a *tutelle* but I cannot, at the moment, find it. It seems to me, therefore, unless the Solicitor General is able to correct me that the *tutelle* would continue in existence for those *tutelles* which had already been appointed so there would be no question of appointing or telling the *tutelles* or the *électeurs* that they were no longer in office because during the continuation of the *tutelle* they would remain in office, but I am a little uncertain about it and I am ready to stand corrected by the Solicitor General if that is not the correct interpretation.

The Deputy Bailiff:

So, Solicitor, are you able to advise the Assembly?

Mr. M.H. Temple Q.C., H.M. Solicitor General:

I had thought that looking at Article 15, together with the explanatory note on Article 15, that there is provision for the Minister by Order to deal with transitional provisions and savings concerning the commencement and repeal of any enactment and the abolition of any rule of customary law. So I had thought that Article 15 envisaged that there would be a subsequent order dealing with existing *tutelles* and that they would not automatically be abolished as soon as this law is registered. That was my reading of the legislation.

Senator P.M. Bailhache:

I am very grateful to the Solicitor General and I am sure he is right and so the answer to the Deputy is that there would be transitional provisions enacted in an order made by the Chief Minister and clearly there would be appropriate provisions in that order for the giving of notice to any *électeurs* who were no longer going to continue in office.

[14:45]

The Deputy Bailiff:

You maintain Articles 1 to 16 then, Senator? All those in favour of adopting Articles 1 to 16 kindly show. Those against? Articles 1 to 16 are adopted. We come then to the schedules I think.

9.3 Senator P.M. Bailhache:

So I come to the schedules, if I may move them as amended by the Chief Minister's amendment. Schedule 1 sets out the oath of a *tuteur* to be taken before the Royal Court. Schedule 2 sets out more detailed provisions as to the duties of a *tuteur* in the delivery of an inventory first of all after appointment to look after the infant's affairs and then the filing of accounts. Schedule 3 deals with a number of amendments to different laws, to remove references to *tutelle*. So I move Schedules 1, 2 and 3.

The Deputy Bailiff:

Are those schedules seconded? **[Seconded]** Does any Member wish to speak on the schedules? All Members in favour of adopting the schedules kindly show. Those against. Schedules 1 to 3 are adopted. Do you deliver that in Third Reading, Minister?

Senator P.M. Bailhache:

I move the bill in Third Reading.

The Deputy Bailiff:

Is the Bill in Third Reading seconded? **[Seconded]** Does any Member wish to speak on the Bill in Third Reading? If no Member wishes to speak then all Members in favour of adopting the law in Third Reading kindly show. Those against? The law is adopted in Third Reading.

10. Draft Aircraft Registration (Amendment) (Jersey) Law 201- (P.7/2016)

The Deputy Bailiff:

The next item is Draft Aircraft Registration (Amendment) (Jersey) Law lodged by the Minister for Economic Development, Tourism, Sport and Culture and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Aircraft Registration (Amendment) (Jersey) Law 201-. A law to amend the Aircraft Registration (Jersey) Law 2014. The States subject to the sanction of Her Most Excellent Majesty in Council have adopted the following law.

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

Deputy Norton will be acting as rapporteur for this item.

10.1 Deputy M.J. Norton of St. Brelade (Assistant Minister for Economic Development Tourism, Sport and Culture- rapporteur):

I propose to the Assembly the Draft Aircraft Registration (Amendment) Law. The amendment to the Aircraft Registration (Jersey) Law 2014 allows for a qualified person to be removed from registration where circumstances require. The intention of this amendment is good news in that in due course it will allow for the Jersey Aircraft Registry to accept registrations from qualified persons who are not simply Jersey incorporated entities where suitable criteria exists as to incorporation in order to widen the commercial offering of the Jersey Aircraft Registry to fall in line with other offshore registries. I commend this very brief introduction of the Draft Aircraft Registration (Amendment) Law to the States.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? No Member wished to speak on the principles then all Members in favour of adopting the principles kindly show. Those against? The principles are adopted. Does the Economic Affairs Scrutiny Panel wish to scrutinise this matter?

Deputy S.M. Brée (Chairman, Economic Affairs Scrutiny Panel):

No, we do not.

The Deputy Bailiff:

Very well. How do you wish to propose the Articles in Second Reading then?

Deputy M.J. Norton:

Can I take them all *en bloc* if I may?

The Deputy Bailiff:

Are the Articles seconded? **[Seconded]** Does any Member wish to speak on the Articles? All Members in favour of adopting the Articles kindly show. Those against? The Articles are adopted. Do you wish to deal with the matter in Third Reading? Is the proposition in Third Reading seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the law in Third Reading kindly show. Those against? The law has been adopted in Third Reading.

11. Draft Pet Travel Scheme (Amendment No. 2) (Jersey) Regulations 201- (P.16/2016)

The Deputy Bailiff:

The next item is the Draft Pet Travel Scheme (Amendment No. 2) (Jersey) Regulations lodged by the Minister for Environment and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Pet Travel Scheme (Amendment No. 2) (Jersey) Regulation 201-. The States, in pursuance of Article 2 of the European Union Legislation (Implementation) (Jersey) Law 2014 have made the following Regulations.

11.1 The Deputy of St. Martin (The Minister for Environment):

The Assembly may recall the Pet Travel Regulations which govern the movement of pet dogs, cats and ferrets into Jersey from all countries except the British Isles. Movements between the British Islands are unrestricted by this legislation. However, many Jersey residents and visitors enjoy being able to travel with their pets further afield and strict adherence to the controls is necessary to prevent the introduction of 2 extremely serious diseases of humans. Rabies, which is invariably fatal once there are symptoms and a tape worm, *Echinococcus Multilocularis*, which causes cancer-like growths in humans and is very difficult and expensive to treat. The principal regulations adopted in 2011 required that a compliant pet animal, which fulfils all the necessary prerequisites, travels to Jersey using an approved carrier. It is an offence to land an animal which is not transported by an approved carrier. This procedure applies effective control by the approved carrier making the pre-travel checks to establish the animal is eligible to land before it is transported at no cost to the taxpayer. The accuracy of approved carriers' checks is audited by my department staff and a failure of the carrier to adhere to the regulations and terms of approval is an offence. To strengthen the controls this amendment introduces an offence when a person lands a pet, which is non-compliant, and is also transported by an approved carrier. The carrier is not guilty of an offence if they have fulfilled the conditions of approval. In other words, for example, if their checks have not identified a pet travelling with its owner or another person. The second amendment introduces protection to an inspector acting honestly in discharge of duties in accordance with the regulations by improving clarity that they are not personally liable for anything he or she does. Finally, and to enable a prompt response and improve efficiency, updating the regulations, for example if a disease threat is identified and results in the European Commission giving effect to an implementing act a further amendment enables the Minister to amend these regulations by order. I commend these important amendments to the Assembly, particularly to reinforce import controls and provide increased efficiency for responding to updates from the European legislation. I propose the amendment.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? If no Member wishes to speak then all Members in favour of adopting the principles kindly show. Those against? The principles are adopted. Does the Environment, Housing and Technical Services Scrutiny Panel wish to scrutinise this matter?

Deputy D. Johnson of St .Mary (Chairman, Environment, Housing and Technical Services Scrutiny Panel):

No.

The Deputy Bailiff:

How do you wish to propose the Regulations in Second Reading?

The Deputy of St. Martin:

Just *en bloc* please.

The Deputy Bailiff:

Are the Regulations in Second Reading seconded? **[Seconded]** Does any Member wish to speak on the Regulations? No Member wished to speak on the Regulations. All those in favour of adopting the Regulations kindly show. Those against? The Regulations are adopted in Second Reading. Do you wish to propose the matter in Third Reading?

The Deputy of St. Martin:

Thank you.

The Deputy Bailiff:

Is the matter seconded in Third Reading? **[Seconded]** Does any Member wish to speak on the Regulations in Third Reading? No Member wishes to speak on the Regulations. All Members in favour of adopting the Regulations in Third Reading kindly show. Those against? The Regulations are adopted in Third Reading.

12. Draft Animal Health (Jersey) Law 201- (P.17/2016)**The Deputy Bailiff:**

The next item of Public Business is the Draft Animal Health (Jersey) Law lodged by the Minister for Environment and I ask the Greffier to read the citation.

The Greffier of the States:

The Draft Animal Health (Jersey) Law 201-. A law to control certain diseases of animals and birds and for connected purposes. The States subject to the sanction of Her Most Excellent Majesty in Council have adopted the following law.

12.1 The Deputy of St. Martin (The Minister for Environment):

Before I start may I assume I can propose this law as amended, my own amendment?

The Deputy Bailiff:

I was going to work on the assumption, Minister, and am happy to hear to the contrary, that we would take Articles 1 to 33; you would then propose the amended Article 34, which would be dealt with in the normal way and then take it.

The Deputy of St. Martin:

Okay. Recent propositions have highlighted the need for European Community rules in the field of veterinary animal health, food and animal feeding stuff legislation to be part of the law of Jersey to meet obligations set out in Protocol 3 to the active accession to the United Kingdom to the European Communities 1972. The European Community regulations in these areas are of direct effect on application to Jersey which for these purposes is treated as part of the same Member State of the European Union as the United Kingdom. To comply with these obligations for international trade Jersey must administer and enforce regulations under domestic law. Directives must be given effect in domestic law and this can be achieved, most efficiently, by making an order. The 1956 Diseases of Animal Law established sound principles to apply animal disease control and maintain Jersey's prohibition on the import of live cattle which was first enacted many years previously. The law predates the European Union by several years and was adopted in an era where the pattern of international travel and commodity trade was very different from today. In the 60 years since the enactment of the Diseases of Animals (Jersey) Law the animal disease situation in Europe has changed significantly. For example, Foot and Mouth Disease has been eradicated and many countries have achieved freedom from rabies. Conversely, Blue Tongue and African Swine Fever, historically confined to the African continent, are now present in parts of Europe. People, animals and goods now travel internationally in a very short time creating challenges to disease control not envisaged in 1956. Since that date, many discoveries and developments in the field of veterinary medicine and epidemiology have informed and changed the control options for some diseases of animals, for instance, accurate meteorological modelling of Foot and Mouth Disease is now possible. In the face of increasing global trade, climate change and the emergence and re-emergence of diseases that can rapidly spread across international borders, effective modern legislation is an essential element of legal

infrastructure to enable veterinary services to efficiently carry out their key functions including the early detection and reporting of diseases, including zoonoses, the prevention, rapid response and control of animal health emergencies, the safeguarding of the food safety and animal products, the promoting of animal welfare, the relevant certification of animals and animal products for trade and finally, epidemic surveillance. Internationally, legislation is based on standards and protocols established by agreement in the World Organisation for Animal Health, (O.I.E. (Office International des Epizooties)) which has 175 member countries. Specific animal diseases referred to as notifiable are subject to government control because they have a serious impact on animal or human health or on the economy or economic viability of businesses including those not directly linked to animals and animal products, for example here in Jersey, tourism. The list of O.I.E. notifiable diseases is regularly revised by experts and updates are approved at the annual general assembly. Great Britain is an O.I.E. founder member. This Animal Health (Jersey) Law will add to existing provisions and enable application and promotion of standards based on E.U. legislation, O.I.E. provisions and best practice reflecting current knowledge. This Animal Health (Jersey) Law will provide the framework to enable the Minister to administer and enforce controls governing a wide range of species, activities and businesses involving aquatic and terrestrial animals, animal carcasses and animal products. The controls provided are commensurate with international standards and enable implementation of relevant European legislation, permitting lawful trade in animals and animal products.

[15:00]

The legislation provides ministerial powers to enact subordinate legislation to meet Jersey's obligations under Protocol 3 and to enact legislation based on best practice to protect animal health, welfare and human health. The required powers fall into 2 broad categories. First, powers for disease prevention, surveillance and safeguarding food safety and secondly, powers to be applied when disease is suspected or confirmed. The legislation makes reporting suspicion of certain diseases mandatory with a range of powers to enable government to take action to eradicate disease and prevent spread. The legislation gives ministerial powers to ensure relevant businesses operating in or from Jersey are compliant with required standards of production, handling, storage, disposal, transport and recordkeeping and also gives the ability to quickly identify those at risk in the event of disease incursion. The legislation gives powers to carry out controls promptly and efficiently when a disease threat or incursion arises, for example Avian Influenza or Foot and Mouth Disease. The legislation gives powers to prevent disease spread by appropriate imposition of controls for certain diseases, culling susceptible animals followed by cleansing and disinfection of equipment in premises with strict rules on restocking. It also states that the Minister, with approval from the Minister for Treasury and Resources, may be required to pay compensation for animals culled. The legislation gives powers to vaccinate. Certain diseases may be controlled by vaccination, for example, rabies. Therefore, power to require vaccination of eligible animals is necessary. Conversely, there are powers to prohibit vaccination where this is a disbenefit because vaccinated animals cannot be traded or the vaccine itself may risk disease introduction. The legislation gives powers to carry out detailed investigations to determine where disease came from and where it has spread to and the ability to apply restrictions on premises and things which may have links to those confirmed or suspected disease. For disease, such as Foot and Mouth, restrictions have to be applied in an area rather than to individual premises only. Finally, the legislation gives powers to carry out surveillance, including repeated sampling and testing for diseases which may, or may not, be present in Jersey. Proving freedom from disease is as important as containing and eradicating a disease after an introduction. Other examples of powers available include; powers to require animal owners and keepers and those operating businesses handling animals or animal products to register, powers to identify animals by prescribed means, powers to attain and verify structural or production standards as required, powers to maintain records and appoint inspectors including veterinary inspectors, powers to enter land, premises, buildings,

vehicles or vessels at all reasonable times to investigate suspicion of disease, failure to comply with controls or the presence of a pathogen and to take samples and apply tests. They further include powers to apply time limits for compliance with required actions and to regulate movement of animals, carcasses, animal products, vehicles, equipment, feeding stuffs or anything which may transmit disease into, within or from Jersey. Powers to regulate gatherings of animals at shows, fairs, markets and exhibitions which may or may not be held for the purpose of selling animals, animal products or equipment. Powers to obtain information relevant to disease prevention and control. Powers to require cleansing and disinfection to specified standards of premises, vehicles and things. Powers to require isolation of an animal or group of animals. Powers to seize and detain any animals or things suspected of being infected with disease or capable of transmitting disease. Powers to regulate exhumation of animal carcasses and to issue licences to individuals or to classes of people permitting movements or actions otherwise prohibited and apply conditions to licences. Powers to compulsorily slaughter on suspicion or confirmation of disease and to compulsorily destroy things which may transmit disease and cannot reasonably be cleansed and disinfected. When an exotic or emerging disease is suspected or confirmed powers to apply appropriate controls to people and inanimate objects. After describing such a long list of powers I would just add, it is notable that at least 60 per cent of emerging diseases are zoonotic, i.e. transmissible from animals to humans, hence the need to have all powers necessary if they are required. Enforcement in support of the control measures is provided by power to apply to penalties or sanctions, either criminal or administrative. In accordance with the States of Jersey user-pay policy provision to levy fees for carrying out inspections, sampling, tests, whether these, or not, result in issuing of an approval and issue of approvals, licences, authorisations and certificates is also included. A range of stakeholders have been consulted with no concerns or adverse comment returned. Support for maintenance of the prohibition on live animal imports, cattle imports, was unanimously confirmed after consultation with the industry. Scrutiny were invited to review that law and confirm they were content to progress without their formal consideration. Finally I would just like to speak briefly about the financial and staffing implications. For the Department of the Environment routine work and administration and inspecting will continue utilising existing staff and financial resources. Adoption of the law will streamline and improve efficiency by revoking 4 laws which are no longer necessary or fit for purpose and replacing them with this single law. With one exception, orders made under the laws will be revoked and will remain extant in a programme of making orders to streamline and modernise will produce contemporary, efficient legislation once the law is brought into force. Staff and financial resources to investigate and, if confirmed, control an incursion of an exotic or emerging disease are likely to run into many thousands of pounds. A contingency or emergency budget is identified and resources would have to be agreed from within the Department of the Environment or a request for funding made to the Treasury and Resources Department. For an inspection, test or official examination and the licence, a certificate, approval or authorisation under the law a fee will be payable. It is vitally important to ensure that adequate, contemporary and proportionate controls are available to prevent incursion and, if the worst happens, control globally important animal diseases. The ability to apply and enforce controls in Jersey for both the day-to-day protection of our animal and human population and for dealing with disease through actual incursions is clearly a prerequisite of the 21st century. Having such legislation is also an important aspect of demonstrating to our expanding list of trading partners that internationally agreed standards are in place here in Jersey. I commend the Animal Health (Jersey) Law to the Assembly and propose the principles.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak upon the principles? No Member wishes to speak on the principles. All Members in favour of adopting the principles kindly show. Any against? The principles are adopted. Does the Environment, Housing and Technical

Services Scrutiny Panel wish to call this in? I now move the matters in Second Reading, Minister. I note that there is an amendment to Article 34. You will presumably take Articles 1 to 33 in the way that you wish to take them, and then we will come to Article 34 and deal with the amendment then.

The Deputy of St. Martin:

If I might I would like to take Articles 1 to 16 separately. I could then do 17 to 34 and then the 5 schedules at the end.

The Deputy Bailiff:

It will be 17 to 33 because you do 34 separate and then the last 2: 35 and 36, plus the schedules at the end. Okay, that is right. Do you want to move Articles 1 to 16 then?

12.2 The Deputy of St. Martin:

Yes, please. Articles 1 to 4 cover interpretation, the meanings of disease, specified pathogen and animal, and provide specific meanings for a range of terms to ensure universal understanding. There is ministerial power to amend the diseases and specified pathogens made notifiable by the law and to extend the definition of animals. These powers enable a rapid response to be made if necessary in the face of new and emerging threats. Articles 5 to 9 deal with powers given to the Minister. These begin with power to appoint veterinary surgeons including a States Veterinary Officer and non-veterinarians to carry out specified functions. In line with my proposition, order-making powers are provided to give a wide range of options which may be applied to protect animal and human health, with particular powers for prevention and control of rabies. The powers detailed in Schedule 3 later will enable implementation of relevant E.U. legislation in an efficient manner and the co-recovery of expenses defrayed in implementation of the law. There is power to designate a disease or organism deemed to be a zoonotic risk and to use samples taken for one purpose to be used for another relevant purpose. This enables, for example, retrospective testing of stored samples for a purpose unconnected with the original sampling regime. Articles 10 to 16 provide a wide range of obligations and powers necessary to control notifiable disease. Reporting suspicion of disease and simultaneously stopping animal, bird carcasses or other things moving from the premises and the taking of all necessary bio security measures is of primary importance. Different powers can be invoked appropriate to the epidemiology of the disease and applicable policy. For example, diseases such as foot and mouth and classical or African swine fever are subject to slaughter policy with movement controls and cleaning and disinfection is key to preventing spread and the re-emergence of infection. Should a case of rabies be confirmed, compulsory vaccination is a key control. Article 13 makes it an offence to introduce or spread disease, interfere with official tests or do anything which causes or masks symptoms similar to a notifiable disease, reflecting aspects of our world where bio-terrorism and fraud are unlikely to have been a consideration 60 years ago. Article 14 maintains and indeed reinforces the very longstanding prohibition on the import of live cattle to Jersey. Current and previous legislation applied to domestic cattle while tourists only and in response to changed European and world trade this has now been extended to bison and buffalo. Article 15 introduces new controls on specified pathogens enabling control of a micro-organism specified in Article 2 whether or not it has caused disease. I propose Articles 1 to 16.

The Deputy Bailiff:

Are Articles 1 to 16 seconded? **[Seconded]** Does any Member wish to speak on Articles 1 to 16? No Member wishes to speak. Then all those in favour of adopting Articles 1 to 16 kindly show. Those against? Articles 1 to 16 are adopted. Articles 17 to 33, Minister?

12.3 The Deputy of St. Martin:

I have just picked out the important ones, but Articles 17 and 18 provide the power to slaughter animals which are diseased or exposed to disease, together with a mechanism for payment of compensation at market value. Slaughter is an essential step for eradication of certain diseases; for example, avian influenza, equine infectious anaemia or foot and mouth disease.

[15:15]

Articles 19 to 22 give a wide range of powers to appointed inspectors which may be used when there are reasonable grounds to suspect the presence of a disease in an animal or carcass or there is non-compliance with relevant legislation. These powers do not extend to entry to a private dwelling except when a veterinary inspector believes there is an immediate risk to human health from a zoonotic disease or an inspector has obtained a warrant from the Bailiff or a Jurat. These powers are considered crucial to the ability to exercise adequate and sufficient control when dealing with the most serious animal diseases known. They require inspectors to have reasonable suspicion or application and/or exceptional circumstances, a veterinary inspector to carry out a risk assessment and if deemed necessary and proportionate, to identify risks overall and otherwise necessary requirement or action. Part 6 lays down the detailed processes for issuing publication of notices, licences and declarations which can apply a range of controls with or without conditions. There are general conditions applicable to licences, whether general or specific, such as a copy of the licence being carried during the movement or a document detailing the consignment. Article 27 prohibits international obstruction or interference with enforcement of the legislation or permitting these prohibited activities. It prohibits giving false information and specifically failing to provide required records. The process is also provided for a change of ownership when disease control restrictions are in place on a premise. Article 29 makes it an offence to contravene or fail to comply with any requirement of relevant legislation and deterrent penalties are provided to the court. Fines and imprisonment are augmented when the court considers a convicted person should be disqualified from keeping or having care of animals or birds. Standard provision for offence by businesses and protection for inspectors acting honestly is made. Part 8 confirms that orders made under this law may reference relevant E.U. provisions as amended from time to time because this is the most efficient and effective means of ensuring we remain current in our applications of these obligations. As I have already mentioned, 4 laws are repealed because they either are no longer fit for purpose or the provisions are incorporated in the Animal Health Law. The revocations do not apply to subordinate orders with 2 exceptions under the 1950 Fertilisers and Feeding Stuffs Law and these are a fees order made in 1951 which was never updated and an outdated order made in 1976. I think I will stop there and just propose to 33 and then I will come on to 34.

The Deputy Bailiff:

Are Articles 17 to 33 seconded? [**Seconded**] Does any Member wish to speak on Articles 17 to 33?
The Deputy of St. Ouen.

12.3.1 The Deputy of St. Ouen:

I can give the Minister a brief respite by referring to the fact that I believe in St. Ouen there are a few areas where poultry have escaped from where they were once kept and seem to be breeding on waste land and are probably abandoned animals. No one would claim them. In such circumstances does this law grant powers to deal with those birds which no one would claim ownership of and may be a threat to disease?

The Deputy Bailiff:

Does any other Member wish to speak on Articles 17 to 33? If no other Member wishes to speak I call on the Minister to respond.

12.3.2 The Deputy of St. Martin:

I can assure the Deputy that, as I have tried to point out, this law will give powers under all circumstances to inspectors appointed by myself or the States Veterinary Officer to deal with any suspicious zoonotic diseases which have the ability to transmit from birds to humans. It is hugely important that we have the ability to do that and you will see when we come on to the amendment why we decided to amend the law that we had proposed. Certainly the veterinary officer or people appointed by myself, if they had suspicion that these poultry were diseased they could take action immediately to make sure that any infection or suspicion of infection was dealt with regardless of the ownership.

The Deputy Bailiff:

All those in favour of adopting Articles 17 to 33 kindly show; those against. Articles 17 to 33 are adopted in Second Reading.

12.4 Draft Animal Health (Jersey) Law 201- (P.17/2016): amendment (P.17/2016 Amd.)

The Deputy Bailiff:

We now come to Article 34 which you wish to have the amendment put would you, Minister?

The Deputy of St. Martin:

Yes, thank you.

The Deputy Bailiff:

I will ask the Greffier to read the amendment.

The Greffier of the States:

Page 38, Article 34 – (1) Renumber the existing text as paragraph (1). (2) After the renumbered paragraph (1) insert the following paragraph – “(2) The States may by Regulations make such amendments to any enactment as appear to the States to be expedient – (a) for the general purposes, or any particular purpose, of this Law; (b) in consequence of any provision made by or under this Law; or (c) for giving full effect to this Law or any provision of it.”

12.4.1 The Deputy of St. Martin:

Members may remember that following the adoption of the Vet Check Regulations it was identified that in order to update them - in other words removing the references to the diseases of Animals (Jersey) Law 1956 - it was most expedient to amend the Draft Animal Health Law by including provision to make amendments to primary legislation by regulation rather than having to amend the primary law. This provision to amend by regulations provides the most efficient means of update. The amended Article 34 therefore facilitates the textual improvements at paragraph (1) and paragraph (2) and then deals with the meat of the amendment by amending by regulation. So I therefore like to propose the Article 34 as amended.

The Deputy Bailiff:

We are proposing the amendment. Is the amendment seconded? **[Seconded]** Does any Member wish to speak on the amendment? All those in favour of adopting the amendment kindly show. Those against? The amendment is adopted. Do you therefore propose Articles 34, 35, 36 in the Schedules?

12.5 The Deputy of St. Martin:

Yes. I just deal very briefly with that. Effect is given to Schedule 5 which amends other legislation as necessary and provision is made for amending this law or any other as required by regulations adopted

by the Assembly. The introduction of the amendment by regulations' provision that we have just done will affect that. Finally there is a certain standard citation and commencement provision. Schedules 1 and 2 list the diseases which are notifiable and agents which are specified pathogens. Schedule 3 lists the order making powers referred to in Part 2. Schedule 4 provides preventative measures which can be applied continuously to prevent disease introduction or when a specific threat is identified; in other words, avian flu or potentially African horse sicknesses in a neighbouring territory; and Schedule 5 lists other legislation which must be amended consequent to adoption and implementation of this law. I propose those schedules.

The Deputy Bailiff:

Are the remaining Articles and Schedules seconded? **[Seconded]** Does any Member wish to speak on the remaining Articles and Schedules to the law? All Members in favour of adopting the remaining Articles and Schedules kindly show. Those against? They are adopted in Second Reading. Do you move the matter in Third Reading, Minister?

The Deputy of St. Martin:

Thank you.

The Deputy Bailiff:

The Regulations are seconded in Third Reading? **[Seconded]** Does any Member wish to speak on the matter in Third Reading? No Members wish to speak. Those Members in favour of adopting the law in Third Reading kindly show. Those against? The law is adopted in Third Reading.

13. Draft E.U. Legislation (Aquatic Animal Health) (Jersey) Regulations 201- (P.18/2016)

The Deputy Bailiff:

The next item of Public Business is the Draft E.U. Legislation (Aquatic Animal Health) (Jersey) Regulations and I ask the Greffier to read the citation.

The Greffier of the States:

Draft E.U. Legislation (Aquatic Animal Health) (Jersey) Regulations 201-. The States in pursuance of Article 2 of the European Union Legislation Implementation (Jersey) Law 2014 have made the following Regulations.

13.1 The Deputy of St. Martin (The Minister for Environment):

As part of the continuing introduction and updating of legislation consequent to the need for European Community rules in the fields of veterinary animal health, food and animal feeding stuff legislation I finally propose today to introduce regulations governing trade in aquaculture species which is those aquatic species raised using techniques to increase production greater than the natural capacity of the environment. These regulations give force to Council Directive 2006/88 and related E.U. legislation which has been implemented as a matter of policy since application in Europe alongside use of Jersey legislation which is now superseded. Aquaculture in Jersey is a very significant industry with the highest volume of Pacific oyster production unit area in the British Isles, and also with the smaller and equally important quantities of mussels, scallops and finfish as well as recent re-establishment of the native oyster and the development of ormer production. Trade in ornamental fish imported and sold in the Island is also an important aspect of retail business. The parent E.U. directive and implementing E.U. regulation and decisions together with those Jersey specific enabling and implementing regulations provide risk-based controls to facilitate trade with adequate control available for certain diseases by requiring aquaculture operations, whether for profit or not, to be authorised or registered.

Similarly to legislation controlling disease of terrestrial animals, this legislation is only applicable to those diseases internationally acknowledged to be of significant economic importance and to new or emerging diseases pending research and review. Keeping ornamental fish in a pond which has no contact with natural water and no harvesting or catching of fish for human consumption are not subject to this legislation because they do not pose a risk to aquaculture production. The importing of ornamental fish, however, is subject to control. The type of enterprise which must be authorised is any which involves rearing, keeping or cultivating aquatic animals or processing such animals for human consumption. The type of enterprise which must be registered are put-and-take fisheries, aquaculture businesses which do not place products on the market and specialist transporters. There is a means to require such operations to be authorised if it is considered necessary to prevent or limit the spread of disease. Authorisation encompasses more stringent measures than registration, reflecting the greater risk associated with operations rearing, keeping and cultivating aquaculture animals. Authorised operations must implement biosecurity, maintain relevant records and report the results of surveillance where there is a suspicion of disease or an unexplained increase in mortality. The health requirements for trading legally include confirmation that the health status of the premises or area of dispatch will not jeopardise the health status at the premises or area of destination. Consignments are accompanied by official health certification proving compliance. The movements from higher to lower health status or between areas of equal health status, commercial documents coupled with verification using an official notification system are obligatory. These rules apply to live animals which are not aquaculture animals and which can survive in Jersey waters and to species which are vectors for disease as well as those affected. Vectors, I can tell the House, are animals or aquaculture animals which can transmit the disease but do not catch it themselves. Rules to prevent disease introduction are applied to transport because the vehicle itself and the waters in which animals are transported can introduce and spread disease if adequate controls are not applied. Also applied to establishments processing for human consumption to prevent disease introduction by contaminated water entering and mixing with Jersey waters. In parallel with disease controls applied to terrestrial species, there is a legal obligation to report suspicion of notifiable disease or increased mortality which has a specific meaning. Powers are also provided to prevent, investigate and control disease by sampling and by applying restrictions on movements, by slaughter, cleaning and disinfection of equipment, including transport and tracing movements for the spread of disease controls using vaccines and finally creating offences for non-compliance. Implementing user-pays policy, fees may be prescribed by order for functions carried out in accordance with the regulations. Following initial introduction of the regulations and processing authorisations and registrations, trained department staff in existing posts will undertake required inspections and issue documents necessary for trade.

[15:30]

All these functions are subject to user pays and will not make demand on the taxpayer. Scrutiny were invited to review the draft law and confirm they were content to progress without formal consideration. The draft regulations were circulated to identified stakeholders and further information provided to clarify points as requested. Several stakeholders have anticipated formal introduction of the E.U. provisions since implementation and many aspects have been applied as a matter of policy in Jersey for some years now. So, in conclusion, as in the matter of Animal Health Law which we have just dealt with, it is very important to ensure that adequate, contemporary and proportionate controls can be applied to prevent incursion and if the worst happens, control important aquatic animal diseases.. Adopting the Regulations is an important aspect of demonstrating compliance with Article 3 obligations which could be audited by E.U. officials. These Regulations also provide confidence that internationally agreed standards are in place in our expanding list of trading partners. I commend this E.U. legislation, the Aquatic Animal Health (Jersey) Regulations to this Assembly and propose the principles.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Any Member wish to speak on the principles? Will Members in favour of adopting the principles kindly show? Those against? The principles are adopted. Do you wish ... I beg your pardon. Does the Environment, Housing and Technical Services Scrutiny Panel ...

The Deputy of St. Mary (Chairman, Environment, Housing and Technical Services Scrutiny Panel):

No, Sir.

The Deputy Bailiff:

How do you wish to deal with the Regulations?

13.2 The Deputy of St. Martin:

I would just like to do it all in one go if I may and just give a brief overview of the 7 parts.

The Deputy Bailiff:

Did you say that you wish to give a brief overview?

The Deputy of St. Martin:

Yes, if that is possible. Part 1 provides interpretation and scope. Parts 2, 3 and 4 provide processes for authorisation including applicable conditions for amendments, suspension and revocations, registrations and the placing of the products on the market. It is an offence for a person operating a relevant business, transport or placing on the market to do so without complying with requirements. Powers are provided to the Minister to require authorisation to a business otherwise required to register where it is deemed necessary to prevent or limit disease spread. Part 5 details controls and powers applicable to control disease, beginning with the obligation to notify suspicion and then the necessary steps to confirm and control including eradication when possible and practical. These steps are typically sampling, movement controls on animals, products, transport and if necessary people and cleaning and disinfection. Parts 6 and 7 enable enforcement by provision of requisite powers, the ability to serve notices and making it an offence to obstruct someone carrying out a relevant function. To future proof these provisions, particularly following adoption of the Animal Health Law and anticipating it coming into force, the Minister may amend by order the power of enforcement provided by regulated legislation in the fields of aquaculture, transport, animal or plant health. Part 7 lays down an appeal mechanism for reconsideration of a decision by the Minister, description of fees discussed in my speech and finally repeals 3 outdated laws which are no longer fit for purpose. Coming into force, the Regulations are staggered to allow adequate time for those affected by them requiring those required to process application and other relative related matters. It is estimated that this legislation may affect 14 businesses directly. I propose those 7 Regulations.

The Deputy Bailiff:

Are the Regulations seconded? **[Seconded]** Does any Member wish to speak on the Regulations? Those Members in favour of adopting the Regulations kindly show. Those against? The Regulations are adopted. Do you wish to propose the matter in Third Reading, Minister?

13.3 The Deputy of St. Martin:

If I might in this Third Reading, can I just crave the indulgence of the Assembly and ask that I might be allowed to thank the architect of the many veterinary matters that we have debated not only today but in recent weeks. While not usually permitted, I feel that in light of her sterling work not only over the last few months to bring all our veterinary legislation up to speed, but in the last 10 years and just

prior to her retirement next month that we in this Assembly should thank Dr. Linda Lowseck for her dedicated service to the public of the Island **[Approbation]** and maybe her more dedicated service to the animals of the Island and our livestock. Linda's work in her time with us has been varied, challenging, but I hope rewarding. She has been required to deal on an hour-by-hour and day-by-day basis with, among other things, animal welfare issues, enforcement proceedings, advice to the public and the ever-increasing threat of notifiable animal diseases; and of course the increased export trade which now goes to far-flung countries. On the more strategic side, she has been required to carefully consider global, European, U.K. and Island veterinary policy and ensure that the Island continues to be safeguarded by ever-improving and now, after this afternoon, very up-to-date legislation. She will, as they say, be a very hard act to follow. She will be replaced initially with an interim States Veterinary Officer who is contracted from the U.K.'s animal and plant health agency before our new permanent States Veterinary Officer joins us in August. I would ask Members to join me in wishing Linda well in the future, the immediate few weeks of which bring her a new challenge of working with the Mission Rabies Charity in Malawi, something that I know personally is of great interest to her. I know she will be listening to today's debate and I would just like to take the opportunity to thank her for all her sterling work over the years she has been with us **[Approbation]** and if I might just propose this in the Third Reading.

The Deputy Bailiff:

Is the matter seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? If no one wishes to speak in Third Reading, would those Members in favour of adopting the Regulations in Third Reading kindly show. All those against? The Regulations are adopted in Third Reading.

14. Draft Telecommunications (Amendment No. 3) and Crime (Miscellaneous Provisions) (Jersey) Law 201- (P.19/2016)

The Deputy Bailiff:

The next item is the Draft Telecommunications (Amendment No. 3) and Crime (Miscellaneous Provisions) (Jersey) Law 201- P.19/2016 lodged by the Chief Minister, and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Telecommunications (Amendment No. 3) and Crime (Miscellaneous Provisions) (Jersey) Law 201-. A law to amend further the Telecommunications (Jersey) Law 2002 and to amend the Crime (Disorderly Conduct and Harassment) (Jersey) Law 2008. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

Sir, could I ask Senator Ozouf to act as rapporteur as he has responsibility for these areas.

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

Wrong button, Sir. I am trying to vote for something. I got the digital technology wrong. Digital technology undoubtedly brings huge benefits to society all over the world. Technology, as you will know as Deputy Chair of J.L.I.B. (Jersey Legal Information Board), Sir, is revolutionising the way we communicate, we transact in so many areas of our lives. The Minister for Health and Social Services is embracing technology as a way of providing better health care in the future. The Minister for Infrastructure, I understand, is working on forms of communicating with his department for parking ticket arrangements. The police are using technology. Courts, as I have said, are using technology

increasingly. eGovernment will provide what Senator Maclean wishes is a better public service delivered at lower cost. At the heart of technology and innovation is effectively a lot of communication. Online solutions can cut red tape, they can improve efficiency, they can improve and drive productivity, make businesses in the States and our day-to-day communicating working lives work more efficiently. Technology industry itself boosts jobs and growth and that is why we are focusing on it. Technology drives more choice in competition. Technology can empower Islanders and citizens around the world to have greater information, greater learning opportunities in the Minister for Education's department, in fact in any stage of our lives. Technology empowers people and gives people greater independence and choice. People have better opportunity; we may even have better democracy. We can have better debates by having online debates and we can give people information about what we are doing and we can give people more choice and more information about their choices in their own lives. Looking for a job, communicating with relatives, families, and technology helps re-establish old friendships. Much is often said about how the increased use of technology might risk marginalising those that do not have access to the knowledge economy, that do not have access to a smart phone or a tablet: elderly people, for example, or people on low incomes. The statistics that are at the heart of dealing with some of these issues that we are going to discuss, statistics in Jersey show that we have an increasingly, amazingly e-enabled senior citizen blue, grey surfing ... I dare look across the Assembly with some grey-haired people but they call them, "Silver Surfers", I understand. I understand that we have more Silver Surfers in Jersey per proportion than many other places. The joy of an octogenarian uncle when he Facetimes his 4 year-old niece and she smiles and squeals with joy, able to speak to her uncle about what she has done today before tea time bridges the gap between young and old. Technology improves our lives. But, unfortunately, that improving of life comes with risks and additional challenges. Foremost amongst these challenges, there is the problem of harmful communications that can be made in this increasingly online world. As a legislature, we must ensure that our legislation puts in place for Islanders the same level of protections from abuse and bullying online just as it has done for many years and as we have put statutory provisions in for protection offline. Members, I am sure, will welcome the fact that local research that has been carried out in preparation of this law happily, largely say that most people in Jersey feel confident about going online and using social media. The research, as part of the consideration of how we were going to deal with this problem, measured how Islanders thought about their safety online and that is what very much guided a number of the considerations in bringing forward this legislation. The positive news is that the majority of Islanders say they know how to respond if they come across potentially harmful material online. However, there is a significant number of less confident users who do need increased protection. It is only a small proportion of internet users and social media users that are experiencing online bullying or threatening communications. For that minority, some unfortunately Members of this Assembly, who I know have been subjected to it and those members of our Island community who encounter it, the experience can be deeply troubling and, in some cases, have severe and potentially tragic consequences for the individuals and, particularly, I am referring here to young people. In consideration of what legislation could do to solve this problem, this has been very much a joint project. It could either be the Minister for Home Affairs or the Assistant Minister for Home Affairs or myself bringing forward this legislation. If I may commend the joint working of our own officials in the small Digital Unit - as said by the Minister for Treasury and Resources, it is always looking for more resources - with the officers within the police and the Law Enforcement individuals. In 2015, the States of Jersey Police report that they recorded and investigated 34 cases that involved alleged harassment, including via electronic communication, and 22 alleged offences fell particularly under the Telecommunications Law and Article 51 that sets out, effectively, the current prohibition to not engage in inappropriate activity. In 2014, the police managed 21 official complaints of online harassment. These complaints have resulted in 4 offenders being taken to court and a variety of resolutions for the remainder, for example, in some

cases, words of advice, harassment notices were served, one restraining order and 3 others withdrawing their original reports. In 2013, 13 complaints of using a public communications system to send a message that was grossly offensive or was of an indecent, obscene or menacing character recorded and investigated by the States of Jersey Police. The vast majority, with the consent of the victim, have been dealt with by these words of advice but I am advised that 2 cases over such a period have been taken to court. In many cases, the effect on the victims has caused serious distress. The response to this challenge does not just lie with lawyers, politicians and legislators. It very much lies, if I may take the opportunity of saying, with individuals - Islanders.

[15:45]

Parents and teachers, and I commend the Department for Education for the work that they do in recognising and teaching about how you can protect yourself online and also the work of the police in the work that they do in this important area. It is possible for the police and social media providers to tackle inappropriate behaviour without the full use of the Criminal Law. However, in some cases, a criminal investigation and prosecution will be required to protect individuals and reflect the gravity of the harm that may have been caused. That is why, following consultation with Home Affairs colleagues, we decided to bring and we made a principled stance and consulted with Members. There have been a couple of Member briefings, which I am grateful for all Members to have attended, where we made it very clear that anything that was illegal in person, should be illegal effectively online. There should be parity in terms of offences. So I have to say that when we started this project, at some stage we believe that there may need to be a wholesale review of our laws. Happily that has not been necessary and that is why today in fact the legislation before the Assembly is relatively simple. We are proposing amendments to the Telecommunications (Jersey) Law, which was brought in in 2002. 2002 does not sound like very long ago but it was before even Twitter, Facebook, Viber had probably even been thought of, let alone things like Snapchat. Also there is a second Amendment, which sits alongside this, which is an Amendment to the Crime (Disorderly Conduct and Harassment) (Jersey) Law 2008. It is the intention that the Amendments will provide additional clarity to the legal provisions governing telecommunications systems. The Amendments will make it clearer as to what behaviour is, and what is not, a crime. This will act as an important deterrent to bad behaviour, inappropriate behaviour, unkind, horrible behaviour and make it clear to users of online technology who use social media that they will be given appropriate protection from people who are engaging in wrongdoing. These measures are future-proofed as well and they are not specific for any particular devices or platforms. For example, there has been a debate recently in the United Kingdom about revenge porn. Well, just simply putting a statutory provision about one thing, simply something else comes along and so we wanted to make sure that we had a generic description of what was wrong. We want a law that can be applied now and into the future, that was future-proofed. That was not specifically directed at technologies that we know of today or the current, sometimes very unkind, habits that go around the world of social media and online platforms where people communicate. These measures should not come at any cost. We have taken great care to bring forward measures that do not inhibit in any way the important principle of the freedom of speech. These measures will not impinge on the communications of, for example, a humorous or even, dare I say to colleagues, a political comment made by a member of the public. Of course, there is a clear line of what is and is not acceptable. Free speech is something that will always be upheld and I hope by this Assembly and by parliaments around the world and we do not want to prevent normal human interaction, the kind of interaction that you would have at a Parish meeting, in a social gathering, in a debate. Nothing that is improper in person should be made illegal by an Amendment online. Nothing that should cause mild offence, for example, should be simply prohibited in an imposing, criminalised way. The proposed Articles to the Amendment propose effectively improper use of a telecommunications system but previously the Law just simply said: "A public telecommunications system" because that is what we

had at the time in 2002 and the extension of this will ensure that a prosecution can take place where a message of the requisite character, and it is the character of the message, sent over other forms of communication in an office or a public place, for example, Bluetooth or other ways of communicating. It is not just the telephone and a text message that we just thought about back in 2002 that we need to cover. We just need to describe the kind of communication that is around. The legislation before the Assembly will provide clarity that for those sending abusive messages in whatever form of transmission, there is going to be no place to hide. The proposed amendment will ensure that the offence of sending a message of a grossly offensive, indecent, obscene or menacing character would only apply, of course, if the sender knew or intended the message would be of a character or was aware that the risk of the message would be viewed as such by the recipient. This will reflect current practice in the criminal courts, which have drawn on the English case law upon advice of our law officers, who I thank for their sterling help in this area in respect of the putting in place of an equivalent offence in the Communications Act in the U.K. in 2003. These amendments will ensure that our law provides a healthy balance between prosecution of wrongdoing and the protection of free speech. The proposed amendments increase quite significantly and I think this is the important point that the media certainly have picked up is that they increase the penalty for an offence from 6 months, which was in the Telecommunications Law, to a maximum of 2 years' imprisonment and unlimited fine. This is a deterrent; this is necessary to act as a strong deterrent to give citizens the security that where wrongdoing is proven, it will be dealt with appropriately and the courts will have the ability of the sanction that is necessary and commensurate with the offence. The amendments do not create a specific offence, as I have said, for things like revenge pornography because, effectively, the law describes what an inappropriate activity is. Our, I think, innovative law drafting has made sure that it is not necessary to simply define specific actions. If we define a specific action, something comes along tomorrow; we will be re-amending the law. It is better just to describe it and we have got a good description of what is wrong. Our existing legislation, as I have said, has been shown to be sufficient to deal with a number of the bullying and inappropriate activities online and there should be a clear message sent out that there is the ability under the current legislation to deal with the majority, but not all of inappropriate activity. We also have been really careful to make sure that this law is future-proofed. To provide additional protection to victims, Amendments are made, as I have said, to the Crime (Disorderly Conduct and Harassment) Law and this is going to give the effect of permitting the courts to impose a restraining order for the first time on a conviction for an offence if a court is satisfied that it is necessary to do so to protect the victim or any person named in the order from further harassment or from a perceived threat of violence. If that did not exist, then you simply could not do anything until something had happened and that would not be right. The proposed amendments would also increase the penalties for offences in the various different Articles and I will come on to that in the details of the consideration of the Articles. The new provisions made also make for amendment or revocation of restraining orders on the application of the Attorney General or the person against whom the order was made. Sometimes that is, of course, appropriate. It should be remembered that the existing legislation is largely fit for purpose, but these amendments are designed to bring clarity to the law and deal with all circumstances that we believe are inappropriately likely to happen and indeed are certainly happening online. This legislation will not criminalise legitimate political debate and discussion. It will not criminalise humour and satire. It will not restrict the right of people to interact in a frank and honest way, even if that does occasionally cause offence. There is, of course, offence and there is something much worse, of which I am sure that we all can think of the definition. The amendments were drafted with a view to offering an approach that was light touch and proportionate. The aim is not to create new legislation that is going to be unnecessary but deals with the ability, and gives our police authorities and the courts the ability to prosecute in the appropriate cases where it is necessary to do so. By enacting these amendments described, the States of Jersey will ensure that the people of Jersey are appropriately protected from all forms of harmful electronic

communication now and into the future. There has been a lot of media attention to this issue. This has been something that we have promised to deal with speedily and bring forward with a complete set of amendments so that there can be no doubt at all that there are any gaps in our legislation. The message is that it is largely fit for purpose but not completely and that is why I have brought this legislation with the full support, and I am grateful for the Assistant Minister for Home Affairs who has attended briefings and we have sat and discussed matters with her Minister and her police officers and her officials. We are determined that we want this legislation brought in so that there is absolutely no doubt and no gap, so that anybody caught in wrongdoing with cybercrime can be prosecuted. There has been huge media attention on this. There was a lot when we lodged the legislation and when we consulted twice on the legislation. While there was not a great number of people that came forward, clearly it is a matter of huge public concern and that is why we want today to deal with that concern and deal with what I hope has been a good and concise piece of effective legislation, jointly done between the police, Home Affairs and the Digital Unit. I move the preamble to the Bill.

The Deputy Bailiff:

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

Deputy S.M. Brée:

As Chairman of the Economic Affairs Scrutiny Panel, I think it is incumbent upon me to advise you and Members of this Assembly that the Scrutiny Panel will be calling in this piece of draft legislation to undertake a review. This may or may not affect the number of Members who wish to speak on the principles at this moment in time. I did not want to waste anybody's time by not telling you beforehand.

14.1.1 Deputy S.M. Wickenden:

I have got to applaud this piece of work and I have to say it could not have happened soon enough. I think probably all of us as politicians have had some dealings with online communications that have been sometimes malicious, sometimes not, but generally nasty. But it is not just us, there are people, there are children ... I have had to deal with a scenario with somebody that went through the whole revenge porn. Now, it was frustrating that the laws were not there in place to help this person with what happened, and in Jersey it is even more important because we are such a small Island. When something quite devastating like that happens to a young person, you feel like you cannot get away from it because it is within your community, and a very small community we have. So I have got to say, all due that Scrutiny scrutinises and that is what they are there for, but I would say can we get this through as soon as possible because it cannot happen soon enough to make sure it is right and proper?

14.1.2 Deputy M.R. Higgins:

Again, I welcome the law. I do have some concerns that I hope the Assistant Chief Minister can help allay. First of all, I am going to come to some specifics when we come to the Articles but in the main, my main concern is that this Island, whether everyone in the States agrees with me or not, has been helped, I would say in the last ... well, in fact not even as far as 10 years, by a number of bloggers who have raised issues to the attention of the public in a way that the normal media, whether it be the *Jersey Evening Post* or the BBC, have failed to raise issues and I am referring in particular to child care and child abuse. It is my own personal view that had those bloggers not been putting the information out we would never have had an Independent Jersey Care Inquiry. I do not think there is anyone in this Island who certainly can say that there was never any child abuse or that people failed or were covering it up. That has come out in the testimony to the Child Care Inquiry and I am sure it will be in their findings. What gets me though is had we relied on normal media that information would not have been in the public arena. So what I am very much afraid is that this law could be misused against responsible bloggers, and by that I mean bloggers who are producing truthful

information, fact, as opposed to some of the more sort of scurrilous blogs. So I have no sympathy for the ones that go over the top in giving abuse to people, but those that are producing evidence and raising issues I think need to be supported rather than hindered. I want to make sure that this law in no way can be used against the responsible blogs who have been so helpful in bringing change to Jersey.

[16:00]

14.1.3 The Connétable of St. John:

I would like to congratulate the Minister on bringing this forward. Very, very badly needed. Some 25 years ago or so, I was involved in the Honorary Police with a similar case but it was in those days heavy breathing. Times have changed enormously and while I have sidestepped the stage of being a silver surfer to become a smooth surfer, I would nonetheless have one concern. This deals within the boundaries of Jersey. Is there any way in which this can be linked internationally? Because you do not have to be on the Island while bullying someone on the Island and the victim can be here but the offender could be anywhere, and I do not know whether there is any way in which this could be extended, with the consent of other countries, to be a more international type legislation.

14.1.4 Deputy J.M. Maçon:

While broadly supportive of what is trying to be achieved under this legislation, I wonder if the Minister could tell us what thought, when developing this legislation, was given into the right to be forgotten. As we have seen in 2012 under the European Data Protection Regulations Articles, they developed the concept of the right to be forgotten so perhaps a younger person might say something when they are 16 which might be inappropriate, but then reappears sometime later, which is different to some of the older technologies where over time it is forgotten and no longer is reflective on that person, as well as the right of perhaps the victim to be able to get something deleted about them in order to have that right to be forgotten so that it does not appear in something like a web search. So I am very interested about, while developing this legislation to try and modernise what we already have, what thought was given to the right to be forgotten going in parallel to that.

14.1.5 Deputy A.D. Lewis:

I was just picking up on something that Deputy Higgins mentioned about blogs and bloggers. Of course, they are now a legitimate media source; not necessarily accredited of course, so do not necessarily follow all the guidelines that perhaps other mainstream media does. In some circumstances that is a good thing in that it does spread the media message in a different way but as long as it is done in a responsible way. I am curious to find out though; on page 6 it talks a lot about networks and telecommunications systems. Is somebody putting something on a website ... it is not transmitting, necessarily, it is not email. It is a publishing platform. So I am just wondering if publishing platforms are covered under this law or whether that is a case of libel and defamation in a different way, of course, which laws already exist to cover that. I am just curious to know as to how far it goes. Also somebody else mentioned the fact that what about the international aspect of this. Of course, some of these servers, these publishing platforms, are not in Jersey. In fact, the majority of them are not; they are somewhere else. So, if somebody posts something on a blog locally, and it is offensive or defamatory or whatever, can we take firm action against them if one wants to if that server is sitting in Lithuania or somewhere else? Where does the evidence exist? Is it in Jersey? Are the people that put the information on the site that are in Jersey liable even though the publishing platform is in another country? This is one of the issues with the internet generally in that there are no borders, there are no barriers, and of course this information can be accessed anywhere in the world, which from a communication and marketing point of view is wonderful, but when it comes to a case of defamation or libel, it becomes much more difficult. I am just wondering if the Minister can expand further on that and explain as to what it does cover. Is it just a transmission of information or does it

cover publishing platforms in its entirety? He may require some assistance from the legal advisers from the S.G. (Solicitor General) but I would be very curious to find out more about that. But I do absolutely welcome this law. As a number of other people have mentioned, a number of us have been subjected to attacks online and it is not nice, it is not good whether you are in public life or not, it is not fair and this is an opportunity to perhaps put some of those wrongs to right if this legislation will enable us to do so.

14.1.6 Deputy M. Tadier:

I certainly hope that there will be no suggestion that bloggers who ultimately speak the truth and ask valid questions about why a former States Minister has given seemingly false information to the States and suspended a police chief, for example ...

Deputy A.D. Lewis:

I object to that, Sir.

Deputy M. Tadier:

If the previous speaker wants to make a point of order, I am happy to give way, Sir.

The Deputy Bailiff:

Do you have a point of order to make?

Deputy A.D. Lewis:

Sir, the Deputy is impugning my integrity and I do not think that is fair in this Chamber.

The Deputy Bailiff:

Are you intending to impugn the integrity of the Deputy?

Deputy M. Tadier:

I do not think I have impugned the Deputy's integrity and if he might want to say how I have done that, I would be happy to withdraw it.

The Deputy Bailiff:

Are you confirming that you are not impugning the integrity of the Deputy?

Deputy M. Tadier:

I am confirming that, Sir. My point was that it is the view of many bloggers in the blogging community, and they have written about the Deputy in his quest as a former Minister and they are essentially doing the job that the State media should be doing themselves, so I do not think it is necessarily helpful for one to portray oneself as a victim in circumstances when the individuals in question are just performing a democratic right which, if we were perhaps in a different country, would be constituted as a constitutional right. That is why I was very pleased in Senator Ozouf's introduction to say that the safeguards would be put in place, and have been put in place, for freedom of speech and also for freedom of the press and when it comes to making political, perhaps much more important than humorous points, although that needs to be protected too. My concern is, and I put this with great respect to the Senator, is that what does this law do that we cannot do already. I know it brings clarity, and I know it, to a certain extent, future-proofs the law that we already have, i.e., against new technology, and I am also aware that we do not need to look at very specific examples of abuse that this can cover, a whole area of abuse, which is welcome. But I would ask that question, whether there is a temptation to think that this will do much more than it really will. I add a word of caution here, because it is very different to abuse or inappropriate conduct that may occur in the real world, if

we call it that. So, if you are in a bar or in a different social setting and somebody comes up to you and says something to you which is either gratuitously offensive or whatever, and of course you can choose to ignore that or do whatever you want to with that, as you can online. You at least know who is talking to you and who is doing that. If somebody physically assaults you in public, they need to be there to do it in person. It is an actual, real person. Unfortunately, when we deal in the world of the internet and when it comes to trolls, often much of this is done anonymously. Any self-respecting troll, if you excuse the deliberate oxymoron that I have put in there, because of course we know that most trolls suffer from very low self-esteem, I suspect, and they themselves could be seen as victims, they themselves will be perhaps the ones best placed to make sure they never get caught, because they obviously will shield their I.P. (Internet Protocol) addresses and they can make sure that they will never be found out. So, my question is, can the Senator clarify that when it comes to this kind of abuse online, it will not be able to be tackled? I doubt that the police, even if they had the technology or the power to do this, would be investing their time and resources in doing that. I am not saying that they should either, because I think some things we have to accept simply cannot be policed in the internet world, and we all just have to accept that. Sometimes it is better just to move on and accept that some people say bad and nasty things, and that they are the ones who are worse off for it, not necessarily the person who is receiving that abuse. I also think it is important to be clear when we are using terms such as “inappropriate use of technology” because technically speaking, it is not an inappropriate use of technology to use a mobile phone or the internet to send somebody an offensive or an abusive message or image. An inappropriate use would be to use your mobile phone to try and wash a coffee cup, because that is not what it is made for. The inappropriate part of that is the content, so we should be talking about “inappropriate content of messages,” not the inappropriate use, I think, just for clarity. The last part is that the bottom line comes down to freedom of speech, and I am glad that the Scrutiny Panel is going to be looking at this in the round, because freedom of speech ultimately has to remain a human right, and one can choose to be offended by communication. One does not have to be offended by what is said. All too often nowadays, especially in the era when politicians and other public figures are becoming so scared and paranoid about saying anything other than something that might be completely anodyne and boring online because somebody somewhere might take offence or misinterpret. That is not to say that, of course, we should not all be careful. There is a risk that those who seek to take offence, anything that could be said, and twist things, can be the ones who are screaming louder. Ultimately, freedom of speech is something that must be safeguarded both here and in the civilised world. I look forward to the Scrutiny hearing and seeing what comes out of that. Also, if the Senator, with due respect, could talk about what he thinks the limitations of this law are as well as what the positive sides of the amendment today would be.

14.1.7 Deputy M.J. Norton:

I was initially pressing my button just to question the previous speaker’s notation of the State media, because as far as I am aware, while he may have an opinion that the media in the Island is run by the State, to the best of my knowledge, none of the media in the Island is run by the State, and I do get really tired of that being reminded all the time, because it is simply not true. Unless the previous speaker wishes to point out which of the media are State media, will he withdraw that? That is not really fair.

The Deputy Bailiff:

It is well past the time when an intervention should have dealt with that, if the point should have been made at all, Deputy, so please continue with your speech.

Deputy M.J. Norton:

Having made that point, thank you. I will take your advice on that, but I would like to just reiterate, as far as I am aware, there is no media in this Island which is State. Now, you may not agree with what they may say, but that happens to be the case. With regard to freedom of speech, I again think that there must be as much freedom of speech as can be allowed within the bounds of decency. Speaking personally, may I applaud the work that has been done to date? I look forward to this coming forward and being enacted in law as soon as possible, as has been said by previous speakers. Having been the victim, as many politicians have, and in my previous role as a broadcaster, having been the victim of people who have said exactly what they like without any recourse coming back to them, it is not fair. It is uncomfortable. While some may champion free speech, when the free speech comes to the point where you are accused of murder, I think you have to stop and go: "Wait a minute. This is not right. This is not free speech. This is just being cruel. This is just trying to ruin someone's life." That is what it has done on many occasions with many people. The sooner that we can bring something in the better. I welcome the work that has been done so far. Thank you.

14.1.8 Deputy S.Y. Mézec:

I think this point has to be made from the very outset, that there is an endemic problem in Jersey with cyberbullying. There are a very, very vocal group of people who are making it their business to go out and target people who they perceive to be more vulnerable than themselves, and to make their lives very, very difficult. They are aided in part by the fact that we currently have a law that does not enable the authorities to do something about it, so any attempts to move to a situation where we have the ability to intervene when people are crossing a line and making people's lives miserable, and in some occasions putting people's lives in danger, absolutely must be welcomed. Also, because it is such a serious issue, it is also important that we question whether the law being put before us is fit for purpose. On that basis, I want to ask some questions about this law that I hope the Senator can respond to in his closing remarks. While asking those questions, I also want to bring them in context with various experiences that either I have had or people who have spoken to me have had. For me, the biggest problem with the situation at the moment is that there are no on-the-spot powers that the police have where they can intervene where somebody's life is in danger.

[16:15]

I have seen instances online where particular people have gone out of their way to publish the details of young mentally ill people's lives and difficulties that they have gone through, on a public forum for the entire world to see, with no regard to the fact that because of these people's mental illnesses, they may end up in a position in the early hours of the morning where they get depressed about it, see that their whole life has been put out there for people to see, and could end up taking the worst actions as a result of that. On those occasions, and I know of occasions where this has happened and where people have complained to the police, the ability of the police to intervene here has gone no further than simply calling this person up and asking them nicely if they could take down what they have posted, and that is it. No opportunity to go any further then. On a specific occasion I can recall here where I have seen that happen, this person, having got away with it the first time, has continued to do it. That is the real problem there. When they believe that they are unaccountable, they will continue trying to do it. So I want to ask the Assistant Minister, what on-the-spot powers will this give law enforcement agencies, where they can see that somebody who is being deliberately abusive online and who could potentially put a vulnerable person's life at risk, are they able to intervene immediately, go to this person, say: "No. We are not asking you take this off. We are telling you to take this off, because you are putting someone's life in danger by having it up there." I think that is really important, and if this law does not give the police powers to do that, then I will not support it, because it will not be good enough, as far as I am concerned. That power is incredibly important. Tying in with that, I want to ask, what power will third parties have to be able to complain when they see a post which is harmful

about somebody else? In the instances that I have seen of vulnerable people being lambasted in a public post on an online forum, the people who have seen it have gone out of their way to make sure that the person whom the post is about has not seen it, because they know that because of their condition if they do see it they may end up in a downward spiral because of that. So, the comments are made about a specific vulnerable person, but third parties, whether that is friends or family, must surely be able to go to the police and make the complaint, even though they were not the target of those comments, but as a third party who is interested in looking after the wellbeing of somebody else, to go and make that complaint and the police being able to take action as a result of that complaint, not having to wait for the person who the comments are about to come forward, because in some occasions you do not want these people to see the comments because of the effect it may have on them. I have also recently had to take a constituent down to the police station when somebody on a public online forum made a very specific accusation about this person, named him and everything, saying that he was sacked from a previous job he had for stealing from the employer. This was a complete lie. She had no evidence of it whatsoever. It was simply there to damage the reputation of somebody whom she did not like. So, I went down with this person to the police station and there was virtually nothing they could do. They attempted to call the person that had made this online comment about him and she would not answer the phone. That was it: "Oh, well, we just will not do anything." That must be wrong, for somebody to be in a situation where their reputation is being damaged by somebody who is just a liar, who wants to get at this person and make their life miserable, and there is nothing they could do about it. Of course, libel is one thing, but going through the whole court process you end up bringing more attention to it in the first place and you risk losing everything if it does not go according to plan because of legal fees or whatever. So, I would hope that the Harmful Communications Law will have something to do there. I will say that I have been the subject of this as well. I have been publicly accused of being sacked from my previous job before being elected. I publicly say now, complete lie. I should not have to say that, but unfortunately I do, because there are people who are able to go online and say this sort of stuff and nobody can hold them to account on it. That surely must be wrong. The point that has been made about anonymous communications, and I will point this out. In the Jersey context I have seen more fake Facebook and Twitter profiles than I can possibly count, of what I suspect are a group of one, 2, maybe 3 people, who use online fake identities so that they can abuse victims of child abuse, calling them liars, saying that they are making it all up and they are just attention-seekers. Now, that is incredibly damaging, not just for those victims, who are often being specifically named, I have seen, but also other victims who are trying to build up the courage to come out and speak about what has happened to them and help the authorities track down the people who did it to them and prosecute them. There has to be some ability to find out who these people are. Whether that is having some infrastructure in place so that the local authorities can contact the websites where this is going on and demand the contact details that they have used to sign up for these fake accounts, or, and this may be very tricky, but there have been occasions where I have seen people using pseudonyms online to attack victims of child abuse. I have looked at it and I have known who they are. I can have a pretty good guess at who it is, but my guess is based on the language that is being used, the themes being used, and having seen other people use it elsewhere. It is not proof and it is not evidence, so you cannot go to the person who you suspect it is and say: "Right, we reckon you have done this. You are nicked" basically. They cannot do this. That has to be something that is taken into consideration and I would like to know from the Assistant Minister what in this law will help track down people who are using fake online identities to abuse people. The other part is, in the law it talks about people making comments knowing that they are offensive, and there is a slight problem here in the fact that many of the people who are cyberbullies are very unintelligent human beings. They are people whose lives have often had their own troubles, and as Deputy Tadier said, some of these people are victims themselves. They are often people who simply do not realise they are doing anything wrong. There was one occasion a few years ago where I saw a young person

post online. It was an article from the *Daily Mail* about a young girl, a teenager, who had committed suicide because she was being bullied online. The comment he posted alongside with it was: "Well, it was her own fault. She deserved it because she just was not clever enough to just keep away from her computer." Now, that comment, I think most people would agree, is a pretty despicable thing to say and completely misunderstands the whole nature of mental illness and how people end up in these situations, but that person who said it believed that what he said was not offensive, was completely right. But if you were somebody who was being bullied online, if you were somebody who was struggling with mental illnesses, you might have seen that comment and become very upset by it, and that could set you off on all sorts of dangerous paths from there. So, the person knowing or it being deliberate what they are saying is offensive will be very tricky, because some of the people who say these things are not just often unintelligent people but often very nasty people who genuinely believe what they are saying is right and good and that they have the right to target a specific individual, maybe because of something they said 5 years ago, or because they do not like the look of them, or whatever, and therefore they are a legitimate target and should not be held accountable for what they have said. I would like to know from the Minister the answer to some of those questions. I will just briefly sum some of them up. What on-the-spot powers will the police have to force people to remove harmful posts if those posts continuing to be public are likely to have a damaging impact on the person who those comments are about? Will third parties have the right to complain when they see public posts which are potentially harmful to another person who they want to shelter from seeing those comments in the first place, in case it sets them on a dangerous path? What happens when people are deliberately, maliciously and constantly lying about people to deliberately damage their reputation? Will those people be given the ability to complain and have the authorities take action to stop this person from repeating those malicious lies? What is going to be done to help track down people who are using pseudonyms to hide behind a fake identity when they are making these harmful comments? Finally, is there anything in the law that will be able to tackle people who are making comments which they genuinely believe they have the right to say and do not believe they are harmful, but to most reasonable people we would say that they are wrong? Those are the basic things I want to know from this. I accept that freedom of speech is incredibly important and nobody should be deprived of the opportunity to involve themselves in discussions both in public and online where they are making political points, some of which will be points which we, as elected politicians, will find very, very uncomfortable to read. Sometimes it will be attacking our own personal records in this Assembly, perhaps our voting record, perhaps comments we made in a speech. All of us in this room, I know, are big enough to take those comments and accept that that is part of public life, but there are people out there who are vulnerable and who suffer from illnesses which will make their lives very, very difficult unless this issue is gotten to grips with properly. The right of people to have a good life where they are free from threats, the threat of violence or malicious comments online, I believe, is something we should treat incredibly seriously, and I look forward to seeing the work that Scrutiny will do looking at this law to make sure we come up with something comprehensive that can deal with this, because it is a serious problem in Jersey. **[Approbation]**

14.1.9 Senator P.F. Routier:

I am very pleased to follow that last speech, because I think he gave a very good outline of the issues that we are trying to address today. Obviously his understanding of how social media works he has described exceptionally well, and the effects it has on people's lives, so I thank him for doing that. The point I would like to make is ... the Scrutiny Panel are going to be looking at this, but I would say to them that every day that passes is important. We must get this brought forward as soon as we possibly can because every day in a person's life, they are having to suffer this sort of thing is not good enough for us to let that happen. So if Scrutiny feel that they do want to call this in and cause a little bit of a delay, well that would be well and good but I ask them to perhaps think about ... carefully

about whether they do need to bring what has been a big piece of work; whether they do want to scrutinise it at this stage. Whether that can be ... these things that could be done at a later stage that may be a way forward for them. But I just say, do not delay this a day more than necessary.

The Deputy Bailiff:

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

14.1.10 Senator P.F.C. Ozouf:

I think the number of people ... Members who have spoken indicate the incredible importance of dealing with these issues and the wide spectrum of opinion. Where the debate about what is acceptable and what is not acceptable, a line is drawn ... is difficult. If I may thank Deputy Wickenden for his comments and also the Assistant Chief Minister Routier; this is really important and I think that the only thing I would say with some regret in responding to the principles of the Bill, which then appear now to be going to Scrutiny, is I would very respectfully say to Members - many of which have spoken - who I've kept a very careful note of those Members who attended the consultations, who were invited repeatedly to come to consultations, to come and talk to the officials and to have the discussions about the drafting of the legislation. I will not name any names individually; they know who they are, but it is very disappointing when one is doing consultations, one spends so much time. I knew this thing mattered. The Constable of St. Lawrence knew and the Assistant Minister for Home Affairs knew this thing mattered and that is why we have gone to an enormous extent to basically ... and which is appended to the Bill itself. It was the consultation that was set out. We have been doing this for more than a year. We have been consulting, asking questions and we have done more than that; we have gone and done some qualitative research. So it is somewhat disappointing that these matters are brought at this stage, particularly when reading the consultation and reading the responses of the consultation would have dealt with many of the answers and many of the important questions that Members have made. Deputy Higgins, this does not impinge on journalism.

[16:30]

Freedom of speech is protected, even more so due to a legal concept, which he probably knows and I am not going to call on the Solicitor General unless he wants to address the Assembly because of course, he acts as our prosecutor in ... or indeed with the Attorney General he has the prosecution responsibilities of course due to *mens rea*. The publication of an online blog will be communication by means of a communication system for the purposes of the Telecommunications Law as it will be amended. A blogger's comments about a person on their blog will only be treated to amounting to a criminal act where they otherwise meet the test provided in the proposed Articles in the amendment 51, which I was really hoping that we would be able to get on to today. This is not complicated legislation. This is simple legislation; it is plain English. It says what is likely to be inappropriate. A blogger's comments might amount to defamation. Sometimes that is referred to libel, I understand when referring to written rather than verbal comments and that, of course, can give rise to a civil claim for damages or an injunction as a matter of Jersey Customary Law. A defamatory statement is a statement that is factual in character about an identifiable person and if believed would be influencing the reader opinion of that person, either by reflecting badly on the person's character or by harming the person's reputation, or diminishing the esteem, respect or goodwill that the person enjoys in the community. But that is clear, that is established. That is a lead to liability. The following statement, which I have just repeated upon advice from my officials who have sent me that statement of what a defamatory statement is: "That is the test of whether something is going to be a liability." So statements of opinion including simple name calling, as much as ... and I have been called some name calling in my day. I know you pull Members up with parliamentary standards and we have got immunity in this place but name calling, I am afraid, is simply not a cybercrime, unless it is likely to

fall within that category of unacceptable behaviour. I would ask Members just to simply read Article 51. We are only dealing with the principles, but just read ... if I may ask Members to read Article 51; improper use of telecommunication systems. A message that is sent covered all messages; everything is covered. There is no issue about whether or not it is a text message or an AirDrop or a Bluetooth message. It is a form of communication. It is a conveyance of a message. Anything that is grossly offensive, indecent, obscene, menacing is guilty of an offence. That is, I think, quite clear and I do not understand why there are questions. I do not think it is fair, if I may say to Deputy Higgins, that we would not have a child abuse investigation if we did not have bloggers. I have engaged in bloggers so I have got a blog myself. We have all got blogs, but blogs is not journalism. Journalism is something different and bloggers, when they pretend to be journalists, they are not really representing what they are. Bloggers are bloggers and bloggers are good. Bloggers are meaning that we have debate and we have discussions about things but there is something that crosses the line. When somebody is being defamed, when somebody is being told that they are something that they are not, then that should be just as it is in person; it should be a - surely - an inappropriate criminal act online. A posting of an internet message, which has a context, which is opinion is an opinion. But that is different from saying somebody is ... has done something that is simply incorrect. This has been consulted upon; we have spent 2 consultations; we have had lots of communication with people right across the Island and with Members. So I have to say to Deputy Higgins that if he had got bloggers that divulge confidential information entrusted to a person's circumstances giving rise to an expressed or implied duty to keep the information confidential, then this might give rise to a civil liability for a breach of a duty of confidence. The claim that might arise under Customary Law and gives rise to a claim for damages or injunctive relief. It is just not fair, is it, I think to characterise the ... our media, a State media and blog is good and State media and all our media is cast by the remarks that have been made almost as not really fair. Well I do not know how many Members of this Assembly have been sitting on the sofa of C.T.V. (Channel Television) or sat in the Radio Jersey studio, or sat anywhere. I was sat in the Radio 4, *Today* programme this morning and I felt a little frightened because I would be on national radio/TV and I would be given a right grilling. Now, that is the media at work. The media has an important role of holding decision makers to account. Bloggers are different; they are not journalists because they do not ... they are not members of journalist unions and all sorts of other issues and they are not regulated in that same way. One can have a debate about regulation of the whole issue of Leveson and all the rest of it but that is not really an issue for today. There is nothing in this amendment that casts aspersions or causes any difficulties to bloggers. If a message is obscene, if it is indecent, if it is menacing, if it is wrong, if it is inaccurate, as some, I know Members have suffered, then it is wrong and we should be passing legislation by whatever means of transition for it to be so. That is what the principles of this law are attempting to try and put in place. I am surprised, disappointed that Members are raising these things at this stage. I recognise they are right, but I also recognise the importance that we need to act swiftly and we need to act in an appropriate way to deal with any wrongdoing and being able to allow our courts, our prosecuting authorities, to deal with offences. This has been going on for more than a year and we have consulted on it. We have talked to Members about it and Members are raising things right at the last minute. I think this is disappointing, especially when we know that there are some lacunas in the law which this law would deal with. The Data Protection Law is also important and we are going to be updating that. The Data Protection Law also has restrictions in terms of the use of personal data. This is one of these crossover issues. Generally the processing of personal data by private individuals for domestic purposes using social media will fall within an exemption from the requirements of the Data Protection Law, and this will include most bloggers of course. The right to be forgotten, raised by Deputy Maçon, arises from the right to stop a data controller processing inaccurate or distressing personal data indefinitely will not unfortunately generally apply to bloggers. Equivalent provisions of the Data Protection Act 1998 in the U.K. have been used occasionally to address this issue of unwanted publication of some personal

data on social media by campaign groups. There is a case in the U.K. which I understand is called the Solicitors from Hell website. There was a particular issue. So I have seen comments on social media about colleagues in the States. I am not going to repeat any of them here but I have got some of the copies of them here and clearly I would say that those fall ... I am not a judge, I am not a prosecutor, I am simply a States Member, an Assistant Minister, having worked with an Assistant Minister to deal upon advice with what the solution is. The solution is that this amendment, these amendments which capture and make sure that our law online is the same as offline. There clearly is a lacuna in some of our law. We have done a huge amount of work. We have analysed, we have researched, we did not get a great deal of feedback from the individual bits of legislation. Perhaps that is because people do not want to comment on these things, perhaps the bloggers that are engaged in this issue. I say to Deputy Mézec and Deputy Tadier, I do not know whether they have looked at any of the blogs that appear in the United Kingdom and other places; the spoof blogs that exist for President Obama or Her Majesty the Queen and other people. There are horrible things that are said online. There are things that are satire and there are things that are just grossly offensive. We have looked at and the team that have been working on this, as the consultation explained and as Members have had explained, has looked at all the international precedent. We have been looking at the United Kingdom and the legislative provisions there. Singapore, Canada, Malta, Australia, United States. We have looked at case studies and they are summarised in the consultation that have been appended to this legislation. There is quantitative research because we wanted to really understand what people thought. We wanted to understand what people's concerns were, how concerned they were, and what to do about it because of course it is very much a case of the fact that people's perceptions are important. We need to send a strong message about the legislative provisions that are available. Laptop computers at home and smart mobile phones are 2 of the devices that are most used to access the internet, but increasingly tablets and smartphones are used. Half of the respondents in the research that was carried out says that they access social media several times a day. Most sites currently in use with Facebook, Google Plus, Twitter, just under half the respondents said they were very concerned or concerned about being potentially exposed to harmful material online. That is not that they were subject to it, that but they were worried about it. That is why we wanted to move quickly, swiftly, properly, completely with legislation that would deal with this issue. One in 3 were not particularly concerned and 20 per cent say they were not concerned at all. The majority of users that were surveyed were aware of how to respond. This is responding to a number of Members' questions. Users need to be taught how to use social media. There are facilities in social media. On my own blog I know that I can block abusers. When somebody says something derogatory about me, they say something that: "Senator Ozouf you made a dreadful decision about the police station" or something we may have a debate about. Oh, it was Deputy Martin. I do not know if she was an anonymous blogger. I do not think so because I trust Deputy Martin. But people will have views. That is political debate. There is nothing wrong with that. But there is harmful. I blocked a load of users that made some absolutely horrifically horrible comments about me and issues that perhaps I would not worry about but certainly if those close to me, if my family or those close to me saw those comments they would be upset. It is often the families of the people that are close to us that are most affected by these messages. Those also I maybe did not make in my opening remarks. We are trying to protect those people as well. Deputy Tadier, all these people that are saying that we need protection. It is the families, it is the people that are close that we need to protect, and that is what this legislation is designed to achieve. I do not want any delay at all in that. There are a number of other questions that are being raised, which I will try to go through very quickly. I really do need to say that I think that there is an issue of criminalisation. But there is an issue, again I say, and I commend the police and the Education Department of training about eSafety. You can do things yourself to make yourself safer. You can block people. You can take away messages. You can ask people to take things that you do not like down. Sometimes that is the best way of dealing with it. I have had conversations with people when they have said things and I have

rung them up and said: “Do you really want to chat? Do you really believe I think that or I have done that?” And a cup of coffee has meant that they have changed their view. Sometimes people sitting under the stairs with a glass of wine in front of a pixelated screen late at night, somehow they develop some sort of alternative character, do they not? They say things that in hindsight they want to deal with. Should they be prosecuted? Well, that is not for us to deal with. That is for your court, Sir, and your prosecutors to deal with. All our job here is to make the provision that where there is wrongdoing, where the Attorney General, the Solicitor General, believes there is a case in the public interest to prosecute they should be able to do so. We have a responsibility not to mean that there is any doubt that a wrongdoing of an offensive communication, something that has caused distress to a young person. I have had some tearjerkers, some dreadful examples sent to me by parents whose children have suffered from online bullying. One mother wrote to me and said ... I asked whether or not I could use her case study and I said I would not because she said she would not. She said she went round, she went to go and talk to the parents of the child that was engaging in this bullying and straightaway it stopped. So of course there are ways of dealing with this.

[16:45]

There are all sorts of ways with dealing with this. We have done a lot of research into this. We have done a lot of work. We have done consultations and that has been absolutely clear. Just to clear up a number of other points. I say to Deputy Maçon, as of today there are no international standards. One good thing about the European Union may be that there is a new digital market that may come into force and so we may have some new, providing we do not all vote ... well, those that can do not vote for Brexit, we might have some standards across Europe. I have been looking at the D5 standards. I was at the FinTech conference in London at the Guildhall dealing with lots of technology things. There is clearly an opportunity to sign up to some of the charters that some of the leading countries of the world, such as New Zealand and Australia and Estonia, particularly, are signing up to. The U.K. is a leader in this world. International mutual assistance is important. I was asked about ... we cannot pass laws for other countries. We are not the United States, if I may respectfully say. We cannot put a J.A.T.C.A. (Jersey Account Tax Compliance Act) in place, that is F.A.T.C.A. (Foreign Account Tax Compliance Act), that is the F.A.T.C.A. that is effectively extraterritorial legislation that requires all people that want to do dealings with dollars or the United States. The United States is a big enough country to do things. They can do extraterritorial legislation. I am not sure that our legislation here would necessarily cover or you would think it was constitutionally appropriate for us to cover other things. But of course what the important issue this morning that the Chief Minister was talking about in global standards is important. We live in an increasingly globalised world and there needs to be rules for that globalised world in data as well. If we believe that we are going to be a centre of digital excellence then we should be the leader of that digital world. A number of the social media sites which have had these dreadful things have made some real improvements. They have put blocking devices on. Twitter has been one of the most difficult organisations to deal with and they have put new protections in where you can immediately click a button and something is removed and it is taken away. These have all been dealt with. I cannot think that there was ... I think I have covered all the general points that have been covered. I just summarise by saying to Deputy Mézec, small communities, I agree. In a small community you will know perhaps because we are small and we know what happens and we suspect and we see people walking down the street and they do not look you in the eye, you perhaps know that person who has made such inappropriate comments. But sometimes that is just going to be politics, I am afraid, I say to Deputy Mézec. But there is a line that is crossed and I know there are going to be some people that will have said things that are just too unacceptable. Things that are hurtful, inaccurate, that are a slander on somebody's character. But I think in a small community it is even more important, which is why we want this legislation passed. Right to be forgotten I have dealt with. I think I have dealt with the issue that Deputy Andrew Lewis

raised. “What does this change?” Deputy Tadier asked. I thought I had explained it. I thought the explanatory note, but I will have another go. It basically extends what a communication message is. It is not just the telephone call that existed in 2002. I am not sure we had text messages in 2002. I do not know whether the Constable of St. John can remember. I know I had a mobile phone of some description some years ago that looked like a brick. It might have been a text message but I know that certainly all these other things ... everything is covered by this. It is just the description that widens it. So all of those things that are not covered, a Bluetooth message that is sent on a bus by somebody that has their open smartphone. That is covered. An AirDrop by an iPad that has been opened, that is covered. So we are opening up, effectively, what a communication system is and we are putting those increased penalties. Do we really want to send out the message that we think the existing penalties are appropriate? Penalties are not decided by Ministers either also. They are consulted upon by the courts and we consult with the Attorney General and the Solicitor General, who has provided some advice in relation to these issues. I do not think I have got anything else to say apart from to really just ask, if I may, very politely ask, Deputy Brée does have a unilateral right just to say at the end of this principle reading that he is going to call it into Scrutiny. Of course he can do that and I will co-operate as quickly as possible, with the Home Affairs team, in order to deal with it. But I would have thought that, and I know there have been some discussions with the Bailiff about the importance of scrutiny of legislation. On this occasion we have done a lot of scrutiny because we have done consultation, we have explained it, we have had debates, we have invited Members to 2 sessions. I have invited Members to one-to-one sessions if they have got any questions. A number of the Members that have asked questions have not taken up the offer. Maybe I should be a bit more persistent in future about inviting people to say that they should come along and have a discussion before we get to this stage, so we do not end up with a 6-weeks’ lodging period, which I was told last week that they were going to call it in, and now we are going to have a further delay. I know the Scrutiny Panel ... I know there is a juggernaut load of legislation coming in all sorts of different areas and I do not want to leave a day, as somebody said, pass where we cannot get a prosecution successfully made. We want to get this into the Privy Council as soon as possible and we do not want there to be any gaps in our legislation. The Scrutiny Panel can look at this. This is an ongoing issue. The Scrutiny Panel can look at it but I urge them to consider very carefully after the work that has been done. This is a 3-page piece of legislation, which is clear, it is in plain English. It has international precedence. It has been consulted on. We have had experts. It is a joint piece of working between Home Affairs, the police, our prosecuting authorities and it takes the best of international advice. If it means a Scrutiny hearing that we can explain all this quickly, I thought we did it last week, but if we need some more work then fine. But I really do not want to delay this unless we absolutely have to. In those brief remarks, I say that ... I am just seeing whether there are any other notes that have been sent to me that I should say because of course the online world mean that I can have messages sent to me about important things and no, I do not think there is anything I have said that has been not covered. I urge Members to send a very clear message of the principles of this Bill which improve our arsenal of making online bullying, which some Members of this Assembly have suffered, brought into legislation. I ask the Scrutiny Panel, they can scrutinise this now or into the future, but do they really need to do it now when we have done all the work we have done. So I move the principles of the Bill and ask for the appel.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. Members have had the opportunity of returning to their seats, so I ask the Greffier to open the voting.

POUR: 36		CONTRE: 3		ABSTAIN: 3
Senator P.F. Routier		Senator Z.A. Cameron		Deputy J.A.N. Le Fondré (L)
Senator P.F.C. Ozouf		Deputy M. Tadier (B)		Deputy S.M. Bree (C)
Senator A.J.H. Maclean		Deputy S.Y. Mézec (H)		Deputy of St. Mary

Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

The principles have been adopted. Does the Economic Affairs Scrutiny Panel wish to call this in to Scrutiny?

Deputy S.M. Brée (Chairman, Economic Affairs Scrutiny Panel):

Yes, we do. If I may make just a comment. The reason we are wishing to review this is we, as a panel, agree entirely this is an incredibly important step to protect people. Because of that fact we are going to undertake the role which we are mandated by this Assembly to do, which is to ensure that this legislation, as drafted, is fit for purpose, that it covers all the areas that we need to look at, and that Scrutiny takes into account not just the Assistant Minister and his department's views but other people's as well.

The Deputy Bailiff:

The Standing Orders require that a date is set for the Second Reading so how long do you wish?

Deputy S.M. Brée:

We need to look at this in detail. The date that we would wish to set is 14th June.

The Deputy Bailiff:

14th June is within the statutory maximum requirement so do Members agree?

Senator P.F.C. Ozouf:

May I make a brief observation?

The Deputy Bailiff:

Yes, the States have to agree the date that it comes back, so yes, you can.

Senator P.F.C. Ozouf:

What they have to agree now ... we have to invite the Assembly at this stage to?

The Deputy Bailiff:

Yes. A date has to be fixed. It has to be no more than 4 sittings distant and the States must agree.

Senator P.F.C. Ozouf:

All I would say is there is the issue of ... there is an important issue of scrutiny of legislation. I am going to be really disappointed. It is not fair, if I may just correct Deputy Brée, it is not just my department that has been dealing with this. We have been consulting with members of our community and this represented the work that they have come forward with. So I just wish to make it clear that this is not just a Minister coming up with something, we have done extensive and widespread consultation, which has had huge media attention to it. Secondly, all I would say, I would just urge the panel, if I may respectfully say, that there is an issue of Privy Council timing, and how quickly we can get this into legal effect. There are some lacunas in our law which we need to deal with. I just urge them to bring whatever work you can do quickly. Ministers are criticised for not doing things quickly. Well, I wish ... I have written to the Scrutiny Panel on lots of occasions inviting them to do lots of things and unfortunately it does not appear that those communications have worked. Well, we need to improve on that and I will certainly be on the committee's back if they need to know. I am disappointed, but I ask them if they could get a date before 14th June so we can try and get a Privy Council approval so we can bring this statute in place, because otherwise the message will go out that not everybody is covered and people can be bullied, and I do not think any Member of this Assembly would want that.

The Deputy Bailiff:

Just to be clear, this is not a question as to whether or not the matter is referred to Scrutiny. That is an absolute right. The question is the fixing of the date in which Scrutiny returns. 14th June is what is said, but that is a date that has to be agreed by the States so it is possible that if the States, provided it is no more than 4 sittings hence, to come up with a different date. So I have next Deputy Higgins.

Deputy M.R. Higgins:

I am pleased that Scrutiny are having a look at this. Had we gone further I would have been raising things such as the definitions. For example ...

The Deputy Bailiff:

Deputy, this is not a question as to what Scrutiny should or should not do. It is purely a question of the date upon which they return.

Deputy M.R. Higgins:

I would agree the date is appropriate. There are such things as “grossly offensive” and words like that which are not defined in the law, which means there is a tremendous uncertainty in the law going forward. The most appropriate day would be the one that they have got because they are going to have to get a lot of advice on it.

Deputy M. Tadier:

I will be making just some brief remarks as to why I think 14th June is a good date to bring this back in the Second Reading. One observation is that in other places, in other Parliaments, if I am not mistaken, legislation is automatically put to a Second Reading. There is a window of opportunity which is given for the wider scrutiny process, that may either be by the formal Scrutiny function, be it the Select Committees or by the Upper Chamber. Of course we do not have an Upper Chamber yet, in Jersey, although I think that is probably something we might now consider and it could be a very convenient way to progress the issue of democratic reforms in the Assembly but that is a debate for another date. So I think in the absence of that Ministers should not get complacent and bring legislation important as this is to the Assembly and then try and somehow leverage emotional support or even you could call it emotional blackmail to Scrutiny saying: “This is so important that you cannot scrutinise it because we have done our own scrutiny already, thank you very much, in the form of a consultation.” I would remind the Minister that doing your own consultation, of course you do that on such an important and complex change, even though it may not be pages of legislation. But Ministers cannot start doing their own scrutiny because if they did that would do Scrutiny out of a job and more importantly it completely misunderstands the role that Scrutiny provides. It is a different set of eyes by a cross-section of Members who are not in the Executive and that is their role to do that. I would like to move to a point in the future, and I hope that perhaps the members of the BBC are taking this on board, that there is an automatic window so that when legislation is brought in the First Reading that it cannot be brought back for a Second Reading until at least a month, perhaps 2 months, so that proper additional consultation or scrutiny can be looked at. We have been in a situation today where we have had very complex legislation brought by other Ministers and that has gone through, and it is not saying that it should not go through, but I think, as a Parliament, we need to be more aware and allow more time for this and build it in. I think, as Ministers are aware of that, we can avoid these kind of situations where Scrutiny have perhaps tried to have their arms bent to do, at the end of the day, what they are there to do.

The Deputy Bailiff:

Scrutiny has indicated that it wishes to bring this matter back on 14th June, do Members agree with that?

Senator P.F.C. Ozouf:

May I just have a point of clarification? That is 10 weeks. If it were to be 2 weeks earlier then I think we would have a reasonable chance of getting it to the Privy Council before then. I will have to take advice on that. Is a decision required now, Sir?

The Deputy Bailiff:

Standing Orders require that the States must decide but there is no reason why ...

[17:00]

Senator P.F.C. Ozouf:

So effectively the States could decide to do it 2 weeks earlier, that is 8 weeks to do scrutiny. It has already been lodged 6 weeks, we have done a year of consultation.

The Deputy Bailiff:

I think we have already had this.

Senator P.F.C. Ozouf:

Okay, that is fine. But if I may just say because of the reasons of the Privy Council, *et cetera*, and wanting to get this on our statute book as soon as possible, because of the lacunas that I have said, I would move that it would be ... if the Scrutiny Panel has not done it in 10 weeks then they can say so. [Aside] But I would move to 8 weeks.

The Deputy Bailiff:

I think you have said the points you can reasonably say. I know you are asking for 8 weeks, Scrutiny has asked for 14 weeks, I think the matter should be put to a vote at this point. You are proposing that you return it in 14 weeks. Deputy, is that seconded? [Seconded]

Deputy J.A.N. Le Fondré:

Yes, Sir. 14th June, Sir, by the way, not 14 weeks.

The Deputy Bailiff:

I beg your pardon, 14th June. All Members in favour of deferring the matter to Scrutiny until 14th June kindly show.

Deputy M. Tadier:

Can we have the vote please?

The Deputy Bailiff:

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

POUR: 31		CONTRE: 7		ABSTAIN: 1
Senator A.J.H. Maclean		Senator P.F.C. Ozouf		Connétable of St. Lawrence
Senator L.J. Farnham		Senator A.K.F. Green		
Senator Z.A. Cameron		Connétable of St. Peter		
Connétable of St. Clement		Deputy of Trinity		
Connétable of St. Mary		Deputy S.J. Pinel (C)		
Connétable of St. Ouen		Deputy of St. Martin		
Connétable of St. Brelade		Deputy R.G. Bryans (H)		
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy R. Labey (H)				

Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

15. Jersey Police Complaints Authority: reappointment of members (P.21/2016)

The Deputy Bailiff:

Very well, the next item of Public Business is the Jersey Police Complaints Authority: reappointment of members, brought by the Minister for Home Affairs. I ask the Greffier to read the proposition.

The Greffier of the States:

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

15.1 The Connétable of St. Lawrence (Assistant Minister for Home Affairs - rapporteur)

I should like to begin by paying tribute to Mr. Cooper, Mr. Marett and Mrs. Taylor-Cox who have ably served as members of the Jersey Police Complaints Authority on a voluntary basis since March 2013. The Authority has benefited greatly over the past 3 years from their experience, knowledge and commitment to their honorary roles. At the request of the Chairman of the Authority I am therefore very pleased, on behalf of the Minister for Home Affairs and as Assistant Minister, to recommend to the Assembly that the 3 members be reappointed to the Authority for a further 3-year term. Members may note that the Police (Complaints and Discipline) (Jersey) Law 1999 requires that membership of the Authority shall consist of a chairman and not less than 6 or more than 8 other members and by adopting this proposition it will mean that the Jersey Police Complaints Authority consists of a chairman and 7 members, thus ensuring that the Authority remains in line with this requirement in law. The Assembly may also wish to note that the initial appointment of these 3 members was approved by the Jersey Appointments Commission and their reappointments adhere to the Commission's guidelines regarding an individual's length of service on public bodies. I very much hope that the Assembly will feel able to support the proposition.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? No Member wishes to speak. Those Members in favour of adopting the proposition kindly show. Those against? The proposition is adopted.

16. Commissioners of Appeal for Taxes: appointment (P.22/2016)

The Deputy Bailiff:

The next item is the Commissioners Appeal of Taxes: appointment lodged by the Minister for Treasury and Resources. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion – in accordance with Article 10 of the Income Tax (Jersey) Law 1961, to approve the appointment as a Commissioner of Appeal for Taxes, each for a period of 5 years from the date of their appointment, of – Mr. Jonathan Crowther, Mr. Graeme Guy, Mr. Michael Harrison, Mr. Christopher McFadyen.

16.1 Senator A.J.H. Maclean (The Minister for Treasury and Resources):

I am seeking Members' approval for the appointment of 4 additional individuals as Commissioners of Appeal for Taxes. The background and experience of those individuals are outlined in my report. They will join the current bench of 5 Commissioners, bringing the total number up to 9. The Commissioners of Appeal are appointed by virtue of Article 10 of the Income Tax (Jersey) Law 1961 and are an independent and impartial body that exist as the first point of appeal for taxpayers. That is both individuals and businesses who are in dispute over decisions and rulings made by the Comptroller of Taxes. I maintain the proposition.

The Deputy Bailiff:

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

Deputy J.A.N. Le Fondré:

Just to declare an interest and withdraw. It is not a financial interest but one of the members being appointed is a relative, so probably not appropriate for me to take part.

The Deputy Bailiff:

Thank you, Deputy. Does any other Member wish to speak on the proposition? All Members in favour of adopting the proposition kindly show. Those against? The proposition is adopted.

17 Draft Intellectual Property (Plant Varieties) (Jersey) Law 201- (P.20/2016)

The Deputy Bailiff:

The last item of Public Business is the Draft Intellectual Property (Plant Varieties) (Jersey) Law lodged by the Chief Minister. The Assembly will recall that at the meeting on 22nd March it was agreed in accordance with Standing Order 26(7) to reduce the lodging period required so this matter could be debated at this meeting. Accordingly, I ask the Greffier to read the citation.

The Greffier of the States:

Draft Intellectual Property (Plant Varieties (Jersey) 2001. A law to enable the registration, in Jersey, of new varieties of plants; to provide for creation of the office of Registrar and the creation and maintenance of a register of plant varieties, and for the manner and effect of registration; to confer powers on the Registrar and on the court to revoke or cancel registration and otherwise to correct the register; to make provision in relation to the nature, duration and enjoyment of the proprietor's rights arising from registration, and to create remedies for infringement of those rights; to create offences of failure to use registered denominations of plant varieties, and of giving false information in respect of applications for registration, and to provide for the penalties for those offences; and for connected purposes. The States subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

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

Well, we have moved from animals to plants, moving briefly to online. Members will no doubt recall, with great affection, the various different pieces of legislation for intellectual property. I have to say that Senator Maclean, I think, had almost an Assembly record in a doorstep of a law; that was the

copyright law. I am trying to find out how many pages it was but it was known as the Doorstep Law. It was a really good piece of printing that you could use as a doorstep. Every page of it was important and every page of this legislation is important, as was the Design Rights Law that was brought to this Assembly in 2012. This is the third and final, I am pleased to say, piece of intellectual property legislation that will together allow us to comply with international standards, something called T.R.I.P.S. (Trade-Related Aspects of Intellectual Property Rights). Compliance with international treaties and conventions is another thing that we have spoken about a few times today and there was a recognition a number of years ago that it was important that modern copyright law was particularly important and intellectual property generally. Laws were important in order to catalyse and assist our digital and growing economy to encourage them to locate and invest in the Island. The draft law before Members today is perhaps, if I may say, slightly harder to justify from the perspective of I.P. (Intellectual Property) rights that might be used in Jersey. I am grateful for those Members who attended the briefings by the excellent officials who are in the officials' room behind us who provided, I think, a very clear explanation. This law provides for the, I say, possibility of an I.P. right for a new plant variety and so is relevant to plant breeders and those growing plants and crops. We are not, though, aware, I have to say to Members, of anybody who wants such I.P. rights in Jersey but the fact is we have to do it if we are going to meet the international standard. That is the reasoning why we have to do this law and a lot of work has gone into that. The expertise about I.P. was until recently, of course, held in the Economic Development Department and I commend the work that the officials did there of which one has moved across to the Chief Minister's Department. We wanted to ensure that we had detailed provisions about I.P. rights in general before developing detailed law dealing with all sorts of issues, and this is the final bit and the most, perhaps, complicated but it does not almost matter so much to Jersey itself. At an early stage there was an agreement that the functions of the law of I.P. rights and plant varieties would be effectively handled by those who have a better understanding about plants. Economic Development and, if I may say, Chief Minister's Department are not the experts about plants. We certainly think it is the Minister for Environment and so there has been a lot of collaboration. I am grateful for the Minister who I did offer to be the rapporteur for this bit of legislation today but he said that I had been involved in the legislation a bit so I was best to present it, but I am grateful for his assistance and the assistance of his officials in getting this law Jerseyfied. When this law comes into force the Department of Environment expects to be ready to make it work to the extent that it will be needed, and I thank the Minister and his department for the work that they will be doing if they need to use it. I think it is probably important that we just give at least a few comments about what we mean by I.P. rights in new plant varieties so there is no misunderstanding. There are stringent requirements internationally before a new variety can qualify for rights including that it must be distinct from varieties that are already known. The sort of thing that might make a difference could be, for example, a new leaf shape or a flower colour which might be important for a plant grown for ornamental reasons. I have had a debate with one Constable as to whether or not we thought that there might have been a new daffodil, I think it was, that might have been able to be fulfilling the criteria of the law. I also know that there was an April Fool last week ... no, not last week. That was about Guernsey. There was an April Fool about a black rose that was certainly not possible apparently for biological reasons. No, you cannot have a black rose because you cannot get a black plant apparently because it would be dead but in fact, no. If you could design a black rose that would be a different type of flower clearly. We need this law because it is just a step in having complete I.P. laws which require us to be able to apply for the international convention, the U.P.O.V. (International Union for the Protection of New Varieties of Plants) Convention, which is about plant rights and varieties which most countries in the world have. The draft law complies with the U.P.O.V. Convention and delivers that step in matching those international standards. The real reason, I suppose, which I want to say to Members of why this is law, and I am grateful for a one-day lengthening of the lodging period, is the fact that the completion of these I.P. laws, and there is a very

senior official in the States of Jersey that I had a ... he is not a betting man but he did say to me that he did not think that we would ever see the day when we had finished our intellectual property law because they are really complicated, it is really technical work, but he did not think it was done. So I am really pleased to be able to say to him that today we have finished that work, hopefully, and I think the Scrutiny Panel has had a briefing on it and I think they are happy. I certainly hope they are. This means that we are going to be able to do one very important thing and that means we are going to be able to apply for W.T.O. (World Trade Organisation) membership because that means that we are going to be able to comply with all of the intellectual property laws and that is something called T.R.I.P.S. and we need to be T.R.I.P.S. compliant to be a member of the W.T.O. Perhaps the Minister for External Relation ... he might have left so I will say why T.R.I.P.S. matters. T.R.I.P.S. matters and W.T.O. matters because that gives us certain rights as a jurisdiction, being an associate member within the purview of the United Kingdom to have certain protections. I dare not say the word Brexit too loud but there is a potential that we may want to avail ourselves of membership of the W.T.O. and we want to put that application in swiftly and we want to be able to do that and this law allows us to do that. The U.K. require T.R.I.P.S. compliance, as all members of the W.T.O. must do, and we must have all the bits of T.R.I.P.S. compliance in place. These patents for new plant varieties definitely is something ... important patents in a number of countries. The plants that we do are U.K. patents. There are some, I suppose, reasons for preferring the U.K. than a more general European approach to I.P. rights which we have pretty well taken. We have lifted the provisions of the U.K. arrangements.

[17:15]

It would be simply too much of a major task to look at how we might make provisions for patents in Jersey. We do not think, as much as we are keen on supporting agriculture, that there is going to be anything that is going to be of economic significance and worth the value of developing our own sort of bespoke system of protection of plant varieties. We cover everything that we need to here. We need effectively to just get that T.R.I.P.S. compliance and that is why we have chosen the U.K. in this case. We will be relying upon T.R.I.P.S. to deliver the compliance arrangements. I have to say again I am not aware of any interest in registering a plant variety in Jersey apart from the daffodil. That might have been the case a number of years ago but I do not think it is a recent phenomenon. I do not think there is going to be a derivation of a tomato or a potato that would fulfil the criteria of this law but we simply just need to do this. I suppose the Minister for Treasury and Resources and the Minister for Economic Development and I would be delighted to have an innovative proposal for a new plant but I cannot quite see it. We are not one of those countries that does lots of research into new plants. We can certainly buy them and plant them here but we do not think we have got the research capability to do it. That is the reasons for the law and I propose the principles of the bill.

The Deputy Bailiff:

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

17.1.1 The Deputy of St. Ouen:

I have been looking at the situation in relation to registration of an application and I cannot see a right of appeal granted to an applicant in the event of a refusal of the registrar to grant an application under this law. Am I missing something or is it the case that there is no right of appeal? If there is no right of appeal that would seem most unusual and perhaps the Minister would explain why the legislation is so drafted.

17.1.2 Deputy A.D. Lewis:

Just a minor question. I just wonder if the Minister could explain ... I assume this is a template to future intellectual property registration. This refers just to plants and flowers but if one was to

register, for example, software would you then use the same template and adapt it to a new law or is it the same law? Perhaps the Minister could answer that in his summing up.

17.1.3 Deputy M.R. Higgins:

Just seeking a point of clarification really from the Assistant Minister. He says here it is the last element required before we get to the required standard. W.T.O., was it, that you were talking about? Yes, W.T.O. Is this one of the reasons, for example, why many Islanders cannot get various media on the internet? It says: "Your region is not allowed to receive this film or programme." Nothing to do with that, is it? Well, in fact can he tell us what he is doing on that ... well, I will ask him on a question time, another time.

17.1.4 Deputy J.M. Maçon:

As the Minister will be aware, when he brought the previous Copyright Law to the States I said it was more relevant for this particular law and it is about the ethical exemptions. I know the Minister will respond to me saying: "Well, we do not necessarily think it will apply in Jersey because no one will necessarily use this law", but it is, where are the ethical exemptions within this law because while following the international standard if Jersey finds itself in a situation whereby a multinational pharmaceutical company, which has access and rights to different medicines in the plants, were then to register something here, would we necessarily want that risking our international reputation if that is the case where it is withdrawing what could be cheap medicine for part of the third world, which is denied because of the profit mark-ups that these companies make because they have those protections on these types of rights? So is there anything in this legislation where our Jersey court could waive that because the humanitarian needs might be greater or because of the ethical implications that are around? Perhaps this is a question for the Solicitor General. Where does it sit within this legislation because when we are looking at intellectual property rights the whole issue around the ethics of it is so critical and important that I really think it should be included within this legislation?

The Deputy Bailiff:

Does any other Member wish to speak on the principles? I call on Senator Ozouf to reply.

17.1.5 Senator P.F.C. Ozouf:

First of all, if I may say if I have not explained properly what the situation is in relation to what this law is and what it is not, effectively this is the I.P. This is not patents generally. This is a new law about I.P. rights of plant varieties and leaves the Jersey patent law completely unchanged. We have already done that. A Member complimented me on the Copyright Law. I am afraid Senator Maclean was responsible for that clause under the law and implicated ... I beg your pardon, my microphone was not on. It was Senator Maclean that took the Copyright Law through and just to repeat, the draft law has no impact on patents at all. It is not a blueprint. We have already covered that in all of our other arrangements for I.P. But the Deputy is quite right that there is going to be all sorts of exciting opportunities to register design rights, which is the subject of the law that I did in 2012, I think. So there is copyright, there is design rights and there is plant varieties and that pretty well covers the whole gamut of things. So I have to say I apologise to Deputy Maçon because I am sorry that I did not have an answer to the question that he raised about the ethical situation concerning the international issues of registering of plants, *et cetera*. I should probably declare, it is a long time ago, but I did work for one of the world's largest seed companies which was making seeds. It was a long time ago. It was 25 years ago. So I do know quite a lot about, sadly, seeds and how they make hybrid seeds and all the rest of it and I am well aware of the concerns. I remember listening to a speech of Deputy Crowcroft of the day when he ... and I even wrote a rather cheeky letter, I think, to the *J.E.P. (Jersey Evening Post)* about G.M.O.s (genetically modified organisms) because G.M.O.s were a big issue at the time and this Assembly, and this makes the point really, passed a resolution, which has never been changed,

to not have any G.M.O.s on new potatoes. Now, the Minister for Environment today is very worried about all the chemicals that are being put on new potatoes. A genetically modified new potato might ... I am not saying it should happen but I just make the point, a genetically modified potato not subject to this law might be able to be treated with that but that is not going to change any of the attributes of the law at all. On the ethical issues that are raised by Deputy Maçon we cannot reinvent the world but we can have our own rules. If Members just indulge me for one second. I do apologise, there was an email which I was supposed to send to both Senator Cameron and to Deputy Maçon dealing with 2 questions that they had raised about the ethical considerations and I am just going to pull that up and just explain the fact, if I can find it, that there is no issue. I will send the Deputy the email. There are no issues about any of the ethical considerations. We can make rules in Jersey about things like G.M.O. What we cannot do is not register and reflect a design right that would be a plant that would be registered somewhere else. Now, whether or not we allow it, it can be planted in Jersey, is another matter. That is something for domestic legislation. So I think without going into the detail I will copy in, if I may ... I will say to Deputy Maçon, this is ... I have got the email now. The answer was effectively that bringing into ethical standards surrounding it was important and when we debated the request to bring forward consideration of the proposition basically he wanted to deal with the ethical standards. We wanted to stress that I.P. rights in plant varieties would be delivered by proposition. It does not, in any way, change the law about patents. I will send the detailed response that I have got to deal with Deputy Maçon's issue. I have put my papers all over the floor which is never a good thing for a digital Minister but I cannot remember whether there is anybody else I have not responded to. No, I think I have ... oh, yes, I do apologise. I do apologise to the good Deputy of St. Ouen. Now, he has raised ... he is a lawyer and that is a jolly good thing. He said that ... because he is quite right the appeal process is going to be, in this case, a judicial review but, of course, we are not going to be registering plant varieties here if I am absolutely frank with him. The digital review could test the reasonableness of that. The Attorney General may comment on that. I know that there has been a certificate given by the Chief Minister on the European Convention of Human Rights which has certain requirements of appeal, I think if my memory serves me correctly. I know that the Chief Minister, who signed it, I did not, but I take full responsibility because effectively it does require that. It is judicial review that will be the appeal mechanism, as I understand it, but I would invite the Solicitor General, if he wishes, to address that particular comment but it is standard, as far as I understand, in the U.K.

The Deputy Bailiff:

Do you have any advice for the Assembly, Mr. Solicitor?

The Solicitor General:

A right of judicial review can be sufficient for the purposes of human rights as regards the ... as far as this question ...

The Deputy Bailiff:

Is there any relevance as far as Article 45(2)(b)?

The Solicitor General:

Sorry, I did not catch the ...

The Deputy Bailiff:

Article 45(2)(b).

The Solicitor General:

Article 45(2)(b).

Senator P.F.C. Ozouf:

I think you are right. We could bring forward a proposal for dealing with the administration of the law so you obviously read the law. Well done.

The Deputy Bailiff:

I would not wish to be accused of that, Senator, but ...

Senator P.F.C. Ozouf:

No. I think that does give us the ability if we wish to pass regulations and put an appeal right in.

The Deputy Bailiff:

Very well. If that concludes your speech, Senator, all Members in favour of adopting the principles kindly show. **[Interruption]** The appel is called for. I invite Members to return to their seats. If Members have returned to their seats I ask the Greffier to open the voting.

POUR: 39		CONTRE: 4		ABSTAIN: 0
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf		Deputy M. Tadier (B)		
Senator A.J.H. Maclean		Deputy S.Y. Mézec (H)		
Senator L.J. Farnham		Deputy of St. Ouen		
Senator A.K.F. Green				
Senator Z.A. Cameron				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy A.D. Lewis (H)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				

Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

Does the Corporate Services Scrutiny Panel wish to call this in for scrutiny? **[Aside]**

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

I think the message is no. Thank you.

Senator P.F.C. Ozouf:

I think this one falls in within the other panel’s remit, I thought. Maybe both of them would want to do it, but it is Economic Affairs.

The Deputy Bailiff:

I have it noted down as Corporate Services but if Economic Affairs needs to ... no.

Deputy S.M. Brée (Chairman, Economic Affairs Scrutiny Panel):

To clarify the situation, this particular draft proposition does fall under Economic Affairs Scrutiny Panel as opposed to Corporate Services and after very long and careful consideration we have decided not to call it in.

The Deputy Bailiff:

Very well. How do you wish to propose the Articles then for second reading, Senator?

17.2 Senator P.F.C. Ozouf:

I am being urged by colleagues ... this is always the problem, is it not, we have hours of work and hours of legislation which our officials pour hours of work on and then we all pass it *en bloc*. I almost feel as though as I am doing them a disservice with all the, I think, 100 pages of speaking notes I have for the individual Articles. So I do not think there is an appetite for any plant varieties detailed. If Members have got any questions I will go through them obviously. The law is, I think, a model of good plain English, good explanation, and I think has been written in a very clear way and I hope that Members that have ... you have obviously read it, which I am grateful for. Basically I think I will propose all the Articles *en bloc* and I can just answer any questions that Members may have because I think my opening remarks cover things.

The Deputy Bailiff:

Very well. The Articles are moved *en bloc*. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Articles? All those in favour of adopting the Articles kindly show. Those against? The Articles are adopted. Do you wish to propose the matter in Third Reading, Minister?

[17:30]

17.3 Senator P.F.C. Ozouf:

I do and just in conclusion, I was serious when I said that the very senior official said that we would never get here. This is a further piece of work that has taken years. I know that we have not given it and I know that I was very grateful for those Members who did attend the briefing. I know the Deputy Chairman of Economic Affairs thoroughly enjoyed the presentation, learning all about plant varieties and the other Members that went. We all learnt something. If I may commend the individual that we

have had, who is in the officers' room, who has been working diligently on all of these I.P. laws over a number of years. **[Approbation]** Not easy work, detailed work, requiring hard work and long hours. I have spent hours going through this myself and I am really grateful for their work because it is important. The decision today that Members are making will mean that we are going to be able get that application for W.T.O. membership in and I am really pleased about that. If Senator Bailhache was here he would say that it was one of those key issues which he set out in his Constitutional Reform Panel. So I am really grateful for Members and even though I say to the officers ... I am sorry they have done all this work. I will send Members my speaking notes if they want but they have done an awful lot of work. This is a huge piece of work that has been done. I am extremely grateful and we have got there finally and we are now going to have our W.T.O. membership, I hope, approved very shortly. I thank Members for their support.

The Deputy Bailiff:

Is the matter seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? Deputy Martin? **[Aside]** Right, no Member wishes to speak in Third Reading. The appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting.

POUR: 41		CONTRE: 0		ABSTAIN: 1
Senator P.F. Routier				Deputy of St. Ouen
Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator L.J. Farnham				
Senator A.K.F. Green				
Senator Z.A. Cameron				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				

Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

That concludes Public Business for the meeting. I therefore invite the Chairman of P.P.C. to deal with the arrangements for future business.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

18. Connétable L. Norman of St. Clement (Chairman, Privileges and Procedures Committee):

The proposition for future business is as per the Consolidated Order Paper with the addition on 10th May of 2 items which were lodged today: P.39 in the name of Deputy Tadier, Nursery Funding: implementation and proposed changes; and P.40 in the name of Deputy Wickenden, Collective Responsibility Statements. For the next sitting on 26th April I am advised that Deputy Labey wishes to withdraw proposition 139, La Collette Low Rise Development, and with that being removed from the Order Paper I think there is no reason, unless Senator Ozouf was making a proposition, that we should not complete the business in one day. **[Laughter]**

The Deputy Bailiff:

Do Members agree to take the future business as recommended by the Chairman of P.P.C.? Very well, the States stands adjourned until 26th April.

ADJOURNMENT

[17:34]