

# STATES OF JERSEY

## OFFICIAL REPORT

TUESDAY, 1st NOVEMBER 2016

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[9:30]

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

## **COMMUNICATIONS BY THE PRESIDING OFFICER**

### **1. The Deputy Bailiff:**

On behalf of Members, I would like to welcome His Excellency the Lieutenant Governor to the Chamber this morning. **[Approbation]**

## **QUESTIONS**

### **2. Written Questions**

#### **2.1 THE DEPUTY OF GROUVILLE OF THE MINISTER FOR EXTERNAL RELATIONS REGARDING JERSEY'S MEMBERSHIP OF THE COMMON TRAVEL AREA: [9664]**

##### **Question**

What are the benefits to Jersey of being part of the Common Travel Area and what would the advantages and disadvantages be for Jersey of being excluded?

##### **Answer**

The Common Travel Area ("CTA") predates the UK's entry into the EU and encompasses the United Kingdom, the Republic of Ireland, Jersey, Guernsey and the Isle of Man. It is the policy of the Government of Jersey to maintain freedom of movement within the CTA, particularly between the Channel Islands and the UK.

Advantages of being part of the CTA include the fact that Jersey lies within the common external border of the British Isles, and therefore the passport arrangements for those coming into the Common Travel Area through Jersey from the EU and the rest of the world are all the same. Key provisions of the UK's Immigration legislation are extended to Jersey, which also means that there is a common set of arrangements at the border, which leads to administrative efficiency. There is the additional benefit for travellers that there are no formal immigration controls when travelling within the CTA. This efficiency and convenience would be lost in the hypothetical case of Jersey being excluded from the CTA.

On the other hand, being outside the CTA would allow Jersey to establish its own criteria and systems to control inward movement of people into the Island. The practical and resource implications to control all arrivals at our border would, however, be significant: in 2015 a total of 35,209 travellers arrived at the States Airport from outside the CTA and required passport checks, whereas in the same year over 20 times that number arrived at the airport from within the CTA.

Neither the Government of Jersey nor the UK Government is seeking to establish separate immigration arrangements for Jersey.

#### **2.2 THE CONNÉTABLE OF GROUVILLE OF H.M. ATTORNEY GENERAL REGARDING THE POTENTIAL FOR DIFFERENT MINIMUM WAGES: [9667]**

##### **Question**

Would it be lawful and Human Rights compliant to introduce different minimum wages for different industries or seasonal workers?

##### **Answer**

Article 16 of the Employment (Jersey) Law 2003 (the “2003 Law”) enables provision to be made for the minimum wage of employees working in Jersey. Article 16(2) of the 2003 Law and the Employment (Minimum Wage) (Jersey) Regulations 2004 make provision about who qualifies for the minimum wage and do not distinguish between employees in different industries or employees working seasonally. The amount of the minimum wage is prescribed by the Minister for Social Security under Article 16(3) and does not discriminate on either basis.

Article 16(6) of the 2003 Law provides the States Assembly with the power to change who qualifies for the minimum wage. However, Article 16(7) of the 2003 Law provides that this power cannot be used to treat different areas of Jersey, sectors of employment or occupations differently. Further, Article 104(5) of the 2003 Law limits the power of the Minister for Social Security to prescribe the amount of the minimum wage so that it does not appear to extend to making different provision in relation to particular industries or for seasonal workers.

In view of these limits on the powers of the Assembly and the Minister in the 2003 Law, the issue of the human rights compliance of any such change does not arise, but setting different minimum wages for different industries or seasonal workers is unlikely to breach the rights set out in the European Convention on Human Rights.

Setting different minimum wages for different industries or seasonal workers might lead to conflict with the effect of the Discrimination (Jersey) Law 2013. For example, if an employer pays a seasonal employee less than a permanent employee for the same work it might be argued that the employer is engaging in a prohibited act of indirect discrimination contrary to Article 10 of the 2013 Law if the effect of setting different rates of pay were disproportionately prejudicial to people with a particular protected characteristic. Further consideration may need to be given to the resolution of this apparent conflict if a change to the minimum wage of this nature were proposed.

### **2.3 THE DEPUTY OF ST OUEN OF THE MINISTER FOR SOCIAL SECURITY REGARDING EMPLOYEES ON ZERO HOURS CONTRACTS: [9669]**

#### **Question**

Would the Minister provide updated information relating to the following matters, as previously reported in paragraphs 7.3.1 and 7.3.9 of ‘Zero Hours Contracts: Response to P.100/2013 as amended’ (R.52/2015) relating to:

- (a) the number of people with a zero-hours job as their main job, and
- (b) the industries worked in by those with a zero-hours contract as their main job?

#### **Answer**

As noted in paragraphs 7.1.1 and 7.1.3 of ‘Zero Hours Contracts: Response to P.100/2013 as amended’ (R.52/2015), the details relating to the number of people with a zero-hours job as their main job, and the industries worked in by those with a zero-hours contract as their main job were identified by analysing data from the manpower and contribution returns. The 2015 exercise required extensive time and resources to produce as it combined information gathered from two separate sources under the control of two different Ministers.

This work will be repeated and the analysis will be made available when it is complete.

### **2.4 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE TAX LIABILITY OF OFFICIAL EMOLUMENTS OF THE LIEUTENANT-GOVERNOR: [9670]**



## Question

Will the Minister explain why, under Article 115(d) of the Income Tax (Jersey) Law 1961, official emoluments of the Lieutenant-Governor are exempt from income tax?

## Answer

The Lieutenant-Governor is appointed by Her Majesty the Queen to be her personal representative and impartial adviser within the Island. Under the principle of international law known as sovereign immunity, Her Majesty the Queen is exempted from income tax under Article 115(b) and that exemption is extended to her personal representative under Article 115(d). This exemption has been included in the Income Tax (Jersey) Law 1961 since its original enactment and is consistent with the approach adopted internationally (for example similar exemptions exist in both Guernsey and the Isle of Man). The Lieutenant-Governor does pay Jersey Income Tax on income other than that arising from his employment.

## 2.5 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR EDUCATION REGARDING FEES FOR GCSE RESITS AT HIGHLANDS COLLEGE: [9671]

### Question

Will the Minister provide a breakdown of current fees (including tuition, exam and administration fees) for GCSE resits at Highlands College (where the College has already paid for the exam once), and will he state whether there have been, or are planned to be, any increases in any of the fees charged, including administration fees charged by the College, and, if so, how these compare to the previous prices?

### Answer

When students enrol on a Level 2 or Level 3 programme of study at Highlands College and they have not achieved a GCSE at grade C or above in English and/or Mathematics, their programme of study will include one of these GCSEs. These students will already have had one publicly-funded attempt at their GCSE qualifications while studying in secondary school.

The cost of taking GCSE examinations while studying at Highlands College are covered by the following extract from the Student Handbook, which is published to students and available on the College website;

- *Where they are relevant to the course and form an essential part of a full-time programme, there is no charge for the first attempt at an examination. However students should be aware if they fail to attend their examination at the required/advised time they will incur charges as detailed below for re-sit examinations.*
- *When a student retakes an examination a retake fee of £20, plus the awarding body fee, must be paid prior to the student being entered for the examination. Exemption from payment is only possible if extenuating circumstances apply to the first attempt and evidence, such as a medical certificate, is supplied.*

Students enrolled at Highlands College therefore have a second publicly-funded attempt at their GCSE examinations before they are asked to pay for any further attempts to achieve these qualifications. Where payment for a retake might cause an individual student financial hardship, the College will facilitate payment over a period of time or may allow the student to access funding from the College Student Hardship Fund. Where a number of students are retaking an examination the retake fee (£20) which covers administration and invigilation may be reduced. There are no plans to increase the retake fee, which has not been increased for at least three years. The fees currently charged to Highlands College by the GCSE awarding body for 2016/17 are £55.60 for the

English examination and £33.60 for the Mathematics examination. These fees are reviewed annually and agreed with the Department for Education in England.

## **2.6 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE GRANTING OF ENTITLED STATUS ON ECONOMIC AND SOCIAL GROUNDS: [9672]**

### **Question**

Since the Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013 came into force, how many times has the Chief Minister granted 'Entitled' status under section 2(1)(e) to somebody who was already resident in the Island?

### **Answer**

None.

## **2.7 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PROPORTION OF EARNINGS PAID IN GST: [9673]**

### **Question**

Will the Minister provide estimates, by income quintile, of the proportion of total income that earners in each quintile pay in GST?

### **Answer**

Alongside the Medium Term Financial Plan Addition 2017-2019 the Council of Ministers lodged a document entitled “Distributional analysis of the MTFP proposals” which was compiled by the Chief Economic Adviser.<sup>1</sup> Section 4.4 of this document considered the distributional analysis of changes in the rate of GST and has been reproduced below for the benefit of Members:

### **4.4 GST Distributional Analysis**

There are several different ways to analyse the distributional consequences of GST. In particular, one can look at two different approaches:

- the proportion of **gross income** taken in GST
- the proportion of **expenditure taken** in GST

Using data from the Household Expenditure Survey (HES) it is possible to calculate how much households spend on GST by the level of their income.

However, looking at GST as a proportion of gross income is not be the only way of considering this. Other taxes may already reduce household income, and these may affect households differently. For example, one way to reduce the proportion of income taken from the lowest quintile in GST would be to raise the rate of other taxes on this quintile. This would reduce the money that these household have to spend, and thus reduce the amount of the GST as a proportion of income (although not necessarily disposable income).

Looking purely as a proportion of income, even disposable income, while important, does not necessarily tell the whole story. In particular, it shows a snapshot of spending and income patterns

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<sup>1</sup> See: [http://www.statesassembly.gov.je/AssemblyPropositions/2016/P.68-2016Add\(2\).pdf?\\_ga=1.3361330.344120006.1464706065](http://www.statesassembly.gov.je/AssemblyPropositions/2016/P.68-2016Add(2).pdf?_ga=1.3361330.344120006.1464706065)

in the population at a particular moment in time, and may be misleading given the variability of income over a lifetime: those with low incomes now may be the young or elderly or temporarily out of work who will be, or have been, amongst higher income groups at other times. As the IFS notes, *“given that households can smooth consumption over their lifetime, expenditure is a better proxy for lifetime resources than current income.”*<sup>2</sup>

So under this measure, GST looks more regressive in part because those with high incomes tend to have high savings, and so appear to escape the tax. However, savings must be spent at some point, and they will be subject to the tax when they are. For example, people tend to spend more than their income when they are young and when they are old, while in-between they pay down debt and accumulate savings. Over the course of a lifetime, income will be broadly equal to expenditure (unless of course a large inheritance is left, but then the tax will be paid by the receiver when it is spent).

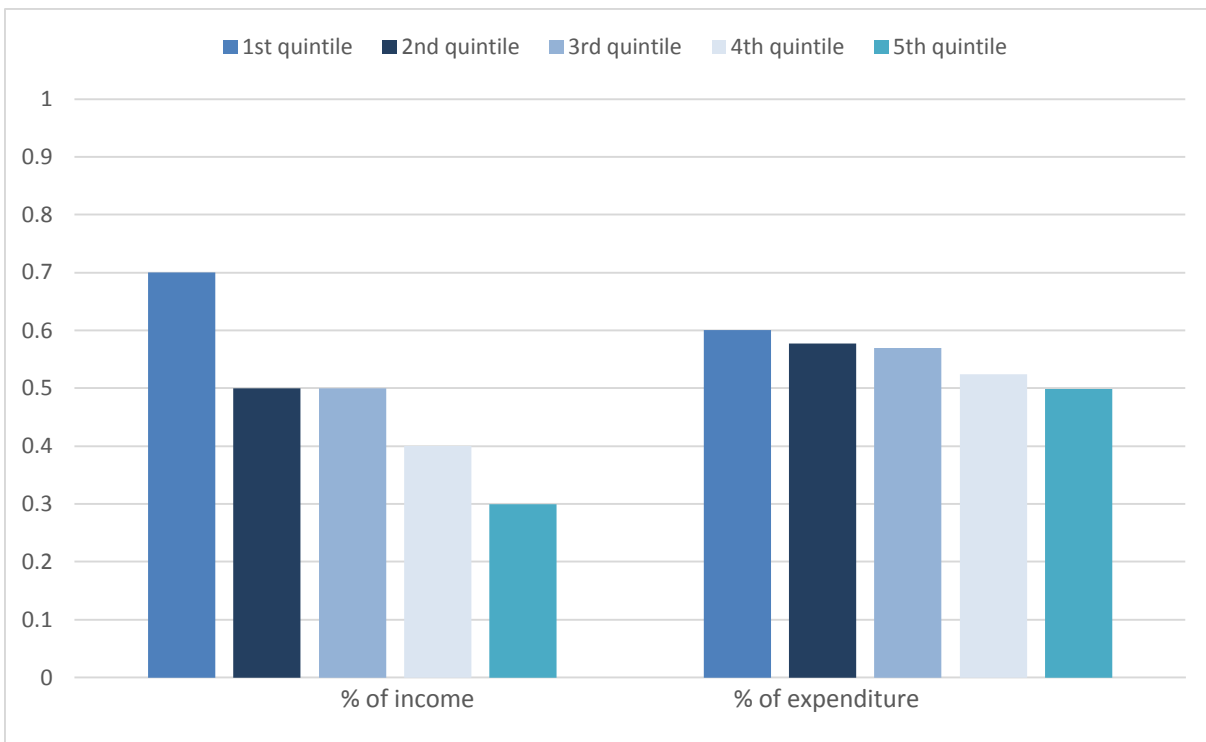
Looking at GST as a proportion of spending instead of income, addresses this concern to the extent that the latter is a better reflection of household’s perceptions of their own lifetime spending ability. As to be expected, this measure shows GST as less regressive than as a proportion of gross income.

Estimates of these two measures are shown below based on the 2014/15 household expenditure and income distribution surveys.

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<sup>2</sup> Brewer, Browne & Phillips (2008) The Distributional Effects of the 2008 Pre-Budget Report. P.68/2016.Add(2)

**Figure 40: Increase of 1% in GST as a share of income and expenditure across the income distribution**



Source: States of Jersey Statistics Unit/Economics Unit calculations

While the degree varies slightly by the measure chosen, GST is mildly regressive. This is mainly due to the effect on those households on the lowest incomes, which spend a larger proportion of their income on essential items such as food, domestic energy and so on.<sup>3</sup>

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<sup>3</sup> For example, according to the HES, an average household in the lowest 20% of incomes spends 14% of their income on food, while an average household in the top 20% of incomes spends just 8%.

## **2.8 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING VISITS UNDERTAKEN BY ELECTED MEMBERS OF THE GOVERNMENT AND OFFICERS OF STATES DEPARTMENTS: [9674]**

### **Question**

Will the Chief Minister provide the details of all visits undertaken in the last 5 years by elected Members of Jersey's government and by officers of States Departments to the following countries, including the purpose of those visits, their duration and the cost?

- (a) Saudi Arabia
- (b) Bahrain
- (c) United Arab Emirates
- (d) Oman
- (e) Qatar
- (f) Kuwait

### **Answer**

A substantial amount of information on travel costs is now published online, including flights, flight costs, dates and location of departure, and date and location of return, trip duration, class, and reasons for the visit, which will include any visits to the jurisdictions listed (a) – (f) above. The information can be found by following the below link and will be maintained on an ongoing basis on gov.je.

<http://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/ID%20travel%20review%20appendix%202%20-%20H%20to%20J%2020160610%20AT.pdf>

In addition, the Chief Minister publishes travel and entertainment figures incurred by Ministers and Assistant Ministers each year (and 2015 is due to be published in the coming two weeks) with previous reports being:

R.108/2015 Travel and Entertainment Expenses 2014: Ministers and Assistant Ministers

<http://www.statesassembly.gov.je/AssemblyReports/2015/R.108-2015.pdf>

R.158/2014 Travel and Entertainment Expenses 2012 and 2013: Ministers and Assistant Ministers

[Travel and Entertainment Expenses 2012 and 2013: Ministers and Assistant Ministers](#)

R.127/2012 Travel and Entertainment Expenses 2011: Ministers and Assistant Ministers

[Travel and Entertainment Expenses 2012 and 2013: Ministers and Assistant Ministers](#)

## **2.9 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PROPORTION OF EARNERS WITH A 0% RATE OF INCOME TAX: [9675]**

### **Question**

What proportion of earners in Jersey, if any, have an effective income tax rate of 0% by virtue of having tax allowances which exceed their earnings? What proportion of taxpayers qualify for the pensioners' tax allowance and, of those who qualify, what proportion of such earners have an effective income tax rate of 0%?

### **Answer**

The information provided in the answer to Deputy Higgins's recent question regarding personal income tax (question 9586 –see:

[http://www.statesassembly.gov.je/AssemblyQuestions/2016/\(9586\)%20Dep%20Higgins%20to%20TR%20re%20income%20tax%20information.pdf](http://www.statesassembly.gov.je/AssemblyQuestions/2016/(9586)%20Dep%20Higgins%20to%20TR%20re%20income%20tax%20information.pdf) ) indicates that in 2014 there were approximately

15,000 personal non-taxpayers who did not have a positive income tax liability because their income was less than the allowances, reliefs and deductions to which they were entitled for that year<sup>4</sup>. The previous answer also indicates that in 2014 there were approximately 60,000 personal taxpayers plus personal non-taxpayers; therefore the proportion of non-taxpayers is approximately 25%.

Of those 60,000 personal taxpayers plus personal non-taxpayers, approximately 9,000 or 15% were entitled to the age enhanced exemption thresholds for the 2014 year of assessment.

Of those 9,000 personal taxpayers plus personal non-taxpayers entitled to the age enhanced exemption thresholds for the 2014 year of assessment approximately 2,500 or 27.8% were personal non-taxpayers.

As noted in the previous answer, the number of personal non-taxpayers will vary for a number of reasons including targeted use of resources by the Taxes Office to reduce the number of taxpayers that receive a tax return each year (i.e. when resource is available the Taxes Office will review cases where the taxpayer's income has been consistently below the tax exemption thresholds and is likely to remain that way and stop issuing them with a tax return). **Those pensioners who have been through this process and were not issued with a tax return in 2014 are therefore excluded from the data provided above.** It is estimated that the proportion of all pensioners who are exempt from income tax is considerably higher than the 30% of all Islanders who are estimated to be exempt from tax.

## **2.10 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR INFRASTRUCTURE REGARDING THE VOTING RIGHTS AT GENERAL MEETINGS OF NON-FREEHOLD TENANTS AND LEASEHOLDERS AT LES QUENNEVAIS PARK AND CLOS DES SABLES: [9676]**

### **Question**

What voting rights, consultation and ability to attend general meetings are afforded to the non-freehold tenants and leaseholders of Les Quennevais Park and Clos des Sables?

Does Jersey Property Holdings consult, when appropriate, these tenants and leaseholders before deciding how to cast its block votes?

Have any approaches been made by any such tenant or leaseholder to officers of Jersey Property Holdings to have more say in decisions relating to these blocks of flats and, if so, how many; and what is the Department's policy on such matters?

### **Answer**

The project to convert to perpetual flying freehold the 99-year leasehold apartments at Quennevais Park and Clos des Sables has followed the prescribed co-ownership structure for such associations.

The terms and conditions for the administration of each association is set out in a '*Declaration*' lodged and retained in the Public Registry.

Each association is obliged, under its *Declaration*, to hold at least one Annual General Meeting [AGM] of the co-owners.

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<sup>4</sup> Members are **strongly recommended** to read the notes accompanying the previous answer so that they are fully aware of the basis on which that information was provided; the same basis has been used in providing the further information requested in this question.

In cases where certain 99-year leaseholders have opted to retain their leasehold ownership status (rather than converting to flying freehold), Jersey Property Holdings [JPH] attends the AGMs in its capacity as co-owner on behalf of the Public of those apartments.

Prior to each AGM, JPH contacts every respective 99-year leaseholder, setting-out any relevant agenda items which could affect those apartments. JPH asks for comments and whether the leaseholder is in favour or against respective items.

JPH votes at meetings having regard to its position as the co-owner representing the Public and reflecting any views expressed by the leaseholders.

JPH then writes to the leaseholders following the AGMs to set-out the decisions made.

JPH has received a small number of approaches from 99-year leaseholders asking if they could attend AGMs in person. The difficulty with such requests is that firstly, the meetings are for the flying freehold association, being the co-owners forming that association. It may be possible, theoretically, for a co-owner to bring a guest to an AGM, although that guest could only attend in an observing capacity. Secondly, some items at an AGM are confidential financial decisions, such as setting the level of service charge, which affect only the co-owners and JPH considers that it would be unfair on co-owners to have guests at meetings being privy to those discussions.

To date, the arrangement of JPH contacting the leaseholders prior and after meetings appears to work satisfactorily, albeit proving time consuming for the department. JPH would encourage the remaining 99 year leaseholders to consider acquiring the freehold interest and would welcome applications from those in a position so to do.

## **2.11 DEPUTY J.A.N. LE FONDRÉ OF ST. LAWRENCE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE ALLOCATION OF THE STRATEGIC RESERVE: [9677]**

### **Question**

Is any part of the Strategic Reserve earmarked for any purpose (whether provisional or specific) and, if so, how much is each such allocation, and what is the total of all such allocations?

### **Answer**

The Strategic Reserve Fund (“the Fund”) was established by the States in 1986 with an initial capital injection of £10 million to provide the Island with some level of insulation from external shocks.

The Fund was enshrined in law as a permanent reserve on the enactment of the Public Finances (Jersey) Law 2005. Article 4(3) of the Public Finances (Jersey) Law 2005, requires that the Strategic Reserve Fund cannot be used for any other purpose than specifically recommended by the Minister for Treasury and Resources and approved by the States (see section 2.2.2).

The policy for the use of the “capital” of the Strategic Reserve Fund was approved by the States in P.133/2006, which states that “...*the capital value is only to be used in exceptional circumstances to insulate the Island’s economy from severe structural decline such as the sudden collapse of a major industry or from major natural disaster*”. An example of severe structural decline would be the financial services industry becoming uncompetitive and leaving Jersey.

In the Budget 2015, the States agreed that the Fund balance of £651.2 million as at 31st December 2012 should be defined as the capital value and that the capital value would be maintained in real terms by increasing in line with Jersey RPI(Y).

The States subsequently approved P.84/2009, in which they agreed to vary the policy approved in 2006 “...to enable the Strategic Reserve Fund to also be used, if necessary, for the purposes of providing funding for the Bank Depositors Compensation Scheme to be established under the Banking Business (Depositors Compensation) (Jersey) Regulations 200-; and to agree that monies from the Strategic Reserve Fund, up to a maximum combined total not exceeding £100 million, should be made available if required to meet the States contribution to the Bank Depositors Compensation Scheme and/or to meet any temporary cash flow funding requirements of the Scheme”.

In P.122/2013 the States agreed that the Fund may be used for the planning and creation of new hospital services in the Island. For those purposes, to date, the States have approved £32.9 million.

During this Medium Term Financial Plan 2016-2019 (MTFP) transfers to and from the Strategic Reserve were approved by the States. In 2016 £56.7 million was transferred from the Strategic Reserve into the Consolidated Fund. A further £55.3 million is proposed to be transferred in 2017 and £16 million in 2018. In 2017 £5 million will be transferred back into the Strategic Reserve and in 2019 a further £20 million is planned to be returned.

In summary, a further £46.3 million is planned to be transferred from the Strategic Reserve to the Consolidated Fund between 2017 and 2019, as agreed by the States. Up to £100 million is available if required to meet the States contribution to the Bank Depositors Compensation Scheme and/or to meet any temporary cash flow funding requirements of the Scheme.

## **2.12 SENATOR S.C. FERGUSON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE EMPLOYMENT OF SOCIAL WORKERS: [9678]**

### **Question**

Will the Minister provide the following information in respect of social workers employed by Health and Social Services, listed by year since 2013 and including the current year?

- (a) the number of social workers employed in total;
- (b) the number of social workers employed from agencies;
- (c) the total annual cost of agency social workers;
- (d) the number of social workers employed through their own company;
- (e) the number of agencies used, whether any of these have connections with existing or past States employees and, if so, how many;
- (f) the total amount paid by the Department on social workers’ rents and the percentage of the market rental of the properties occupied; and,
- (g) whether commissions are being paid to past and current employees of the Department for the procurement of social worker staff.

### **Answer**

- a) the number of social workers employed in total:

At December 2013	December 2014	December 2015	September 2016
79	84	81	81

- b) the number of social workers employed from agencies:

2013	2014	2015	2016 (to 30 September)
9	21	54	57



There is an ongoing need for agency social workers to be employed across the service so that the needs of service users can be met. Without agency workers, the current permanent staffing establishment would face unmanageable caseloads within the teams.

c) the total annual cost of agency social workers:

2013	2014	2015	2016 (to 30 September 2016)
£180,531	£608,021	£1,599,488	£1,799,600

d) the number of social workers employed through their own company:

We are not aware of any social workers employed through their own company; all such social workers are employed through agencies

e) the number of agencies used, whether any of these have connections with existing or past States employees and, if so, how many:

Seven agencies are currently being used to recruit social workers and there is no information to suggest that they have links to present or past employees. These agencies are well-known companies that have been used by local authorities in the UK.

f) The total amount paid by the department on social workers' rents and the percentage of the market rental of the properties occupied:

The Department does not usually pay for social worker accommodation. Agency social workers do not have a qualification to rent accommodation when they arrive on Island, therefore they are provided with staff accommodation, which they pay for themselves.

The accommodation ranges from bedsits with ensuite bathroom, bedroom with shared facilities, or 1-bedroom flats. The rent is determined by the property size and location.

However, this year the Department has paid for staff accommodation on two occasions. This was more cost effective than paying expenses for these appointments.

Costings are included in the table below:

Type of unit	Month	Rent paid	Monthly rent	Fair rent	% of fair rent
1-bed flat /staff accommodation	Jan 2016	£644.89	£644.89	£785.63 (2015 figure)	82%
	Feb 2016	£644.89			
	Mar 2016	£228.83			
Total:		£1,518.61			
1-bed flat/ staff accommodation	June 2016	£550.84			
	July 2016	£635.59			
	August 2016	£635.59			
	September 2016	£635.59			

	October 2016	£635.59	£635.59	£842.66 (as at 1 <sup>st</sup> Oct 2016)	75%
Total:		£3,093.20			
Total for 2016:		£4,611.81			

Note: The flats in the table above are not identical and therefore attract slightly different rents. Please note also that the flat referenced between January and March 2016 was at 2015 costings; the flat referenced from June 2016 to present was subject to a 5% rental increase from 1 June 2016.

g) Whether commissions are being paid to past and current employees of the department for the procurement of social worker staff

No commissions are being paid to past or present employees for the procurement of social worker staff

Further to the written answer 9678 this week regarding social workers, and some confusion in the media coverage which followed, HSSD would like to make the following additional points to clarify the position:

1. The figures for agency social workers given in section b) of the answer are additional to those permanent employees listed in section a)
2. The figures in section b) cover the total number of agency social workers employed during that year. This would be at various points, and for varying lengths of time, through the year in question. At any one point in time, a lower number of agency social workers would be working for HSSD. For example, the current figure is 18 agency social workers

HSSD trusts this helps clarify the position about the proportion of our social workers who are employed through an agency.

**2.13 SENATOR S.C. FERGUSON OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE ACCESS TO BENEFITS ADMINISTERED BY THE DEPARTMENT OF PEOPLE RETURNING TO JERSEY: [9680]**

**Question**

How many people, having worked in Jersey for 10 years, have subsequently left the Island and returned later in life and now receive benefits administered by the Department (not including the old age pension)? Will the Minister list for the last 5 years the numbers of such people, the countries from which they returned and their nationalities, if this is different?

**Answer**

All tax-funded benefits now include a residence test as part of the eligibility criteria. The main tax-funded benefit is Income Support. This is available to those who have lived in Jersey for the last five years without a break. It is also available to someone who has previously lived in Jersey for at least ten years, but has then left the Island and subsequently returned. There are additional rules for those who have completed at least 5 years of residence and then left the Island for no more than 5 years.

Time spent in Jersey by a seasonal worker does not count towards these periods. Nor can an individual include time spent under a custodial sentence.

Every claimant and adult participant must pass the residence test to receive income support benefits. The 2015 Departmental Report ([R.104/2016](#)) provides a breakdown of the nationality of working-age Income Support claimants, which is similar to the overall nationality breakdown of all working-age adults registered with Social Security.

Other tax-funded benefits also have 5 and 10 year qualifying periods as follows:

Benefit	Residence Requirement
65+ Health Plan	5 years residency immediately before the claim
Child Personal Care Benefit	The same residency criteria as Income Support
Christmas Bonus	5 years residency immediately before the claim
Cold Weather Bonus	Receiving a Jersey Old Age Pension or 10 years residency immediately before the claim
Food Costs Bonus	5 years residency immediately before the claim

The Social Security Fund provides benefits to people who satisfy specific conditions and have paid Social Security contributions for a required period of time. Mainly to help people when they are less likely to be able to support themselves through employment, including maternity, sickness and old age.

These benefits are not linked directly to a residency period. Contribution conditions vary depending on the type of benefit claimed. In order to qualify for a contributory benefit, the minimum contribution requirement is three months contributions paid above the lower earnings threshold, plus contributions paid in the relevant quarter which is dependent on the date of the claim.

Long Term Care benefit is paid from the Long Term Care Fund. This scheme requires 10 years residency immediately before the claim, or 10 years residency continuously as an adult in the past and one year immediately before applying.

The details of the way in which each applicant passed the residency test are included within the written notes made on each claim but each record would need to be checked individually to provide an analysis of the exact nature of their eligibility.

## **2.14 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE FUNDING OF HOME CARE: [9681]**

### **Question**

For the years 2015, 2016 and 2017, what funding was allocated for the delivery of the following services?

- (a) District nursing
- (b) Sustained home visiting
- (c) Enablement

- (d) Rapid response
- (e) Children's services (Including palliative care)
- (f) Home care provision

How many applications to the Long-Term Care Scheme (LTC) for home care have been processed since LTC was introduced, through Family Nursing and Home Care (FNHC) or other agencies; and how many applications for home care support are expected on an annual basis under the new Income Support Personal Care Component 4 (IS PCC 4) through FNHC or other agencies?

What differences exist in the assessment methods for applications for home care under LTC, IS PCCs 1 to 3, and the new flexible IS PCC 4?

In light of the above, what assurance can the Minister give to those in receipt of, or applying for home care, that they will receive the appropriate level of support from 1st January 2017?

**Answer**

*“For the years 2015, 2016 and 2017, what funding was allocated for the delivery of the following services?”*

- (a) District nursing*
- (b) Sustained home visiting*
- (c) Enablement*
- (d) Rapid response*
- (e) Children's services (Including palliative care)*
- (f) Home care provision”*

Family Nursing & Home Care funding		
	2015 £'000's Actual	2016 £'000's Forecast
District Nursing, Home Care and Children's Services (health visiting, school nurses, community paediatrics)	6,402	5,970
Rapid Response & Reablement	642	731
Sustained home visiting	335	335
<b>Total funding for FNHC</b>	<b>7,379</b>	<b>7,036</b>

In the contract meeting on 29<sup>th</sup> July 2016, it was agreed that the 2017 service specifications would be finalised by 31<sup>st</sup> October 2016, with the funding to be agreed no later than 30<sup>th</sup> November 2016. The 2017 contract would include:

- Full funding of District Nursing service (formula to be agreed)
- Full funding of Children's Services (formula to be agreed)
- No further funding for Homecare services (i.e. no continuation of the subsidy)
- Rapid response and reablement to be funded at 2016 (full year effect) rate of £855,000, adjusted for impact of any additional posts as agreed by Community & Social Services, plus additional posts for mental health services (total budget for service £1,460,000).

*“How many applications to the Long-Term Care Scheme (LTC) for home care have been processed since LTC was introduced, through Family Nursing and Home Care (FNHC) or other agencies; and how many applications for home care support are expected on an annual basis under the new Income Support Personal Care Component 4 (IS PCC 4) through FNHC or other agencies?”*

275 individuals are currently registered under the long-term care benefit scheme in respect of domiciliary care – care delivered outside a registered care home and typically in the person's own home. Data analysis carried out earlier this year identified just under 50 FNHC clients in receipt of LTC benefits at that point in time. It is not possible to specify the total number of applications originally made in respect of care provided by Family Nursing and Home Care, as approved care packages can change and may also be delivered by more than one provider.

The number of new applications for the proposed flexible personal care component will depend on the number of new clients who choose to make an application for income support following the introduction of the new component. Many FNHC clients already receive income support.

*“What differences exist in the assessment methods for applications for home care under LTC, IS PCCs 1 to 3, and the new flexible IS PCC 4?”*

The assessment process for the new Income Support flexible Personal Care Component will be based on the same assessment process that is required for packages approved under the Long-Term Care benefit. It will not resemble the existing assessment process for Income Support Personal Care. This new component will only be available in respect of an approved care package, which is agreed by an Approved Registered Person – a senior member of staff in Health & Social Services. This will simplify the process for customers, and make sure that those people who require financial assistance with a care package do not need a further assessment of their care needs.

*“In light of the above, what assurance can the Minister give to those in receipt of, or applying for home care, that they will receive the appropriate level of support from 1st January 2017?”*

Any individual who requires financial assistance to support their assessed level of need will receive the support required. The outcome of the care assessment will allow support through either Income Support or the Long-Term Care benefit to ensure that individuals access the right care package with the appropriate funding.

I am discussing implementation of the new arrangements with FNHC, which potentially includes considering a later start date to facilitate a safe and smooth transition for existing clients.

## **2.15 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE IMPACT OF BREXIT ON JERSEY BANKS: [9682]**

### **Question**

What is the risk that the Brexit vote will lead many U.K. banks to consider relocating operations to Europe in order to maintain their access through ‘passporting’ rights to the E.U.’s integrated financial system; how does third country equivalence (on which Jersey currently bases its access) compare in terms of access to full ‘passporting’ rights; and what is the likelihood that Jersey-based banks will relocate to Europe?

### **Answer**

All banks are expected to review potential risks to their operating models on a regular basis. However, it is unlikely that UK banks will relocate operations currently carried out in Jersey to Europe. Some international banks may be making plans to increase their presence in Europe, while others are looking at consolidating operations and growing their presence in Jersey, particularly where they offer a global service from the island.

Banks in Jersey are either branches or subsidiaries of UK banks or international banks. We expect that any decision for a bank to increase its presence in Europe is not likely to have a significant impact on its presence in Jersey.

Jersey has always been a third country to Europe for the purposes of financial services and this will remain the case after the UK’s withdrawal from Europe.

## **2.16 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING THE PLAY PARK AT LES QUENNEVAIS PLAYING FIELDS: [9683]**

### **Question**

What progress, if any, has there been on consulting with current and potential users of the play park on Les Quennevais playing fields in order to improve facilities for users?

### **Answer**

Following the installation of the park several meetings were held with parents who had expressed concerns and officials from Childcare registration to consider improvements. No consensus view was provided at the time. The park is used by many children but the Sport Division will be making improvements in April/May of 2017 (weather permitting) by moving some equipment and adding extra equipment to provide more for young people to do whilst using the playpark.

**2.17 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR EDUCATION REGARDING MEANS TESTING FOR ACCESS TO THE NURSERY EDUCATION FUND: [9684]**

**Question**

Does the Minister still intend to introduce means-testing for parents accessing the Nursery Education Fund?

**Answer**

Yes.

As Members will be aware from the comments made during the MTFP debate, payments made from the Nursery Education Fund are exceeding the budget by approximately £0.5m. This problem has to be addressed. Savings will be generated by focusing the NEF grant of £3,914 per child on families that need it most and this will make a significant contribution to the Education Department's work to stay within the cash limit set in the MTFP. The NEF grant, which is discretionary rather than statutory, will still be a very significant payment and will still be received by the majority of families.

During the MTFP debate States Members approved an amendment to means test the nursery classes in States schools in the same way as private sector nurseries.

I argued against that amendment because I thought, along with officers and head teachers, that it would damage the coherence and quality of the Island's education system. Whilst my Department and I still take that view, we recognise that the proposition has been approved. As a result, the Education Department and ministerial team will be working with the Early Years Childhood Partnership in the coming weeks to review our early years provision and the implementation of this States decision.

**2.18 DEPUTY M.R. HIGGINS OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE ACCOUNTABILITY AND LIABILITY OF CENTENIERS: [9685]**

**Question**

Will H.M. Attorney General advise Members to whom Centeniers are accountable for their actions (a) as Honorary Police Officers and (b) as prosecutors, and will he further advise how, and on whom, legal papers in civil actions may be served on them and those who are liable for them?

**Answer**

(a) *Accountability as honorary police officers*

The Attorney General has a supervisory role over the Honorary Police at customary law. This role is confirmed in statute. Article 4(3) of The Honorary Police (Jersey) Law 1974 ('the 1974 Law') provides that "...the Honorary Police shall be under the general supervision of the Attorney General."

Moreover the Police (Complaints and Discipline) (Jersey) Law 1999 ('the 1999 Law') and the Police (Honorary Police Complaints and Discipline Procedure) (Jersey) Regulations 2000 ('the 2000 Regulations') made thereunder, made provision among other things for the investigation of complaints about, and the procedures, rights and powers relating to

disciplinary charges against, members of the Honorary Police, which of course includes Centeniers.

Under the 2000 Regulations the Attorney General may impose any of the following punishments, that is to say –

- (a) dismissal from the Honorary Police;
- (b) requirement to resign from the Honorary Police, as an alternative to dismissal, taking effect either forthwith or on such date as may be specified in the decision;
- (c) suspension;
- (d) censure;
- (e) reprimand.

(b) *Accountability as prosecutors*

The 1974 Law confirms the power of Centeniers to charge, but “*without prejudice to the customary powers of the Attorney General in the prosecution of offences*”.

Any failures on the part of a Centenier in respect of his or her role as prosecutor will be considered and determined by the Attorney General pursuant to his customary and statutory powers referred to above, having regard to the relevant provisions of the disciplinary code contained in the Schedule to the Police (Honorary Police Complaints and Discipline Procedure (Jersey) Regulations 2000.

*Service of legal papers*

As to the service of legal papers on a Centenier in civil actions, the rules of service on an individual who is a Centenier are no different from the rules of service on an individual who is not a Centenier, assuming that the right of action claimed is a right of action against that individual in his or her private capacity. If however it is alleged that a tort has been committed by a member of the Honorary Police in performance or purported performance of their functions as members, then Article 22 of the 1974 Law provides that: “*The Connétable ... shall be liable in respect of torts committed by members of the Honorary Police of the Connétable’s parish in performance or purported performance of their functions in the same manner as a master is liable in respect of torts committed by the master’s servants in the course of their employment, and shall in respect of any such tort be treated for all purposes as a joint tortfeasor.*” Where Article 22 is relied upon, therefore, service of any legal proceedings needs to be effected on the Connétable (or, in the case of a vacancy in that office, against the senior officer of the Honorary Police of the parish).

**2.19 DEPUTY M.R. HIGGINS OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE EMPLOYMENT AND LIABILITY OF CROWN ADVOCATES AND POLICE LEGAL ADVISORS: [9686]**

**Question**

Who is the employer of Crown Advocates and Police Legal Advisers and who is responsible for their actions, and, in respect of civil actions against such individuals, who is liable for their actions and on whom should summonses be served?

**Answer**



Each Crown Advocate and Police Legal Adviser is a States' employee within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005 and thus subject to codes of practice under that Law concerning, among other things, the procedures for disciplining, suspending and terminating the employment of States' employees. They are also subject to the Law Officers' Department Code of conduct for lawyers, the general purpose of which is to provide the requirements for working as a lawyer in the Law Officers' Department and the rules and standards applicable to such lawyers which are appropriate in the interests of justice and in relation to the performance of all their duties as public officers. The Code is published (<http://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/LD%20Code%20of%20Conduct%20for%20lawyers%2020160805%20ALS.pdf>) and applies to all lawyers in the Department (including Crown Advocates and Police Legal Advisers) and any breach of the Code will be treated as a matter of discipline.

In relation to civil actions against any such individual, much will depend upon what, precisely, is alleged. If the facts alleged were such that the remedy sought was against that individual, a summons in any proceedings would have to be served on that individual. If the facts alleged were such that a remedy was sought against that individual's employer (on the basis of the employer's vicarious liability), then service would have to be effected on the employer, namely, the States' Employment Board under the said Law. Again the facts alleged might result in a remedy being sought against the Attorney General in which case service would have to be effected on the Attorney General.

**2.20 DEPUTY M.R. HIGGINS OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING MEASURES TAKEN BY THE LAW OFFICERS' DEPARTMENT TO ENSURE THE TIMELINESS OF PROVISION OF INFORMATION AND RECORDS: [9687]**

**Question**

What measures, if any, are in place within the Law Officers' Department to ensure the timely provision of information and records to advocates and members of the public in cases where a claim has been made against a Government Department, and how do these measures ensure that such claims do not become 'time-barred'?

**Answer**

The general purpose of the Law Officers' Department Code of conduct for lawyers is "*to provide the requirements for working as a lawyer in the Law Officers' Department and the rules and standards applicable to such lawyers which are appropriate in the interests of justice and in relation to the performance of all their duties as public officers*". Among the requirements of the Code are that a lawyer must not engage in conduct whether in pursuit of his/her profession or otherwise which is (among other things) prejudicial to the administration of Justice or liable to bring the Department into disrepute. The Code applies to all lawyers in the Department and any breach of the Code is treated as a matter of discipline. Any deliberate, or negligent, omission to ensure the timely provision of information and records in cases where a claim has been made against a Government Department (or any other claim) would therefore be treated as a matter of discipline.

At all events the Deputy is referred to the answer to his question (9663) of 11<sup>th</sup> October 2016 to the Attorney General. If the Court were to find that the delay in the provision of certain information created a practical impossibility of bringing a certain claim, that claim would not be time-barred in

any event. If on the other hand it did not create such a practical impossibility, the claim would be time-barred because it would not have been the absence of the information that had prevented the claim from being brought.

**2.21 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE PUBLICATION OF A DOCUMENT TO INFORM THE PUBLIC ON WHOM SUMMONS MAY BE SERVED: [9688]**

**Question**

Will the Chief Minister publish on the internet a document showing on whom summonses may be served in the event of a civil lawsuit being served on a Department, members of the Honorary Police acting in their policing and prosecutor functions, States-owned companies and other government bodies?

**Answer**

**Service on a Department/Minister**

A Department as such will not be sued because it does not possess legal personality; the relevant Minister will be the defendant. In this respect the States of Jersey (Proper Addresses for Ministers) (Jersey) Order 2014 exists and is available on the Jersey Legal Information Board website:

<https://www.jerseylaw.je/laws/revised/Pages/16.800.27.aspx>

**Service on members of the Honorary Police acting in their policing and prosecutor functions**

If it is alleged that a tort has been committed by a member of the Honorary Police in performance or purported performance of their functions as members, then Article 22 of the Honorary Police (Jersey) Law 1974 provides that: *“The Connétable ... shall be liable in respect of torts committed by members of the Honorary Police of the Connétable’s parish in performance or purported performance of their functions in the same manner as a master is liable in respect of torts committed by the master’s servants in the course of their employment, and shall in respect of any such tort be treated for all purposes as a joint tortfeasor.”*

Where Article 22 is relied upon, therefore, service of any legal proceedings needs to be effected on the Connétable (or, in the case of a vacancy in that office, against the senior officer of the Honorary Police of the parish).

**Service on States-owned companies and other government bodies**

Service on any company is effected by serving the document at its proper address *i.e.* its registered or principal office, which is a matter of public record through the companies’ registry.

It is not possible to comment on the position of ‘other government bodies’ without knowing which bodies the Deputy has in mind. They may not be bodies that have the necessary legal personality to be sued/served.

**2.22 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE DEFENCE OF DEFAMATORY STATEMENTS: [9689]**

**Question**

Further to the responses given on 22nd March 2016, would the Chief Minister advise whether, in instances where States employees are sued by a member of the public on the grounds that the member of the public has been defamed in statements made by the employee in correspondence or

records, the employees' defence costs are paid out of the public purse or by the individual employee; and what steps, if any, has the Chief Minister taken, or will take, to ensure that States employees do not write or make defamatory statements about members of the public?

### **Answer**

There is no definitive rule about liability for costs "*in instances where States employees are sued by a member of the public on the grounds that the member of the public has been defamed in statements made by the employee in correspondence or records*". The award of costs against one party or the other will depend upon whether the court upholds the allegation or allegations made in whole or in part, or dismisses the claim in whole or in part, and potentially on the respective conduct of the parties to the relevant proceedings irrespective of whether or not the claim was upheld.

There is equally no definitive rule as to whether or not an employee of the States will be indemnified by the States in respect of his or her costs of defending civil proceedings (whether for defamation or any other type of action). There may be circumstances in which it would be appropriate to indemnify the employee in whole or in part; there may be cases in which it would be inappropriate to do so at all. It will depend upon what precisely is alleged to have been stated and the particular circumstances in which any statement, correspondence or record came to be uttered or written.

If an allegation is substantiated that an employee of the States has written or made defamatory statements about members of the public (or indeed has been engaged in any other form of misconduct), as the employee is subject to the codes of practice under the Employment of States of Jersey Employees (Jersey) Law 2005, he or she, depending on the circumstances in which any such statement *etc.* was made (or in which any other misconduct took place), may be liable to the procedures for discipline or, ultimately, for suspending or terminating his or her employment.

## **3. Oral Questions**

### **3.1 Deputy M. Tadier of St. Brelade of the Minister for Education regarding consultation on plans to reduce Newly Qualified Teachers' salaries: [9697]**

Will the Minister advise what consultation and negotiations, if any, have taken place with teachers and their representatives in the last month over plans to reduce Newly Qualified Teachers' salaries, and will he state whether the profession has been supportive of those plans?

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

I think Members will remember that with regard to negotiations I, as a Minister, do not play any part in those negotiations. Those negotiations will be with the States Employment Board, with union officials and with senior colleagues, senior officers, of the department. Since the Assembly last met we have had no formal negotiations and no formal conversations. We do meet regularly with the unions. Last time we met was just after the last Assembly and they voiced concerns quite robustly. Since that point I have met informally with teachers both on-Island and off-Island. All but one of the teachers on-Island said they understand what I was trying to do. For the teachers off-Island, they said they were really surprised at the level of pay that we were paying.

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

I thank the Minister for the answer which is basically a no, but I am sure negotiations will happen in due course. Will he answer perhaps again the second part of the question? Is the profession in Jersey supportive of the plans that the Minister is putting forward, does he think?

**Deputy R.G. Bryans:**

Like I said, I have met with some teachers. It has only been a short while. It has only been 3 weeks since the Assembly last met. Obviously we had a half term during that period. So I have not met with that many teachers but, like I say, all of the ones that I have met, except one, who did equally voice his concerns similar to that of the union, said they understood what I was trying to do.

**3.1.2 Deputy G.P. Southern of St. Helier:**

Does the Minister not consider that such an issue as our pay rate scales of Jersey teachers are a matter of some urgency in order to be settled so that bodies can move on to discuss the restructuring of the profession in Jersey?

**Deputy R.G. Bryans:**

Yes, I understand the Deputy is concerned about urgency but, as I say, this is out of my hands now. This will be with the States Employment Board. They have their own timetable with regard to these negotiations. Again it will be with officers and it will be with union members.

**3.1.3 Deputy M. Tadier:**

What would the Minister say to the daughter of one of my constituents who recently left a relatively high paid job, certainly higher than that of a new qualified teacher or even an existing teacher, to retrain as a teacher to come back to Jersey only to find out that perhaps in 2 years' time her starting salary will be reduced by some £8,000? Does the Minister think that the reality for many of these students needs to form part of the negotiations that will be ongoing between both his department and the States Employment Board?

**Deputy R.G. Bryans:**

I think if this particular student were to come back she would still be delighted at the consideration. The amount that we will be paying would be considerably more than inner city London, more than Guernsey. If she was an N.Q.T. (newly qualified teacher) staying in the U.K. (United Kingdom) she would be on an income considerably less.

**Deputy G.P. Southern:**

Sir, I believe again the Minister has misled the House.

**The Deputy Bailiff:**

Sorry, you must mean presumably unintentionally misled the House, which is what I assume you would mean, but the Minister's answer is the Minister's answer. It can be dealt with in questions later on, but it cannot be dealt with in this way.

[9:45]

**3.2. Deputy K.C. Lewis of St. Saviour of the Minister for Treasury and Resources regarding the post office at Five Oaks: [9692]**

Further to the announcement that the post office at Five Oaks may be closed, what steps is the Minister taking to ensure that a post office is maintained in the area?

**Connétable J.M. Refault of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):**

Neither the Minister for Treasury and Resources nor I have an operational role to play in the ongoing business of Jersey Post. While it is acknowledged that it is a wholly-owned incorporated entity of the States of Jersey it has its own board of directors approved by this Assembly that provide operational projections to its executive. Therefore, as Members would expect, a matter of providing a post office in Five Oaks is purely a matter for Jersey Post. However, to assist the good Deputy I can assure him that Jersey Post are conscious that the post office at Five Oaks is very much part of the community and are very disappointed that the service can no longer continue within its current location. The decision to close the existing post office has resulted from the current leaseholder choosing not to renew their lease on the property and at very short notice, rather than Jersey Post electing to discontinue that service. In conclusion, we are advised by and are confident that Jersey Post is taking all appropriate and urgent action to try and find an acceptable alternative solution.

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

I have had communication from the chief executive of Jersey Post, for which I am most grateful; also the Constable of St. Saviour has been very active in this regard. But does the Assistant Minister not agree that a post office at Five Oaks servicing Victoria Cottage homes, the new Langtry Gardens estate and the whole surrounding area is a vital service for the area?

### **The Connétable of St. Peter:**

Certainly. The Minister for Treasury and Resources and I are very conscious of that concern, as are Jersey Post. They have been, within days of being notified, out talking to many businesses in the Five Oaks area in the hope that one may even take over the service on a temporary basis, particularly as we are now approaching the busiest part of the year for Jersey Post and would have potentially a negative effect on their business. They are extremely focused in finding a solution, even if it is only a temporary one in the short term,

### **3.3 Deputy S.Y. Mézec of St. Helier of the Minister for Health and Social Services regarding meetings held with representatives of workers affected by funding cuts to Family Nursing and Home Care: [9694]**

What meetings, if any, has the Minister had with the representatives of the workers who will be affected by his decision to cut funding for Family Nursing and Home Care?

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

I have not had any meetings with the representatives of the workers affected, nor would it be appropriate for me to do so. I have said previously, decisions about services and staffing arrangements are a matter and properly a matter for Family Nursing and Home Care.

### **3.3.1 Deputy S.Y. Mézec:**

But of course the decisions he make will have a real tangible effect on the service that this organisation provides, a service that is valued by virtually everybody in this community but most importantly, those workers and their representatives want to meet with the Minister to talk about this. Simply out of courtesy, would it not be a good idea to get round the table and just have a chat with them about it or is that honestly beyond his abilities to somehow muster?

### **Senator A.K.F. Green:**

There is only one point I agree with the Deputy with in his question, that the Family Nursing services are essential, they are valued and they are much loved in this Island. We are working with Family Nursing to modernise the service and it is a challenge for them but they are taking that role seriously. The Unite official asked me to meet to discuss it and I stand by what I said originally. However, he also said to me that I had made different comments; different or contrary to those

made by Family Nursing. I did offer to answer any questions he put to me on the clear understanding that I would reply to him and copy it to Family Nursing. We are not in a dispute with Family Nursing. Family Nursing and I are working together to improve services, to provide better services to change the way things are done going into the future.

### **3.3.2 Deputy G.P. Southern:**

Does the Minister believe that the prospect of major changes to terms and conditions in Family Nursing and Home Care is a serious concern and worry to the employees in that particular organisation, and does he consider that changes in terms of conditions may well affect the safe practices and good quality of practice that currently exist within Family Nursing and Home Care?

#### **Senator A.K.F. Green:**

Dealing with the last part of the question first. No, I do not consider changes in terms and conditions to put at risk patients. That is what the Deputy is, in essence, asking me. The services are properly regulated and controlled. We are about to appoint a Care Commissioner, so I am comfortable in that respect. But managing change is always difficult. Family Nursing are facing up to the challenge that they have to. Of course it is difficult for the staff. The services are much valued. The staff are much valued. But they have to be allowed to work their way through the solution. I might add, that I met on Friday with the chief executive and the chairman of Family Nursing. We had an excellent meeting. We have agreed though that they might need a little longer to manage the change they are having to go through. So I have agreed that we will not seek to make any change until July next year.

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

Does the Minister not agree that Family Nursing and Home Care provide an absolutely essential service with regards to care in the community? Will he not also agree that things regarding privatisation, for want of a better word, is happening in the U.K. where things are going south at a rate of knots and that we must not let this happen in Jersey?

#### **Senator A.K.F. Green:**

I totally agree with the Member. That is why we are fully funding district nursing. Fully funding health visiting. Fully funding reablement. Fully funding rapid response. Fully funding Children's Services, including a new palliative care service. When the budget is worked out, Family Nursing will have a figure very similar to the one they have currently got. The only change will be around home care, which I am not going to continue to pay way over market rate for that service. Family Nursing are an excellent organisation but they are trying to take their service through modernisation to meet the needs of an ageing population and I am supporting them fully in that role.

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

Would the Minister elaborate on the statement he made just a few minutes ago that he is not making any changes until July? Does this mean that the grant to Family Nursing will continue for the first part of next year until July at the same levels as the grant has been in this current year?

#### **Senator A.K.F. Green:**

That is what we are discussing. It is likely to be yes.

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

Has the decision been made? The Minister indicated before that he will not be making any changes until July; what exactly does that mean?

#### **Senator A.K.F. Green:**

What I said was I had met with Family Nursing, we have had an excellent meeting, and we are looking at July as the possible start date next year. We are still in discussions with Family Nursing.

**3.3.6 Deputy M. Tadier:**

I do not know if I am allowed to ask the Minister whether his comments are disingenuous when he says that Family Nursing are trying to modernise and he is taking them through that.

**The Deputy Bailiff:**

No.

**Deputy M. Tadier:**

But if that is not ...

**The Deputy Bailiff:**

That suggestion of disingenuous is not an appropriate ...

**Deputy M. Tadier:**

So I withdraw that. I would simply say: is it not incorrect when the Minister stands up in this Assembly to say: "Family nursing want to go through a modernisation process and I am simply there to help them"? The reality is that the Minister and the Council of Ministers want the Family Nursing to "modernise" to save money and that they are being pressurised to do that and there is great resistance from Family Nursing and from the public because they are scared about what might happen to that much valued and effective service that currently exists.

**Senator A.K.F. Green:**

He only people causing scare and concern is Deputy Tadier and the like because what we are doing here is we have increased expenditure on reablement. We have increased expenditure on rapid response. We have supported Family Nursing in providing a new Children's Service, including palliative care. This is about change to meet the modern society. Not about fear.

**3.3.7 Senator S.C. Ferguson:**

Does the Minister not realise that the Home Care, which is more than just going round doing a bit of dusting, is an essential part of Family Nursing and to increase the rate from £11 an hour to £19 an hour is going to take it out of the reach of quite a lot of old-age pensioners? When he is busy saying: "We must look after our oldies in the home" and then he is taking this service away. What has he to say to that?

**Senator A.K.F. Green:**

First of all, I take exception to being called an "oldie". I am a pensioner myself and I do not consider myself to be an "oldie". But anyway, answering the question that the Senator asked: why should they pay £19 an hour when they can get it for £12? That is precisely what modernisation is about.

**Senator S.C. Ferguson:**

Sorry, I do not understand his comment.

**Senator A.K.F. Green:**

I asked a rhetorical question is why should service users pay £19 an hour when they can get it for £12? That is what this change is about.

**Senator S.C. Ferguson:**

No, it is not.

**The Deputy Bailiff:**

Sorry, Senator, firstly, this is not an opportunity for argument or debate. It is an opportunity for asking questions and receiving information or asking for action. Secondly, you have had a supplementary to your original question.

**3.3.8 Deputy J.A. Martin of St. Helier:**

I thought Senator Ferguson was going to ask my question; in a way she did. I am concerned: is the Minister for Health and Social Services saying the strategy is to keep elderly people in their homes as long as possible? The arms are nursing, but the home care part must be as equal. If I am elderly and a nurse is going to be coming in and doing my dressing but nobody is going to do my work or my shopping I cannot stay in my own home. Does the Minister not understand the equality that he should be - which is quite frightening that he is not - taking the home care part of staying in your own home for as long as possible?

**Senator A.K.F. Green:**

I totally understand. I do not think the Deputy understands there is no need to pay £19 an hour for a service that should be £12. The service will still be provided.

**3.3.9 Deputy S.Y. Mézec:**

In an answer to a previous question, the Minister cast aspersions against Deputy Southern saying that he was the one causing the fear here when in actual fact Deputy Southern was doing nothing other than relay the concerns that the workers for this service have put to him directly, put to me directly, Deputy Tadier and Senator Ferguson. Again I ask a question he is not even listening to it, so I do not know why I am bothering. It would be good if he might like to indicate that he is listening or ...

**The Deputy Bailiff:**

Deputy, firstly, please could we not have a discussion across the floor of the Chamber ...

**Deputy S.Y. Mézec:**

Well maybe the Minister should listen to questions when they are put to Ministers.

**The Deputy Bailiff:**

... and, secondly, you have not asked a question yet.

**Deputy S.Y. Mézec:**

I am in the process of asking a question. This is what this is for and Ministers do not listen and you stand up for them as usual. [**Members: Oh!**] So I ask ...

**The Deputy Bailiff:**

Deputy, I must ask you...

**Deputy S.Y. Mézec:**

Can I ask my question, Sir?

**The Deputy Bailiff:**

I must ask you firstly to sit down because I am talking. Secondly, I must ask you to withdraw the allegations against the Chair; that the Chair is favouring one side over the other. That is simply not the case. Yes, now you may ask your question.



**Deputy S.Y. Mézec:**

I will withdraw that if I am able to ask my question and the Minister will bother to listen to it, can we proceed on that basis?

**The Deputy Bailiff:**

It is not a question of ... I have invited you to ask your question, please do.

**Deputy S.Y. Mézec:**

Will the Minister agree that if he met with the workers for this service he would be able to proceed from a position of strength because he would understand the concerns they have made, concerns which they uniquely have, which are not shared by the Chief Executive? I know that there is a difference of opinion between those workers. That is the point that Deputy Southern was trying to get across. Would he accept that his position would be strengthened if he met these workers and their representatives face to face, and if he accepts that point I am more than happy to facilitate that meeting for him? Would he not agree?

**Senator A.K.F. Green:**

It is just not appropriate for me to meet directly with employees of other organisations. I am sorry, but that is the case. By the way, I do withdraw the comment I made. It was not about Deputy Southern, I think I said Deputy Tadier. So I withdraw that comment.

**3.4 Deputy G.P. Southern of the Minister for Health and Social Services regarding applications for Long-Term Care benefit and Income Support Personal Care Component 4: [9695]**

I hope nobody gets afraid of this question. How many applicants for Long-Term Care benefit have been processed since its introduction and with what average waiting time; how many applicants for both Long-Term Care and the new Income Support Personal Care Component 4 are expected on an annual basis, and what contingency plans, if any, are under consideration to ensure the proper level of funding is in place for 1st January 2017?

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

I apologise in advance, this is quite a long answer but that was a multi-faceted question. I do not have the number of applicants for Long-Term Care benefit since the introduction. The average waiting time, as with all the average waiting times, we would need to look back through every single application. However, thanks to my colleague, the Minister for Social Security, I can give you some information about current waiting times. I am informed that new claims where all the information from the customer, including the proofs, copies of the information required... and providing the information is available from my department, these are processed straightaway.

[10:00]

Separately, 31 claims of changes in circumstances are currently being processed. There are 107 claims that are in the process of being assessed by my department for onward transmission to Social Security for processing. The number of applicants for both Long-Term Care and the Income Support Component 4 expected on an annual basis I have answered in the written question. The number of new applications for the process... propose the flexible personal care component will depend on the number of new clients who choose to make an application for income support, following the introduction of the new component. Many of the Family Nursing and Home Care clients already receive income support. Picking up on the contingency plans that the Deputy asked me about, following discussions between Social Services and Family Nursing and Home Care, it

has been agreed that we are likely to continue the subsidy until at least July 2017, therefore building in the contingency that the Deputy was referring to.

#### **3.4.1 Deputy G.P. Southern:**

I thank the Minister for showing due consideration to the reality of the size of the task facing him with 107 new applicants and 31 changes of circumstance waiting to be delivered. It seems unlikely to me that those are going to be processed, given the history of waiting times in the period between now and 1st January. But does he not consider that his wish to fully fund particular services is rather held back by the fact, as he has mentioned in the answer to question 14, that the delivery of funding takes place in 3 tranches, where in 2016 nearly £6 million is allocated as a lump sum to go between district nursing, home care, children's services, health visiting, school nurses and community paediatrics? Would it not be a better place to start from if he had a fair idea of where those 6 services... how those 6 services and to what extent they were being funded separately, rather than as a lump sum of £6 million?

#### **Senator A.K.F. Green:**

For once Deputy Southern and I are absolutely at one and for that reason my officers met with the finance team of Family Nursing to break down those figures and to fully understand what fully funded means for each of the items of our services that I have mentioned before. I totally agree with the Deputy and we are working on that.

#### **3.4.2 Deputy G.P. Southern:**

The Minister misses the point. Does he not consider that it would have been better to have sorted this well in advance of changing the funding stream for home care so that he had something in place? This is 2015 £6.4 million, 2016 £5.9 million, lump sums sitting there unanalysed. Why did he not have a better breakdown before he went into this negotiation and then we may not have had the trouble we have had?

#### **Senator A.K.F. Green:**

I am not in the process of passing the buck on this one. The fact is we did not. We now accept that we should have. We started work on it last year but we had a detailed meeting about it yesterday and that is where we are.

### **3.5 Senator S.C. Ferguson of the Minister for Infrastructure regarding the discharge limits for Total Nitrogen from the Bellozanne Sewage Treatment Plant: [9690]**

Has the department exceeded its discharge limits for total nitrogen from the Bellozanne sewage treatment plant into St. Aubin's Bay and, if so, by how much and for how long?

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

The department has exceeded its total nitrogen limit on the discharge from the sewage treatment works and has done so since the limit was first introduced in the late 1990s. This is not new information. On average, it is 4 times higher than the limit of 10 milligrams per litre that was imposed by the regulator, however, it can peak to over 6 times higher at certain periods. This stringent standard was introduced in the 1990s after an upgraded quote with an increasing population and was based on compliance with the European Urban Waste Water Treatment Directive. The limit was imposed as a precautionary measure at the time to protect St. Aubin's Bay. However, this was based on just one summer season of sampling and testing. Subsequent testing of the bay has shown that in fact no nitrogen removal would be required under the Urban Waste Water Treatment Directives.

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

Does the Minister consider that the proposed new plant will be sufficient to deal with this problem and does he perhaps not think that the population part of the policies of the Council of Ministers should be dealt with urgently in order to prevent recurrence of this as the new plant comes on stream?

**Deputy E.J. Noel:**

The new plant has been designed for a population based on gross. It has been designed for a population of 118,000 Islanders, plus further expansions of 20 per cent, that takes us up to a population, including visitors obviously, of some 140,000. You cannot just base the plant on those living in the Island, you have to base it on the population at any one time, including our tourism numbers.

**3.5.2 Deputy A.D. Lewis of St. Helier:**

There has been much speculation about the contribution that this outfall makes to the sea lettuce in St. Aubin's Bay, I wonder if the Minister could clarify as to whether this does contribute very much to that issue or not. There seems to be some conflicting information out there from your department and other independent bodies as to whether it is having much impact. I am sure it is one component of many that is contributing to it, perhaps the Minister could clarify.

**Deputy E.J. Noel:**

I am going to read out a few short quotes, if I may, to give on to this: "Despite recent opinions about the cause it is clear that the blooms were not just caused by human-made nutrients flowing into the harbour, as some people believe." A second quote: "Sea lettuce is a naturally occurring algae, the variation is abundant from year to year and place to place and is strongly influenced by uncontrollable factors, such as wind, tide and coastal currents which affect water temperatures and nutrient levels." I quote from an article that was published in New Zealand because this is not just a problem for St. Aubin's Bay, it is not just a problem for the French coast; it is a worldwide problem. To directly answer Deputy Andrew Lewis's question, I do not believe that the outflow from the sewage treatment works or indeed the outflow from the streams going into St. Aubin's Bay from our water course are the sole cause of the blooms that we get in St. Aubin's Bay over the last few summers. They certainly add to the problem but they are not the cause. We have a report that was commissioned by the Department of the Environment by a firm, experts called Cascade, which clearly show that in fact as you go out towards the Minquiers and into the bay of Saint-Malo that nitrate levels continue to rise. Some 80-plus per cent of the nitrates in St. Aubin's Bay are coming from offshore Jersey.

**3.5.3 Deputy M. Tadier:**

Notwithstanding what the Minister just said, I think that S.O.S.'s (Save Our Shoreline) research is at odds when we see pictures following the outflow where the green algae is there, almost like a tree coming out from the sewerage outlet, so I think that point is moot. But does the Minister agree with me that it is important to treat the cause here, not just the symptoms? I know that he supports user pays in Jersey increasingly but does he also support polluter pays in this instance?

**Deputy E.J. Noel:**

I encourage Deputy Tadier to relook at those images produced by Save Our Shoreline because his interpretation is certainly not my interpretation. But I do agree with him that we do need to tackle the cause and the cause of the high nitrate levels in our water is because it is in our water, it is not because it is necessarily in our sewage treatment plant. When you have water coming out of your tap that is 40 to 50 milligrams per litre, then it is not surprising that the water that is coming from the sewage treatment plant will have a similar level of nitrates in that water.

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

Supplementary. What work has been done to identify why we have high levels of nitrate and what solutions will the department work on, along with the Minister for Environment, to make sure that there is an incentive for those putting nitrates into the water table to stop doing that?

#### **Deputy E.J. Noel:**

The Deputy should have availed himself of the information that has already been published by my colleague, the Minister for Environment. We are working with Jersey Water. We are working with the farming community to reduce nitrate levels and there have been some significant improvements over recent years.

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

Just following up on an earlier comment made by the Minister, and just to see if I heard correctly: did the Minister say that the flow of nitrogen into the bay has exceeded almost from the time the plant was established and in breach of what the regulations were? If that is the case, what did the regulator do? Did they fine you? Did they take any action against the Department for Infrastructure or what?

#### **Deputy E.J. Noel:**

Again, I am quite happy to confirm - it is not news - but since the limits were set in the 1990s we have not met those limits. But when you have your mains water coming out of the tap at 40 to 50 milligrams per litre you are not going to get your water coming out of the sewage treatment works at anything less.

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

My question was about the regulator and the relationship between the regulator and the Minister's department. If you were exceeding the limits, what sanctions were available to the regulator and why were they not used?

#### **Deputy E.J. Noel:**

That is a question to the regulator, not to myself.

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

Could the Minister confirm or otherwise that the limit set for the effluent going into the bay is one-fifth of that that is considered safe for drinking water?

#### **Deputy E.J. Noel:**

I know that our drinking water is typically between 40 to 50 milligrams per litre and that the amount of what we are putting into the bay from the sewage treatment works is at a similar level. But, yes, our regulated level is at 10 milligrams per litre, a quarter to a fifth of what the Constable has mentioned.

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

Can the Minister confirm whether in fact dispensations have been issued recently or historically in recent times so that Jersey Water can continue to give us the high nitrate water coming out of our taps without facing any kind of sanctions on them?

#### **Deputy E.J. Noel:**

Again, I am not the regulator and it is not a question for my department. But, as far as I am aware, I believe that Deputy Tadier is correct.

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

Would he be able to find out because I am sure Ministers work together and he works very closely, he has told us, with the Minister for Environment when these dispensations were made and whether that is a sustainable way forward? Surely we have laws and limits in place and if they can be constantly broken with impunity, then that must be not just a democratic problem but also a health problem for our residents.

### **Deputy E.J. Noel:**

I do not need to ask Deputy Tadier's questions for him. He is quite capable of asking those questions directly to the department and getting those answers; they are in the public domain.

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

The Minister has placed great reliance on a particular report. Is the Minister aware of the approach taken in the report he quoted that the results were taken on one day in a straight line with no allowance for seasonality, no results done over a period and, as such, from the scientific point of view, the report is severely flawed?

### **Deputy E.J. Noel:**

I take advice from a whole raft of experts and in this particular case the Senator is correct. The testing that was done was on one particular day and because of that I have asked for it to be redone by my department and that is something that we will be doing over the next few months and continually.

[10:15]

### **3.6 Deputy C.F. Labey of Grouville of the Chief Minister regarding the conditions applied to the residential and employment status of High Net Worth individuals: [9665]**

Are the conditions applied to the residential and employment status of high net worth individuals restricted to their place of residence and are they permitted to purchase buy-to-let properties and, if so, are they required to live in Jersey?

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

Sir, could I ask the Assistant Minister to answer this, please?

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

High net worth individuals moving to Jersey and granted 2(1)(e) "entitled" status are expected to make an annual minimum income tax contribution of £125,000, which relies on them remaining resident. They are granted permission to purchase their own home but they are not permitted to buy any other properties to rent out and we have and would refuse such requests. However, just as anyone else, they are able to buy share transfer flats. They are restricted in what they can do and where they can live and they are required to bring substantial benefit to our Island and I believe we should welcome this.

### **3.6.1 The Deputy of Grouville:**

Does the Assistant Chief Minister have any data to indicate the extent that the housing, the share transfer housing, is being bought by the individuals with 2(1)(e) status? Indeed, does he have any data indicating how many non-residents of Jersey own these share transfer flats or properties?

### **Senator P.F. Routier:**

To hand I certainly do not have that sort of information. There was some work done on that a couple of years ago but I believe that there is a supply of share transfer properties within our Island

and that was recognised as being a useful thing to produce an increased market for rental property. Whoever is going to be purchasing those properties it was felt to be a benefit to our local population so that they could have access to rental properties. But with regard to numbers, I am afraid I do not have that information here.

**3.6.2 Senator S.C. Ferguson:**

For the benefit of the Deputy of Grouville, it is quite easy to work out how many share transfer properties are in private names. However, my question is, what restrictions are there on 2(1)(e) residents buying additional properties, either for redevelopment or restoration or such purposes and reselling?

**Senator P.F. Routier:**

There have been a very limited number of applications from 2(1)(e)s to redevelop properties. This has been given in exceptional circumstances where it is recognised that they are going to resell the property later and the same with any property development company, they would be required to sell that property on and also, obviously, they would be paying tax on any profit they would make on that.

**3.6.3 Senator S.C. Ferguson:**

Are there any restrictions on the fact that the redevelopments tend to be for large properties that are then sold on to more 2(1)(e)s?

**Senator P.F. Routier:**

There would be no restrictions, as far as the Control of Housing and Work Law would have effect on. Certainly the Planning Department's applications would look at that sort of issue but certainly there is not any restriction with regard to Control of Housing and Work Law.

**3.6.4 Deputy R. Labey of St. Helier:**

I wonder if I might ask the Assistant Chief Minister the same question as I asked the Minister for Housing but was not able to get particularly satisfactory answers with respect to it, but is the Government aware of a resurgent buy-to-let market. Is the Government at all concerned that such a resurgence in buy-to-let with wealthy companies gobbling up properties that this would deter or harm the opportunities for local families to get on the housing ladder? In short, is the Government on the case here?

**Senator P.F. Routier:**

If the Deputy has some information he would like to share with us to give some evidence that that is happening, I would really welcome that, though certainly has nothing been brought to my attention with regard to people buying buy-to-let places to the detriment of the local population at the present time. But certainly if he has any information saying the opposite of that I would be very happy to listen to it.

**3.6.5 Deputy M. Tadier:**

Would the Assistant Minister confirm whether it is the general policy of the Council of Ministers to encourage home ownership, i.e. were owner-occupied homes to increase?

**Senator P.F. Routier:**

Very plainly, yes.

**3.6.6 Deputy M. Tadier:**

Does the Minister not accept that it necessarily follows that every buy-to-let property in the Island is a home that cannot be owned by a family, an owner-occupier, is that not the case?

**Senator P.F. Routier:**

No, that is not the case at all. The buy-to-let market is a very useful mechanism to ensure there is a supply of properties for people who want to rent, as opposed to buy. There is a choice to be made by people and some residents who have the ability to occupy a property in the Island can have the choice of either renting or buying.

**3.6.7 Deputy M.R. Higgins:**

Does the Assistant Chief Minister not understand that if wealthy people or people from outside the Island are buying buy-to-let properties, one, they are pushing up prices and, secondly, they are reducing the supply of housing to ordinary people because they are pricing people out of the market because the return that you see in the newspapers is 5 per cent or more ...

**The Deputy Bailiff:**

Deputy, could you ask the question, please?

**Deputy M.R. Higgins:**

The question was: does he not accept that buy-to-let properties are pushing up prices and are denying our local residents decent housing at a decent price?

**Senator P.F. Routier:**

The economics of the housing market is a very variable situation. It depends on the supply that is within our market that will affect the prices. We do know that there is a demand for all sorts of housing, whether it be rental or buying. The extent of this question has moved away from talking about 2(1)(e)s accessing the housing market but that is the way the question was asked. I do not have an answer to that question, I am sorry.

**3.6.8 Deputy G.P. Southern:**

I question the Minister suggesting that somebody would want to spend twice the rate of a mortgage renting a home, makes sense to me. But my question is: can the Minister assure us that whatever the sources of profits from property, whether it is rental profit or redevelopment profit, those profits are taxed 20 per cent, whether it is a company or an individual, in the Island?

**Senator P.F. Routier:**

Any property development is at 20 per cent, certainly.

**3.6.9 Deputy G.P. Southern:**

Rental properties, so a company rents a buy-to-let and you have a net profit in the company, that pays at ...

**Senator P.F. Routier:**

Yes, the same at 20 per cent.

**3.6.10 Deputy M. Tadier:**

I am surprised the Assistant Minister cannot see the axiomatically true statement, that if 10 properties are owned by one landlord those 10 properties cannot be owned by 10 property owners and that is simply a statement of fact. But does the Minister accept that whether it is 1(1)(k)s or 2(1)(e)s now or private developers or investors in other ways, that the problem is that we have no information about ownership in Jersey because there is not a property register and we do not know

about the uptake in different areas and different qualifications? Would the Minister accept that is the case and perhaps that we should be getting more information about which properties are being let out, to whom and, more importantly, what quality those properties find themselves in at the point of being let?

**Senator P.F. Routier:**

The Deputy is sort of painting quite a black picture about the information which is available. There is a good amount of information available, certainly with regard to the ... we have the Housing Needs Survey which is carried out on a regular basis. The Census information does give us good information about who owns the residential and how properties are used. There is information that the Statistics Units can help us with. Certainly, the access to housing is something which is of real concern to us. The genesis for this question was regarding the 2(1)(e)'s access to housing. I really want to emphasise that we welcome people coming to our Island and investing in our Island and we need to ensure that high net worth people are recognised as being of benefit to our community.

**3.6.11 Deputy M. Tadier:**

But does the Minister accept that there is also a law of unintended consequences and where something might be done for the best of intentions there may be unwilling investment? The Deputy of Grouville quite rightly asked questions about what those unintended consequences may be, especially when they are likely to have a knock-on effect on the local economy for local would-be buyers. Is that not a reasonable question to ask?

**Senator P.F. Routier:**

I think Members will be aware that the Minister for Treasury and Resources has committed to just completing a review of the value of high net worth people coming to our Island and that is due to be published very soon, within the next month or so. I would ask Members to look at that information very carefully when that is published and I am sure all Members will want to take a view as to what they see within that document.

**3.6.12 The Deputy of Grouville:**

Firstly, I am not criticising in any way the high net worth individuals, so can we just park that? What I am trying to establish here is our local housing needs and what is happening in the marketplace. In the absence of any data that the Assistant Chief Minister says that there is none at the moment, could he undertake to look into this situation because he did say that non-residents being able to purchase share transfer properties are of benefit to the local population? I would like to know how as well and sort of citing the Housing Needs Survey, that gives us the problem; it does not give us the cause. Could he undertake to look into this situation, so we know exactly what is going on in the market and what is pushing the prices up?

**Senator P.F. Routier:**

Certainly, along with the Minister for Housing and others, the Housing Needs Survey does give a lot of information about what is needed within our community. The issue with regard to whether buy-to-let is pushing the price up for people who are wanting to buy, the view that was taken many years ago when this was promoted as share transfer was that it was a way of increasing the supply of rental properties within our community. It was certainly something that was promoted as being of benefit generally to us; whether that is something we need to take a different view on now that may possibly be the case. But certainly I undertake that, along with the Minister for Housing and other Ministers and the Minister for Environment who has decision making about building of properties, we will continue to keep that as a priority.



### **3.7 The Connétable of Grouville of the Minister for Infrastructure regarding the use of fuel oil in the Energy from Waste plant: [9666]**

Is any type of fuel oil used in the Energy from Waste plant and, if so, why? Will the Minister confirm that no type of fuel oil is needed in the day-to-day running of the plant?

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

Diesel fuel oil is used in the Energy from Waste plant for 2 purposes. The primary purpose is for the fuel to start the incinerator process and in order to do this it is necessary to heat up the combustion chamber before waste is introduced. This is to ensure that the emission limits will be met when the waste is burned. Burning fuel on the start-up is quite normal for Energy from Waste plants and it is a requirement of the Waste Incineration Directive (2000/76/EC), which is a standard to which the plant is regulated under the waste management licence.

[10:30]

The plant operates on a 24-hour 7- days a week basis, so once the plant is started it will run for some considerable time, often months, before it requires shut down again. The secondary function for the diesel fuel oil is to temporarily boost the combustion chamber temperature in the event of a particularly low calorific value or wet waste being processed by the plant. This secondary fuel is rarely used and the majority of the time the waste alone will support the combustion and maintenance at the required temperatures. I am happy to invite any States Members to come to witness the plant in action and how it is operated and maintained. I would suggest that such a visit comes just before the plant is being shut down for one of its scheduled maintenance programmes and again when we restart the plant.

#### **3.7.1 The Connétable of St. Grouville:**

My microphone is a bit temperamental, like other people's I think. If diesel oil is required during the running of the plant when the material is damp, would it not be beneficial to put some of the cardboard that is at the moment being recycled into the plant, rather than putting in another fuel?

**Deputy E.J. Noel:**

Yes. As I mentioned, if wet waste, for example, is fed into the incinerator and there was a drop in the combustion chamber, the burns will automatically start and run for a short period of time until the furnace temperature is stabilised. This is quite a rare event and it covers a short period of time. But to answer the question about putting cardboard into the incinerator, we currently produce some 2,800 tonnes of cardboard recycling per annum and it costs our department some £100,000 to do so. This is a far better option than us just burning the cardboard in the incinerator where we have a typical cost of some £100 per tonne, so it would be some 2.8 times as much to burn it as it does to recycle it.

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

Would the Minister be able to publish the amount of diesel that is used over a period of a year, so we can see the fluctuations? I think that that is the first question.

**Deputy E.J. Noel:**

In 2013 we used some 146,000 litres of fuel oil. In 2014 we used some 160,000 litres of fuel oil. The most recent figures that I have is for 2015, we used some 123,000 litres of fuel oil.

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

When we talk about the Energy from Waste plant having a certain output in terms of electricity, whatever percentage that is, and perhaps the Minister can clarify that, is that offset against the tons of diesel that we burn in order to keep the Energy from Waste running? Will he be able to say what

the net product of energy is coming out of the harnessable energy that we get from that and whether in fact it is negative or positive? I appreciate the Minister might not have that information available now but would he also endeavour to make sure that is published for transparency purposes?

**Deputy E.J. Noel:**

I believe, from memory, the Energy from Waste plant is capable of producing and does produce up to 9 per cent of the Island's electricity uses but that is not its primary aim. Its primary aim is to dispose of our rubbish.

**Deputy M. Tadier:**

I appreciate that but a supplementary, surely ...

**The Deputy Bailiff:**

I am sorry, Deputy, that is a second supplementary. Very well, I will give you the further supplementary as no one else is indicating.

**3.7.4 Deputy M. Tadier:**

I think the point I am getting at ... I appreciate though it is not the sole purpose of the Energy from Waste plant but, of course, there are no doubt many tensions when it comes to the desire for recycling on one side and getting burnables into the incinerator so that we do not have to use an increasing amount of diesel. But is it not the case that if we were simply to use that amount of diesel to generate electricity without the Energy from Waste plant it might exceed that 9 per cent or at least it would be useful to have those statistics for comparison purposes?

**Deputy E.J. Noel:**

No, Deputy Tadier's conclusion is not correct and I invite him again, as I do any Members, to come and understand how the plant works. It is a very complex piece of kit. The electricity generated from it, although we do not get as much of that electricity as we would like from our Jersey Electricity Company, does produce up to 9 per cent of the Island's electricity needs. But, more importantly, we dispose of our waste in a compliant way with regulations. We need to also do our bit in terms of improving the environment and getting our recycling rates up.

**3.7.5 The Connétable of Grouville:**

I think the Minister said it cost £290 a tonne to put waste through the Energy from Waste plant and I understand that the problem there is the amount of unsuitable material that is going through the plant. If we could reduce that amount of unsuitable material or eliminate it altogether perhaps, how much would that cost come down?

**Deputy E.J. Noel:**

Typically it costs £100 per tonne to process waste through the Energy from Waste plant. If we, for example, added cardboard back into that stream, one, it would not be the right thing to do for our environment. But the cardboard, that costs us to recycle £35 a tonne and if we were to burn it in the Energy from Waste plant would cost £100 per tonne. It is financially beneficial to recycle our cardboard but it is also beneficial for our environment.

**3.8 Connétable C.H. Taylor of St. John of the Minister for Housing regarding the definition of 'household' used in her work and that of the Department: [9668]**

Will the Minister advise, what definition of household is applied for her work and that of her department? Given that definition, how many households are there on the Island?

**Deputy A.E. Pryke of Trinity (The Minister for Housing):**

For the purposes of housing and planning related work we use the Statistics Unit definition of a household, which is one person living alone or a group of people living together at the same address, though not necessarily related, who share a shopping bill, eat together and share the same living space. The Statistics Unit is updating the household projections based on the latest population figures but using 2013 household projections as a baseline, a resident population of 102,700 would equate to approximately 45,400 households.

**3.8.1 The Connétable of St. John:**

Is the Minister able to give an average number of occupants within each household?

**The Deputy of Trinity:**

No, I am not. I do not know if that data is available but I can certainly ask and come back to the Constable.

**3.8.2 Senator P.F.C. Ozouf:**

Would the Minister agree that one of the challenges that societies face in Jersey and elsewhere around the world is the fact that due to the changing nature of society, 3-generation families now are rarer, young people tend to get married and start a family much older and, therefore, the number of households in the Island does increase at a faster rate than population?

**The Deputy of Trinity:**

Yes, I would but also, as the Constable said, we are an ageing society and we all want to stay in our own homes and a Government policy is to look after people in their own homes, so obviously it is going to change.

**3.8.3 Deputy M. Tadier:**

Does the Minister also accept, of course, that there is a housing shortage in Jersey and that the housing is very expensive, especially for renters? People are required to share housing, often among their friends and perhaps work mates but also that young people tend to stay at home much longer nowadays because of the difficulty of renting and certainly no aspiration of buying, so it is very much a 2-way street and that is why it is important to have up to date figures out there.

**The Deputy of Trinity:**

Yes, figures are important and this is what the Stats Units have been doing with the latest Housing Needs Survey. I cannot think what else the Deputy said, I am sorry.

**Deputy M. Tadier:**

I think it is just to acknowledge the fact that while there have been social changes about multi-family generations living together, of course, there is a counter trend where younger people are staying at home. In the long term, in the balance of it, it could be balancing out but it is important to have those figures to monitor demographic and social changes.

**The Deputy of Trinity:**

Yes, but on the other side of that we need to continue to build and what was in the Island Plan, which is being rezoned and the private development, we need to continue to get that supply. But not only up and down, we need a constant level of supply going forward.

**3.8.4 The Connétable of St. John:**

It is just with respect to the Draft Budget that we are due to debate later in this Assembly. It states on page 6 that there are 60,000 households on the Island. I was wondering if the Minister might help me as to whether discrepancy has arisen.

**The Deputy of Trinity:**

No. He is very observant, obviously he has read to page 6 of the budget but I shall look at that and come back to the Constable.

**3.9 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the ‘tax gap’ and measures to combat practices contributing towards tax avoidance: [9696]**

Will the Minister list the mechanisms that may be used to contribute to the tax gap between tax revenue expected and that produced from business and personal taxation? How many times and to what effect have rulings under Article 134A of the Income Tax Law been made and what further measures, if any, are envisaged to clamp down on tax practices that contribute to tax avoidance?

**The Connétable of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):**

Jurisdictions that have produced and published tax-gap analysis would typically identify the loss of tax revenue arising from 3 types of behaviours. Firstly, the amount of tax loss from people making innocent mistakes or misunderstanding their obligations; secondly, the amount of tax lost from tax avoidance where people enter into arrangements that could be strictly legal but contradict the intention of the law and, lastly, on deliberate tax evasion. That is confirmed in the 2017 Budget statement: “Jersey will commence work on calculating its tax gap in the summer of 2017 and it is estimated it will take approximately 2 years to complete.” Returning to Article 134A, it is the Comptroller’s general anti-avoidance provision: “Where the Comptroller is of the opinion that the main purpose or one of the main purposes of a transaction is the avoidance or reduction of an income tax liability, the Comptroller can change the person’s income tax assessment to negate the purpose of tax benefits.” That is one of the mechanisms. This general anti-avoidance provision has proved an effective tool in countering the impact of abusive behaviour and deterring taxpayers from considering putting tax planning in place. In respect of the use of Article 134A, general anti-avoidance provision in 2015, the latest complete year which data is available, our Taxes Office has challenged 75 taxpayers in respect of investments worth approximately £18 million, which, on their face, did not produce taxable income. As a result of those challenges income will be deemed to rise on approximately £7 million of these investments and will be taxed at the appropriate rate. The Taxes Office is continually seeking to address tax avoidance, for example, as part of a global common reporting standard initiative ...

**The Deputy Bailiff:**

Minister, I must interrupt you, you are well into the 30 seconds normally allowed for an answer. I appreciate it is a complex question but I wonder if you are able to bring your answer to a conclusion.

**The Connétable of St. Peter:**

Apologies, Sir, it is a complex question. I just want to make sure that Members understood the full implications of what 134A does in protecting us from tax. Do I have your permission to continue? I will not be too much longer, hopefully, Sir.

**The Deputy Bailiff:**

For a short while only ...

**The Connétable of St. Peter:**

Thank you very much, Sir. I very much appreciate it. As part of the 2017 Budget the Minister has proposed changes that will require local financial institutions to provide relevant information on Jersey taxpayers directly to the Taxes Office. Work to review existing sanctions against tax avoidance and evasion is currently underway in the Taxes Office. Only thinking will be considered by the ministerial steering group for the review of personal income tax in the first quarter of 2017. The Taxes Office will, of course, be looking at best practice work worldwide. On the back of this work the intention is that during 2017 and 2018 the Minister for Treasury and Resources will table new legislation that will increase the costs and penalties for deliberately evading tax and, for example, for incorrect tax declarations where carelessness or recklessness has been involved. Nearly finished, Sir.

**The Deputy Bailiff:**

I am going to notionally add an additional minute to the time allowed for this supplementary ...

**The Connétable of St. Peter:**

Thank you very much, Sir. In advance, if it is tougher for any work we will be offering a disclosure opportunity in 2017 which will provide all taxpayers with an opportunity to put their tax affairs in order. Thank you, Sir, and thank you for your consideration.

**3.9.1 Deputy G.P. Southern:**

I would have been grateful for the opportunity to ask a supplementary earlier.

[10:45]

Because what I want to find out is twofold, one, what mechanisms are expected to be in place to avoid paying tax, either under 134A or otherwise? Secondly, what estimate since the Minister for Treasury and Resources decided to investigate it, it must be significant sums involved, otherwise it would not be worth doing. If it was only tuppence ha'penny you would not be looking. What sort of estimate does he think might be being avoided at this stage.

**The Connétable of St. Peter:**

The Deputy did ask what measures are there in place to avoid tax; I think those are the words he used. I hope there are no mechanisms to avoid tax. What we are putting in place is many mechanisms to stop people from avoiding tax, using Article 135A in its extended form. If I am wrong, I will give way to the Deputy, Sir.

**The Deputy Bailiff:**

No, it is not a question of ... you can answer the question, I am afraid, Connétable, or you can ...

**The Connétable of St. Peter:**

Okay. Sorry, I have missed the second part of the question by deviating.

**The Deputy Bailiff:**

I think it was how much might be lost was the second part of the question.

**The Connétable of St. Peter:**

Yes, that is a piece of work that is being done and that needs to be done. Certainly some work was done in the United States on why we cannot compare Jersey with the United States. They estimated over there that 42 per cent of tax is not collected, particularly from the black economy, that is cash in hand, and there is no reason to suspect that we are very far different from that. That is one area of work that needs to be looked at, particularly where we know there is tax avoidance. However, having said that, most of those tend to be in more labouring classes, where you are hiring

a handyman and the cost of chasing them would probably be far in excess of the amount of tax it would yield from taking it through a processor.

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

Will the Tax Department be looking at the use of companies by local residents in order to avoid tax?

#### **The Connétable of St. Peter:**

I think I covered that in the first part of my answer. We will be looking at that and all of their tax affairs will need to be disclosed to the Taxes Office.

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

I am sure in the past it has been said that we are one of the most tax compliant places in the world in terms of efficiency of collecting money and loss, if you like, in terms of the overall yield. Is that still the case or has something changed or is it basically the jury is still out on whether that is still the case?

#### **The Connétable of St. Peter:**

Unfortunately the Deputy is asking me to pass an opinion and that would be possibly misleading. I cannot give him a definite answer, has it changed. I would expect it has not, but that is an opinion.

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

I suppose maybe to phrase the question in a different way: do we know the statistics of estimates being made within the Treasury Department of how tax efficient we are in collecting revenues that are due? We know that for the large part tax returns are basically done on honesty for people to declare what they have earned. That goes a certain way, but what statistics and hard facts does the Assistant Minister have to base this review on?

#### **The Connétable of St. Peter:**

I cannot give the Deputy the actual figures because we do not have those figures. All I can say is that in Jersey we have a low, broad and simple tax regime, which encourages people to comply more than ones that have much higher rates of tax, where there is a lot more to gain from those higher rates of tax for the individual. My assumption would be, with confidence, that we are still performing well compared to other jurisdictions.

### **3.9.5 Deputy G.P. Southern:**

Again, what I would like the Assistant Minister to focus on is the areas which are causing concern, because obviously you would not be going to look at the tax gap if you did not think there was a tax gap there, and whether it is between the £80 million income tax that we get from business taxation or it is the £400 million we get from personal taxation, where is the emphasis going to be between business and personal taxation in seeking to correct what might be seen as the tax gap?

#### **The Connétable of St. Peter:**

The Deputy raises a good point there. I think the main focus is on where people deliberately contrive to avoid paying tax. That is where I think the greatest benefit will be found, by employing a wider use of Article 134A to enable us to challenge much more strongly these measures. Jersey is a very professional financial institution and people with monies will go to lawyers to find a way to get around paying more tax. Article 134A enables us to challenge those devices they may use to ensure we can get as much as possible from them. It is keeping our focus on that part of the work, extending the penalties, hopefully dissuading more people from going through avoidance measures which are contrary to the spirit of the law. That is what we hope to do.

### **3.10 Deputy M. Tadier of the Chairman of the Comité des Connétables regarding an Island-wide review of speed limits: [9698]**

Is an Island-wide review of speed limits currently taking place, and if so, what methods are recommended for parishioners to submit suggestions to the review?

#### **Connétable L. Norman of St. Clement (Chairman, Comité des Connétables):**

I should make it clear that the Comité des Connétables is not undertaking an Island-wide review of speed limits. Constables have attended workshops arranged by the Minister for Infrastructure to discuss road safety at which speed limits, among other issues, have been discussed. Under the Road Traffic (Jersey) Law, it is the Minister for Infrastructure who specifies the speed limit on a road, but before making a change the Minister is required to consult with the Constable of the Parish involved. If parishioners have any comments or suggestions to make, whether on speed limits or other parochial matters, they are always welcome to contact the Constable at the Parish Hall, either in person, in writing, by letter or email, or by telephone - I think some of us still have fax machines, if people wish to use that - and should their request for changing a speed limit or parking arrangements or whatever be supported by a Parish, those suggestions will be referred to the Minister for Infrastructure for consideration.

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

I am grateful to the Constable for the answer. We know that the Constables themselves are not conducting an Island-wide review, but I am still keen to know whether there is an Island-wide review of speed limits going on. It seemed to be that the Minister for Transport or D.f.I. (Department for Infrastructure) at the last occasion suggested there was. I presume there is also a strong working relationship between the Minister and the 12 Parishes, so I think it is simply a case of knowing, because of course we do, all of us, I think get enquiries about speed limits on certain roads which people think should or should not be reduced in terms of the speed limit as well as traffic-calming measures. It is just a way of finding out what is the best way to contribute to that review. It would be helpful to know if the review were going on, first of all, because I am sure some people might want to contact the Minister or the department directly; others may wish to contact either the Constables or the Roads Committee directly. I think the Constable has answered partially already, but if he could just clarify, to the best of his knowledge, whether he knows of any Island-wide review going on centrally which may impact on the work of the Parishes.

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

I really cannot comment on an Island-wide review. If there is such a review, clearly that would be a matter for the Minister for Infrastructure and a question on that particular aspect of things should be directed to him. But I can assure the Deputy and Members that where parishioners do have an issue with speed limits in their own particular area, they do make their views known to the Parish, the Roads Committee and Honorary Police consider them and, if appropriate, we make representations to the Minister. The larger situation, I just remember before I became Constable in St. Clement, there was a big issue, a lot of people were very worried about the 40-mile-an-hour limit throughout the Parish. I remember a major Parish meeting was held, they unanimously wanted the speed limit reduced to 30, but after I became Constable I approached the then Minister for Transport and Technical Services and was able to convince him to reduce the speed limits for most of St. Clement to 30 miles an hour. So if people do have concerns, make contact with your Parish Hall. Your concerns will be listened to and, if appropriate, action will be taken.

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

I just thank the Constable again. My concern is not so much the fact that people contact the Parish Hall, it is just a case of it has been suggested - and we have heard from the Minister himself - that

there is an Island-wide review of speed limits going in. It is a case of when people are contacting the Parish, not being told, as I think may have happened in certain cases, that there is an Island-wide review going on and therefore it is not really something that the Parish can necessarily deal with straight away. It is a chicken and an egg in some ways, but just to thank the Constable for the questions and it may be something that needs to come back as another question in a different format in the future.

**The Deputy Bailiff:**

Do you wish to give an answer to that, Minister?

**The Connétable of St. Clement:**

All I can say, if there is a major review of speed limits going to be carried out in the Island, I have no doubt that the Minister would wish to consult with the public in any event.

**3.11 The Deputy of Grouville of the Minister for Treasury and Resources regarding freedom of access to private pension pots: [9693]**

When is the Minister intending to reach a decision on whether Jersey will follow the U.K. in providing freedom of access to private pension pots?

**The Connétable of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):**

I am pleased to advise the Deputy of Grouville that in the 2017 Budget that has recently been lodged, the Minister for Treasury and Resources has proposed another step forward in creating greater flexibility in retirement. Back in 2003, Jersey was ahead of the times in creating approved drawdown contracts. This is a mechanism through which individuals could have unlimited access to their pension funds on the proviso that they could prove that they would have sufficient income in retirement, this to limit the risk that they would fall back on the States for financial support later on in life. Tax is payable on whatever they draw out. Since last year, 2015, we have seen their usage increase, where individuals have been permitted to take a tax-free lump sum for entering into an approved drawdown contract. However, in the 2017 Budget it is proposed that we go further, and in addition to the existing income test, a capital test would also be introduced. This will enable those who have built up a safety net of capital assets to realise them in order to support themselves financially through their retirement and thereby gain access to the flexibility of drawdown contracts. This is responsible pension freedoms, allowing people to access their pension funds where the risk that they will fall back on the States for financial support later in life is extremely low. There will be a high bar test to ensure that future generations are insulated from having to support those who might choose to squander their pension savings. I hope Members will support the proposals in the forthcoming budget debate in December.

**3.11.1 The Deputy of Grouville:**

I find the Assistant Minister's terminology somewhat patronising, in that his department seems to expect that anyone with access to their pension pot is going to fall back on the States and squander their retirement pension. Does it not occur to his department and him that people might wish to invest in more lucrative schemes than the returns - and some of them very modest returns - on a private pension pot, and can be better for the individuals, but would certainly be better for the economy?

**The Connétable of St. Peter:**

Unfortunately, I do not agree that the answer was patronising to people at all. I think what all of us should be interested on is protecting the taxpayer from having to support people who could have



otherwise supported themselves. I do not really regard that as being patronising. Coming back to the second part of the question: should people be allowed to draw down some of the pension pot to invest in more lucrative investments in particular? The answer is I am sure that when they go through the high bar test, providing they can demonstrate that there will be good income coming from those which would insulate them from having to fall back on the States, that is something that Treasury will look sympathetically towards.

**3.11.2 Deputy G.P. Southern:**

Does the Minister not agree, I think I saw over half-term that in the U.K. there is a certain amount of rowing back from this provision, particular concerns about the mis-selling or mis-evaluation of packages? The question to the Assistant Minister must be what measures or what consideration has been given in his budget proposals to this rowing back and these risks around certain issues concerning that?

**The Connétable of St. Peter:**

I thank the Deputy for that very good question. Certainly we are very alive to the issue in the U.K., which is the U.K. has taken a great risk in liberalising the ability for people to take back pensions, because many of those people are falling back on the taxpayer to support them in later life. We are very aware of that potential, which is why, as I said earlier in my speech, there will be a high bar that will have to be passed to enable them to draw down funds rather than just being able to draw them down willy-nilly, effectively, as they can currently in the U.K.

[11:00]

**3.11.3 The Deputy of Grouville:**

This stance, is it not “Nanny knows best” and is it not a case that we can and should be trusting an individual to be responsible for their own monies and not deprive them of further opportunities? Could the Assistant Minister please indicate who he is taking advice from? Is it those in the industry?

**The Connétable of St. Peter:**

In answering the first part of the question, I have to consider what working families are doing today out there, working very, very hard, paying their taxes into the system and protecting them from having to pay more taxes through any forms potentially to fund people’s lifestyles who have squandered their pension pots. I am interesting in protecting people from tax increases in the long term, rather than giving somebody a nice break when they squander their pension pot. The advice comes from the tax planning officers with the Treasury. We are being well-advised on it.

**3.12 Senator S.C. Ferguson of the Minister for Treasury and Resources regarding the negotiation of leases by the Ports of Jersey: [9691]**

In instances where the Ports of Jersey negotiate a lease with a new tenant and that tenant is a company, has the Minister directed the Ports of Jersey only to undertake such negotiations where the identity of the owners and directors of that company is in the public domain and, if not, why not?

**The Connétable of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):**

The short answer is no and no, as it would be inappropriate to politically interfere in a commercially confidential matter. However, I am sure the Senator will not like that answer. Can I just remind the Assembly that on 9th October 2012, this Assembly debated P.70/2012, Incorporation of the Ports of Jersey. I note from Hansard the good Senator voted in favour at that

time for that proposition. The report to P.70/2012 stated, and I quote: “The primary goal in incorporating Jersey Harbours and Jersey Airport is to enable them to continue to be the provider of essential, lifeline public services to the Island, but to do so in a commercial and sustainable manner that will improve services for customers and generate a positive return to the States.” When incorporating the Ports of Jersey Limited, the States Assembly set a number of primary objectives for the company and also assigned to the company the responsibility for the direction, strategy and management of the business. Both the Minister for Treasury and Resources and I recognise the independence of the board of directors in managing this business, including carrying on commercial port operations in the manner best calculated to secure sustainable growth in the economy of Jersey in the medium to long term. Taking account of independence, it would not be appropriate for me to direct them on activity that would be considered to be part of the normal course of their business, including lease negotiations.

**3.12.1 Senator S.C. Ferguson:**

I think the Assistant Minister has overlooked the point that the general public are shareholders of Ports, and since this is their money, is it not understandable that they would prefer contracts with local companies, with identifiable directors and shareholders, and where necessary, paying local tax?

**The Connétable of St. Peter:**

I think we need to recognise in this particular case of Ports the different business model. The majority of people that the Ports work with are not local companies, and I cite British Airways, easyJet, Lufthansa, Flybe, Condor and many, many others who are not local people, but we engage with them because they will produce the income and the facilities that we require to keep a vibrant economy going here in Jersey.

**3.12.2 Deputy G.P. Southern:**

Does the Assistant Minister not recognise that by permitting foreign-owned companies to own substantial businesses in Jersey and to contract with the States thereon that what he is doing is contributing to the tax gap that he wants to investigate between what might be expected and what is provided by foreign companies, who do not pay tax to trade in the Island? Surely this is just one example of a wholesale movement away from locally-owned companies to international companies, owned elsewhere, and the resulting drop in taxation for our revenues.

**The Connétable of St. Peter:**

A very short answer: I do entirely recognise every point in Deputy Southern’s speech. That is why in every deal that the Ports do they are required to consider the net benefit to the Exchequer of Jersey.

**3.12.3 Deputy G.P. Southern:**

In the recent case, which I believe the Senator is asking about, that was a significant loss. It seems to me that the Minister, in his first answer, has said it is entirely their business, it is a commercial contract and he is aware at the same time this means a loss of revenue to the Jersey Government.

**The Connétable of St. Peter:**

I think we are entering into some difficult territory here, because we are talking, I believe, about a specific case, a case which I am aware that many Members have been contacted on by an individual who has failed to secure the lease arrangements he required through Ports of Jersey, because his bid just was not good enough. If it is that particular business, there have been allegations made in that business particularly with regard to a company which they have identified in their communications who has never been, nor never will, be part of the tender negotiations on that particular deal.

#### **3.12.4 Deputy J.A.N. Le Fondré of St. Lawrence:**

I suppose the statement is almost: is there not a risk that Ports act in the interests of the company, but not the financial interests of the Island as a whole? I suppose what that leads to - I appreciate the Assistant Minister semi-addressed that - he said that the Ports are required to ensure that there is no loss to the Exchequer. What role does Treasury take in just monitoring that Ports are adhering to that remit, in other words, where there is a significant financial transaction taking place that the net outcome is a benefit to the Exchequer and not a loss compared to where we presently were?

#### **The Connétable of St. Peter:**

Yes, the Treasury has put in place a much more robust stewardship and governance procedure for all the States-owned entities, of which the Ports are one. We have a minimum of quarterly meetings with the directors. As Deputy Le Fondré said, the companies are motivated to work in the best interests of the company and the bottom line profit for the company, but we hold the Treasury shareholder function, which I undertake on behalf of the Treasury, which requires the board of directors to ensure that all the work done by those companies deliver a net benefit to Jersey.

#### **Deputy J.A.N. Le Fondré:**

Can I make a point of clarification? The Assistant Minister said “net benefit to Jersey.” Is that the same as a net financial benefit to Jersey?

#### **The Connétable of St. Peter:**

Well-spotted, and yes, I do agree with Deputy Le Fondré. Thank you.

#### **3.12.5 Deputy S.M. Wickenden of St. Helier:**

Does the Assistant Minister agree that if Members, as he is aware, did get an email that had mis-information, it would have been wise for the Treasury Department to contact Members with the correct information to stop our concerns being asked in such a way as they are being right now?

#### **The Connétable of St. Peter:**

What we are talking about here in this particular case - and I will take advice from you, Sir, in the Chair, if I go too close to straying into something where I should not go - this is a commercially sensitive deal that is being done by the Ports of Jersey. If one party who was unhappy with the deal wishes to make allegations about other people, that is a matter between that person making the allegations and the person they are making the allegations about. That is a deal between them. We, as politicians, should take a much broader view of what is going on, rather than looking at a narrow view and reacting to that.

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

The Assistant Minister mentioned earlier quarterly meetings with Ports of Jersey. Would the Assistant Minister inform the Assembly what authority or influence he has over Ports of Jersey, if any?

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

Insofar as it relates to the subject matter of the question, which was the negotiation of leases.

#### **The Connétable of St. Peter:**

With regard to leases, none. That is an operational matter, but where we do have influence is directly over the board of directors and they will influence the operational matters.

#### **3.12.7 Deputy G.P. Southern:**

Is it not the case that the Assistant Minister mentioned the duties of directors or the board to act in the best interest of the company and that surely the next bit of that sentence should say: “in the context of doing business with the Government of Jersey”? Is it not that we should be encouraging a wider remit than strictly only in the interests of the directors or the shareholders?

**The Connétable of St. Peter:**

I am not sure I exactly know what question the Deputy is asking of me there. Certainly, as we have seen in the press in the U.K. particularly, there have been shareholder revolts where the company is not acting in the best interests of the shareholders. Certainly the Treasurer of the States represents the States and the shareholders in the A.G.M.s (annual general meetings), but we do hold all entities to a quarterly meeting where they present their business cases and their work going forward.

**3.12.8 Deputy G.P. Southern:**

Does the Assistant Minister not accept then that it is not in the interests necessarily of the shareholder, which is the States of Jersey, to have that short-term commercial interest to take priority over the longer-term tax revenue interests of that shareholder?

**The Connétable of St. Peter:**

I can just say yes, I totally agree, the long term is always the objective, not a short-term gain for a long-term loss. We only look at long-term projects and I can assure Members that I am fully apprised of the situation that has been discussed of the nebulous one on this side. I am fully aware of that and I am absolutely confident that Ports of Jersey are acting totally responsibly in this matter.

**3.12.9 Senator S.C. Ferguson:**

With companies like British Airways and so on, we do know the companies and we do know the directors. Now, the Ports are a strategic asset and where possible, as I have said before, business should surely be with companies incorporated locally. Does the Assistant Minister not agree?

**The Connétable of St. Peter:**

No. As I said earlier on to Senator Ferguson, no, I do not agree. We work with businesses outside the Island. But what I will say to Senator Ferguson and to all other Members, when the lease is signed on that particular deal, for want of a better word, they will be fully aware of who they are, where they are based and what taxes they will be paying.

#### **4. Questions to Ministers without notice - The Minister for Environment**

**The Deputy Bailiff:**

Very well. We now move on to Questions to Ministers without notice. The first question period is for the Minister for Environment. Deputy Higgins.

**4.1 Deputy M.R. Higgins:**

I am sure the Minister is aware this one is coming. It is following up on the answer of the Minister for Infrastructure. Can the Minister tell us, in relation to nitrogen levels that have gone into the harbour, what action his department took with regard to trying to get the department to stay within the law? Were there any fines? Were there any meetings? Can you please advise us what actions were taken by your department?

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

I would just respond to the Deputy by saying that the limit of 10 milligrams per litre was a precautionary limit set in the 1990s. Since then we have had a lot of scientific data and research to show that while it is a limit, there is absolutely insufficient reason to cause any harm to human or animal health. I accept that it is a limit which is difficult to understand when on one hand I impose a limit of 50 milligrams on Jersey Water and then turn around in the next breath and impose a limit of 10 milligrams on the Department for Infrastructure and asking the department to remove that amount of nitrate is difficult to comprehend. Moving forward, lots of work has been done on this, but we have decided that a phased approach to the reduction of nitrates and a phased approach to St. Aubin's Bay is the way forward. The first phase of that is replacing the sewage treatment works at Bellozanne, which is woefully out of date and inadequate.

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

Can I have a supplementary? The Minister did not say it, but this problem has been around for many years, according to the Minister for Infrastructure. What action did your department take in the past? We can talk about these new studies, new safe limits and so on or what the latest scientific thinking was, but if there were regulations in place in the past and they were breached, did your department take any action?

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

Through the Chair, please.

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

Through the Chair.

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

I can tell the Deputy that action was not taken, but on advice it was thought that it was not in the best public interest to do so, because the cost of doing so when there is no danger to human or animal health was prohibitory.

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

Sorry about this, I do not know which piece of paper I am working on.

[11:15]

Yes, will the Minister recommend, given all that has been happening, that the environmental regulator be made independent and separated out from his department, particularly given the fact that the regulator has issued 2 notices to the Department for Infrastructure and no further action has been taken? Would it not be better to have the regulator totally independent?

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

I would have to give that some thought. It is not a question I was expecting, but I cannot see immediately why that would need to be the case.

#### **4.3 The Deputy of Grouville:**

As the Minister is keen to see building permits come to fruition, what consideration will he take to time lapse from the permit being given to delays in his own department, which could include decisions about design, changes to advice previously given, intervention by the Historic Adviser, responses to emails and phone calls and also the increase in costs the new bylaws will create?

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

If I could deal with the bylaws immediately. Yes, I accept that there is an increase in cost with the new bylaws. Those bylaws are going to see, however, an increase of 30 per cent on energy

efficiency in properties. They are also going to ask homeowners to contribute a percentage of the build cost when they have an extension to their property - a 10 per cent contribution of that build cost of that extension - to environmental and energy efficiency measures in the existing house. Those measures are also going to ask any developers with new-build properties over 1,000 square metres to source 10 per cent of their energy from sustainable sources. I accept on one hand that some of these bylaws are going to cost more money, but it is absolutely clear to me that the payback on those costs will be very short and we will see major benefits to our carbon emissions. As regards the timing, the Deputy alludes to the fact that my department is slowing applications down and causing additional cost. All I can say to the Deputy is that, as she will know, it is 8 weeks to process an application for a small works, which is one house or less, and 13 weeks to process an application larger than that. The latest figures I have from my officers show that we are meeting those standards in 95 per cent of the cases.

#### **4.3.1 The Deputy of Grouville:**

Because I was referring to once the permit has been given, so once a permit has been given, the time starts to tick and I believe he was keen to see the building come to fruition, but if there are then delays on design from the department, then there are no time limits of 8 and 13 weeks and so on.

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

I am happy to liaise with the Deputy on any conditions which are put on approvals. I understand exactly where she is coming from and if there are things that are happening which are delaying the start of processes, I am happy to work with her on that.

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

More than 5 years ago, by a large majority, the States Assembly adopted part 23 of Amendment 38 to P.48. I wondered what progress the Minister's department had made with it. **[Laughter]** To be helpful, and it was a marathon debate on the 2011 Island Plan, the States resolved that the Planning Department would look to see whether public access to the La Collette 2 reclamation site could be achieved, in spite of the restrictions of Buncefield. I am just really wondering what progress had been made.

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

I am grateful to the Constable for the question and grateful that he pointed me in the direction of the numbers that he quoted. He will remember that I think himself, myself and the Minister for Infrastructure, very shortly after I became Minister, I asked them to come down to La Collette and we walked from Havre des Pas on the outside of the reclamation site. It was clear to me then that there was a fantastic opportunity to increase the public access along that side facing east. I did ask and we at the time agreed that it would happen. Very shortly after that, the Department for Infrastructure came back and said that they really would like to address the issue of the containers of asbestos before we allowed the public into that area. I have to say I was disappointed, but we are working very quickly towards solving the asbestos issue. I am also given to understand that we have had meetings recently where we have agreed that we will open part of the side of the reclamation site for public access. It is going to be a great addition to the amenity of that area. There is a large area there. Most of it is green, it has got great views and I very much look forward to it being open.

#### **4.5 Deputy A.D. Lewis:**

Can the Minister explain why, after such a widespread and successful public consultation, it is necessary to have a public inquiry about the planning application for Les Quennevais School?

What is the likely cost of such an inquiry and does he truly believe this is the best use of public funds?

**The Deputy of St. Martin:**

The Deputy needs to understand, I think, the difference between a consultation on the preferred site by the Education Department and the necessity to have an approved planning application before you can start to build anything. They are 2 very different and distinct entities. Education have undertaken a very good consultation where they looked at 3 sites, but that is not the same as having an approval from the Planning Department to go ahead with building. In that instance, there are a number of issues that need to be addressed. I thought that the proposal to build on the site was of Island-wide significance. It is also a departure from the Island Plan, because it is building in the green zone and I thought under the circumstances that the best thing to do was to hold a public inquiry. I could have handed the application to the Planning Committee, but I felt in this instance that it was far better to have an open public inquiry where anybody and everybody can address the inspector, who then reports back to me with a recommendation. I have to say that Education did a very, very good consultation on the site, but that is not the same as having an approval to build a large structure in the green zone, so it is very important to make sure we get all the planning aspects and considerations properly considered, and that includes the details for sport, for transport and any other considerations that the Parish or anybody else may have. This is a hugely important building, hugely significant for the education of children in the west of the Island in the coming decades and it is really important that we get it right.

**4.5.1 Deputy A.D. Lewis:**

Surely this is all part of the normal planning process. Why do we need a public inquiry at some considerable cost? This is a normal planning process. Why can the Minister not make a decision on this based on the information he has already? Why have a public inquiry at some considerable cost to the public purse that could be spent on the school?

**The Deputy of St. Martin:**

The first thing to say to the Deputy is that the cost of the public inquiry comes out of my department, it does not come out of the Education Department, so it will not have any reflection on the cost associated with building the school. But I can only reiterate this is a very, very important building. The application is contrary to the Island Plan; it is a large structure in the middle of the green zone. There are a number of issues that need to be thought about and it is only right that an independent inspector comes over, considers all the planning issues associated with this application and we make the right decision.

**4.6 Connétable J. Gallichan of St. Mary:**

I was vaguely reassured to hear the Minister confirm that 95 per cent of applications are determined on time. Is there any consistency of concern that causes the other 5 per cent to not meet the targets? Is there any common theme and is there anything that we can do to boost that figure even further?

**The Deputy of St. Martin:**

It is interesting that the Deputy asks that question and I apologise to Deputy Andrew Lewis for not fully answering the questions he asked previously. I think one of the things that he mentioned was consultation. There is no doubt in my mind that consultation is never wasted time. I think experience is showing us again and again the more consultation you do before you make an application to the Planning Department, the easier it is to get through. In the case of Les Quennevais School, if we have a public inquiry and a consultation has not been done, if the Education Department - or Property Holdings in this case - have not identified other sites that might be available and shown the reasoning behind not choosing those sites, the inspector will ask: "What

are the alternatives? Why are you coming there?" I say to the Constable, I think one of the reasons why maybe applications go over time is that not enough thought goes in before the application to submit it.

## **5. Questions to Ministers without notice - The Minister for Social Security**

### **The Deputy Bailiff:**

Very well. If there are no other questions for this Minister, we then come on to questions for the Minister for Social Security. Deputy Southern.

### **5.1 Deputy G.P. Southern:**

Can the Minister inform Members where the legislation is in law drafting, if it is required, and when we are likely to see the regulations that cover the new Income Support Personal Care level 4, the flexible level that is supposed to cover home care? Can she tell us where it is in progress?

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

Thank you, Deputy, for your question. In conjunction with the Minister for Health and Social Services, as he announced this morning, this will be in place hopefully by next July. We are working all the time, we are up to date with the Department for Health and Social Services on implementing what you term as Personal Care level 4, which will be the difference in the cost of home care on an income support basis from what people are receiving now to what will be the case in the future.

### **5.1.1 Deputy G.P. Southern:**

The Minister failed to answer the question of when we are likely to see any changes to regulation, especially in the light of the fact that while it is attached to income support, it has a completely different mechanism for assessing the level of need which is due to be operated by social workers and not members of her staff. There are some 334 recipients in 2015 of Personal Care level 3, and most of those, I should think, will be looking at making an application for Personal Care level 4, because they only have up until something like 7 hours of care a week under the present scheme of P.C. (personal care) 3, but P.C.4, that will be much more generous. How is she going to cope with those sort of numbers?

### **Deputy S.J. Pinel:**

I was checking the numbers yesterday and it does affect very few people, but that does not mean it is not important. It is about 150 people that would be affected as it currently stands. The idea, for those who are not aware of this, is to fill the gap for those who would not be able to pay an increased rate of home care, so would then resort to income support in order to have that paid. The timeframe is working with Health and Social Services. We cannot implement legislation until we know what the demand is going to be.

### **5.2 Deputy T.A. Vallois of St. John:**

Could the Minister advise whether she believes that the income received from income support should be included in the means testing of higher education funding, and if not, why?

### **Deputy S.J. Pinel:**

Income support already pays for 20 hours of childcare, obviously if the parents cannot afford it, so that is already means-tested if the parent is on income support.

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



Sorry, I think the Minister misunderstood my question. I asked with regards to higher education.

**Deputy S.J. Pinel:**

Sorry, I did misunderstand. As regards higher education, we do help with higher education with childcare costs, but as for paying fees for higher education or helping with fees, no, we do not.

**5.2.1 The Deputy of St. John:**

On that basis, could I ask the Minister what analysis or what work she has carried out in terms of the number of people who receive income support that are above the threshold that is currently set for higher education limits?

**Deputy S.J. Pinel:**

Sorry, could I ask the Deputy to repeat that, please?

**The Deputy of St. John:**

Could the Minister advise if she has carried out any analysis as to how many people who receive income support are receiving more than that that is on the level for higher education? Currently it is £26,750, so has the Minister done any analysis on how many people within income support who are receiving that money are on a higher band?

**Deputy S.J. Pinel:**

Not that I am aware of.

**5.3 Deputy G.P. Southern:**

Could the Minister explain to Members why she has rejected recommendation 10 of our Living on Low Income inquiry, which says: “The Social Security Department should consider creating a role for an officer working on behalf of one-parent families to pursue absent parents for maintenance”?

[11:30]

After all, their office, her department, knows where somebody works, how much they earn and probably where they live and it is far easier for them to pursue maintenance than it is for a single parent, who may have also other issues with that missing parent. Why is she rejecting that recommendation?

**Deputy S.J. Pinel:**

The easy answer to that is that we do not have an officer available in order to pursue that; I have answered this question of the Deputy before. Half the people claiming lone parent support already are being paid maintenance and, as for pursuing the other half, the Social Security Department is not, in this case, really a debt-collecting agency. The whole idea in increasing the disregard for lone parent families to 23 per cent from 10 per cent is to encourage them to pursue maintenance in their own right.

**5.3.1 Deputy G.P. Southern:**

The Minister said she was giving us the easy answer; can she give us the hard answer?

**The Deputy Bailiff:**

I think that is a request to elaborate with more detail, if you think it appropriate, Minister.

**Deputy S.J. Pinel:**

Of course, I have given the details. The single-parent component was reduced, not removed. It has been reduced by £10 a year over the next 4 years in order to make a lone-parent household

equivalent to a household with a couple with a child. As I said in my earlier answer, the disregard has been increased considerably to encourage lone parents to pursue maintenance in their own right. I do appreciate that it is very difficult in some cases where the other parent will have left the Island, in which case, nobody can pursue it, and also in circumstances where the other parent has been difficult and abusive, I accept that. But it could not be an officer personally dedicated to that.

#### **5.4 Deputy A.D. Lewis:**

This is a follow-on question from the Deputy of St. John's question about the higher education grant system. The Minister will be aware that joint household income for minimum wage would be about £28,000. The grant scheme starts falling away once household income is over £26,000. Would the Minister feel that it is time that the Employment Forum reviewed the minimum wage? Does it use figures like that to assess the minimum wage, that is, people cannot access the full grant system on a minimum wage? Does she feel that this is something the Employment Forum should be looking at in order to increase the minimum wage so that people can afford to go to university, even with the grant system?

#### **Deputy S.J. Pinel:**

As the Deputy is aware, the Employment Forum does a very wide-ranging consultation every year, and it will be doing the same in April 2017. What we ask them to do is pertinent to what is happening at the time, so this year we asked them to look at increasing the minimum wage to move towards the 45 per cent of median and their recommendation is to increase it by 21 pence. This has to be balanced with business and commerce, especially with the hospitality and agricultural industries, as to whether they continue to pay such a high wage. So there has got to be a balance between the 2.

#### **5.4.1 Deputy A.D. Lewis:**

My short question should have perhaps been: will the Minister ask the Employment Forum to also consider the cost of higher education bearing in mind there is a gap between the minimum wage and the limit to which grants start tapering off? Does the Forum take this into account? If not, will she instruct them to consider it?

#### **Deputy S.J. Pinel:**

I do not know whether the Employment Forum takes this into account; it is a very wide consultation, but I will certainly ask and get back to the Deputy.

#### **5.5 Deputy S.Y. Mézec:**

At the next States sitting we will be debating my proposition on banning exclusivity clauses in zero-hours contracts. This is something that the Minister had previously said in response to a Scrutiny Panel recommendation that she did not agree with. Could she just confirm whether she still is of that opinion and whether or not she will be opposing that move to ban exclusivity clauses in zero hours contracts?

#### **Deputy S.J. Pinel:**

I am meeting on Friday afternoon to discuss the options of the Deputy's proposition, and may I thank him in advance of that for delaying it, which made life a lot easier for us to consult on it. We will come back with an answer during the debate.

#### **5.6 Connétable P.B. Le Sueur of Trinity:**

Would the Minister update the Assembly about the health bonus regulations that were agreed in the States in July of this year?

#### **Deputy S.J. Pinel:**

Yes. I thank the Connétable for his question. I think this was a very necessary change to legislation from what was called the Westfield Scheme or the 65-plus scheme, now known as the Pension Plus scheme, for 65 year olds. There has been a considerable change, the main one being, which I know Deputy Southern was very keen to see, and Age Concern, was that the people on the scheme were having to pay for their care, be it optical, dental or chiropody, in advance of then claiming back the insurance money. This has changed now so that the Social Security Department will run the scheme and pay the practitioners directly, so saving pensioners having to do the administration themselves. That is very positive. Also, the fee levels have been increased considerably, all of which is being published. We have notified all the pensioners re the Christmas Bonus as well and so hopefully a lot more people will join the scheme.

### **5.7 Deputy G.P. Southern:**

I am back to recommendations in our Living on Low Income report and, in particular, recommendation 15: "The Minister for Social Security should examine ways to reduce the number of over and underpayments in income support. Consideration should be given to payment in arrears rather than in advance." That has been rejected and the statement is that: "Operational improvements have already addressed these issues." Could she inform Members what these operational improvements are and what figures she has to suggest that they have already reduced income overpayments and underpayments?

### **Deputy S.J. Pinel:**

The difficulty with this, as the Deputy mentioned, is that it is paid in arrears rather than in advance; that is the way the social security system works. We are looking at possibly changing that, but changes in that sort of system, which is quite complex and requires legislation, will take quite a long time to do. Improvements have been made in overpayment and underpayment, and also great attention is paid to the individual when overpayments and underpayments are taken into consideration; mainly, of course, if the individual has been overpaid, which is the fault, if you like, of the Social Security Department. That is addressed very quickly because we realise that people are not in a position to repay their overpayment possibly as quickly as should happen.

### **5.7.1 Deputy G.P. Southern:**

I did not hear what the operational improvements were, nor did I hear any evidence that that has already been addressed but, what is worse, I heard the Minister say that this particular recommendation is under consideration when the written black and white statement says: "Reject." Can she clarify?

### **Deputy S.J. Pinel:**

The report asks for a change in the legislation and that is why this has been rejected, because it is an ongoing process. We are working on it, we realise that the system of paying in arrears is sometimes not as effective as it should be, so there is no way that we could accept a recommendation that was a change in legislation when the work is already ongoing.

### **5.8 The Deputy of St. John:**

The last Minister who was in charge of Social Security advised that there would be a potential need to increase social security contributions because of the ageing population. Can I ask the Minister what effect the Common Investment Fund returns have had on the decision to delay those increases, or whether they will still be coming, and whether they will be coming in one big tranche or as a gradual increase?

### **Deputy S.J. Pinel:**

I thank the Deputy for her question. The Common Investment Fund into which the Social Security Reserve Fund is invested, at the moment stands at almost £1.3 billion. The 2 reasons it is so healthy at the moment is because 20 years ago there was a large increase in contributions nominated, which was difficult to get through at the time, but it did, and that has put the fund in very good stead, along with very careful investment. Over Brexit, the fund increased by £240 million, which is quite considerable, and some of the improvement in it has been hedged to protect it because it is a pension fund. So at the moment it is in a very stable position but, Social Security by dint of its nature, will not just look at the moment, it has to look 30 years hence. As the Deputy so rightly said, with a considerable ageing demographic, we have to look 30 years ahead. The Social Security Review, which was launched about 3 weeks ago, the first part of the consultation is to ask the public how they would like to look after themselves in their own retirement inasmuch as to point out that perhaps they might have to help looking after themselves in their own retirement because the fund, even though it is healthy at the moment, is not going to necessarily have the wherewithal to do that in 30 years' time. So that is part of the review that we are doing now in order to decide whether we need to increase contributions, which contributions, how to do it, how it would affect business, whether people should have a personal pension plan, as Guernsey are looking to introduce. There is a myriad of strings to pull in, and that is why we are doing the consultation.

#### **5.8.1 The Deputy of St. John:**

Can I just ask the Minister, then, does she not believe that we have the responsibility to ensure that those who pay into a Social Security Contribution Fund, such as the one that the Minister has referred to, have the right to have access to that funding at the time of retirement, and therefore we should be considering those increases to ensure that there is that ability to do that in the future?

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

You have 15 seconds.

#### **Deputy S.J. Pinel:**

That is exactly what the review is doing.

### **PUBLIC BUSINESS**

#### **6. Public Elections: introduction of S.T.V. and A.V. (P.88/2016) - as amended**

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

I am afraid that brings the time allocated for questions to this Minister to an end. There are no items under J. and K., so we come on to Public Business. The first item is the Public Elections: introduction of S.T.V. (single transferable voting system) and A.V. (alternative voting) (P.88/2016), lodged by Deputy Tadier. Deputy, I understand that you are prepared to accept the amendment of the Privileges and Procedures Committee?

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

That is right, Sir.

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

If so, then I will ask the Greffier to read the proposition as amended.

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

The States are asked to decide whether they are of opinion to request the Privileges and Procedures Committee to bring forward plans for the implementation of (a) a single transferable voting system

(S.T.V.) for multi-member constituencies; and (b) an alternative voting (A.V.) system for single-member constituencies, and to consult the public on those plans by summer 2017, and to bring a proposition to the Assembly and a report showing the outcome of the consultation before the end of 2017.

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

As Members will have just heard, and also via emails accepting the amendments, obviously it was my original preference that we could get this up and running for the 2018 elections. In order for this to work, because I firmly believe it is the right course to take, I do understand and accept it is still important that the public is taken along with us and that any system that it has it fully understands. Not all of the concepts are always easy to grasp in the first instance, so I hope that what we will see is a period of consultation and engagement, presumably led by P.P.C. but with the assistance of the Greffe staff. We know that already the information that has been disseminated to do with elections is increasingly becoming good quality and widely read and spread out. I think that is a good basis on which to proceed. As such, I am not going to go into too much great detail, or as much as I would if I was trying to win the proposition here today to convince Members that we should adopt A.V./S.T.V, but I think there are compelling arguments for it. I would simply remind Members, and perhaps the public, that these are not my recommendations, they are the recommendations of the Electoral Commission, and I think in some ways they are very much the forgotten recommendations, because they seem to be fairly uncontroversial in many ways. It is to do with the way that the voting system works rather than necessarily the constituencies in which the candidates are elected, which seems to always be the sticking point. I think the point is that, no matter what system we have ... and it seems that certainly for the short to medium term we are going to have a mixture of both single-seat and multi-seat constituencies and of course probably at least 2 types of elected Members of the Assembly, if not the current 3 that we have.

[11:45]

I think it is widely understood how the alternative vote works, and I will just quickly make the distinction: the alternative vote is a preferential voting system, so you would rank your candidates from one to however many candidates they are; you do not have to use all of your ranking possibilities. It is done for when there are only single-seat constituencies, so in the current Assembly it would of course be for the positions of Constable, and for those Deputies who are also elected in single-seat constituencies, which are normally either Parish representatives or part-Parish representatives, as is the case in St. Brelade No. 1 and St. Saviour No. 3. Although only a moderate case was made for the benefit of alternative voting by Dr. Renwick ... and it is worth just mentioning that his report can be found on the Electoral Commission website and on the States website under the title of the *Jersey States Assembly in Comparative Perspective*, and if people do want to read it, about page 19 onwards it does talk about the different voting systems that are available. I think we know quite clearly that if you have a single seat available for potential candidates it is possible for somebody to get elected with 26 per cent of the vote, and there is no way of knowing whether that individual is the most popular candidate for that particular constituency. It may well be that person would have still won under an alternative voting system, but it becomes much more likely as the individual support is marginal. Of course, if somebody gets 40 per cent and the other candidates get the rest of the 60 per cent, it is increasingly likely that person would get in anyway, so it stops the situation arising where you get unpopular candidates simply getting in because there is a split vote on the other side. I think that is generally understood. The single transferable vote, I think it has to be said, is slightly more complex in its inception because of course it does involve a quota, but it works on the same principle that all candidates pass a threshold to make sure that they are the ones who need to be elected. It is much more representative in terms of allowing a spread of representation for this Assembly. I think I will

make the case there; I do not need to go on about the pros and cons in depth; we are going to have a process over the next year and a half where Members and the public can engage in that. Of course, I look forward to hearing Members' views on what is being proposed today and hopefully for general support when it comes to the time of implementing the alternative voting systems, be they A.V. or S.T.V., when the time arises.

**The Deputy Bailiff:**

Is the proposition seconded? [**Seconded**] Does any Member wish ... Deputy Wickenden?

**6.1.1 Deputy S.M. Wickenden:**

I think firstly I would like to apologise to you, Sir; I am in my speech going to explain the S.T.V. system in great detail, and I am in no way insinuating, while talking through the Chair, that you do not know how it works. It is just the way it is. I have asked many people over the last few weeks about the S.T.V. system and what they feel is, it is generally in the higher level of people that vote, which is generally in the older demographic. I said to them: "If I ask you to categorise every person on their preference, so 1, 2, 3, 4 or 5, because that is how we are changing the system, would you want to know how it all works in the background? Would it be important to you? Would you not just be happy knowing that the system has changed, it is about a higher proportional representation system rather than a majority system?" Their answer in every instance was: "No, I would want to know why and how it affects my vote by changing the way it works." I started to explain how the S.T.V. system and the maths behind it and they got turned off straightaway. They said that it would put them off voting. They would not properly understand how their vote counted or how it mattered; it was too complicated for them. These are our voters as current. I guess the best way of doing it is saying: "Let us go through and explain quite how complicated the S.T.V. system is and what it means, and why it is called a ... [**Members: Oh!**] I am already putting people to sleep, I see ... why it is a proportional representation rather than a majority representation. It makes it more complicated because, to get your quota of how many votes you require, what you need to do is, after an election has taken place, get all of the votes that have been cast and count them. In the 2014 Senatorial elections, that would have been 28,604 votes. The first thing that would have to happen is you would have to count up all the votes to know what it is. You then divide the number of votes by the number of seats. Again, if we look at the numbers from Senatorials in 2014, that would make a quota of 3,577. Sorry, there is a "plus one", you have to add one just to make sure the figures go right, that you meet a quota. I then took the figures from the Senatorial election, I divided them by 8 to make sure that it got the right numbers. There are 8 votes that are cast, and we need to bring down the numbers. That meant that nobody met the quota for the Senatorial elections at all. That is all right. What we do then, because nobody met the quota, is we take the person on the bottom and we disqualify them, but those votes do not disappear; we go and use their second vote, so whoever they voted for second, it goes to the next person and then we recount and see: "Did anyone meet the quota?", and: "No, they did not." We go to the next, and we disqualify somebody below, and then we use the second vote for that person, or the third vote, if they got any other votes from the first person that was disqualified. Then we count up again and see if anyone met the quota, and they did not. So the way I am looking at the very rough figures, they did not. So we have to then disqualify the next person, and then their second votes or third votes for the last person that was done, or the fourth votes from the person before that was disqualified, have to be added into the person to see if anyone meets the quota. Wow. It is quite a lot of work to start adding this all together.

**Deputy M. Tadier:**

Sir, will the Deputy give way?

**Deputy S.M. Wickenden:**

I will give way, yes, Sir.

**Deputy M. Tadier:**

It is just I think important that, if he is going to be giving these examples, we know what the quota is. So will he tell us what the equation is that is being used? What is the overall number of votes that he is talking about that are in there and what are the number of votes individuals have been getting and whether they pass the quota. I think we need to know those statistics in order to make sense of what he is saying and whether, in fact, what he is saying is correct.

**The Deputy Bailiff:**

That is a proper request for clarification, so you can do that.

**Deputy S.M. Wickenden:**

Thank you. I thought I did, but I will say it again. We take the 28,604 votes that were cast in the Senatorial elections for the 15 candidates, you divide it by 8, because there were 8 seats, and you add one, and that gave me 3,577, which would be the quota.

**Deputy M. Tadier:**

Sorry, will the speaker give way? **[Laughter]** I think he has unintentionally misled the House. You do not divide it by 8 then add one, you divide it, in brackets, by 8 plus one, I think, and then add one. Could he just reiterate that?

**The Deputy Bailiff:**

I think we need to bring some order to this. If you would like to put that in the form of a question for clarification of Deputy Wickenden's speech, then that is perfectly acceptable. Let us take it that there is such a question.

**Deputy S.M. Wickenden:**

Yes. So in such a question, I think by the fact that in brackets divided by the number of seats, and there are 8 seats, you divide it by 8, and then you add one. That is the number I got. Anyway, I am working on these figures but I cannot be properly clear on the figures because we do not grade people, so I would have had to divide the result by 8 just to try and give what would plausibly be the first vote.

**Deputy M. Tadier:**

Sorry, can I ask to give way again? The Deputy is incorrect in his assertion and I think if we are going to start on a premise which is incorrect, so I found ...

**The Deputy Bailiff:**

Deputy Tadier, excuse me for a moment. It is open to any Members to ask a speaking Member to give way in order to seek a point of clarification on that Member's speech, and it seems to be that it is a matter for the speaking Member as to whether the speaking Member will give way. If the Member gives way on every occasion then we will have a very interrupted speech process; if the Member thinks it is appropriate to give way, well then Standing Orders provide that they are able to do so. It is a question of, firstly, for Deputy Wickenden, if he is giving way at this juncture.

**Deputy S.M. Wickenden:**

I do not think I am misleading the House where I am using figures and telling you how I am breaking them down to get what I want.

**The Deputy Bailiff:**

Deputy, the first question is: are you going to give way to Deputy Tadier on this occasion for a further point of clarification of your speech?

**Deputy S.M. Wickenden:**

Sir, I am just going to carry on to go through.

**The Deputy Bailiff:**

That is a matter for you, and you are entitled to do so.

**Deputy S.M. Wickenden:**

I think I have made my point: it is really easy, this system, is it not? It is very simple. Obviously, I am going to go into technology and how that can help things, in future days. There is a different side of it. In the same light, if somebody did meet the quota, what happens then is that you take whatever quota they went past, so forget the 3,577 here; I am going to make it easier. I am going to say that the quota was 1,000, and that the candidate that came through in the first line of counting went over by 200 votes. What you can do there, and where I have read it a lot, it says there are 2 ways of doing it. You can take a random 200 votes from the candidate and then reallocate the seconds, but that is a bit of a lottery. Another way of doing it is you recount all of the people who got votes and break it down into their seconds, and divide it by the number of votes that went over the quota, which was 200. So you divide the number of votes by 200 and then add that to whoever they were allocated to in the seconds. Again, it is not very easy, as you start going through the system. So as soon as somebody goes over the quota then you have to reallocate the votes that are over into whatever the second votes are so that it is there. Again, I just want to make the point that it is not that easy to do, and asking people in the Town Hall to have to go through this is going to take a long time, certainly for the Senatorials, and it is going to mean that if there was a recount because somebody has requested a recount it is a very long time to go through it all again. Without technology, this system is unmanageable. I think that goes to the point of how complicated this system goes to try and get to the proportional representation in the manner, but it is not undoable, and it is being done around the world all the time, mostly using a technology system. You would not have paper-based voting, you would have what would be e-voting. The difference between e-voting and i-voting is that e-voting is where you have a console in your polling station and you select what you want; i-voting is internet voting, so you can do it from a mobile phone or a tablet remotely somewhere else. But e-voting would need to be in place because the computer system in the background would do all the work for you. Then it goes to what does it mean by proportional representation versus majority representation, and why this would effect a slight change, or a possible change in the way that elections are done. Then you have to understand how that works. We will put a scenario that Deputy Labey in his first line of voting had voted for the person who was fourth out of 10, for instance, the fourth most popular in that number, and then Deputy Lewis, for instance, had voted for the person that got the least number of votes in the first round. What we would do then is disqualify the person that Deputy Lewis voted for and say: "Deputy Lewis, you get another vote. Who did you want otherwise?" Then we would take the second vote, but that person did not get through, unfortunately, so we disqualify them and say: "Okay, Deputy Lewis, we want to give you another vote", which is where Deputy Labey will say: "Well, what about my second vote?" "Sorry, your candidate is popular; you do not get another vote again." So Deputy Lewis then votes again, the same person as Deputy Bryans had voted for, but that falls off. So Deputy Bryans now has to vote a second time and Deputy Lewis has to vote. It is about making sure that we have a better representation from both sides of politics, or whatever side of politics, so that a minority-view politician who is standing has a better chance of getting in, so we have a stronger proportion of different political views within the system. This is what the system is designed to do. It is about do you want proportional representation, or what we have now is what is



called majority representation where the people who get the most votes get the seat because that is what, in majority, people have voted for, and that is how it goes through. Anyway, I think I have probably said enough there. In the technology side, we are going to talk about that later in another proposition, which is about where it goes. It is possible to do this but we need to do it in steps. We need to get our electoral register in an additional format; I will talk more on that later in the day. But once we have got that, we can start looking at doing the electoral voting in the polling stations where there is a screen.

[12:00]

That needs to be costed. We need to understand that we have voting every 4 years and how are we going to pay for it; is there a way to rent it? Is there a way that we own the software? How much will it cost to get these devices into the polling stations? It goes on and on. So I am happy to go out to the public and consult and ask them what they think of this system and whether they would be happy with it. I think that is absolutely the right thing to do. Right now when I read the proposition, it says to: “Request the Privileges and Procedures Committee to bring forward plans for the implementation of (a) S.T.V., (b) A.V.” and then it says ... I do not know if it is a (c): “To consult the public on the plans by summer.” I do not want to say yes to (a) and (b) now because I want to hear what the public has to say before I say I want it. Because the wording says: “To implement” and then (a) and (b), I think that means by voting yes now for (a) and (b) you are saying in advance of the public consultation that is what you want. I would rather say no to (a) no to (b) and, if it is a (c), I would like to say that (c), to go out and do a proper consultation with the people of Jersey so they could feel that they better understand it and they want it, and then come back to us, then we can vote on (a) and (b) based on the report that has been made by P.P.C. I think I have said enough there. Deputy Labey was not clear so maybe ... no, I am not. Thank you to everyone for listening to me.

### **6.1.2 Deputy S.Y. Mézec:**

There are 3 types of people in this world: those who can count and those who cannot. **[Laughter]** You have always got to wait a second for the penny to drop with that one. I have always been 100 per cent in support of A.V. and S.T.V.; I think they are objectively more democratic than the first-past-the-post system, and the advice that was given to the Electoral Commission by Dr. Renwick very clearly said that whatever our electoral system is in terms of what model of constituencies or categories of States Member we have, it is objectively a better voting system, irrespective of any other considerations. I think he was right to say that. A few points have to be made: the first is that every new democracy around the world, whether it is a country like South Africa, when it is ditching its apartheid system, or whether it is the Eastern Bloc countries becoming democracies, some of them albeit just temporarily, they always adopt a form of proportional representation, usually S.T.V. They do not opt for a first-past-the-post system because they are just not seen as being particularly fair or representative, and the first-past-the-post system can be used to completely exclude minority points of view. Of course, there is a legitimate democratic concern that minorities in a parliamentary system should not become the majority, if they are a minority, but there is also the other point that minorities do deserve representation, not to be completely excluded from a parliament just because they do not make up the majority. I think our block vote system of first-past-the-post is broken because, in multi-seat constituencies in Jersey, it is possible to obtain 100 per cent of the representation on 30, maybe 40 per cent of the vote. It is not incredibly easy to describe how that works, but I think about it using this example, and I will use simple numbers to, I hope, make it easier to understand. Say we are having a Senatorial election for the 8 seats which are up for grabs, and there are a whole bunch of candidates, and let us say, hypothetically speaking, that there are 8 candidates who stand and say that: “We think education is the most important issue at this election” and they stand on a platform

that is reasonably similar. You have got another 8 candidates who say: “We think the economy is the most important issue in this election, and that is what we want to focus on” and you have another 8 candidates who say: “No, we think health is the most important issue at this election, and that is what we are standing on.” The group that thinks education is most important, say it gets 30 per cent of the vote, you have got the group that thinks the economy is the most important issue, it gets 30 per cent of the vote. The group that thinks that health is the most important issue gets 40 per cent of the vote. What is the result of that election? The result is that every single seat goes to the 8 who thought that health was the most important issue and the people who thought education or the economy were, end up with no seats whatsoever, despite the fact that they were 60 per cent of the electorate. That is how our multi-seat constituency model works and that is completely unfair and it means that, within this Assembly, there are sections of Jersey society politically who end up unrepresented in certain categories of our membership. Surely, on democratic grounds, that must be wrong, and the single transferable voting system is the way to overcome that, and it will give this Assembly and the wider public a much better way of judging who is the most popular politician in the Island who has the strongest mandate to lead the Government, because we do not know. When I have had conversations privately with Senator Ozouf, I have tried to explain to him that, even though he came eighth in the last Senatorial election, it is entirely possible that he may be the most popular politician in the Island. Indeed, that is theoretically possible because, of the 10,000 or so votes he got, it may well be the case that every single one of those 10,000 people turned up to the polling station because they were enthusiastic about voting for him, and who they gave their other 7 votes to may have just been: “Oh, I am at the polling station, they seem all right. I may as well give them one.” In terms of knowing who the voters are enthusiastic about, there is no way of knowing that from our electoral system because you are given block votes rather than preferential voting. With a preferential voting system that would be the real way we would find out who has the strongest mandates. Because it is not just about number of votes when you cannot distinguish whether you were getting someone’s first vote or whether you were getting somebody’s eighth vote; this would get over that, and I think it is absolutely the right way to go. Deputy Wickenden said, and I made a note of this particular quote: “Without technology the system is unmanageable.” I agree that technology would certainly make things much easier. If we had an online voting system or electronic polling votes, e-voting, any form of that, that would clearly make it much easier because everything gets inputted into the system, they have got it connected to the formula, you press a button, it works it out and can tell you what is going on. I accept that it makes it much easier, but I do not accept that without that technology it is unmanageable. There are paper systems of S.T.V. that are used in other jurisdictions, and there are some jurisdictions which have been using S.T.V. since before the technology would have even existed to do that. Yes, it takes longer to count but when the public has to put up with whoever is elected for 4 years, can we really say: “No, it is not worth moving to a fairer voting system because it might take a few extra hours to count it.” I think that is a really poor argument and what happens on our election day, whether it is how we vote or whether it is how we count the votes, for the sake of a few hours to make sure we get the right result at the end, I think there should be no debate there; it is clear that S.T.V. on all criteria is a fairer, more proportionate electoral system which will make this Assembly more representative, no matter what system we have otherwise, in terms of categories of Members or constituencies. I am glad that Deputy Tadier has brought this to the Assembly. It really is not as complicated as some people think it is. If you type in “S.T.V.” on YouTube, you get videos, cartoons, that are made to explain to students councils at schools how it works. It is easy to understand. It is difficult when you stand up to explain it because you cannot see the charts as they go along but if you have a voiceover with the chart alongside it, it is really easy to understand. It just means that unpopular politicians who happen to have a vociferous minority who support them, cannot overrule the majority and the politicians who get elected are the ones who are most popular. But, most importantly, it means that people no longer have to vote tactically, they can vote

according to their conscience. I have got friends in the U.K. who, at the last general election, absolutely did not want the Conservative Party to win, but they were not overly enthusiastic about the Lib Dems or the Labour Party, so they voted Green. I tried to explain to them: “Well, in a particular constituency where it is a Tory Lib Dem marginal or a Tory Labour marginal, if you are voting for the Green Party, you are essentially wasting your vote because there is no chance of that candidate winning, even though there may be an anti-Tory majority”, and that, of course, works in any other combination of parties you want to use it. This means that you can vote according to your conscience and know that if that candidate is not particularly the most popular, but a similar candidate who has a similar platform and a similar set of values is more popular, you can give them your second preference to say: “Okay, not ideally the one I would have wanted, but somebody who I am prepared to accept has more in common with me otherwise, and I would be happier for them to represent me than I would the other candidate who is the one I least agree with on issues.” So I think this is the right way to go. I will admit that I am very disappointed that it looks unlikely that it will be in place for the 2018 election, but I hope very much that it is in place for the 2022 election, and I look forward to hopefully contesting an election under that format.

### **6.1.3 Senator A.K.F. Green:**

I am pleased to follow the previous speaker but, in particular, Deputy Wickenden, who I think gave a very good demonstration of how difficult it is. This proposition is well-meaning, I have no doubt about that, but I think we need to learn the lessons of the past. I do not believe that ad hoc, random change of an electoral system, without looking at it as a whole, is the right way to go. I also believe we have got the cart before the horse with this one because, if we are going to make that sort of change, we should go out and consult, we should not agree this is what we are going to do and then ask the public what it thinks. If we are really going to make major change to our electoral system we should go out and consult first and then come back and debate what that might look like. I am not going to talk for very long. For those reasons, I cannot support this well-meaning proposition.

### **6.1.4 The Connétable St. Clement:**

I am very pleased and grateful that Deputy Tadier accepted the amendment of Privileges and Procedures Committee because that does enable us to do the work that is necessary without making the commitment to transfer to the system which we would have had to do had the proposition not been amended and been adopted. So what we would do, is we would do the work, decide on what is the best system for Jersey and consult with the public, then bring a proposition back to the States as to whether we go in this direction or not. One thing, and it is one of the few times I have been able to say, I do agree totally with what Deputy Mézec had to say this morning, because there is much merit in both the S.T.V. and the A.V. systems. I think as one of the previous speakers showed, there are much fewer wasted votes and what you can be absolutely sure of is that the most popular candidate, at the end of the day, will be elected. That, I think, is very important. I think it was Deputy Mézec who pointed out, with a Senatorial election with 8 seats, or indeed, in some of the larger constituencies - in St. Helier is a 4-seat constituency, and we have 3-seat constituencies - you can never be 100 per cent sure that the most popular candidates have been elected. They may well have been, but you will never know, unless you move to an S.T.V. or A.V. system. The system is easy: instead of putting an X, all you do is you rate the candidates in your order of preference, 1, 2, 3, 4, 5, however many it may be, and how many you choose it to be. Where I do agree with Deputy Wickenden, I do not think that this could be successful until we have the technology in place to do the counting. That is absolutely important because I can just imagine it would take days and days, unless our electoral system is changed, to get the results, particularly of the Senatorial election, and they would have to be counted in one place, obviously, because it has to start taking people out and transferring the vote. So it could not happen, I do not think, until the technology is in place. We already use the A.V. the system, do we not? We use it every 3 years,

and it will be every 4 years when we elect Ministers or chairmen of Scrutiny Panels, or others. Because if there are 3 or 4 candidates and no one gets an overall majority, what do we do? We take out the last candidate and have another vote. If still no one has got an overall majority, we take out the third candidate and we have another vote. That is the same system as if we did it once and just put 1, 2, 3, 4, in order of preference; that is exactly what we are doing. It is simple and it works and we know it works, and we know that way we get the most popular candidate to become Minister or chairman of the panel. What is very important to me, and I am sure to all of us, is that the public has trust and faith in the integrity of the voting system, and that is going to be a major job in consulting with the public.

[12:15]

Somebody said during one of the discussions on this subject, I do not know who it was, whether it was Professor Renwick or somebody else, that the public does not need to understand how the system works. I disagree totally. I think the public, if it is going to have faith and trust in the system, must have the ability to understand, must know how its vote is treated. If we decide that is the route we want to go down, it is very important to me that people do understand and appreciate that position before we introduce it and that is why we have made our amendment. I think it is important that we do investigate the system because there is so much merit in it. There are complications certainly but there is much merit in the system because what you are absolutely sure of is the most popular candidates get elected and I think that is important. If we get that across to the public, then I think we can move ahead. Thank you.

#### **6.1.5 Senator P.M. Bailhache:**

It seems a very long time ago that I chaired the Electoral Commission which commissioned the expert evidence from Dr. Renwick and it is true, as Deputy Tadier says in his report, that the Electoral Commission was, in principle, in favour of introducing S.T.V. and A.V.. The difficulty is that the recommendation was a subsidiary recommendation. It was a recommendation which followed the assumption that the Assembly would accept the principle recommendations of the Electoral Commission which involved reforming the composition of this Assembly and the Assembly - not this Assembly but the previous Assembly - very wrongly, in my view, refused to accept the judgment of the public in the referendum and refused to pass the legislation to give effect to those changes. So what is being asked at the moment - and here I agree very much with Senator Green - is that we are being asked to put the cart before the horse. We are being asked to shelve the principle recommendations for electoral reform and we are being asked to bring in a change to our voting system but the voting system is going to be changed against a background of uncertainty as to what the electoral system itself is going to be. That seems to me to be a mistake and if the matter comes to a vote I shall vote against the proposition for that reason. I do not particularly want to vote against the proposition because I agree with Deputy Tadier in principle that reforming the voting system is a good idea. It is just that I do not think that this is the appropriate time to do it because we do not know what our electoral system is going to be. So I am going to test the feeling of the Assembly to see whether there are others who are likeminded by moving, Sir, with your permission that the Assembly moves to the next item on the Order Paper. I ought to remember but I do not know whether I need your leave for making that proposition but if I need your leave, I seek it, that the Assembly moves to the next item on the Order Paper.

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

Yes, bear with me then for a moment. The position is that for a proposal to move to the next item, the consent of the Presiding Officer is required. The test that the Presiding Officer, as you may recall, applies is whether or not a sufficient number of people have had the opportunity of speaking and as a rule of thumb, we would not give permission for that unless at least 10 Members have

spoken and that is not the case at the moment. Accordingly, I do not allow the proposition at this point.

**Deputy M. Tadier:**

Sir, may I ask a question as a point of order as well? Of course there might be, after the 10th person has spoken, another request to move on to the next item but there is another test under 85(2) which is whether it is an infringement of the rights of a minority and it would be helpful to know what you rule on that, Sir.

**The Deputy Bailiff:**

Well, the test is normally met by consideration as to whether 10 Members have had the opportunity of speaking but it is not simply open to someone immediately on the opening of a debate to allow the matter to move on. If it is made again, I will consider the matter afresh at that point and make a ruling if required to do so. Had you concluded your speech, Senator?

**Senator P.M. Bailhache:**

I have concluded my speech.

**6.1.6 The Connétable of St. John:**

Electoral reform is something that has been discussed since Clothier some 16 years ago and one of the recommendations of Clothier was that we accepted his recommendations in full or not at all and he was adamant, do not cherry pick. What have we done for the last 16 years? We have had various different electoral advice and cherry picked *ad infinitum*. Let us put this to bed and stop. Let us take stock until we are able to do some clear thinking as to how we want to progress. I think speaking for the public of the Island, most people are fed up with hearing about electoral reform. On this particular item, I think probably the easiest way of describing it is if you were to go into a restaurant - and not have a big breakfast - **[Laughter]** and the waiter comes and says: "What would you like?" The first person says: "Well, I will have steak" and he said: "Well, we might be low on steak. Do you have a second choice?" He says: "Yes, chicken." He says to the second person: "What would you like?" "I will have the fish." "We are a bit low on fish. What is your second choice?" "Chicken." To the third person: "What would you like?" "Well, steak and ale pie." "We might be a bit short on that as well. What is your second choice?" "Chicken." He says to the fourth person then: "What would you like?" "I am a vegetarian. I would like the vegetarian pie." "As a second choice?" "Oh, well, I suppose I will have to go for chicken." Half an hour later, the waiter comes in and he dishes out 4 helpings of chicken. Not one person has got what they want. **[Laughter]** I rest my case.

**6.1.7 Senator L.J. Farnham:**

I could not have said it better than the last speaker but I concur with Senator Bailhache and I just wanted to remind Members of what ultimately was the right decision the Assembly made some time ago to choose a single true election day which it did but of course the Assembly chose that. Deputy Le Fondré is smiling across the Assembly at me. I think he might have had something to do with it. The Assembly decided to go ahead and do that before it had agreed the constitution of the Assembly and of course the rest is history which led up to the disastrous referendum which not only had a very, very small turnout but we ignored the result. I think if we carry on trying to pick off electoral reform in bits and pieces, we are going to end up in a similar mess. So it is for those reasons I am going to have to vote against this today.

**6.1.8 Deputy J.A.N. Le Fondré:**

I think I just rather felt that people are making rather a lot of mountains out of molehills in this debate. As far as I am concerned, this proposition as amended is about ultimately to request P.P.C.

(Privileges and Procedures Committee) to bring forward plans for S.T.V. and for A.V. we have taken out for the elections and to consult the public on those plans. I have never had a problem with a designated body - P.P.C. for example - bringing plans together and going to consult the public on them - that sounds great - and to bring a proposition to the Assembly and report showing the outcome of the consultation before the end of 2017. So I am just being clear. We are not committing to a system. We are committing to consulting the public on that. That, to me, seems a fairly responsible way of going forward. I think it is Senator Green whose favourite thing is there is nothing worse than a perfect plan, is it not? You get these arguments that we have got to have the whole package before we can move one inch forward. The trouble is how many times have we seen that it does not work? We end up stalled completely. I am thankful for Senator Farnham for reminding me on the changes because I am pleased to have achieved what is effectively what is now called the General Election. My proposition at the time was that any elections in one year would be the on the same day because we had got into the position where the Senators had all the razzmatazz, as it were. The Deputies kind of struggled along 6 weeks later and then at one point, I remember attending an election for a Constable in St. Lawrence, and that was another 6 weeks later, and it was kind of one man and a dog coming through every hour. I am obviously being facetious but the level of turnout just went down lower and lower and lower. **[Laughter]** No, it was well before a lot of us in the Assembly were ever in this Assembly. I will tell Members that.

**Male Speaker:**

We have lively elections in St. Ouen and St. Lawrence.

**Deputy J.A.N. Le Fondré:**

Thank you, and the point was is that the turnout of the separate elections we used to have just got worse and worse and worse and that was the reason we went for that. Obviously what then happened was the referendum and was it a yes/no or was it a choice and all that sort of stuff? Anyway, I used to be very firmly a first-past-the-post person - and I can say that without taking my teeth out as well - but what brought it home to me was a couple of things. One is I did go to the presentation that Dr. Renwick did however many years ago it was, I was quite interested to hear how it all worked. I think, yes, it is important the electorate have the ability to understand but the way the Connétable of St. Clement put it, all they need to understand is that they rank their candidates. Now anyone should be able to do that. If they wanted to understand the system, fine, there are ways of doing it. I do not think they need to understand the formulaic response that Deputy Wickenden was putting out there. What kind of tipped me from the first-past-the-post was certainly going out and consulting people on it. In fact, I have just borrowed my colleague on the right's iPad just to check the U.K. 2015 elections. S.N.P. (Scottish Nationalist Party) got 4.7 per cent of the vote and ended up with 50 seats. The Liberals had 7.9 per cent of the vote, so reasonably more, and ended up with 8 seats and that cannot be right. That goes back to the point about fairness and so on, on that basis, I accept there are complexities in there and I think the Connétable of St. Clement touched on those. I see no reason why we cannot go out and ask people about it and get the reaction. If the reaction is no, fine, we listen but I think this Assembly should give them the choice because I think it is about fairness. I do not think it is necessarily how votes are treated should necessarily be rigidly tied into the structure of the constitution of this Assembly and all the positions. I think this is how votes are going to be treated. I think that can be separated out and I think we should be supporting this amendment. Thank you.

**6.1.9 Deputy A.D. Lewis:**

I think we have heard some fascinating arguments for and against the principles of A.V. and the single transferrable vote but I guess today what we are talking about really is whether we should ask the public about this or not. We have been asking the public about electoral reform now for

probably about 20 years and we have not really got very far and, frankly, it is embarrassing. When I meet constituents, it is often the topic of conversation and it is not a comfortable discussion to have because we are extremely poor at reforming ourselves. This is not uncommon to the States of Jersey. It is common to parliaments across the world and that is one of the great things about democracy. You can have this debate without getting taken out and taken out literally. So it is wonderful to be able to talk about it freely in a parliament like this but that does not take away from the fact that we are making very little progress and this is, again, an opportunity to discuss a fine point regarding electoral reform, A.V. and proportional representation. They have their pros and cons. I have brought up a graph which *The Guardian* published recently about the last elections and, when you look at it, it is fascinating reading. As Deputy Le Fondré was suggesting, it does change the face of politics if you change the electoral system, the way you vote. Is that a good thing if you have not decided how your Assembly should be galvanised in the first place in terms of the constitution and its makeup which we have not done? In fact, we have done it very, very poorly so far. We have consulted with the public, we had a referendum on it and then this Assembly - I was not part of it at the time - decided to reject the will of the people on that occasion. Now I was not here for the debate. I am sure there were some great arguments given for not accepting what the public wanted but I think that is a poor reflection on this Assembly when you have a referendum and then ignore it. There are far more fundamental things to discuss and debate before we get to the system of elections, the voting system, and included in that would be the electronic system as well. The public often say to me: "Why can it not be easier to vote?" If you make it easier to vote and then make it quite complicated as well at the same time, that creates further issues. So the issue here is we have got to look more closely at ourselves - the Assembly I am talking about here rather than the individuals - and the great work that subsidiaries are currently doing in consulting with Members to formulate something that takes everything into account including potentially this as well so that we can then go back to the public and consult again. We do not have that information yet. Unfortunately, the P.P.C. process has perhaps been a bit slower than some would like. I am sure there are good reasons for that but it is slow. We are now more than halfway through this parliament and we still do not have anything that we can present to the public as a viable proposition of which this type of electoral system could be part of that consultation. So I think we are in danger of a piecemeal approach yet again to reform of which the voting system is just one element of it, so I would urge Members to reject this and wait for P.P.C. to come forward with an overall proposal that we can agree or not agree to and then go to the public with that to consult of which this may form part of. This is a piecemeal approach yet again to reform and I think it is a bad way of going about it and we may end up with some unfortunate unintended consequences as a result. I think wait for P.P.C. to do their work, of which this may form part of and I think it should form part of, and today this is the wrong time to have this debate until we have the P.P.C.'s full report on reform. So I would urge Members to reject this in favour of P.P.C. coming forward with a thoroughly thought-out process which goes some way to resolving the consistent questions we get from constituents about: "When are you going to reform the Assembly?" Thank you.

[12:30]

#### **6.1.10 Deputy J.M. Maçon:**

As a former chair of P.P.C. who had touched on this matter I suppose, just to add to the Assembly, I do remember one of the things from Dr. Renwick's presentation is that the S.T.V./A.D. vote, voters suggested to only change the result about 5 per cent of the time just so it is recorded. The Constable of St. John said, very amusingly, that no one got what they wanted through the different system but then I suppose the other side of the coin is, yes, that no one got what they did not want. Frequently, the point I get made by members of the electorate is: "It is not so much a point of it is someone I vote for. I would really like the opportunity to vote someone out, to vote against

someone, if that were there, and does the system enable that?" One way of looking at it is - I will just use a U.K. example because it is something which we can relate to while appreciating that of course Jersey is more an independent system - if you take a constituency within England, at the moment, there is one seat. So, for example, the Conservative Party might get 40 per cent of the votes, Labour might get, say, 28 per cent, the Liberal Democrats get 24 per cent and the Green Party 10 per cent of the vote. What it shows is within that constituency, the majority of the constituents do not support a Conservative M.P. (Member of Parliament) but under the first-past-the-post system, that is what they get. So the S.T.V./A.D. system attempts to produce representation which was more reflective of the views of the electorate as a whole, not what Deputy Wickenden says it is a majority system. Well, it is more a first-past-the-post system which produces a significant minority system option. Anyway, moving on to S.T.V./A.D., if you did have that system with the 40 per cent, you would lose the Green Party's 10 per cent and say that went to the Lib Dems which then would have your 28 per cent, which would be more than Labour and Labour then goes to the Lib Dems as well, then in that constituency, you might get a Lib Dem M.P. under a different system. It is just how the votes are cast. This has been the murmur: "The public are sick to death about constitution reform." Well, when was the last time we asked about the voting system? Ever? We have asked them about the constituency, about the number of Members and how that should be done but counting how they get into the Assembly and how that should work, we have never put that to the public. That is why today I will be supporting this proposition because I think it is fair enough to ask the public what they think about a different method. Fair enough, they might come back and say: "We absolutely hate it. Please do not change anything. We are quite happy with first-past-the-post" but I think it is absolutely right that they should be given the option to tell us that in a managed way through P.P.C. and, therefore, I will be supporting this proposition today. Again, as other Members have said, this is just about a consultation. It is not committing to one particular system or another. Thank you.

#### **6.1.11 The Connétable of Grouville:**

I wonder if I could ask for some clarification from you, Sir. This proposition appears to me to commit us to introduce S.T.V. and A.V. albeit that we are going to be consulting. If the general public are dead against it, we are still committed to imposing S.T.V. and A.V. and if I am right, Sir, I have got to vote against it not necessarily that I am against S.T.V. and A.V.

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

Well, I think it is important to look back, Connétable, at what that proposition reads as amended. It is to request the Privileges and Procedures Committee to bring forward plans to consult with the public on those plans by the summer of 2017 and to bring forward a proposition to the Assembly and a report showing the outcome of the consultation before the end of 2017 for the implementation of the single transferable vote and an alternative voting system. So that seems to me that what is being done is a consultation exercise which will result in the report before the Assembly together with a proposition as yet informal and unidentified relating to an S.T.V. and A.V. That is my understanding of the proposition.

#### **The Connétable of Grouville:**

Yes, Sir, it is my understanding as well but if the general public are against it, the P.P.C. have still got to bring forward a proposition. Well, a proposition is not required if no change has occurred.

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

Well, they have not got to bring forward a proposition. It does not specify what the proposition should be within this. It could be a proposition that reflects the outcome of the consultation report in whatever form that may be. Did you wish to speak, Connétable, or was it simply that matter?



### **The Connétable of Grouville:**

No, Sir. It was just that I will be voting against it, not necessarily against the ...

#### **6.1.12 Senator P.F.C. Ozouf:**

The Constable of St. John said that we needed to stop talking about electoral reform and I understand, he is a Member of P.P.C. with me and I have to say to him that I am sorry that we cannot stop talking about electoral reform and I will say to him why. A number of speakers I enthusiastically agree with in terms of the contributions that they have made, particularly Deputy Wickenden explained the real nightmare that people will have in understanding it and this is not a casual concern. It is a real concern. Some people have used animals in analogies and there is an expression I think that a camel is a horse designed by a committee. Now I know some Members of this Assembly like committees and I have got nothing against camels but we do have an electoral system which has been designed by a committee and it was not effectively the horse that was designed. We have ended up with something that is a real muddle. Our election system is worse and I have got nothing against camels. It is a dog's breakfast and that is nothing against dogs either. The fact is that it has been tampered with and it has been adjusted. I have stood in this Assembly before and spoken and said that we should have electoral observers in our next General Election and I think I am the only Member of this Assembly that has been privileged to be an election observer. I do not say that I know everything about elections and observer democracy but when you have been an election observer for the C.P.A. (Commonwealth Parliamentary Association) or the L'Assemblée Parlementaire de la Francophonie, which I was in both cases - I have done it twice - you understand what election observers do. It is not just about looking at the count. They look at the efficaciousness, at the properness of the whole electoral system and all countries have to submit themselves and should submit themselves to international observers. I want to avoid a situation that we will welcome international observers of a proper standing from our Commonwealth friends. I want to avoid them. I have got no problem with them coming and testing the count because, as Senator Ferguson and I know, there is no issue with the count because we proved that when Senator Ferguson, quite legitimately and properly, asked for a recount in the last Senatorial election and in fact the Jurats should be complimented for their work. It shows that they do an excellent job in terms of with all the officials in terms of the count. **[Approbation]** The real problem - and of course this will be a real nightmare in terms of a count - certainly A.V. and S.T.V. is much more complicated and cannot be tabulated in the way that it can be done and there are other problems too. I want to avoid a situation where electoral observers will come and we will welcome them as good and proper parliamentarians coming with no vested interest and just looking at the strength, depth and appropriateness of our democracy, and I have to tell Members that they will condemn our system. They will condemn the fact that it is lacking significantly in voter equity and it is lacking in voter equality. Deputy Tadier may shake his head but I am sorry, and I am sorry to say to the Constable of St. John, there cannot be any more putting our heads in the sand about our electoral system. It does not pass muster and it will not pass muster to anybody. We may be comfortable with it and we may think it is fine but on any international test of democratic properness, our system is wrong and wrong to a very significant extent. The reason why that is relevant to this debate - I am hearing some murmuring but I do not know whether that is in support or not - is the fact is that we have to solve before we are told by outsiders ... because I think we are good enough to solve these things ourselves. I want to see our electoral system reformed. Yes there will be compromise but, yes, you can get something that works and something that works better than what we have at the moment, which is to an enormous extent wrong on the system of voter equity and voter equality. I am with the Chairman of P.P.C. and all members of P.P.C. in wanting to bring forward and I think I asked the President before ... I think it is about a month off when Members will see the deliberations of the committee's work. Everybody will not be happy, we know that, but we are trying to find a system that is better and more defensible than we have at

the moment and we will try and there will have to be some compromises arrived at. It is at that time when the committee has concluded its work which is now imminent and those matters have been put after the significant efforts of Members in the lunchtime sessions and the button pressing and all the rest of it that has been done, which I was a bit sceptical about but has proven to be of enormous merit in developing the committee's thinking, that will be able to be put before Members and then properly consulted on.

[12:45]

It has to be completely wrong to jump the gun and say that A.D. and S.T.V. ... I am always a bit worried when I say that because it sounds like a sexually transmitted disease I think but I do not wish to say that, but I am afraid to say that it is not simple at all. There are advantages in this; and I am sorry, but it is not right for Members to vote in favour of a proposition that I respectfully - and I include myself in this - do not really understand. I would suggest - Deputy Southern may remonstrate, but I would challenge the mover of this proposition, and if there is a proposal to move on to the next item of business then I would support that if some Member was to bring that later. I am not proposing that now.

**The Deputy Bailiff:**

Senator, can I interrupt you for a moment? Standing Orders require as we are now passed 12.45 that I ask the Assembly whether they wish to continue. It might be helpful if you indicate how long you think you will be speaking for.

**Senator P.F.C. Ozouf:**

Very shortly; pretty shortly. Not for more than about 3 or 4 minutes.

**The Deputy Bailiff:**

In which case do Members wish to continue at least until the end of this speech?

**Senator P.F.C. Ozouf:**

Yes, I will. I will be even quicker then. So basically what Members should do is they should not vote in favour, with respect, of this proposition. I suggest that we hold a prototype election: 500 people, 100 people could do an example of a vote with an S.T.V. or A.V. and see what happens. Because I think that if Members see what happens then they will know with confidence whether or not this is something you want to go to the public on. Deputy Wickenden explained this is fiendishly difficult and complicated and I am afraid it also will not work with people and Members saying: "Oh, it is just a D.T. (Delaying Tactic). It is just simply putting the numbers in order." There is something called "donkey voting" which is the disadvantages ... it is called donkey voting and it is a system which basically ranks candidates because they are alphabetically organised, and that is a disadvantage to some people with one end of the alphabet and the other. Members do not need to believe me; they need to look at the evidence of the international universities and people who study these matters which see also the substantial disadvantages in these issues. I am afraid we cannot continue to have a system which is tinkered with and then ends up by being an even worse system that is not going to be understood. If we are honest, not many Members could stand up and say what this system really is going to end up meaning. It is all very well working out the mathematics, but it is also what it means and what the effect of that means in terms of returning Members of this Assembly. I will say one last thing: there was a referendum on A.V. held in the United Kingdom in 2011. The U.K. held a referendum where 19.1 million people voted and it was rejected by 32 per cent of people in favour and 67.9 against. That was on a system which is effectively A.V., S.T.V. or something in the middle. That is proven. There is public opinion on this that: "Yes, it was first-past-the-post" and: "Yes, there are different issues," but that also applies here. We need to deal with electoral reform and we need to do it properly; and we need to do it

with proper research and all the arguments set out and on the back of what P.P.C. is going to be bringing forward and not another piecemeal piece of tinkering which is going to end up probably alienating the people that put us here because they do not understand it and they certainly will not understand the consequences of it. There are some advantages in it, but no, not at this stage. It would be outrageous for us to vote in favour and consult the public when we do not even understand it ourselves. Let us wait a month, see what P.P.C.'s proposals are and then see whether or not we can put in S.T.V. or A.V. afterwards. It is the only sensible way of doing it. Any other thing would be unacceptable and frankly, we would be doing a disservice to the people of the Island who put us here.

**Deputy J.A.N. Le Fondré:**

Can I just confirm that the previous speaker is a member of P.P.C. and therefore I assume did not support this amendment when it was considered at the committee stage?

**Senator P.F.C. Ozouf:**

P.P.C. does not have a collective responsibility and therefore when the facts change I change my mind; and the facts have changed because I have thought about this, thought about the consequences of it, and I have changed my mind, even if I did think that the P.P.C.'s amendment is a jolly sight better than the nightmare that was put forward by the original proposer that was just going straight out with something. It got less worse and the answer is still no.

**The Deputy Bailiff:**

I think that goes rather further than a point of clarification.

**LUNCHEON ADJOURNMENT PROPOSED**

**The Deputy Bailiff:**

The adjournment is proposed. The States stands adjourned until 2:15.

[12:50]

**LUNCHEON ADJOURNMENT**

[14:16]

**The Deputy Bailiff:**

The States is inquorate. Could you please invite Members to return to their seats so we become quorate again? Very well. Then the debate resumes on Public Elections: introductions of S.T.V and A.V. (P.88/2016). Does any other Member wish to speak on the proposition?

**6.1.13 Deputy M.R. Higgins:**

Just very briefly. This morning we started off by hearing a very complicated explanation from Deputy Wickenden which, to be honest, I think would have put most Members off. S.T.V. and A.V., so far as the public is concerned, does not need to be complicated. So I would urge Members to support the proposition. But what I would also say as well to those who mentioned that we should wait and have a comprehensive package, I have been in the States now 8 years. Every time we discuss comprehensive packages there is always someone picking it apart and it never gets anywhere. So to be perfectly honest, if we are going to get anywhere at all it has to be a piecemeal approach, and I think that the idea of S.T.V. or A.V. voting is a good one and will certainly deal with some of the problems we have. Then when we come on to the other items such as Deputy Mézec, and other parts of the elections such as decent polling sites, for example in St. Helier's Brighton Road is absolutely appalling. There is no parking. I am not surprised a lot of people do

not go down there and vote. But we need to be looking at the electoral system not only from a voting point of view but also from the location and making life easier for them. But on this one here I did think that Deputy Wickenden had made a meal of it, and if I could just think of a way of trying to put people off it any more than he did in his speech because he just made it sound overly complicated.

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

I would like to thank the Deputy for bringing this proposition in keeping A.V. and S.T.V. in everybody's minds. I think it is important. I would also like to thank him for agreeing the amendment because if we were to move forward I think it is important that we would have time to do the job properly. I am not going to talk about either of the 2 systems or how they work. That is not really for today, because it is my view that the first-past-the-post system is not necessarily the best system that we could have. Having said that, we do not help ourselves. We have 3 different types of selected States Member and we have constituencies which are not always the same number. I was minded to support the amended proposition, but after listening to Senator Ozouf and the promise of the one month extra for P.P.C. to come back, I think it is important that we wait because while I might agree with A.V. or S.T.V., I equally think that it is very, very important that we consider those 2 other issues: that is the type of States Member and the size of constituencies at the same time, because piecemeal, the proposition will not work. So for those reasons I will be waiting for P.P.C. and not supporting this.

**6.1.15 Deputy R.D. Johnson of St. Mary:**

I should perhaps begin by declaring a form of interest in that had the Bill as is now outlined been in force the election before last I should have been before you some 3 years earlier. I go back to Deputy Le Fondré's opening remarks early this morning that are we not making a mountain out of a mole hill. It seems to me there are 3 issues here. One is that all we are doing is going out for consultation at the moment and what harm is that? Secondly, I do take the point that it is a piecemeal operation but it does not invalidate what it is for its own sake; it would be relevant for the various forms of membership we already have. Thirdly, I note that it is not due to come into force until 2022 in any event. Surely that is enough time for us to get our House in order to do something more fundamental if required. I will therefore be supporting the proposition.

**6.1.16 Deputy S.M. Brée of St. Clement:**

I have to express surprise at any Member of this Assembly who does not support this proposition as amended. The whole point behind the Privileges and Procedures Committee amendment was to go out to consult with the public. What is wrong in that? What are we scared about in consulting with the public? We are here to represent the public. We are not here to represent anything other than that. While we may have views on whether or not we believe S.T.V., A.V. is too complicated or whatever, to fail to consult the public on what is such a fundamentally important point would be doing a disservice to the public. So I would reiterate the point I made at the beginning: I cannot see why any Member of this Assembly would vote against the proposition as amended. There is nothing to be scared about in consulting the public, and perhaps the sooner some Members of this Assembly understood that point then a better system of government we may have.

**6.1.17 Deputy J.A. Martin:**

Following on from Deputy Brée, I think we do consult the public. We consult them on an election every 3 years and soon to come every 4 years, and we are quite happy with their results then if we deem to be good enough to be here. It is true. I mean, people who say that the electorate might not understand ... for years people have been coming up to me and saying: "Why can I not put you as number 2, or number one, or someone new anywhere? But I want this and I want to put in a preference." They absolutely understand. Deputy Tadier made a very big mistake: the usual you

get in a: "I accept P.P.C.'s amendment" thinking: "Oh, the P.P.C. are going to be behind you." Now we hear from Senator Ozouf who was in the debate, ran P.P.C. and was accepting of this. We need to ask the public. This is actual. The public are done to death with electoral reform. When did we ask the public? Very rare, not Clothier. We have messed up; we have messed up. That is the only thing I do agree with in Senator Ozouf's speech. We have messed up monumentally, ourselves, without any help from the public. Look, it is a no-brainer. It says: "Go and consult." To allay the fears of the Deputy of Grouville who says: "P.P.C. are going to come back if the whole of the public say: 'Oh, this is ridiculous; we do not want this. We do not understand it. It will never work'" and to say people will not understand at this point is insulting, but let us go beyond that. Do you really think any President of P.P.C. would come back to this House after full consultation and say: "Well, there you go, there is a report. Everyone says no, or most of them say no, and we have even had an S.T.V. on it, an A.V. on it and every other result you can have on it, but they all say no, it is not going to happen." All the Deputy is asking, and again another shock speech from Senator Bailhache who was the leader of the Electoral Commission, and it did say when Professor Renwick came down the Town Hall and said: "Whatever you go with and we do not know what that is", if it is Senator Ozouf's horse it looks like a camel, or a camel as a horse; it has 3 humps. I have the very much hump at the moment because we are literally being told again piecemeal. Sorry, you have done piecemeal for the last 16 years since you went out to Clothier, and now today a very sensible, very really uncontroversial - it does not matter - what you are saying is: "Go out and ask the public as a consultation." Give it to the hands of P.P.C., the Greffe will help P.P.C. which they always do. They do fantastic work on social media, everything. If you do not think the public are consulted, they are consulted every, now, 3 years; it will be every 4 years. Give them a bit more credit. Get behind Deputy Tadier and do not listen to the scaremongers that: "Oh, this will derail everything the P.P.C. subcommittee have coming forward" because I would like to be on that train when it comes to the station, because I do not think it before the 2018 elections. Sorry, Sir. I support this and I say: "Do not make a mountain out of a mole hill. Please support this amendment." I am not even saying whether I support these changes. I want to know what the public thinks, and so should all of you.

#### **6.1.18 The Connétable of St. Mary:**

Just a couple of words because Deputy Martin is completely correct. We need to consult the public. But the problem I have is that we keep consulting the public in one form or another, but it comes back to this Assembly and this Assembly does not know what the public wants. So I have a real difficulty with this because yes, the Electoral Commission put forward as this supplementary recommendation that this needed to be looked at. I was on the Electoral Committee, and even for me the memory of that is distant now, how we got to where we are. But originally when the terms of reference were discussed analysis of the voting system was in the Commission's terms of reference; and it was specifically removed by this Assembly because, as I recall, another piece of work was being undertaken at that time to examine exactly that rating system by the P.P.C. and it was decided that there should not be 2 tandem consultations on the same thing going forward. That is what I have dug out from the notes that I have been able to find so far. I do not know what happened to that piece of work that P.P.C. were doing then. But I do know that this specific point was taken out of the terms of reference of the Commission so that that work could go ahead unhindered. I am concerned that perhaps consultation has happened already, but that nothing again has been done about it. As I say, it was impossible though for the Commission to work in a vacuum looking at the elements that were remaining within our terms of reference without these peripheral issues forming part of the research; and that is why we have these supplementary recommendations. But I am at my wits' end with consulting the public and having the public express a view and then having nothing go forward, especially when it happens within an organised framework. So, yes by all means we should consult the public, but do Members not think that

before we ask the public what they think about something, we ought to decide whether we understand it ourselves? It is from all over the different areas of this Assembly today I have had people express different concerns about something that we have not had an informal chat about, to make sure that we as Members know what the implications could be so that when we consult with the public and when our constituents say: "I notice you have launched a consultation on S.T.V. Can you tell me, Constable, what exactly does that mean?" I know that my constituents will get the same answer that all of your constituents will get, because we have not discussed that and it is quite clear from what I have heard this morning, although it is very simple if you look at it in black and white, when you try to explain it to people all sorts of nuances seem to creep in that may or may not be; I mean is it B.O.D.M.A.S. (Brackets, Orders, Division, Multiplication, Addition, Subtraction). Do we have bracket plus one first or do we divide it?

[14:30]

Well, there is a simple way to do it, but we have to be all singing, as they say, from the same hymn sheet, and I am so reluctant to consult the public again on something that we might say: "Well, yes, thanks for your views. They are very important; 98 per cent of you said 'yes', but no, let us not bother doing that." We are in grave danger of when we are trying to do something which will hopefully re-energise some part of the voting process and hopefully engage with another section of the voting public or encourage people to vote because they can see that, yes, under a proposed new system their vote might mean something, when we are in danger of saying to them: "Thanks very much for telling us what you think, but no thank you." So this is a really difficult thing for me because I said to myself after the referendum result, which was staggering that we should not do anything consulting the public again with a meaningful consultation unless we were really, really going to listen to what they had to say.

#### **6.1.19 Deputy G.P. Southern:**

I want to briefly address the issue which underpins why we are talking about electoral reform at all in the first place, and that is the issue of turnout. How do we get - Jersey, particularly - people to turn out? I would suggest that an example of how not to do it is illustrated by the recent referendum in the U.K. We seem to make a mess of referenda in Jersey, but equally you could say that in the U.K. they did similar because they apparently had a very clear instruction: 52 to 48, Brexit. Except that 52 to 48 is of those who voted, which leaves 37 percent of the electorate saying: "Let us get out" opposed by 36 per cent, another minority, saying: "No, let us stay in" and 27 per cent of the population said: "Cannot be bothered. Not committed. Do not want to vote. Do not want to bother." That is what we have in Jersey. If I were to take a look at the most common reason for not voting that I hear when I am doing my door knocking from time to time, it is words to the effect of: "My vote does not count. I have voted time and time and time again, and my father before me voted time and time again. Nothing seems to change. Nothing changes." What is the consequence of: "My vote does not count and nothing changes" is the apathy, so-called apathy that we see now: a reluctance to vote, to bother. How might we change that? We might - we might - offer people a vote which is preferential. You put down your first choice, one, 2, 3, stop; and somewhere in there your vote does start to count. We are told that because we have not tackled the big issues, the major reform that we should have tackled in the last 16 years, we cannot possibly do anything else to improve our system. Well, that is a complete nonsense of an argument and I remind people that we have heard lots of reasons about why we should not vote for this. The classics are coming out: that it is a piecemeal piece of work. Ah ha. It is the wrong time to do it. Yes, I am, in principle, in favour of it, but do not do it now. We have even had a "move on" reference earlier in the day to just try and get the thing off the agenda again. This might not be the perfect way to amend our system. Nonetheless it is the one we have in front of us now and I remind Members as many have done already, that this is the amended proposition. It is pure form.

We are not voting to engage with S.T.V. or A.V. today. We are voting to consult the public on the plans to engage. That is a very safe thing to do as long as - I have a caveat around that - as part of the consultation, we do take the trouble to explain how the system works at least once to people; and as long as we do not use Deputy Wickenden to do the explanations, they might well understand it. **[Laughter]** But I have rarely heard such a genuine bid to be a Minister in the next Assembly, the degree of obfuscation and difficulty, he persuaded me, almost persuaded me not to vote for it as well, it was so complex. I was reminded of the fact that once I was taught by Lester Elton in Surrey and he got me in one hour and a half session to understand relativity from beginning to end. I know I understood it then, and then when I left the hour and a half lecture it went again. It works like this and I did not quite grasp it again. Nonetheless I only had to understand that once to now rely on it and trust that relativity is real and it does what it does. Similarly the fact that we have what is described as a complex system where you put 1, 2, 3, 4 and 5 until you have had enough. Those are your favourites. I trust that that works. As we have heard many times from Senator Green in this Assembly, if you keep on doing what you have always done you always get the same result. I have heard Senator Green and his wise words and for once we could not agree more. If we want a continuation of the low turnouts we have had and the apparent apathy that says: "Nothing ever changes; why should I bother?" then just keep on with the same system. We will get exactly that. At the next election we will have turnouts just like that at the last one and the one before that, except they are getting worse. We will probably have less. Let us try at least one change that may produce a difference rather than do the same again and get the same result.

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

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

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

Thank you to all of those who have spoken. I will start off by putting some questions out there that I think we can answer in our heads, although I may just answer them anyway. Is our democracy in a healthy state? Is voter turnout low? Do we want to change this? Do we fully understand both S.T.V. and A.V. or would we like to understand it better if we do not? Do we understand in global terms how it works? Do we understand that the deficiencies of first-past-the-post exist and that it cannot always be trusted to pick the candidate or candidates with the most general support and therefore there is a problem in the current system? The starting point is not what we sometimes hear that if it ain't broke, don't fix it. We know that something is broke and something needs fixing and the evidence has been put there. There have been reports done by the Electoral Commission that I will quote from in a moment but there has been lots of work done all around the world that tells us and points us in the direction that the first-past-the-post system, whether that be for single or multi-seat constituencies, is at best suboptimal but in fact in many cases produces perverse and distorted results that do not represent what it is supposed to do. An election is supposed to be there to pick the most popular candidates. It is a popularity contest in that context but obviously within the context of politics and if you are not choosing the candidates who reflect the public opinion then something is wrong and something needs to be changed. For me this is very much a matter of conscience. I cannot sit in this Assembly and look my constituents in the eye knowing that in some cases I cannot be sure whether or not I have the requisite support of my constituents and I think others should also be concerned about that. More generally we should put aside our own self-interest, as I am sure we do, because of course I have joked in the past that there cannot be anything wrong with the current system because we all were elected under it, were we not? So, it works perfectly well but who knows in a different system what the results would be and whether they would be slightly different? In some cases it is marginal but we know in the Jersey context where you are voting for a mixture of personalities hopefully with some policies attached rather than necessarily along party political lines then it is even more critical to make sure the connect between

this Assembly and the public is reinforced. I thank Deputy Southern for reminding us we do hear quite often, and again it was alluded to in the Electoral Commission's own research, that one of the things that put people off voting not just in Jersey is that the votes get wasted. The person or people or parties they vote for time and again do not get elected and that can be due to things as arbitrary as the constituency boundaries or the number of seats that are available. Those are the framing arguments. I would say: is our democracy in a healthy state? No, it is not. Voter turnout is critically low. I think we all want to change this. We may not all necessarily understand how S.T.V. and A.V. work but I think we understand globally how it works and that is the point of a consultation. We can accept today with this in-principle debate that there is something that does need to be looked at. There is a body of work moreover that the P.P.C. Chairman himself has said he is willing to engage in along with his committee. It is not simply a referendum as we have had in the past. Let us talk to the public and see if they want to do this and if they do we will bring it back to the Assembly and the Assembly votes for it. It is much different to that. We are asking today to consider the pros and cons of the current system, how it might work in practice, and once P.P.C. has done that work, necessarily consulting with the public as part of it, we bring it back to this Assembly. It is not that radical an idea. When the Council of Ministers decides they want to build a new hospital or change the way we deliver public services of course there is a necessary consultation that goes out there. We do not say if the public do not want it or ask why we consult the public endlessly, we do that in tandem because good government and good governance requires that we consult the public and they know what it is going along with and this is exactly what is on the table today. I did not feel comfortable after much thought with simply asking Members to agree to this change in 2018 because I accept these kinds of new systems take some time to get one's head around. Let us look at some of the other arguments. I was slightly disappointed by Senator Bailhache's comments, although I know he spoke partly in favour of the merits of both the new voting systems. But ultimately he chaired the Electoral Commission and it was the Electoral Commission itself that highlighted in its reports the merits and the case for changing the system to S.T.V. or A.V. from the one we currently have. In fact they started off by saying it would be impossible for this Commission to fulfil its task completely without considering the electoral system itself. They went on to say: "The Commission believes that consideration should be given to the introduction of S.T.V. for deputies elections." When it says "Deputies", of course, it is presuming multi-member seat constituencies, which would include Senators under our current system. It says: "S.T.V. voting is a system that more accurately reflects voter preferences than does first-past-the-post. It results in fewer wasted votes. As a result it can increase voter participation because electors have a greater chance of seeing candidates for whom they expressed a preference to be elected." Their words; 3 State Members' words and another 3 members of the public put that report together. They go on to say: "Under the Single Transferable Vote system electors have a single vote which can be transferred from their first or second preference candidate and so on." Is this system overly complicated? Certainly if we listen to some speakers who spoke we would believe that it is very complex but let us look at what it entails. We can see that S.T.V. can be reduced down to 5 simple steps and that is when it comes to the whole process. You cast your vote first of all, and that constitutes your choice of one to 3 to 5 depending on how many places there are. The first step is to compute the quota, which we do, and it is quite simple. We do it already when we have a single seat constituency. The quota is you have the number of votes cast, so let us say it is 1,000 votes. You have the number of seats, which is one, then you add one to that, which gives you 2, and you divide the number of votes cast by the number of seats plus one, giving you in this case, half. You need to get half plus one to get elected.

[14:45]

That is how it works under the current system except we do not need a formula for that when it is such a simple way. We just call it a simple majority. But when you have multiple seats we just



extrapolate exactly the same process for that so in that kind of scenario where you have more than one seat to be chosen that is the way the formula would work. It is not overly complicated and it is set out anyway what the quota would be under the group system. I sent that out earlier today. The next step, number 2, is you assign to candidates by first preference their votes. The third step is you declare as winner all candidates who receive at least the quota. The fourth step is you transfer the excess votes from the winner to the hopefuls and the fifth step is you repeat 3 to 4 until all the new candidates are elected. It is pretty simple. A 5 year-old might have struggled to understand that. Adults will definitely struggle. I think an 8 year-old will probably do quite well with that. **[Laughter]** But joking aside I think it is an insult to members of the public and an indictment on ourselves and the staff who are putting the consultation forward. If we were to choose to adopt that it is not difficult at all. The difficulty, if there is any, surrounds perhaps the vote counting, which I will address now. I will try to stick to my notes because that is why I wrote them. I do not think it is beyond the wit of most people to understand that and the other point is that many countries already use the single transferable vote. These are not banana republics or countries that engage in donkey politics. I will not mention any countries that might engage in donkey politics as Senator Ozouf said, because I think we need to keep relations with our sister island sweet. **[Laughter]**

**Senator P.F.C. Ozouf:**

It has nothing to do with Guernsey.

**Deputy M. Tadier:**

Countries like Australia already use the single transferable vote. Canada uses the single transferable vote. The U.K. for some of their elections already uses the single transferable vote in Northern Ireland and Scotland for European and local government elections. India, Pakistan, Malta, all places in the Commonwealth, and we have talked about the Commonwealth already, and even the U.S. (United States) and some of their constituencies for elections use the single transferable vote. They have much bigger constituencies and voting public than we have and to suggest if they can do it but we in little old Jersey cannot do it that is not a genuine argument. I must apologise in advance because Senator Ozouf lowered the tone of the debate by talking about sexually transmitted diseases or S.T.V.s could be called sexually transmitted viruses but we are not here to talk about that today. But I am going to be talking about piles. It can be argued that the current system is much more complicated. How do you make piles for 25 candidates, which I understand is what currently happens when you have multiple votes on one ballot paper? The advantage of the system, and I know I am looking at the Constable of St. Mary at the moment, is that she is concerned, like I am, about vote equity. It is a concern under the current system not just about the weight your vote has but the fact that the principle of one man, one vote, one woman, one vote should be adhered to and that is exactly what the single transferable vote and the alternative vote ensure. Obviously in a single seat constituency you will have one vote to cast and that could be cast by putting an X under the current system or it could be cast by putting a 1, 2, and 3 to list your preferences. It is the same thing under the new system for single transferable vote. When faced with a long ballot paper for the Senatorial elections, for example, with 8 seats to fill and potentially 30 or 40 candidates in the next election including our 8 Reform candidates, who, of course, we will encourage people to vote for *en bloc*, that is going to be quite an interesting way to do it. But we know that counting S.T.V. is much simpler initially because you just make as many piles as there are candidates. It will be the case initially that we will know very quickly who the poll toppers are because they will have an excess of votes. In that scenario where we have 40 candidates vying for 8 places we will know pretty quickly. I am sure some of the political heavyweights might get 2 or 3 times their quota. They will be announced very quickly and then those piles will simply be redistributed. It might be late into the night or next day when we find out who the seventh and eighth places are but is in fact much simpler to do. Also the counting process

is simpler insofar as it must be quite a job to go through the ballot paper currently, some of which will have 1, 2, 7 or 8 votes on them and you have to then tally them up to the individual candidates. Each ballot paper will obviously go in a pile and they can be counted as they are in places like Australia with bank note machines. It speeds up the process much quicker. You have a pile for Senator Maclean. Obviously he would have exceeded his quota first of all and they will be counted and then they go to the next places after that. With the introduction of technology it does not even need to be digital. It is something as basic as either weighing piles, which already happens in banks as they weigh bank notes or they count them through counting machines. This all helps to facilitate and speed up the count of the votes. I have lots of notes here and I think we all are ready to support this. We know it is a moderate proposition and it has been amended. The last point I want to address is the point that the Constable of St. John made about people getting their second choices so nobody gets the first choice they want but everyone gets the second choice. I usually like listening to the Constable of St. John and I appreciate his breakfast analogy but he did make something of a meal of this one, I think. The good thing about the current system is that the candidate with the least support gets knocked out in the first round so if nobody wanted chicken then nobody would get chicken because chicken would be immediately discounted after the first round of voting. To reiterate that, imagine you have a choice of 5 dishes; you have chicken, beef, vegetable, fish and kangaroo. There are 10 people who can potentially order. After the first round 3 say: "I want the beef curry." Another 3 say: "I want the vegetable curry" and 3 say: "I want the fish curry." One says: "I want the kangaroo curry, mate" but nobody wants the chicken. We can all eat chicken at home. I quite understand that. You are not going to pay necessarily to eat chicken so chicken does not feature anymore. Then the kangaroo's vote would then get redistributed. That might go towards the fish. The vegetarians might find they get dropped out but the next preference for the vegetarians would be fish and the people who wanted beef all settle on fish. So, nobody has to eat chicken if they do not want chicken. The vegetarians perhaps are a little bit annoyed but it is okay because they are not vegetarians, they are pescetarians anyway and their next preference is to vote for fish because at the end of the day we know that fish do not have souls - apart from a sole, of course. That is how the system works very basically but how much more important is what we are doing than choosing a meal to eat or choosing a colour of carpet for a club, which is the example Dr. Renwick gives in his paper. It is about choosing the right people for the right job and the ones that chime with the public mood at any one time. That is what we are doing here and if there is a better system on the table than the one we currently have then we all have an incumbent duty to make sure those options are explored, put to the public and implemented if it is better than what we currently have. I make the proposition and ask for the appel.

**The Deputy Bailiff:**

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

<b>POUR: 22</b>		<b>CONTRE: 24</b>		<b>ABSTAIN: 0</b>
Connétable of St. Clement		Senator P.F.C. Ozouf		
Connétable of St. Lawrence		Senator A.J.H. Maclean		
Connétable of St. Brelade		Senator I.J. Gorst		
Connétable of St. Saviour		Senator L.J. Farnham		
Deputy J.A. Martin (H)		Senator P.M. Bailhache		
Deputy G.P. Southern (H)		Senator A.K.F. Green		
Deputy of Grouville		Senator S.C. Ferguson		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Helier		
Deputy K.C. Lewis (S)		Connétable of St. Peter		
Deputy M. Tadier (B)		Connétable of St. Mary		
Deputy E.J. Noel (L)		Connétable of St. Ouen		

Deputy of St. John		Connétable of St. Martin		
Deputy M.R. Higgins (H)		Connétable of Grouville		
Deputy J.M. Maçon (S)		Connétable of St. John		
Deputy R.J. Rondel (H)		Connétable of Trinity		
Deputy S.Y. Mézec (H)		Deputy of Trinity		
Deputy of St. Ouen		Deputy S.J. Pinel (C)		
Deputy L.M.C. Doublet (S)		Deputy of St. Martin		
Deputy R. Labey (H)		Deputy R.G. Bryans (H)		
Deputy S.M. Bree (C)		Deputy A.D. Lewis (H)		
Deputy T.A. McDonald (S)		Deputy S.M. Wickenden (H)		
Deputy of St. Mary		Deputy M.J. Norton (B)		
		Deputy G.J. Truscott (B)		
		Deputy P.D. McLinton (S)		

## **7. Draft Limited Liability Partnerships (Jersey) Law 201- (P.95/2016)**

### **The Deputy Bailiff:**

The next item of public business is the Draft Limited Liability Partnerships (Jersey) Law, P.95/2016, lodged by the Chief Minister. I ask the Greffier to read the citation.

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

Draft Limited Liability Partnerships (Jersey) Law 201-. A law to make provision for the establishment, dissolution and winding up of limited liability partnerships, for their registration and for connective purposes. The States, subject to the sanction of Her Most Excellent Majesty and counsel, have adopted the following law.

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

Could I ask Senator Ozouf to act as rapporteur as it falls in his area responsibility, please?

### **7.1 Senator P.F.C. Ozouf (Assistant Chief Minister - rapporteur):**

Jersey was one of the first jurisdictions to enact a form of limited liability partnership in 1997. L.L.P.s (Limited Liability Partnerships) since that date have become very common vehicles globally, much as the company is a common corporate entity that, of course, Members and many people understand. L.L.P.s or their equivalent structures have been adopted since 1997 in many jurisdictions, including England, Wales, various states in the U.S., China, Germany, Poland, Greece, Dubai, Japan, Qatar, various provinces of Canada and also in Singapore and India. The Cayman Islands, and I was pleased to speak to the Premier last night, introduced it in 2015. Closer to home they have also been introduced by our friends in Guernsey and in the Isle of Man and in England I can tell Members there are approximately 60,000 L.L.P.s and in India there are approximately 7,000 L.L.P.s and that gives Members a scale of their now widespread use. L.L.P.s are typically used by lawyers, accountants and other professional service bodies. Presently in Jersey we have approximately 40 L.L.P.s. With the new law we expect this number will increase in line with the international examples I have cited. Limited liability partnerships are partnerships governed by the terms of their partnership agreements. They have some of the benefits offered by companies, including a separate legal personality and a form of limited liability. L.L.P.s are flexible structures that can be used for a variety of purposes. Not just professional services but by small businesses and in the particular areas of bespoke financial services. They were innovative when they were introduced in 1997, if not, as Members will recall, somewhat controversial. But since that date in 1997 they have, as I say, become really quite commonplace in the suite of corporate vehicles available for commercial undertakings. The draft law would replace the Limited Liability Partnerships (Jersey) Law 1997, which I will just refer to as the "1997 Law". L.L.P.s

formed under the 1997 Law will be transitioned across to the new draft law over the period of a year. The arrangements are set out for that. In fact, the 1997 Law was amended in 2007 when I was Minister for Economic Development at the time to amend the manner that fees could be set by the registrar relating to the publishing of fees. It was then amended again in 2013 to remove the £5 million bond. Instead the amendments introduced the concept of a solvency statement to protect creditors before partners could draw down on their partnership share. I recall that was a very good and constructive debate that almost moved the somewhat difficult debate before then on to effectively what is now a widely accepted and extremely important corporate entity. The same protection is offered for limited liability partnerships as offered to creditors of Jersey companies. The new changes in the draft law will tidy up some of the changes we made in 2013, modernise some of the wording, draw upon the lessons learnt from English case law and restate the insolvency provisions that are simpler to interpret under the arrangements. I can inform Members that consultation in the draft law happened, as always with such legislation, from January to March this year. The responses received were supportive of the law being brought to the Assembly. In fact I can say that nobody objected to the proposed amendments in the consultation. I am pleased to say that the Scrutiny Panel, with which I enjoy a good and constructive relationship, tries to have a no surprises policy.

[15:00]

I am pleased that officials briefed the Scrutiny Panel in some detail in June and then the Scrutiny Panel was asked prior to lodging whether or not they wanted any further information. I was grateful that the panel were clearly persuaded by the arguments and maybe one of the panel members will confirm that, but they then did not require any further briefings and consequently we lodged the law. I hope that colleagues on the Scrutiny Panel agree they have been as we wished them to be going forward. I see the deputy chairman in front of me across this Chamber. I know we have really tried and we are going to try to ensure the Scrutiny Panel is involved in the drafting of legislation so it does not just simply arrive in a completed form and they have the opportunity to understand and ask questions as appropriate. Law Officers have considered the draft law and recommended the statement of human rights compatibility statement and it can be met. For all those reasons I would like to propose the principles of the draft law.

**The Deputy Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Will all Members in favour of adopting the principles kindly show? Those against please show. The principles are adopted. This is a matter for the Economic Affairs Scrutiny Panel. Deputy Chairman, I think; the Chairman does not appear.

**The Deputy of St. Mary (Vice-Chairman, Economic Affairs Scrutiny Panel):**

What Senator Ozouf says is quite correct. We do not wish to investigate further.

**The Deputy Bailiff:**

How do you wish to deal with the Second Reading?

**7.2 Senator P.F.C. Ozouf:**

It is always tempting to do this *en bloc* but I will be very brief and I would say what is going to be the practice we want to try to involve in future is we separate out the reading of the principles from the Articles because we are in this position where effectively we have a one-stage legislative process, which we are discussing with P.P.C. I will do it in blocks if I may but I will be very quick. I will draw Members' attention to the most important provisions in the Bill. I will do it by parts, if I may, very simply. Article 1 is very simple then part 1, the partnership agreement, just sets out exactly what that partnership agreement is and the fact that the affairs of a limited liability

partnership and the rights and obligations should be set out or they may be in oral form and this reflects the 1997 Law. Article 2 is the requirement of the partner to contribute under principles of customary law. It considers the issues of capital and whether or not there should be a contribution of skill and effort, which is consistent with the 1997 Law. Article 3 is just about property. The provisions of Articles 4 and 5 deal with the debts and losses and whether or not in the normal partnership the partners would otherwise be liable. Article 5 addresses the limited liability of partners. Article 6 addresses how the L.L.P. must refer to itself to benefit from limited liability status. I have gone far too far, have I not? I am dealing with Parts 1 and 2 in one go. I do apologise.

**The Deputy Bailiff:**

It is better if we go through the various parts and then we vote on them, separately or not, at the end.

**Senator P.F.C. Ozouf:**

I will go to 13, exactly. Forgive me but I am doing parts 1 and 2 at the same time. My apologies for that, so Article 8 replaces the original arrangements for a designated partner and a secretary. Article 8: “A secretary must be appointed from the date that the L.L.P...”, it is just the mechanics of it and what effectively the secretary must do. Article 10: “The L.L.P. must take reasonable precautions to ensure documents and loss of destruction, et cetera, for all the regulatory purposes.” Article 11 is the duties of the L.L.P. and Article 12 provides for the definition of what is important in that in terms of the specified solvency statement, which can be summarised as a statement made by the limited liability partnership that the L.L.P. is solvent now and will remain solvent until 12 months into the future when considering the financial resources available to the L.L.P. I propose Articles 1 to 12.

**The Deputy Bailiff:**

Are Articles 1 to 12 seconded? **[Seconded]** Does any Member wish to speak on Articles 1 to 12?

**7.2.1 Deputy A.D. Lewis:**

I have just a minor question for the Assistant Minister. As regards solvency what checks are undertaken to ensure limited liability partnerships remain solvent during their lifetime? Would that be a matter for the F.S.C. (Financial Services Commission) or is it a matter for your department? It clearly states here that they are to make a specific solvency statement and they must have reasonable grounds for making the statement. What checks and balances are in place to ensure that statement is correct and does not go out of date in a short period because corporate changes can happen sometimes very quickly?

**The Deputy Bailiff:**

Does any other Member wish to speak on Articles 1 to 12? I call on Senator Ozouf to respond.

**7.2.2 Senator P.F.C. Ozouf:**

I will reply to the Deputy because it is a very interesting question. I must say that when I dealt with the original solvency requirements in 2013 I probably was more brief than I am now but I do know that the insolvency issues are, of course, a matter for audited accounts and there has to be a statement of internal control as a company and all the basic audit requirements of a company that must also be adhered to by a limited liability partnership. They are the ones that must effectively make representations and provide a certificate to show there is a true and fair view of the accounts and it is an ongoing concern. As it is an ongoing concern and the responsibility of independent auditors, of course, professional auditors, though, can be sued. Some of them may be limited liability partnership in future but they have to have lots of resources in order to deal with

complaints and it is really through, as I understand it, the accounting arrangements and the audit requirements that that has been there. I hope that is helpful.

**Deputy A.D. Lewis:**

Just a brief supplementary, if I may, a clarification? The Assistant Minister will be well aware that it is illegal to trade once you are insolvent as a limited company. Will it be exactly the same for a limited liability partnership?

**Senator P.F.C. Ozouf:**

Yes, exactly. What is important perhaps to say is that the solvency statement must be notified to the J.F.S.C. (Jersey Financial Services Commission) so that is also a further requirement. There is a mechanism for a copy of the solvency statement to be sent to the registrar along with the annual return that is done every year. Should the L.L.P. decide not to make the specified solvency statement in a calendar year, while there is no direct penalty that is applicable there is the inability for the partners to withdraw assets, including a share of profit, from the partnership, and that they will not be able to realise any of the fruits of their commercial endeavours or whatever they are doing with that. So the L.L.P. must be in a position to manage the position with its customers and trade creditors and if there is a refusal to sign, effectively they will not have a specified solvency statement. There will be occasions I am told that when an L.L.P.'s main role is to hold an asset, and there may be no trade creditors, and there is flexibility in the law to deal with all that sort of thing. It is quite a technical area but, yes, if the Deputy wanted assurance that there is suitable oversight and checks and balances and controls, yes, accountants, and the statement being made to the J.F.S.C.

**The Deputy Bailiff:**

All those in favour of adopting Articles 1 to 12, kindly show. Those against? Articles 1 to 12 are adopted. How do you wish to deal with the remaining Articles?

**7.3 Senator P.F.C. Ozouf:**

I think I will deal with them all together, Sir, if I may. Part 4 deals with the registration and dissolution of L.L.P.s. Article 18 sets out the registration. Article 19, that a change in registration must be sent within 28 days and is specified and set out in detail. Article 21 ensures a commercial entity and defaults do not affect the validity, so effectively a partnership can trade. Article 22 deals with the dissolution of an L.L.P. Article 23, cancellation of it. Part 5 deals with miscellaneous provisions. Article 24, the legal proceedings, and I am not going to ask the Attorney General to explain because it is in clear and plain English that all of the arrangements are dealing with the matters that a creditor ... it deals with the provision of whether a judgment creditor or a partner of an L.L.P. is entitled to enforce the claim against the partner's interest. Obviously if it is standalone entity that is the whole concept of this. Article 25 sets out the law as it relates to the service. Article 27, the function of the registrar of an L.L.P. Article 28 deals with provisions of the setting and payment of fees, including the annual fee, which we are going to be looking at generally. Article 29, the requirement of inspection. Article 30, the powers of the Attorney General. Article 32, standard provisions on legal professional privilege, which is a standard arrangement. Much of this is obviously from L.L.P. laws which are in the Commonwealth and elsewhere, and I do not really think there is anything else that I wish to draw Members' particular attention to in the Articles which are the remaining Articles including 44 and the schedule.

**The Deputy Bailiff:**

The schedules as well, and you did not touch upon part 3, you started at part 4, but are you taking Articles 13 through to 44, plus the schedules?

**Senator P.F.C. Ozouf:**

Yes.

**The Deputy Bailiff:**

Very well. Are those Articles plus the schedules seconded? **[Seconded]** Does any Member wish to speak on those Articles, plus the schedules?

**7.3.1 Deputy A.D. Lewis:**

Just a question about fees and charges on page 39, it just seems a little bit confusing. Perhaps I am reading it wrongly but it talks about an annual administration fee and it then says that: "In addition to any annual administration fee limited liability partnerships shall pay to the Commission annually such amount as the States determine in the regulations", suggesting there are 2 fees. The Minister will be aware that across the world countries are competing for various types of incorporated bodies because there are fees to be had, and in some cases - for example, Dubai - they make a lot of money in registering companies, and in this case you can register a limited liability partnership. Does the Minister anticipate lots of these being registered and, if so, what sort of fee generation could there be for the States of Jersey? Could he clarify as to what these 2 fees are, is there an annual registration fee and is there another fee as well, and what are those fees likely to be or are they set by regulation by the Minister outside this Assembly?

**The Deputy Bailiff:**

I think you are looking at Article 28, Minister, if that assists.

**7.3.2 Senator P.F.C. Ozouf:**

Thank you, I was just trying to find the page that the Deputy was referring to. To answer Deputy Lewis, the purpose is to create a split in the annual return to the J.F.S.C. and effectively the way the money then comes back from the J.F.S.C. to the Treasury. That is the whole purpose of splitting it and, yes, the amount that is collected by the annual fee, which is paid and remitted to the Treasury, is, as I understand it, is set by regulations. But I will say to the Deputy and to Members that we are looking at the whole issue of fees across the board and, while I am alert and I agree very much with the issue of competitiveness - and we have been loathe not to increase things on a number of corporate entities - it is something that I have said to the Minister for Treasury and Resources and the Chief Minister that we are going to review that. Because I do think, while we are complacent, and I am not sending a message at all that we are going to be increasing fees I think that it is incumbent upon us to make sure that we are collecting an appropriate fee which can be remitted to States revenues on the back of what is effectively a growing and quality trademark of Jersey entities. That will be subject to consultation, but I am reasonably optimistic that with the growth we are seeing on the back of the financial services industry, more people in work, more business coming to Jersey, and certainly all of this type of legislation and these kind of entities providing an important almost individual ... people say that the industry is one industry but it is lots and lots of different aspects for lots and lots of different reasons as the Deputy said. We are going to make that right judgment between collecting as much money as we can but remaining competitive. But I will brief the Deputy if he is interested in that. Perhaps I can meet the P.A.C. (Public Accounts Committee) to have a look at those whole fees. I can tell you that the revenue is not known but the fee is currently I am told £500 a year. I move the Articles.

**The Deputy Bailiff:**

All those in favour of adopting Articles 13 to 44, plus the schedules, kindly show. Those against? The Articles are adopted. How do you wish to deal with the matter in third reading, Minister?

**7.4 Senator P.F.C. Ozouf:**

Quickly, and just by saying that I am very grateful for Members' support. I do not think that in 1997 I thanked Deputy Lewis for his questions. From the 1997 L.L.P.s I would not have thought that an L.L.P. - after the difficulty that had at the time - would be going with this Assembly quite as swiftly as it has. But I would also recognise and thank the officials that have worked with this.

[15:15]

This law has been a good example of bringing in what we now do in the Financial Services Unit of bringing people in house on secondment from law firms, working alongside officials in the Financial Services Unit which, as the chairman and his committee said quite kindly, was a tiny unit compared to what they do. They work extremely hard and now we try and increase the productivity of that department which is already very high. We are bringing in people from external law firms and having them work in the office which is very good. I thank all those players who have been part of bringing this important piece of legislation, not massive but it is all part of the building of effectively competitive and full service offering financial services entity, and I thank Members for their support.

**The Deputy Bailiff:**

Is the matter seconded in Third Reading? **[Seconded]** Does any Member wish to speak on the proposition in Third Reading? The appel is called for, I invite Members to return to their seats. I ask the Greffier to open the voting.

<b>POUR: 39</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
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				
Senator S.C. Ferguson				
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.N. Le Fondré (L)				
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 R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				



Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
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)				

**8. Antarctic Act 2013: extension of sections 14, 15 and 16 to Jersey by Order in Council (P.96/2016)**

**The Deputy Bailiff:**

Very well, the next item of Public Business is the Antarctic Act 2013: extension of sections 14, 15 and 16 to Jersey by Order in Council, P.96, lodged by the Chief Minister. I ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to signify, pursuant to Article 31 of the States of Jersey Law 2005, whether they agree that a request be made to the Privy Council for the making of an Order in Council that would extend to Jersey sections 14, 15 and 16 of the Antarctic Act 2013, amending certain sections of the Antarctic Act 1994 that were extended to Jersey by the Antarctic Act 1994 (Jersey) Order 1995, as summarised in the report of the Chief Minister dated 1st September 2016.

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

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

**8.1 Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):**

Members will recall that the States of Jersey Law 2005 contains a provision which requires that any Order in Council extending to the Island the provisions of a United Kingdom Act must first of all be referred to this Assembly so that the Assembly's views may be signified thereon. This proposition asks the Assembly to agree that the Antarctic Act 2013 should be extended to the Island by Order in Council insofar as sections 14, 15 and 16 are concerned. There are very few places in the world where there has never been war and where the environment is fully protected, and where scientific research is a priority and Antarctica is one of those places. The 1959 Antarctic Treaty established what the parties to the treaty call a natural reserve devoted to peace and science, and that treaty has been ratified on Jersey's behalf by the United Kingdom. The treaty was reinforced in 1991 by the protocol on environmental protection. The measures were brought into force in the United Kingdom by the Antarctic Act 1994 and by the Antarctic Regulations 1995, both of which have been extended to Jersey. The legislation in the United Kingdom, and extended to Jersey as well by Order in Council, established that various activities require a permit from the Secretary of State for Foreign and Commonwealth Affairs, most notably for British expeditions travelling to Antarctic, British stations sited in Antarctica, British registered vehicles and aircraft going to the continent, and other matters as well. The Assembly is being asked today to approve additional protection set out in the Antarctic Act 2013. The report accompanying the proposition sets out in some detail the effect of the 3 sections in question but, in summary, section 14 deals with the application of offences to non-nationals because non-U.K. nationals were not eligible for a permit. There was difficulty in taking non-British nationals who might be scientists accompanying a British expedition on such an expedition because they could not be given a licence. The various offences

under the Act of harming Antarctic fauna and flora, and introducing non-native species without a permit, did not apply to non-U.K. nationals. The extension of this section will now apply those provisions to non-U.K. nationals. Section 15 of the Act deals with permits in relation to historic sites and monuments and enables a new form of permit in respect of repair or conservation of such historic sites to be issued by the Secretary of State. Section 16 deals with the provisions for the conservation of animals and plants, including extending protection to native invertebrates, limiting animals on board vessels going to Antarctica to recognised assistance dogs; clarifying certain provisions concerning the introduction of microscopic organisms and non-sterile soil into the Antarctic environment; and the protection of indigenous species and species which migrate to Antarctica. The provisions of the Antarctic Act 2013 are seen to the Chief Minister to be appropriate for Jersey to incorporate into Jersey Law by means of the extending Order in Council, and I accordingly move the proposition.

**The Deputy Bailiff:**

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

**8.1.1 Senator P.F.C. Ozouf:**

I wonder if the Minister for External Relations could say whether or not he thinks that the land that we are referring to includes the Queen Elizabeth Land, and would he share with me if that is the case? My joy, that I saw yesterday, all of the flags of the overseas territories and the Crown Dependencies, including Queen Elizabeth Land, flying in Parliament Square.

**The Deputy Bailiff:**

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

**8.1.2 Senator P.M. Bailhache:**

I am very grateful for the Senator's intervention and I share his joy about the flags. On the legal question I think I shall defer to the Attorney General.

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

What was your question? I am not sure ... if there was I did not hear it. **[Laughter]**

**The Deputy Bailiff:**

I think it is whether or not the law extends to the Queen Elizabeth Land was the question.

**The Attorney General:**

Well that is a very interesting point about the sovereignty of Antarctica, which I think is effectively frozen in aspic pursuant to the 1961 international treaty. But of course there are British claims to a significant portion of Antarctica and the British Antarctic Territory is of course an overseas territory in its own right with a flag that has been mentioned by the Senator.

**Senator P.M. Bailhache:**

I renew the proposition.

**The Deputy Bailiff:**

Those Members in favour of adopting the proposition kindly show. Those against? Very well, the proposition is adopted.

## **9. Public Elections: polling cards and accessibility of polling stations (P.97/2016)**

**The Deputy Bailiff:**

The next item is Public Elections: polling cards and accessibility of polling stations, P.97, lodged by Deputy Mézec. I ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion - (a) that each registered voter should be issued a polling card in advance of an election; (b) that voters should be able to vote at any polling station; (c) that the location of polling stations should be reviewed by the Privileges and Procedures Committee to ensure that the polling stations are at the most convenient locations within each constituency; and to request the Privileges and Procedures Committee to bring forward the necessary legislative amendments to implement these changes in time for the May 2018 general election.

**9.1 Deputy S.Y. Mézec:**

I am not going to speak for too long on this proposition because I think that each part of it is relatively simple and I am sure that Members will have their opinions on it. If any Member wishes any particular part of it to be taken separately then I am more than happy to offer to do that as well. As Members will see I lodged this not too long after the recent Senatorial by-election because I had a bit of time at that point to reflect on that process and think about a lot of the things that have happened on election day, and consider in an Island-wide election what could be done to make the process a bit easier for people. I know and accept that Jersey has real problems with our democratic process. We obviously discussed earlier reforming our voting system and we are going to be discussing probably for a few more years now reforming our electoral system as well, and there are other elements to those debates which I think are really at the core of why we have such high levels of voter abstention in Jersey. But I do not think that means we cannot make small amendments that should hopefully be relatively uncontroversial that just make that process a bit easier on the day for those people who do want to vote. I found that when I was speaking to people during that by-election campaign I spoke to a lot of people who had either never voted before or who had voted but not for many, many years. I think that those of us who are involved in politics, whether it is as politicians ourselves or we will have people we know outside who are very interested and pay attention, we probably take for granted that system compared to people who just are not political but who every few years when it comes to an election might want to think about paying attention and getting involved and casting their vote. All of us in this room, we know where our local polling station is, we know how to vote, we know how to register to vote, it is just one of those things that because we are political people we know about. But the vast majority of ordinary people have a lot more important things going on in their day-to-day lives that they are just often not aware of the things that we might just instinctively know, one of those being whether or not you are registered to vote. I was having this conversation with Deputy Tadier the other day, whenever an election comes up I get a little bit paranoid that I might have accidentally fallen off the electoral register, simply because I can unusually not remember when the last time I put the form in was. Many people will be the same and we know that the States is making progress to make it easier to register to vote by the fact people will be able to register to vote online soon, which will make that easier. But I thought about this and I realised I never had this problem when I was living in the U.K., where I lived for 4 years and where I voted in one form of election or another every year, whether it was a parliamentary election, a London Assembly election, or a local council election, where in advance of that election we were sent a polling card to every household, every person who was registered to vote, which said: "You are registered to vote, this is where your polling station is and this is what the election is. If you want any more information this is the website you go to." So there was absolutely no ambiguity, I knew that I could vote, I knew where to vote, especially when I was moving around a lot when I was in the U.K. so I did not necessarily know where the polling station usually was, whereas if you have lived in Jersey for a long time you might

instinctively know where your local polling station was. That process made it much easier and when I did a bit of research I discovered that Jersey is one of the very few jurisdictions that does not issue polling cards in advance of an election. In fact in the U.K. they have been issuing them officially since 1948 when they passed the Representation of the People Act, and since the 1970s they have been issuing them even for local authority elections, not just national parliamentary elections.

[15:30]

So I thought that, as a small thing we could do, would potentially make it much easier for those people who when an election becomes imminent - which is when they may start paying attention as opposed to months before when they should have been registered, you only really get interested when it is imminent - those people would know for definite whether or not they can vote. Because on the actual day of the recent by-election I spent a huge amount of time with my phone buzzing in my pocket because I was getting a text message or a call or a Facebook message or something from somebody who I had never heard of, somebody who I did not know, but who realised it was election day that day, they wanted to come out and vote but they did not know if they were registered and they did not know where their polling station was. I was lucky that I had somebody on standby who I could say: "Right, can you quickly check for me that this person is registered and I will let them know" and a large number of those people were registered and I could say: "Yes, sure, you are registered and this is the polling station that you go to" so, brilliant, those people could go to vote. Some of them were disappointed because they had missed the deadline, they simply did not know when it was and were not going to be able to go out to vote because of that, but I could not help but think how many people were there who were sat at home who suddenly realised it was election day but did not have the initiative to get in touch with a candidate to ask. There is probably quite a few of those people who I could have never reached because I would have required them to have got in touch with me, whereas if you have a polling card there is no debate about it, you know that you are eligible to vote, you know that you can go out and do it so there is no debate there. As in other jurisdictions you would not need to bring your polling card with you to the polling station to vote, it would not be a requirement, but if you did bring it, it would be easier to find you on the electoral role so you could get in and out a little bit quicker which could be convenient if it was busy. At the back of my proposition I have attached as an appendix a copy of a polling card that was used in the recent Isle of Man general election which, looking at it, it looks virtually identical to the ones that I used to receive when I was voter in the U.K. as well. So that just says this is the polling district you are in, this is the day the election is and this is where your polling station is. They have obviously covered their name and address but that will confirm exactly who is eligible to vote there. So I think that is something that would have the benefit of informing those people that they can vote. But in a household where there are many people living there but perhaps only one or 2 of them have filled in the voter registration form, and maybe some of the kids are not registered to vote or maybe one of the partners is eligible to vote but has not signed up; when the other people in the household receive their polling card there may well at that point still be time for them to get on the supplementary register at that point. So it could serve as a reminder for them as well. I accept that it may cost a very, very small amount of money. The card does not need to be in colour, it does not need to be some posh expensive thing, and we are automatically sending things out to every household in the run up to an election anyway so I think the cost would be negligible and it is something that is done in jurisdictions all over the world. So that is part (a), I hope that is relatively uncontroversial. Part (b) which is that voters should be able to vote at any polling station, now there might be some discussion here in that there are some practicalities you would have to get over because making sure that it is impossible for somebody to go to one polling station, vote, and then quickly run down the road to another polling station to vote again is something that of course we must absolutely not allow to happen. But Guernsey does this.

In their constituencies many of them have more than one polling station and they have a system in place that allows that to happen as it stands. I have not looked into it so I do not know exactly what their system is but thinking about it purely theoretically I cannot see why in this modern age it would be too difficult to come up with some sort of interactive system where when somebody comes to vote you cross their name off and that can be updated in real time at the system in operation at every other polling station. I cannot see how that would be particularly difficult to do. I have had conversations with Deputy Wickenden, the Assistant Minister with responsibility for this area, who assures me that not only is it something that is perfectly possible to do it is something they are looking at as it stands already, so that is good. But I would hope that we would want to give the backing not only to the Assistant Minister who wants to get on with that already, but also to the Privileges and Procedures Committee which has the responsibility for looking over elections anyway just to say that: "Yes, that is something in principle we would want to see." I have used in the proposition just a couple of examples to illustrate why our current situation can be a bit strange. So take my constituency, for example, where residents of Hue Court would have to go to Springfield Stadium to vote when they live just a few metres away from the Town Hall, St. Helier No. 1's polling station, which they live closer to than virtually everybody in St. Helier No. 1 does. So to allow those people to vote at whichever polling station is most convenient, I think as long as we can come up with a secure way of doing it, which I am assured is relatively easy to do, you just need to put the effort in and make sure it gets done, then I would hope that would be something that the Assembly could support on the principle of making it easier to vote. The last part of the proposition, part (c), is to ask us to simply consider whether the polling stations we have already are in the best locations and whether we need to think about in some instances moving them to places that are more convenient. In the U.K., for example, many polling stations are at the local primary school, because a large amount of the population is going there anyway, because they are dropping their kids off in the morning or picking them up, so they can simply do that while they are there. I think there are a couple of peculiarities in the system we have at the moment, where there are examples of polling stations not being in the most convenient location. For me, the obvious one, which I point out in this proposition is St. Clement, where you have a Parish with a very large population. The most dense part of it is the people who are living there who might be going into town to work will not be passing the polling station at any part of the day. They would have to go out of their way to get there. Many of these people will not be driving. They will be walking or getting the bus, and so it is a bit out of the way to get there whereas, if you had a polling station at, for example, Samarès primary school or the Good Companions Club, you would be right in that centre, with hundreds and hundreds of people around who could very easily vote in a much more convenient way than is currently the case. But then, that raises the question, why just have one polling station there, because there are people who would be better off it was still at the Parish Hall for people who live around that area. So I am saying, let us have a look at this and decide that if, within constituencies that have large numbers of voters, we should have more than one. So St. Clement, with a population of, I think it is around 9,000 people, has one polling station, contrasting with St. Mary, which has I think it is about 1,800 people, also just has one polling station. I think it makes sense to say that some constituencies should have more than one, and that we should look at having them in the most convenient locations. In some Parishes, I think there is no doubt that where the polling station currently is, is the most convenient location and there probably will not be a more convenient location you could think of. The one that immediately comes to mind for me is St. John, where their Parish Hall is right in between the primary school and the local pub. Where else is there going to be a better place to have the polling station there, apart from maybe in the pub, but that might cause some difficulties. But then, that would also offer us the opportunity to maybe, on election day, have a polling station in the Royal Square, where a lot of people are going past anyway. People could pop in on their lunch break. I know we also have St. Paul's Centre, but why not? Why not have another one somewhere else as well, just to make it easier? So I do not

think there is a huge amount else to say, other than that. These are just reasonably minor practical suggestions that I think would make voting easier. It does not get to the real root of the problem, which is that we have much deeper problems with our democratic system that we need to be sorting out, but why not make these minor amendments if there is even the slightest chance they could make voting a little bit easier and more convenient for people? And so I make the proposition.

### **The Deputy Bailiff:**

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

#### **9.1.1 Deputy P.D. McLinton of St. Saviour:**

I firstly must congratulate Deputy Mézec for bringing this proposition forward. Anything that makes it easier to remind yourself if you have registered to vote, so the polling card is a great idea. Location? Definitely, some of the polling stations are in strange places, with no parking whatsoever, making it inordinately difficult to pull up and vote. Part (b), that a voter should be able to vote at any polling station. I am fairly sure that this is in train. I am pretty sure that this process is happening right now. We may be being asked in part to vote for something which is already happening, and I am hoping that at some point Deputy Wickenden, who is apparently the Dean now, will be able to clear that up. **[Laughter]** Good work. So I just have a few questions based around whether or not we are about to vote on something that is in train. If that could be cleared up, please. Thank you.

#### **9.1.2 The Connétable of St. Peter:**

I am having some difficulty with this Bill; I agree with the principle. I think the principle is very well made, through the Chair, to Deputy Mézec. The idea of polling cards that advise the people where to go and when the polling station is open is a very good initiative, because there are not many people nowadays that get the *Evening Post* and would look it up in there, although they would pick it up off the general news. But if someone gave them a direction, particularly in multi-constituency Parishes, or voting districts in Parishes, that extra information would be very useful to them. But I start to wonder, when I read through the proposition, are there any potential downfalls with the polling card in itself? For example, if it says: “John Refault, your polling station is in St. Peter’s Parish Hall and this is your polling number on this date”, that is fine. But when I go there, if it is a simple card, how do they know that I am John Refault, and I am carrying his card and I am going to vote? So we start to look about bringing another I.D. (identification) but then there is nothing to stop me, with my I.D., carrying a number of different cards to different people. I think there are some issues there about security in the voting, and getting that voting done, if they are just going to use a very simple method. When it comes down to polling stations, again, in themselves, do we really need Privileges and Procedures to look at where polling stations are, if you can go to any one which is a convenient one? If you do happen to live just across the border from the one which is not in your district, you can vote there. Do we need to move the polling stations? I do not think so. I think, for me, this proposition is well meant and deserves a good hearing, but it does not meet, in my view, in the very short timeframe we have to 2018 getting through legislation. I think we might rush to the end and leave out a lot of bits in the middle in getting it right. That is my concern.

#### **9.1.3 Deputy A.D. Lewis:**

I must also commend Deputy Mézec for bringing this forward. I am, however, a little bit concerned: why is P.P.C. not bringing such suggestions forward? I saw the light on of the Constable. Perhaps he could mention it when he speaks, because this is exactly the sort of thing, I would have thought, when we are reviewing the whole electoral process, which is just one of many aspects of it, P.P.C. should be perhaps the body that is bringing forward these recommendations. In the elections, I think 2006, in St. John, I did my own polling card and put it out the day before

polling day to every single address. That was much easier with, I think it was 1,500 addresses in St. John, maybe 2,000 at the most. When it came to campaigning in Districts 3 and 4, there were 8,000 people, so slightly more difficult. So to put 2 items out, I would have probably exceeded my budget allowance that I am supposed to spend on an election. So having this done from the centre, perhaps, I think is an excellent idea, because I was asked on numerous occasions where to vote. Those that had voted before, they were fine. They understood where they had to vote. But even those that had voted before, which was 3 years previously, had forgotten where they had to vote, and there seemed to be some confusion, particularly where they were quite close to a polling station that they knew was a polling station, i.e. the Town Hall, yet they had to vote at Rouge Bouillon School. It is quite confusing for some constituents as to where they should vote, so any additional information like this direct to them, identified to them with perhaps their number on it, if that was allowed through data protection. The Constable of St. Peter said this would be difficult to match up at the polling booth itself, and open to electoral fraud. I would have thought that if you have I.D., which I believe the Connétable's officials at the Parish Hall demand when you check in to vote, therefore you should be able to quite clearly identify the recipient of the card against their I.D. at the polling station. So I would not have thought that that was an issue at all. Like I say, there is confusion out there already as to which polling station to go to, particularly if you have not voted before. Many of us, in the last election, desperately persuaded people who had never voted before to vote, but then we had to explain where to go to vote, and we should not have to do that. It should be much clearer and if they could vote anywhere, that would be great. I understand. I will be interested to know the facts from the Greffier, or from the chairman of Privileges and Procedures, just how successful the advance polling station at St. Paul has been. I am not sure what the numbers are, but I think it is an excellent initiative, and I would like to know more as to how successful that is.

[15:45]

Clearly, if that has worked, there should be no reason why this cannot be rolled out in the manner that Deputy Mézec is suggesting. So I wholeheartedly endorse and support this proposition, but just curious to know why it was not brought before us by P.P.C.

#### **9.1.4 The Connétable St. Clement:**

I can explain to Deputy Lewis why P.P.C. have not brought forward this proposition. Because 2 of the 3 requests in the proposition are already covered in the Public Elections (Jersey) Law, as I shall explain in a moment, and the third one, as Deputy McClinton said, is already in train. Deputy Mézec is a member of the Privileges and Procedures Committee, and I hope he will not mind me saying that I find him a very valuable member of that committee. So I think it is a pity that he has chosen not to raise these issues at committee but rather come straight to the States with this proposition. I say it is a pity because each of the suggestions in the proposition has merit. In fact, they all have significant merit but, sadly, the wording of the proposition and the report attached to the proposition raises more questions than it answers. Taking each in turn, firstly, the Deputy suggests that each registered voter should be issued with a polling card in advance of the election. That is welcome and sensible. But the Deputy does not say whether this is in addition to the notice to be sent by the Parishes to each voter in general election year under Article 7A of the Public Elections (Jersey) Law. Now, that was an Article this House, this Assembly, put into the law after the last election. If I recall, it became effective after the last election, so it has never been used yet. But what the Deputy was saying, he was concerned, understandably, that people did not know whether they were on the electoral list or not, unless they got a polling card. They will know when they get this notice under Article 7A, which will give them all the information they need. It is not called a polling card, it is called a notice, but that is already in the Public Elections (Jersey) Law under Article 7A. So it does seem to me that then doing polling card on top of that seems to be a

duplication of effort and expenditure. The Deputy, in his proposition, does not say if this card is to be sent out in the event of by-elections. Presumably, it is. Does it also include elections for Centenier and Procureur, which also come under the Public Elections (Jersey) Law? Presumably so, but the proposition does not mention the public elections or the Public Elections (Jersey) Law. It merely mentions elections. So will it have to include elections for Vingtenier, Constable's Officers, Roads Committee members, members of the Rates Assessment Committee, roads inspectors? I assume not, but the proposition is certainly unclear. In his report, the Deputy calls the cost of these polling cards, and he said it again: "A drop in the ocean." There are currently more than 64,000 registered voters. Each will have a card posted to them, so the cost will be somewhere in the region of £100,000 each time the cards are sent to every voter. When you take into account the cost of postage, envelopes, because they are presumably not going to be sent out without envelopes, so that everybody can see who lives at what address and so on, and of course, staff time. I really do not call that a drop in the ocean. The Deputy need not worry about whether, if he does not return his electoral form every year, that he is just going to drop off because, under the Public Elections (Jersey) Law, after 3 years, if one has not sent in his electoral form then the Constable has to write to that person to advise them they are going to be removed if they do not respond. But every effort is made by the Public Elections (Jersey) Law and by the Parish Halls, to make sure that people are not taken off the electoral list until every effort has been made to notify them. The Deputy also asks that voters should be able to vote at any polling station. That is an excellent idea, and something we are working towards. We all want to make it easier for people to vote, but until voters are checked off the electoral list as they vote electronically, this would be a recipe for disaster. When we have the electronic list, fine. But until then I think there is a recipe for chaos. It may work in an Isle of Wight election or referendum, where the same candidates and the same questions are voted on at each polling station. When, for example, a St. Clement, say, presents himself at St. Ouen, it will be perfectly possible for the Autorisé at St. Ouen to phone St. Clement, check the validity of the voter's credentials and that he has not already voted, issue him with a Senatorial and referendum ballot paper which for St. Ouen will hold exactly the same ballot papers that are held at the other polling station. Then the St. Clement Autorisé can cross him off the list; job done. But when voting for Deputies or Constables, it will be necessary for every polling station to hold voting slips from every other polling station, and then have some mechanism for them to be distributed after the polls have closed from every polling station to possibly every other polling station, and there are usually about 17 of these. I suggest we may not quite be ready for this and it will cause chaos, until the electronic system is in place. Finally, the location of polling stations, and I understand what Deputy Mézec is saying about that. Wherever you put a polling station, you move one and it will be more convenient for others, less convenient for others. That is the nature of things. But there is already a mechanism for this under Article 26 of the Public Elections (Jersey) Law. An excerpt from it: "The electoral administrator for the Parish where the poll is held shall provide one or more polling stations in such a way that the Autorisé is satisfied that all persons have reasonable facilities for the exercise of their right to vote." So what the Deputy wants already exists under the law, and I do not think it should be a role of P.P.C., a political body, to substitute its opinion for that of the independent Autorisé. As I said, all of these suggestions have merit, considerable merit, significant merit, but, as always, associated problems. If the States approve this proposition, P.P.C. will have to implement them despite some of the problems which I hope I have identified. Better, I suggest, would be for the proposition to be withdrawn or rejected by the States, and the Deputy bring these matters to the Committee on which he sits for proper and mature consideration. **[Acclamation]**

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

I think we all stand here with Deputy Mézec, because we are all concerned about the voter apathy that we have seen in Jersey. We all want to increase the amount of voter participation in this



Island, and I think that he is coming up with some very pragmatic ways that we can approach that which is, let us put the polling stations where the people are, rather than ask the people to come to the polling station. I think we can all agree, as the Connétable just said there, that these are all very, very sensible propositions about how we can achieve those kinds of things. Before the Deputy lodged his proposition, he very kindly contacted me first to get my views on what I thought about this on a digital level, on is it possible on what is there. I did inform the Deputy that this work is already underway, which he has mentioned within his proposition. But it did shock me that the fact that I said that we are already speaking with the Law Officers, we are already speaking with all the relevant people to get this piece of work to happen, still meant that the proposition was lodged. But I do thank the Deputy for supporting my team, the eGov team, in the work they are doing towards this very fact. We are looking at this and the Deputy, in his report, rightfully says that it has to be electronic. The way that we currently do our polling, our electoral roll-call map now, would not allow us to do what the Deputy is asking us for. So that work is happening. There are 2 streams. There is the core eGov stream that is going to happen, that is looking at the wider picture for our little democracy and the way that we deal and work with our constituents and residents of Jersey in a digital format from Government. But there is also a piece to try and get something in place to allow us to use the data we currently have at the next elections, and that is something that I am passionate about, making sure that we have this electoral roll in a digital format in a way that when you cross it off in one place it is crossed off the other. There are challenges, as the Connétable says, about Deputy positions, making sure that they have the correct polling card, that is marked for their Parish or their District. There could be a way of printing it off. I am not going to solutionise it right here and now. But then, after that, I think that the Connétable was right to be saying this, how do you get those votes in time to the polling stations doing the counting for that District, so they can all be counted in one place? So there are some challenges around here. I think the Connétable was absolutely right in what he was saying about the challenges there. But, obviously, the polling cards, again, people are told about this in the Election Law, but is there a way of making it even clearer, that the Deputy has mentioned in his proposition? Possibly there is. Is the cost right? Well, I think we would have to look at that. But in there it says, I think this should be last on the one, because if we can get polling stations anywhere and you can vote anywhere, the polling card itself does not need to say where you can vote. It just says: "Go to a polling station." So I would like to say, this work is happening. We are looking at making this happen for the next elections. The conversation has been going on for 6 months in different areas to make sure that we are in the right place for it by the next elections. So I thank very much the Deputy in supporting the work that my team is doing towards making this happen, and thank you very much.

#### **9.1.6 Deputy R. Labey:**

I pressed my button after the Constable for St. Peter spoke because I just wanted to say that the idea that you can poll at any polling station cannot do any harm whatsoever to elections in this Island, because we will get more people voting. I would like to think I am modern, I am progressive, but I do have a slight niggle about a voting app, where I can vote for my candidates on my tablet or my phone, or even at home, with a few mates around having a pizza and a few beers. "Let us see who we are going to vote for." I have a slight worry about that. While it is good to make it convenient, and more people would vote, I think there has to be some effort on the part of people going to vote. They have just thought about it, make the effort, and make an informed choice. So I have a problem with electronic voting. But helping people go to a polling station can only do good. It was after the last by-election, one of the media - I cannot remember who it was - did a little poll about what - because the turnout was low - put you off voting the most? The thing that put people off voting the most was not being able to park; was not being able to park. Now, a lot of the Parish Halls, that is not a problem, parking is not a problem. If you work in town, the Town Hall, I guess

it is not a problem if you are already there. Although, if you are at the other end of town, it is, and I agree with Deputy Mézec, why not a polling station in the Royal Square? From my 25 years in the U.K., when I went to vote in a general election, a port-a-cabin arrived in the churchyard of the church at the end of my road in Turnham Green in Chiswick so that I did not have to go all the way to Hounslow, miles away, and I would not have bothered, and I can vote there. Then, the day after the election, the port-a-cabin disappeared. Things are changing, conurbations are changing and growing. Look at Gorey between bits of Grouville and bits of St. Martin. Would it not be good to have a polling station in Gorey and not tucked away somewhere, but slap it in a port-a-cabin outside the Dolphin Hotel, you know where I mean. There is a whole swathe of St. Martin that could vote in that polling station, and Grouville, and anybody else, for that matter. The one great thing about voting in a polling station that is not in your Parish is that you do not have to run the gamut of all those candidates standing there with their supporters and their rosettes intimidating you.

[16:00]

I feel this can only be good. This is one thing we can do to reach out to the electorate, to do something about the voting figures that we are disappointed about. This is one concrete thing that we should do, and I hope it does not have to wait for the full digitalisation of voting. Of course the Constables are far more experienced in this than me, and of course there are headaches involved, but by May 2018 we should try our hardest, even if it is not full digitalisation, we should try our hardest to get people to be able to vote in any polling station, and there should be more polling stations. Put one at B&Q, where people can park, et cetera, et cetera, out of town. I do not know. I do not want to upset P.P.C. I know that Deputy Wickenden has already got this in hand. It is a good initiative from Deputy Mézec too. Whatever happens, we should resolve, whatever the difficulties are, to do this, to get people voting in any polling station, and increasing the polling stations and thinking radically. Put them in Marks and Spencer, put them at B&Q, put them at Gorey, where have you - and that we could do - that might have a significant effect on our voting figures.

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

I will be brief after following that great speech from Deputy Labey, and I feel a lot like him. But I went out at lunchtime and came back to a parallel universe. This morning, we had Deputy Tadier producing something that had not gone through P.P.C., but then amended by P.P.C., but then could not even be accepted by the House. This afternoon, we have something that is supposedly in train. Let me state for the record, I am on P.P.C. We have not produced any comments. We do not allow Deputy Mézec to bring his own proposition just because he is on there, like we allow Senator Ozouf to agree with comments and then vote and talk against them in the House. It is absolutely fine, but not in the universe that I am living in. This is all about letting people vote. We have pre-poll. We have been doing that for the last 2 elections. I pre-poll. I do not stand in my own District, so I pre-poll. Always, since it has been there, I pre-poll. Never could I go back to the Parish, which was St. Saviour then and now St. Clement, and then vote again. It is there. The technology is there. I really respect Deputy Wickenden, who is now an Assistant Minister, and he is moving things forward. If he had seen this, he should be biting the hand off Deputy Mézec because if, as you heard earlier, it has not been proposed or decided by the States, there has not been consultation, you are not getting it before 2018. He is very sure it is happening. Today, you need to put your weight behind it, make it easier. Why would we try not to let people have polling, because it does not inscribe, as a Deputy; because it was very, very picky, to me, for the Constable of St. Clement - the Privileges and Procedures chairman - because he is never like that. It says, after (a), (b) and (c) to request P.P.C. to bring in laws. It does not prescribe exactly how it is going to be and, of course, if you are going to do one, if you can vote anywhere, why would you put

which polling station on your card? P.P.C. are not morons. We do have some common sense, and if you direct us ... but I am not sure which way I am going to be directed because, as I say, this morning, I was fully supportive of comments that we as a P.P.C. have brought, and we were supportive of going out in consultation, got outvoted. Today, unfortunately, Deputy Mézec is a member of P.P.C. and he did not come and discuss it around the table. Where is the P.P.C. comment? I do not even remember it being discussed, I am sorry. I am hearing behind me: "Where is the amendment?" We are getting some very small, petty arguments in this. Both the debates are making this better, easier for the public to vote for you or someone else, and it might be someone else. Keep on voting against the public to be having their vote the easiest way they can possibly do, and it will be someone else.

### **9.1.8 Deputy G.P. Southern:**

Let us take a little bit of the heat out of the argument, because we are certainly getting something in a twist here, and we are apparently appearing very precious about this. Let us have a look at what the proposition says. It says: "The States are asked to decide whether they are of the opinion." Are we of the opinion that we should issue a polling card to improve turnout? That voters should be able to vote at any polling station? In principle, yes, we are, perhaps. That the location of polling stations should be reviewed by the P.P.C. and that, are we of the opinion to request, notice the polite term there: "To request the Privileges and Procedures Committee to bring forward the necessary legislative amendments to implement these changes in time for the May 2018 general election." Now, if I took that proposition out to members of the public, they would be amazed that we have already spent whatever it is, 35 minutes, debating it. They would look at that and say: "That is a no-brainer, is it not?" What would your objection be? Your objection would be, apparently, that anybody could go along with a polling card, of course, unless your rules say, and it should be on the polling card, that you bring your I.D. with you. Well, that would help and it is a simple instruction. It does not have to be in colour. It does not have to be any more expensive. Simple. That is doable. So for the Constable of St. Peter that is clearly and plainly doable. As some people have mentioned, the automatic one vote, as soon as you voted at a pre-poll, you come off register. It is electronic. It is easy to do. It happens. So we are already there in terms of: "Can you vote at a second place?" Yes, you can if you pre-poll and I always pre-poll because I am like Deputy Martin, I do not represent the District I live in. Then we come down to: "Are we assisting people to achieve their vote?" and the answer has to be yes. Now, I do not know when the Constable of St. Clement last went round his constituency and knocked on doors but I still do it after 14 years. It is a lot harder than it used to be I tell you. I go round and knock on doors. In the run up to an election I am trying to encourage people to vote and the first question I ask is: "Are you registered to vote?" and the answer is inevitably: "I do not know." So the question is: "Did you vote at the last election?" "Yes, I did." "Well, you are probably registered to vote then. Have you filled in the form that looked like this in the last 3 years?" "Cannot remember." "Oh, in that case you might not be on the register because every 3 years we clean the register and we send you a note and if you have not paid attention to it you may not be on the electoral roll." The last time I did a real good thorough knock up around one of ... I think it was Caesarea Court, up and down, I found that in my District a third of the people were registered, a third of the people were not and a third of the people were living somewhere else. It is the rule of thirds in St. Helier No. 2 District and that is pretty standard. So the question that is: "Are you registered to vote?" in a significant number of occasions members say: "I do not know" and unless somebody is there to do that ... but if you have got: "Have you received this polling card?" "Yes, it came last week," "No, I have not seen one of those." "Okay, let us get you registered" or: "You are registered to vote." The polling card is a little step which significantly could change turnout. Really, I think given that we are asking P.P.C. to go and do the work to make sure it happens and the simple request is there then if there are problems, if we are talking about the Procureur du Bien Public as well. If we are talking

about by-elections then, by all means, what is P.P.C. there for except to amend this and make it straight? I was asking: where are the comments, where is the amendment? This is not good enough. Where is the amendment? Nine times out of 10 that is what we should do. Good initiative, which deserves support and out there, among the voting public, would get it almost instantaneously. Get on with it please, they would be saying: "I want to vote next time."

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

People sometimes ask me if I support party politics and this afternoon's debate reminds me of one of the answers I give people when I say that one of the weaknesses of our system is that it is a little broken when it comes to submitting questions. You do not know what questions are being put in by other Members so some days, on a Tuesday, a Minister is going to have the same question 5 times and equally with regard to private Member's propositions you do not know what other Members are working on. So you may be working away late into the night on a proposition which another Member manages to get across the wire before you. I was reminded of that earlier when Senator Ozouf was proposing the L.L.P. law because the first proposition I worked on, some 20 years ago, was to readmit a Member who had been expelled from the States and I was told when I took it down to the Greffe that another Member had already put in a motion before me to censure the Member that had been expelled from the States and therefore my proposition was no longer valid. The point I am trying to make is that if a committee is already working on electoral reform, in this case, for example, polling cards and multiple polling stations and the like, if a private Member then puts in a proposition to try and achieve the same thing or something similar to it, it leaves the Assembly in a rather difficult position. We do not want to vote against these principles but one might argue one has already approved them so why would one vote against them. But it does seem, to some extent, to be rather a waste of the Assembly's time, to have a debate on something that has already been approved, where the work has already been done by a committee. The fact that the Member, who has brought the Private Members Bill is on that committee makes it a little more bizarre but it does not remove the need for some kind of party discipline, and I think that is why there are aspects of party politics that appeal to me because if one belonged to a party, and I understand of course the Member does, but the rest of us do not or most of us do not, if the rest of us were in the other party we would already know that P.P.C. were working on these matters and this matter probably would not have got as far as being approved for lodging. So I think we do have a problem and that is something I would like P.P.C. to look into in terms of questions, in terms of Private Member's Bills, which are a precious tool in the Back-Bencher's armoury, and I am not trying to take it away, but I do not think it helps that ability to bring Private Member's propositions when they are brought, if you like, duplicating work that has already been done. So how to vote on a matter that is already being dealt with; well, who knows. Perhaps the best thing is to abstain.

#### **9.1.10 Deputy S.M. Brée:**

It is quite interesting listening to the various comments made during this debate. As a member of P.P.C. I have to say I am not aware that P.P.C. is working on these areas. P.P.C. is there to facilitate things. We are looking at obviously the question of electoral reform in the sense of voter representation and equality but I must admit I am not aware that we are working on the reform of the voting system itself. However, put that to one side. There is some merit in what this proposition is trying to achieve. There are a lot of questions about it. How is it going to work? Will it work? How on earth are you going to get an electronic voting system that is secure, robust, communicates well with central servers in place in time for anybody to go into any polling station and effectively use an electronic terminal, which will not only register their vote but register the fact they have voted in the election that they are entitled to vote in. So there are a lot of questions. That does not mean we should dismiss it. It does not mean we should say: "Oh, it is too

complicated to even think about so let us not vote for it.” It may well be that if you look at this proposition, it is saying we need to encourage more people to engage in the political system of this Island. We have a terrible voter turnout. We are responsible for trying to find ways in which to encourage more people to vote. Perhaps some of these will not work but this proposition is not saying: “This is what we are going to do.”

[16:15]

This proposition is saying: “P.P.C. to look at it to try and implement these changes.” It may well be that P.P.C. come back with their own proposition saying: “There are problems. It is not going to work. We most certainly cannot get it in time for the 2018 elections.” In my opinion that is not the point behind this proposition. The proposition is a very laudable one which is saying: “We have to look at ways to get more people engaged and voting. I quite agree with the comment about polling stations in St. Clement. As one of the Deputies in St. Clement, it is something that has concerned me greatly. If the only thing we get out of this proposition is that St. Clement ends up with 2 polling stations, one in the Parish Hall and one at, for example, the Good Companions Club, then to me it has been a great success. So I would hope that most Members in this Assembly can see past the problems and look at the opportunities instead and I would urge people to vote in favour of it.

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

I am glad to follow the previous speaker but do not want to be outdone by Deputy Labey, I think there are some other options for polling stations throughout the Island. We have got the Tree House, the Sugareef, La Pulente. We have got the Beau Rivage, St. Brelade Social Club and my mate, Andy’s Bicycle Workshop which is in the Les Quennevais precinct in-between the Freedom Surf Shop and Miller’s Bar. I am not sure if I have missed any. So there are just a few options there. Joking aside though, the comments that have been made about St. Clement and the Good Companions Club we can relate to. Of course in St. Brelade, which is now, I think, a roughly comparable population to St. Clement, even though St. Clement has a democratic underrepresentation in that very densely packed Parish, which is becoming even more urbanised. Thankfully we still have a lot of green open space in St. Brelade. We, of course, have 2 Districts and therefore we have 2 polling stations and I think probably, by and large, it works well in our Parish in the sense that the Parish Hall is situated in the nub of the village of St. Aubin and that Communicare is situated in the very densely populated area of Les Quennevais with Don Farm, Belle Vue and the other estates around it. So I think we know that it works quite well in our districts even though some people need to come by car, many can actually just walk to the polling stations and certainly I think there is merit where possible because, of course, it ties in with the transport policy. We want people to walk but of course, especially when it is rainy weather, people are much more likely to come out if the polling stations are well situated. So I think that one should be, as we have heard before, a no-brainer although it is surprising how many no-brainer propositions seem to not get through this Assembly. The way I see it, and it is interesting that we have had another member of P.P.C. confirm that he is not sure that this work is being done, I look at it slightly differently. Some people say if the work is being done already why do we need to have a vote on it today to agree to it? But if we do not want P.P.C. to carry out this work we need to tell them so that they can stop doing that work and concentrate on other areas. The proposition is quite clear, like all propositions that come to the Assembly, we are asked both collectively and individually whether we are of the opinion that we think (a), (b) and (c) are good ideas. So if we think that (a) registered voters should be issued a polling card then we should vote for part (a). If we think that voters should be able to vote at any polling station we should vote for part (b) and if we think that the location of polling stations should be reviewed by Privileges and Procedures then we should, of course, vote for part (c) but if we do not want any of that to happen we need to let Privileges and Procedures know now so they can stop working on it. Conversely, if we think that

all of those ideas are a good thing then Deputy Mézec's work cannot be seen to be duplicating what they already do. It is simply an affirmation, if some of the work is going on already, and that remains to be determined. There is still an "if" over whether that work is being done or in the format that it has been suggested. Of course the other "if" is whether or not it can be done for the 2018 elections. It may well be. I know from my time on P.P.C. that of course any one time they are constantly looking at different areas that relate to electoral law as well as the other many roles that they have to keep under review at any one time. But if, as an Assembly, we think that all of these are positive steps and if we would like those, wherever possible, to be implemented in time for the May 2018 general election then we simply have to support that proposal. Now, it does not mean that we know exactly how any one of those 3 will be implemented but that is, of course, where the Privileges and Procedures Committee can focus their work and put meat on the bones. Now just a couple of suggestions. It could well be, and it has been suggested, that of course it will be much easier for voters to be able to vote at any polling station with some degree of electronic digital backup for that. It would absolutely be necessary to at least have an intranet system between all of the polling stations so that in real time you know who has voted and who has not voted so that we do not get a duplication of voting; that, of course, goes without saying and I think that is well within the current technology that exists. It also stands to reason that in the future we may want to consider having electronic voting machines alongside the traditional methods of casting a vote. But I do take on board the comments that have been said: "Well, what about the practical elements of the ballot papers?" Would we have to have ballot papers for all of the Deputies and all the Constables in every polling station? Well, that depends on the method that is chosen of course. If you have an integrated system, computer linked up to a printer with the correct type of paper you can, of course, just print a ballot paper securely on demand so you do not need to have all these excess ballot papers. We know that there will be ballot papers left over at any one time because turnout is not 100 per cent. It is much less than 50 per cent. So why are we printing ballot papers unnecessarily when, of course, you could probably just have a system where ... specialised printer, you print the ballot paper out for the relevant constituency as and when you need it. That is just one idea and I am sure that P.P.C., when they look at this, will be able to put more meat on the bones and they will tell us whether it is possible to do it for 2018. It may well be that in some cases some bits are possible; other bits are not but I think the general principles about making voting easier, facilitating it, has to be a good thing and I do not buy this argument that just because Deputy Mézec is a member of P.P.C. ... I think he is quite right to bring this to the Assembly, it is very much chicken and egg and, as I have said, it gives P.P.C. a clear steer. No point in them carrying on doing work that we do not want them to do but if we do want them to do the work it certainly gives them something to perhaps crack on with to bring forward for the next electoral cycle. So I think we should all be supporting this in its entirety and get behind it.

#### **9.1.12 Senator L.J. Farnham:**

We have had some really interesting and some strong rhetoric from Deputy Labey and Deputy Martin. They are really good. You know, they stand up and they punch forward their points and they certainly sound great but it is really bizarre that we have the Privileges and Procedures Committee ... so far we have had 3 members of the Committee speaking out completely against what their chairman has said in his very considered comments and Deputy Wickenden as well has also made some very valid points. As other Members have said, we all want this but it is just ... we have not heard from the Constable of St. John yet. I am sure he has got a restaurant-related analogy **[Laughter]** we are probably heading for dinner or something but I shall look forward to that when it comes but ironically ... and we have got another Member, Deputy Martin, another member of the P.P.C. Committee, bringing forward another proposition on machinery of government issues asking the public whether we should go back to the committee system. I suggest we try and make the Privileges and **[Interruption]** - I am not giving way - asking for a referendum but ... I mean

perhaps she should spend some time helping to make the committee she is on work first before we talk about going back there [**Members: Oh!**] because it appears ... and she is all ready to stand up and criticise the Council of Ministers for not working together at every opportunity. I can tell you something, the Council of Ministers is an immaculate model compared to what we are seeing today [**Laughter**] when it comes to working together and making decisions.

**9.1.13 Senator P.F.C. Ozouf:**

I have some sympathy with Deputy Mézec. I am not supporting his proposition but I have some sympathy because I am sure that he looks at Hansard and he might even have done his research and he might go back to propositions from 2001. There was a proposition, P.132/2001, second amendment, lodged by a ... I was sitting next to Deputy Martin at the time, right over there, where I brought forward a proposition to ask that Constables, I asked really nicely, and I am just looking to the Deputy Greffier, whether or not it was passed, I cannot remember.

**The Deputy Greffier of the States:**

It was passed.

**Senator P.F.C. Ozouf:**

It was passed. I asked for Constables to send a notice to households that did not have any voters registered. My goodness me, I did not half get some stick from the Constables at the time and one particular one in St. Saviour. If ever there was true of an adage of a Jerseyman and woman and money not easily being parted then certainly that had been guiding force of the Constables in terms of their frugality. Of course, there is an enormous amount to be done on voter turnout, registration and voter modalities in terms of electronic voting, et cetera. Deputy Wickenden is absolutely correct in what he is saying and I know that that is the case because he and I were in Estonia, and we look forward to welcoming the Estonia ambassador with the Minister for External Relations who are holding the E.U. (European Union) Presidency next year, and interestingly the E.U. Parliament has dreadful voter turnout by the way, it may be a bit of a problem with the E.U., but coming back to the point, the fact is that there are, I am afraid, more than just simply sending polling cards that needs to deal with our voter turnout. Deputy Mézec and others may remonstrate. We have all brought propositions about voter turnout. I think I have found 4 that I have done because I was the first person ever to combine and get data with former Deputy Bridge and former Senator Lakeman, the late Senator Lakeman, to prove what the voting turnout numbers are. Members like to use facts that they think are facts. They do not do their research and Deputy Mézec has not done his research either. I commend to Deputy Mézec the I.D.E.A. (Institute for Democracy and Electoral Assistance) international website, and I will give him the address if he likes, which is one of the global institutions which looks at voter turnout and the real thing that matters, which is not pure voter turnout, which is V.A.P. (Voting Age Population) which is percentage of people that are the voting age population. That is the figure that should be internationally compared and that we should compare ourselves on. Now, the fact is, because of the way that our electoral registers are compiled, and this links exactly with the problem, unreformed, with sending polling cards as it is, is that there is probably, in my view, through no fault of the Constables, overstatement of the numbers of people that are on the electoral register because of the 3-year rolling numbers. That will be an issue certainly for the more transitory Parishes of St. Clement, St. Saviour and St. Helier but there certainly will be a very significant amount of people that are registered and I commend the work that the Constable of Helier has done in previous elections where he has, with this staff, tirelessly gone around and got people on the electoral register. Sadly, of course, people leave the Island for various different reasons but they are still on the register. So before Members pontificate and say: "We know it all about voter turnout" I encourage them to go and look at the data and look at the data of other places who do not

compile electoral registers in a proper way which, if that is the case, overstates or rather gives a turnout or gives the impression of a turnout that will be higher. I am afraid I have to say to Deputy Mézec, he is a member of P.P.C., I think it is discourteous not to have discussed this at P.P.C. because those of us who serve on P.P.C. are absolutely ... the Reform Party and Deputy Mézec does not have monopoly on what is important in terms of voter turnout and voter registration and improvement of the modalities of voter arrangements and electronic voting.

[16:30]

All members of P.P.C., or at least the majority of members that I sit with, care about this issue and frankly bringing propositions like this simply ... we have all done it. I did it in 2001. Apparently I got that amendment passed but my goodness me it took years before it was done. It is often said that Ministers are ... and sometimes people say of Ministers that they are weak or that they do not get on with things. What you have got to do to get things done in politics, if I may say to Deputy Mézec, is not just simply bring propositions here, unresearched, maybe good ideas, but you have got to come forward with a solution. You have got to come forward with the complete solution to get our voter turnout and our voter modalities and all of the ease of voting safely done because, of course, there are enormous risks of inadvertent opening up of things like polling stations and getting quite dreadful results. I cast aspersions on no Member of this Assembly who I know would not do that but there have been cases in the past where I have witnessed myself, in polling stations, people being brought into polling stations and almost with the good work of the Jurats nevertheless almost being encouraged to vote in a certain way, in a way that would be inappropriate and would be condemned by international election observers, which I have seen of how that should be done. I know the Constables and their returning officers and the Jurats do a fantastic job but nevertheless we have seen things. Voter confidentiality and voter safety is of the highest importance for the integrity of the voting system. The voting system has to work. It has to be effective. It has to be equal. It has to have voter equality to the greatest extent possible and there has to be voter equity and there has to be a massive change, I am afraid, in the way that effectively the electoral registers are compiled. The good news is that technology can do a lot of that. It can do a lot of the heavy lifting and it can do a lot of the real offsetting of the controls that exist which are the concerns previously of people simply popping into any single voting station where you do not know them. Parish people know their people because if they do not they will find out who they are. There are risks, I am afraid, with anybody going to any single polling station and being unknown. Yes, they can show some form of I.D. but where are the controls in Deputy Mézec's proposal in dealing with these issues? There is an issue. We all want everybody to vote. We all want to get more people out to vote but there is the issue of voter fraud and what has happened in other countries, being very real issues. There have been previous issues in this jurisdiction about postal voting which are alive and real issues which have caused huge concern to many people. Now, these issues are not to be simply disregarded. They are important issues which go to the foundation of what is democracy and the rights for people to vote in a safe and free and fair way. I am not going to vote in favour of this because I am not going to basically do what the States has done so many times before, which is approve a proposition just because it feels like a good thing to do and feels as though ... and I know what happens, Members say: "Go on, we will give the committee or the Minister a good slap and then we will come and chastise them because they have not done it or whatever." I say to Deputy Mézec, he is on a committee and if he is committed to voter reform and getting the electoral registers properly organised in an electronic way, harnessing the power of technology, then he will be working to find a solution and coming forward with not a proposition that is just an expression of a desire with no evidence, with no offsetting issues of controls, and he is not going to like it. I know he is not going to like it, but I am not prepared to vote in favour of something which is not effectively properly worked out, complete in dealing with all the modalities that need to happen for the voter registration and the voter safety. There was an issue. I think I found 10 references to



voter polling cards that I have asked for in the past in the previous debates. I have never been on P.P.C. before. In my previous position as Minister for Treasury and Resources I offered, with the consent of the Council of Ministers and the strong support, as I recall, of the Chief Minister, we offered to pay for, at the time, polling cards. In the U.K. polling cards are dealt with freely by the post office. They are delivered free with other election materials and we had discussions with the Jersey Post to do it. The reality is that postal cards are not things that people communicate with. I do not communicate by letter and post; I communicate by email. I want a smart phone. I want a message on my phone which basically comes up and says: "You are entitled to vote tomorrow." Not only is that better and more effective and safer but it is also going to be much more cheaply and effectively dealt with. Those are the things that you do if you want to improve voter turnout and voter participation. It is by harnessing electronically, by having a common database which Deputy Wickenden is doing valiant work on with other people and Digital Jersey and his eGov Team. You do that and you reform the whole system and can we do things by 2018; yes, we can but let us not come forward with piecemeal propositions that are just used as a stick to come and bash P.P.C. later with to say: "No, you have not done this." Well, I want to do some of this but I want to do this in a different way, in a more detailed way with technology and come forward with a proper solution which has been costed so this Assembly knows what it is voting for rather than simply an aspiration. I have done aspirational stuff before but I have to say it has not worked. I did it in 2001 and I do not know when that ... I do not even know whether the Constables do it, if I am honest, whether or not they do that spirit of that proposition idea I did in 2001, probably did not even get into the legislation because somebody did not get around to it. There is no point scolding P.P.C. either because they have been working hard on lots and lots of different things. A small amount of officers doing an awful lot of work. So it is all very well Members kicking P.P.C. and, by extension, officers because they do not get round to do things. Time and dedication and resource and some heavy lifting by the members of the committee themselves rather than bringing, effectively, propositions like this. I cannot vote in favour of it. I do not know whether to abstain or reject but no to this; yes to proper detailed proposals dealing with the whole issue of voter registration and polling cards and a reminder of people's rights using technology and for those who cannot use technology of course a traditional way of a mail drop so people can choose to opt in or opt out if you can do that. So let us do some proper work rather than just wish listing things please.

#### **[Approbation]**

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

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

#### **9.1.14 Deputy S.Y. Mézec:**

I want to get this point out the way right at the beginning because I would rather end on something positive, rather than something negative. I am really disappointed in the chairman of P.P.C., his comments in the speech, for the very simple reason that on 12th September I emailed him with all of the things that I wanted to bring up. I asked for it to be put on P.P.C. and he did not have the courtesy to respond to that email. So I think to stand up and accuse me of not having attempted to engage with P.P.C. when I did, it was him who chose not to respond, I think it quite out of order. I am not as annoyed with Senator Ozouf making the same comments. He had no idea that I had attempted to do this and when I got no response from the Chairman of the Committee I spoke to the officers, officers who Senator Ozouf wanted to say this is an attempt to beat or to criticise, which it is not at all. I had spoken to them. They informed me of all the progress on some of these issues has been ... there has been in the past, on some of the issues there has been no progress on these points. They were very helpful and I used my conversations with them to inform how I went about with this proposition but it is really unfair to say that I did not attempt to engage with P.P.C. because I did. It is not my fault when somebody does not reciprocate that attempt at engagement.

So I am really disappointed with that. I think that has been reflected by some of the other members of P.P.C. who stood up and said that on some of the issues which it has been claimed progress has been made on, progress is not being made on them. These are issues which I believe can be taken as standalone issues. The reason I did not want to bring them as part of anything wider or wait for another opportunity is because I think that they are relatively simple and I think some of the contributions, particularly that from Senator Ozouf, were making things so much more complicated than they need to be and that is why the Government of this Island and the Assembly of this Island can often spend much more time on relatively simple issues than it needs to. It spends a lot more money than it needs to to get some of this relatively simple stuff done and that is one of the things that I believe causes disillusionment with the public who look at what they see to be an ineffective and inefficient government process. What I am offering the States an opportunity here to say is, here are 3 small little things that might do something to help our democracy on the Island. I have said in my proposition, it is not a panacea to all of our problems. We have much worse problems that are deeper rooted in our democratic system that we need to be looking at but I cannot see how accepting that we want to proceed with these 3 suggestions will do anything to harm the democratic process. I simply cannot see that argument. In terms of the polling cards, I mentioned in my opening remarks that this is something that has been done in the U.K. since 1948. The figure of £100,000 was floated for how much it would cost. I mean I have never heard something so ridiculous. Of course it is not going to cost that much. It does not cost much money to get something put in a postal drop when that is being combined with what is already being put out in a postal drop anyway. The card is cheap. You can print labels to put different names on it and one was that they would have to go in envelopes because you would give away the identity of the people living there. Well, what do they think is going to be on the envelope? The name and address. It is utterly ridiculous. When you get them in the Isle of Man or you get them in the U.K. or other jurisdictions you get just the card through the post because there is no confidential information on it that would not also be on the cover of an envelope as well. So I really think that is a very strange criticism here. It is something, as I said, that is done in many jurisdictions around the world, Jersey is one of the few places that does not do this and if it encourages a small number of people to go out and vote when they otherwise do not then I think that would be a good thing. I said in my speech that too often when we discuss these issues we think not as the typical Jersey person who does not vote; 70 per cent of the public do not vote. So if you think like an average voter when you are determining what the voting system should be you are not thinking the same as the average Jersey person who does not vote. Many of these people deliberately choose not to vote because they have got no interest at all. It is not something that bothers them one way or the other and you will never, probably, convince those people to come out and vote so that is fine for those. There are some who would like to vote but have very particular problems that they find difficult to overcome. For example, I have had people contact me who were not able to vote simply because something happened on the day and there was no getting around it. They could not get a home visit afterwards because they had missed the deadline or something had happened at the wrong part of the day so you will never get around that. But to want to speak to those people who are not usual voters, work out what it was that did not enable them to vote and try and address those problems must surely be a good thing. The issue of parking was brought up. How many people will not attend their polling station because it is too difficult to get parking especially if they are working during the day and they want to go in a period afterwards where it might be busy; before they have got to make their children dinner and put them to bed and what have you? So looking at where those polling stations could or should be is something that I think would hopefully aim to address that. The chairman of P.P.C. said: "Well, the election law already does not prescribe the locations." I think he said it was something that is then therefore being dealt with. Well, it is not because they are the same location every time, election after election. The law may say that it is possible to have polling stations at other locations so why is it not looked at? Why is the discussion never had? So

this proposition provides us an opportunity to have that discussion. How can that possibly be a bad thing? If we decide that we are happy with the current arrangement then we get to keep the current arrangement. If we decide we want minor amendments, have 2 polling stations in one district or move it from this place to another part of the district, what could possibly be wrong with that? The work, as Deputy Wickenden said, is being done to look at the technological side of it. I am not someone who has a great grasp of computer technology and programming and whatever but my father does it professionally and I talk to him about it and sort of get ideas about what different ways there are to do it because computer programming, in many ways, can often be more like arts than like a science. I am sure Deputy Wickenden knows what I am talking about there in terms of how you approach creating systems to deal with these issues. It is something that can be done so let us give the green light to it and then it means that we do not have to have everything in place and ready to go and then end up stumbling on something procedural later on that stops us from being able to do it.

[16:45]

Give the green light now then let the team get on with on it and implement it and then happy days there is nothing that can possibly go wrong at the end of that. So I think some Member's contributions were really making a mountain out of a molehill here. These are very simple things. They are not going to detract from anything whatsoever and I would be grateful, as I sit down, if there are any Members who are keen to vote to support one part of the proposition but do not want to support other parts; if there are any Members who are inclined that way if they could indicate that to me and I would be happy to take parts of these separately but if no Member is keen for that to happen then I am happy for it all to be taken as one and so I call for the appel.

**The Deputy Bailiff:**

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

**Deputy M. Tadier:**

Can I ask for that to be taken separately, (a), (b) and (c) please?

**The Deputy Bailiff:**

You wish (a), (b) and (c) to be taken separately, certainly. If Members have had the opportunity to return to their seats then the vote is on whether or not the States should adopt paragraph (a) of the proposition. I ask the Greffier to open the voting.

<b>POUR: 19</b>		<b>CONTRE: 25</b>		<b>ABSTAIN: 1</b>
Connétable of St. John		Senator P.F.C. Ozouf		Deputy of St. Mary
Deputy J.A. Martin (H)		Senator A.J.H. Maclean		
Deputy G.P. Southern (H)		Senator I.J. Gorst		
Deputy of Grouville		Senator L.J. Farnham		
Deputy J.A.N. Le Fondré (L)		Senator P.M. Bailhache		
Deputy K.C. Lewis (S)		Senator A.K.F. Green		
Deputy M. Tadier (B)		Connétable of St. Helier		
Deputy E.J. Noel (L)		Connétable of St. Clement		
Deputy of St. John		Connétable of St. Peter		
Deputy M.R. Higgins (H)		Connétable of St. Lawrence		
Deputy J.M. Maçon (S)		Connétable of St. Mary		
Deputy S.J. Pinel (C)		Connétable of St. Ouen		
Deputy of St. Peter		Connétable of St. Brelade		
Deputy R.J. Rondel (H)		Connétable of St. Martin		
Deputy S.Y. Mézec (H)		Connétable of St. Saviour		
Deputy A.D. Lewis (H)		Connétable of Grouville		

Deputy L.M.C. Doublet (S)		Connétable of Trinity		
Deputy S.M. Bree (C)		Deputy of Trinity		
Deputy P.D. McLinton (S)		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Ouen		
		Deputy S.M. Wickenden (H)		
		Deputy M.J. Norton (B)		
		Deputy T.A. McDonald (S)		
		Deputy G.J. Truscott (B)		

**The Deputy Bailiff:**

I ask the Greffier to reset the voting and the vote is now on whether or not paragraph (b) should be adopted and I ask the Greffier to open the voting.

<b>POUR: 16</b>		<b>CONTRE: 29</b>		<b>ABSTAIN: 1</b>
Deputy J.A. Martin (H)		Senator A.J.H. Maclean		Senator P.F.C. Ozouf
Deputy G.P. Southern (H)		Senator I.J. Gorst		
Deputy of Grouville		Senator L.J. Farnham		
Deputy K.C. Lewis (S)		Senator P.M. Bailhache		
Deputy M. Tadier (B)		Senator A.K.F. Green		
Deputy of St. John		Senator S.C. Ferguson		
Deputy M.R. Higgins (H)		Connétable of St. Helier		
Deputy J.M. Maçon (S)		Connétable of St. Clement		
Deputy of St. Peter		Connétable of St. Peter		
Deputy R.J. Rondel (H)		Connétable of St. Lawrence		
Deputy S.Y. Mézec (H)		Connétable of St. Mary		
Deputy A.D. Lewis (H)		Connétable of St. Ouen		
Deputy L.M.C. Doublet (S)		Connétable of St. Brelade		
Deputy S.M. Bree (C)		Connétable of St. Martin		
Deputy of St. Mary		Connétable of St. Saviour		
Deputy P.D. McLinton (S)		Connétable of Grouville		
		Connétable of St. John		
		Connétable of Trinity		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy E.J. Noel (L)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Ouen		
		Deputy S.M. Wickenden (H)		
		Deputy M.J. Norton (B)		
		Deputy T.A. McDonald (S)		
		Deputy G.J. Truscott (B)		

**The Deputy Bailiff:**

We come now to vote on paragraph (c). I ask the Greffier to open the voting.

<b>POUR: 20</b>		<b>CONTRE: 25</b>		<b>ABSTAIN: 1</b>
Senator P.F.C. Ozouf		Senator A.J.H. Maclean		Deputy J.A.N. Le Fondré (L)

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

## **10. Jersey Police Complaints Authority: appointment of a Chairman (P.104/2016)**

### **The Deputy Bailiff:**

Very well, the next item is the Jersey Police Complaints Authority: appointment of a Chairman, P.104, lodged by the Minister for Homes Affairs. I ask the Greffier to read the proposition

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

The States are asked to decide whether they are of opinion, in accordance with Article 2 of, and the schedule to, the Police (Complaints and Discipline) (Jersey) Law 1999 to appoint Mr. Howard Cooper as chairman of the Jersey Police Complaints Authority for a period of 3 years, commencing on 1st January 2017.

### **10.1 Deputy K.L. Moore of St. Peter (The Minister for Home Affairs):**

I would just like to begin by paying a sincere tribute to Advocate Debbie Prosser who has ably served as a member of the Jersey Police Complaints Authority since January 2008 and has been Chair since October 2012. The J.P.C.A. (Jersey Police Complaints Authority) has benefitted greatly, not only from Advocate Prosser's experience, wisdom and knowledge but also from her dedication and commitment over the course of 9 years of service on the authority, 4 of which have been in that key role. All of Advocate Prosser's time on the authority has been given on a voluntary basis and I am sure that the Assembly will join me in thanking the outgoing Chair for her service and in wishing her well for the future. **[Approbation]** Members may recall that earlier this year the Assembly approved P.158/2015 which reappointed Advocate Prosser as Chair for a 3-year term. In that proposition it was made clear that Advocate Prosser would be resigning from office at the end of this year and an early succession plan would be implemented. I wish once again to thank the advocate for being clear with us regarding her intentions and for managing efficiently the recruitment process for a new Chair which has resulted in Mr. Howard Cooper being offered the

role subject to the agreement, of course, of this Assembly. Mr. Cooper has been a member of the J.P.C.A. since March 2013 and has fulfilled the role of Deputy Chair since January of last year. I am aware that this current Chair and Mr. Cooper have worked closely together during time on the Authority, particularly since 2015 and will continue to do so over the next couple of months. It follows, therefore, that Mr. Cooper's recommended appointment has the support of the outgoing Chair. As outlined in the report to the proposition, Mr. Cooper's appointment as chairman has also been approved by the Jersey Appointments Commission. I am confident, therefore, that Mr. Cooper has the experience, knowledge and ability to undertake this important position and I am very pleased to recommend his appointment to Members.

**The Deputy Bailiff:**

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

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Deputy Bailiff:**

Well, that brings our public business to an end and I invite the Chairman of P.P.C. to propose the arrangements for public business of future meetings.

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

The proposition for future public business is as per the supplemental Order Paper. Items for the next meeting on 15th November, assuming they all remain on that date, because things do tend to move around a bit, but if they do remain we would be looking at a minimum of 2 days for that sitting.

**The Deputy Bailiff:**

Do Members agree with the public business in accordance with the statement of the chairman? Very, well public business is as set out by the chairman. I should, before we adjourn, announce the lodging of the Minimum Wage: revised hourly rate from 1st April 2017 by Deputy Mézec, (P.115) and Ministerial Government: referendum amendment lodged by Deputy Martin (P.94). Very well, the States stands adjourned until Tuesday, 15th November.

**ADJOURNMENT**

[16:52]