

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 29th NOVEMBER 2016**

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[9:31]

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

## **COMMUNICATIONS BY THE PRESIDING OFFICER**

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

Under A perhaps I can just remind Members that tomorrow at 9.30 we have a special sitting of the Assembly to bid His Excellency the Lieutenant Governor farewell. After that sitting the States will adjourn briefly. The reason for making the announcement now is just really to tell the public. Any Members who want to come to the Royal Square to wave His Excellency goodbye would be very welcome to do so.

## **QUESTIONS**

### **2. Written Questions**

#### **2.1 DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR HOME AFFAIRS REGARDING THE TAKING OF BREATH SAMPLES FROM PEOPLE AGED UNDER 18: [9721]**

##### **Question**

What procedures are followed by the States of Jersey Police in taking a breath sample from people aged under 18?

##### **Answer**

There are no specific procedures regarding the taking of breath samples from people aged under 18 years. Procedures regarding persons below the age of 18 fall under the Police Procedures and Criminal Evidence (Jersey) Law 2003 (PPACE) under CODE C concerning the arrest, detention and questioning of suspects.

Under the Road Traffic (Jersey) Law 1956 there are two articles covering the power to require breath specimens. The first is the taking of a screening specimen often referred to as a roadside test. This test can only be administered if the legal criteria are met. The purpose of the test is to establish if there is sufficient evidence to make an arrest on suspicion of being over the prescribed limit. It is not possible to ascertain this by observation alone and it is a simple yes/no test to establish if an offence is likely to have been committed and establish a power of arrest. It often leads to suspicion being removed and there being no need to make an arrest.

There are no legal criteria regarding the age of the suspect. The requirement for the screening test can be made of any person who falls under the legislation.

The second criterion to obtain a breath specimen is in order to obtain a specimen for analysis. This will generally be following an arrest. Once a person has been arrested all the safeguards under PPACE are applicable. The usual rights for a detained person will be given and in the case of a person under the age of 18 years an appropriate adult will be informed of their arrest and detention. An appropriate adult will be required to attend the police station in order for the formal rights to be given and signed for. An appropriate adult will also be required to be present for any interview.

If the person under 18 years has been arrested for a suspected drinking and driving offence the requirement to provide evidential breath specimens will not be delayed in order for an appropriate adult to attend or for rights to be formally signed for. It has been established that the drinking and driving procedure is not an interview and is not therefore subject to the requirements under PPACE for the interviewing of suspects. The procedure does not need to be delayed to facilitate legal advice.

The obtaining of a breath specimen for analysis should not be delayed as any delay tends to move the analysis result away from what the alcohol level would have been at the time of any alleged offence. It is important in the interests of justice that the test is carried out as soon as possible after the alleged driving incident.

If an appropriate adult was readily available it would be good practice to involve that person in the procedure. However there is no legal requirement to arrange such representation and there must be no delay to the procedure.

## **2.2 DEPUTY G.P. SOUTHERN OF ST HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE FUNDING OF FAMILY NURSING AND HOME CARE: [9722]**

### **Question**

Will the Minister inform Members whether funding has been agreed between Family Nursing and Home Care and his Department for the delivery of services in 2017, and if so, will he state how that funding has been distributed between the following services:

- (a) District nursing
- (b) Sustained home visiting
- (c) Rapid response and reablement
- (e) Children's services (including palliative care)
- (f) School nurses
- (g) Health visiting
- (h) Community paediatrics
- (i) Home care provision

And if not, what issues remain to be resolved if he is to meet his target of achieving agreement by 30th November 2016?

What assessment has the Minister made of the effect of greater private sector involvement in the market for social care on terms and conditions for staff of Family Nursing and Home Care following their new funding settlement?

### **Answer**

Further to the answers given to the Deputy's previous questions 9712 and 9681, my Department is continuing to work closely with Family Nursing & Home Care (FNHC) to finalise the funding for the delivery of services in 2017. Until agreement has been reached, I am unable to go into detail about the funding arrangements.

This is a complex issue and therefore discussions may extend beyond the 30th November target date. I would reiterate that FNHC continues to be a highly valued partner, particularly in the delivery of key out of hospital services.

As I have said previously, the arrangements FNHC puts in place regarding the terms and conditions of its staff following the new funding settlement are a matter for FNHC.

## **2.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING A GRANT FROM THE JERSEY INNOVATION FUND IN THE CASE OF THE LOGFILLER PROPOSAL: [9723]**

## **Question**

Will the Chief Minister release to Members the results of the analysis and information outlined in sections 11.2 and 11.3 of the report accompanying 'Jersey Innovation Fund, Establishment, Funding and Operation' (P.124/2012) relating to the decision to offer funding from the Jersey Innovation Fund in the case of the Logfiller proposal? And if not why not?

## **Answer**

Members will be aware that Grant Thornton was engaged, initially by the Department for Economic Development, Tourism, Sport and Culture but on the instructions of the Assistant Chief Minister, to take action to protect the States' interests in respect of Logfiller.

Following a forensic review of the loan, Grant Thornton was appointed to liquidate Logfiller. This process is ongoing, and as such it is not possible to release the requested information as it could prejudice the commercial interests of the States and other involved parties.

Once the liquidation process has been completed, consideration will be given to what information can be shared with Members. Members will note that the Jersey Innovation Fund is being reviewed externally by the Comptroller and Auditor General and internally by the Chief Minister's Department. Members will receive a copy of the Comptroller and Auditor General's report directly, and the Economic Affairs Scrutiny Panel will be briefed on the findings from the internal review.

## **2.4 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR SOCIAL SECURITY REGARDING DISABILITY CLAIMS UNDER THE INCOME SUPPORT SYSTEM: [9724]**

### **Question**

Could the Minister provide, in detail, the procedures and processes required to be followed for a successful disability claim under the Income Support system and explain what consideration is given in that context to the assessment made by an individual's own G.P. or Consultant?

### **Answer**

The Income Support scheme contains distinct impairment, or medical, components that can be paid in respect of illnesses or disabilities that have lasted, or are expected to last, longer than six months. The components can also be paid to people who are terminally ill. The medical components are designed to help people with illnesses and disabilities meet their additional costs. There are three kinds of medical component - personal care, mobility and clinical cost. An individual can qualify for one or more of these components depending on their needs.

When a household applies for Income Support, there is a section of the Income Support application form that deals with long-term illnesses and disabilities. If this section of the form is completed in respect of any member(s) of the household, the household will be sent a separate self-reporting form (or forms). These forms can also be supplied at any time to members of an existing Income Support household.

The form is primarily designed for the applicant, or family member applying on their behalf, to describe the ways in which their illness or disability affects their everyday life. They do this by selecting from a list of statements that are drawn from a detailed area of the Income Support legislation. The statements are written in plain English and cover the functional impairments caused by physical, sensory and mental illnesses and disabilities. The form also has space for the person completing it to supply contact details for the medical professional (or professionals) who can



provide an assessment of the person's diagnosis and current treatment or care plan. This will often be the person's General Practitioner (GP) in the first instance, but it could be a hospital consultant or other specialist. More than one professional can be included. This allows Income Support determining officers to contact named medical professionals to request information that would support the person's application for the medical components. In many cases, customers will supply this information themselves as part of their application.

Under the Income Support legislation, assessment for the award of the medical component must be completed by a determining officer of the Social Security Department, by considering all of the evidence available to them about the person's illness or disability. In considering this evidence the officer must decide the extent to which the applicant meets any of the specific descriptors contained in the Income Support Regulations. Evidence received from the person's GP or hospital consultant is matched against the statements that the person has chosen to describe the effects of their illness or disability.

In some situations there isn't sufficient evidence available from this process for the determining officer to make a decision. If that is the case the Income Support legislation also gives officers the power to request that the person applying for the medical component attend a medical assessment with a healthcare professional arranged by the Department – this is normally a doctor, a nurse or an occupational therapist.

## **2.5 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE ROLE OF THE JERSEY POLICE COMPLAINTS AUTHORITY IN OVERSEEING POLICE INVESTIGATIONS: [9725]**

### **Question**

Will the Minister fully explain the role of members of the Police Complaints Authority in overseeing police investigations and explain the nature and extent of that oversight?

### **Answer**

The role of the Jersey Police Complaints Authority in supervising investigations into complaints regarding the conduct of police officers is as set out in the Police (Complaints and Discipline) (Jersey) Law 1999, in particular Articles 9, 10, 11, 12 and 13 (States of Jersey Police Force), and 23, 24, 25 and 26 (Honorary Police).

## **2.6 DEPUTY M. R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING REPORTS PRODUCED BY THE STATES OF JERSEY POLICE FOLLOWING A COMPLAINT AGAINST ONE OR MORE OF ITS OFFICERS: [9726]**

### **Question**

Will the Minister explain why investigation reports produced by the States of Jersey Police into complaints made against one or more of its officers are not published to the complainant even in a redacted form?

Will she further state what rights complainants have when they consider such reports to be factually wrong or to contain unfair criticisms of them?

### **Answer**

The Police (Complaints and Discipline) (Jersey) Law 1999 does not include a provision which would entitle a complainant to receive a copy of the investigating officer's report.

Given the third party personal data and / or sensitive personal data potentially contained within an investigating officer's report, the information contained would not generally be disclosable in response to a subject access request made by the complainant under Article 7 of the Data Protection (Jersey) Law 2005, particularly if this was likely to prejudice the prevention, detection or investigation of a crime.

The Police (Complaints and Discipline) (Jersey) Law 1999 is currently under review and consideration will be given as to whether this aspect of the Law is in accordance with legislative frameworks elsewhere in the British Isles.

## **2.7 DEPUTY M.R. HIGGINS OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE HUMAN RIGHTS COMPLIANCE OF DÉGRÈVEMENT PROVISIONS: [9727]**

### **Question**

Will H.M. Attorney General explain whether *dégrèvement* is compliant with Jersey's Human Rights obligations and, if so, how?

### **Answer**

*Dégrèvement* is a procedure that concerns the realisation of security over immovable property. The *dégrèvement* procedure is provided for in the *Loi (1880) sur la propriété foncière*. Pursuant to this procedure, on the application of a secured creditor, the Royal Court may appoint two advocates for the purpose of conducting a *dégrèvement*. The procedure will usually result in the disposal of the debtor's immovable property by the creditor being confirmed as the 'tenant' of that property. Any surplus remaining after the disposal of the immovable property and satisfaction of the debts owed to the tenant and to any prior secured creditors will be retained by the tenant.

It is important to recognise that *dégrèvement* is one of a number of remedies that the Royal Court can grant, including *remise de biens* and *desastre*, having regard to the particular circumstances of the debtor and the hardship that might be caused to the debtor or the creditors in any particular case. Article 1 of Protocol 1 to the European Convention on Human Rights ("ECHR") (as incorporated into Jersey Law by the Human Rights (Jersey) Law 2000) provides a right to the peaceful enjoyment of possessions. However, this is a qualified right that may be interfered with to the extent that such interference is lawful and proportionate to a legitimate aim. As the rules applicable to the realisation of security and bankruptcy, including *dégrèvement*, are clear and provide adequate protection for debtors and creditors from unjustified interference with their rights, I am satisfied that they are compatible with Jersey's obligations under the European Convention on Human Rights.

Further, if a question arises in any case as to whether *dégrèvement* is human rights compliant, then Article 4 of the Human Rights (Jersey) Law 2000 would require the court to interpret the law in a convention compliant way to the extent that is possible.

## **2.8 DEPUTY M. R. HIGGINS OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE HUMAN RIGHTS COMPLIANCE OF REMISE DES BIENS PROVISIONS: [9728]**

### **Question**

Further to the answer given to my supplementary question following question 9489 on Remise des Biens on 14th June 2016, will H.M. Attorney General advise Members on the compatibility of Remise des Biens with Jersey's Human Rights obligations?

**Answer**

My answer to question 9489 on *remise des biens* explained that this is a form of insolvency remedy available to a person who is in debt and owns land in Jersey. As my answer explained, a *remise* is a discretionary remedy and is only ever granted on the application of a debtor. A *remise* can be a beneficial procedure for a debtor, because at the end of the process, if the *remise* is successful, then a debtor will be discharged from all his debts, including those of unsecured creditors who may of course not have been paid in full.

There is no reason of principle why the grant of a *remise* should not be compliant with the rights granted by the European Convention on Human Rights (the "ECHR"). Further, as the Royal Court has made clear in its decision in *Re Mickhael* [2010] JRC166A (see para 13(iv)), if a question arises in any case as to whether the customary and statutory law of *remise* is human rights compliant, then Article 4 of the Human Rights (Jersey) Law 2000 would require the court to interpret the law in a convention compliant way to the extent that is possible.

In view of this I am satisfied that the law with regard to *remise des biens* is compatible with the ECHR.

**2.9 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HOME AFFAIRS REGARDING THE DETENTION OF DOGS BY CUSTOMS OFFICERS: [9729]**

**Question**

Could the Minister advise how many incidences have occurred over the last 5 years concerning detention of certain breeds of dogs by customs officers?

What assessment has she made of whether customs officers are sufficiently resourced to deal with the specifics of such cases and the requirement to obtain an independent assessment to determine a dog's breed?

**Answer**

There has been one instance of a breed of dog listed in Schedule 1 of the Customs and Excise (Import and Export Control) (Jersey) Order 2006 being detained by officers from the Customs and Immigration Service in the last 5 years.

I am satisfied that the Jersey Customs and Immigration Service is sufficiently resourced to deal with such cases. I would point out, however, that officers in the Service are not trained or qualified to determine a dog's breed and as such have to rely on the advice of an independent person who is recognised as having the appropriate qualification. There are currently no appropriately qualified persons based in Jersey.

**2.10 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING COMPANIES HELD WITHIN THE PORTFOLIO OF JERSEY TELECOM: [9730]**

**Question**

Could the Minister, as the shareholder representative, advise how many companies are held within the portfolio of Jersey Telecom, what liability to the shareholder arises from those companies and

whether it is accepted practice for Jersey Telecom to operate such a portfolio under the Memorandum of Understanding between it and the Treasury and Resources Department?

**Answer**

All of the companies in the JT Group Limited portfolio (including details of their trading activities) are set out in Note 23 of the JT Group Annual Report and Financial Statements for the year ended 31st December 2015, which was circulated to all States' Members via email in advance of a presentation from JT Group Limited executives given to States' Members on 13th June 2016. A copy of that note is set out in Appendix 1.

The JT Group Annual Report and Financial Statements are published online and can be accessed here:

[https://www.jtglobal.com/Global/Website%20Assets/AnnualReview/Financial\\_Statement\\_2015\\_MR.pdf](https://www.jtglobal.com/Global/Website%20Assets/AnnualReview/Financial_Statement_2015_MR.pdf)

The portfolio is entirely in line with the Memorandum of Understanding between the Treasury & Resources Department and JT Group, as well as the basis on which the activities of what was the States of Jersey Telecommunications Board were incorporated into JT Group Limited on 1st January 2003.

For information, the structure broadly arises from three distinct decisions:

- a) JT Group's expansion into Guernsey;
- b) JT Group's purchase of the eKit business; and
- c) JT's purchase of the Worldstone / Corporate Communications business.

There are two additional Jersey incorporated subsidiaries not listed in the attached note, both of which are dormant and do not trade.

## Appendix 1

### JT Group Annual Report and Financial Statements for the year ended 31 December 2015 – Note 23

<b>Subsidiary undertaking</b>	<b>Place of incorporation</b>	<b>Trading/Non-trading</b>	<b>Principal activity</b>
JT (Jersey) Limited (100% directly owned)	Jersey, Channel Islands	Trading	Provision of telecommunication services
JT (Guernsey) Limited (100% directly owned)	Guernsey, Channel Islands	Trading	Provision of telecommunication services
Jersey Telecom UK Limited (100% directly owned)	United Kingdom	Non-trading	Holding company for eKit.com Inc
eKit.com Inc (100% indirectly owned through Jersey Telecom UK Limited)	United States	Trading	Low cost roaming solutions to business and other travellers
eKit.com Pty Ltd (100% indirectly owned through eKit.com Inc)	Australia	Trading	Low cost roaming solutions to business and other travellers
eKit.com UK Ltd (100% indirectly owned through eKit.com Inc)	United Kingdom	Trading	Low cost roaming solutions to business and other travellers
Corporate Communications (Holdings) Ltd (100% directly owned)	United Kingdom	Non-trading	Holding company for Corporate Communications (Holdings) Ltd group subsidiaries
Worldstone Group Ltd (100% indirectly owned through Corporate Communications (Holdings) Ltd)	United Kingdom	Trading	Provision of communications consultancy and outsourcing services
JT (Global) Limited (formerly Corporate Communications (Europe) Ltd ) (100% indirectly owned through Corporate Communications (Holdings) Ltd)	United Kingdom	Trading	Provision of communications consultancy and outsourcing service.
Worldstone, Inc (100% indirectly owned through Corporate Communications (Holdings) Ltd)	United States	Trading	Provision of communications consultancy and outsourcing services

## **2.11 THE DEPUTY OF ST. JOHN OF THE CHIEF MINISTER REGARDING THE IMPACT OF CONTROL OF HOUSING AND WORK LEGISLATION: [9731]**

### **Question**

What effect have (a) the reduction in housing qualifications from 20 to 10 years and (b) the introduction of the Control of Housing and Work (Jersey) Law 2012 had on (i) demand for housing, (ii) the Island's demographic profile and (iii) economic growth?

### **Answer**

The March 2011 census, which was undertaken following the reduction in the qualification period to 10 years,<sup>1</sup> showed a change in the decisions taken by people moving to Jersey, with more people who moved to the Island choosing to stay in the Island. This can be shown by comparing for the 2001 and 2011 censuses with reference to the number of people who arrived during the 10 years preceding the census and who remained resident at the time of the census. The censuses are published online at

<https://www.gov.je/Government/Census/Pages/Census.aspx>

and the Statistics Unit have underlying data tables which supports this.

It is not possible to say whether this change in behaviour between 1992 – 2001 and 2002 – 2011 was due to a reduction in housing qualifications; or a change in the profile of migration over the period, with more people coming from Eastern Europe; or changes in the external economic environment whereby more people remained in Jersey rather than moved away after the economic crisis of 2007 – 2008.

However, the strongest determinant was likely economic conditions, as net migration has traditionally followed economic performance, as illustrated by the below graphs of employment growth and net migration:

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<sup>1</sup> Table for reference:

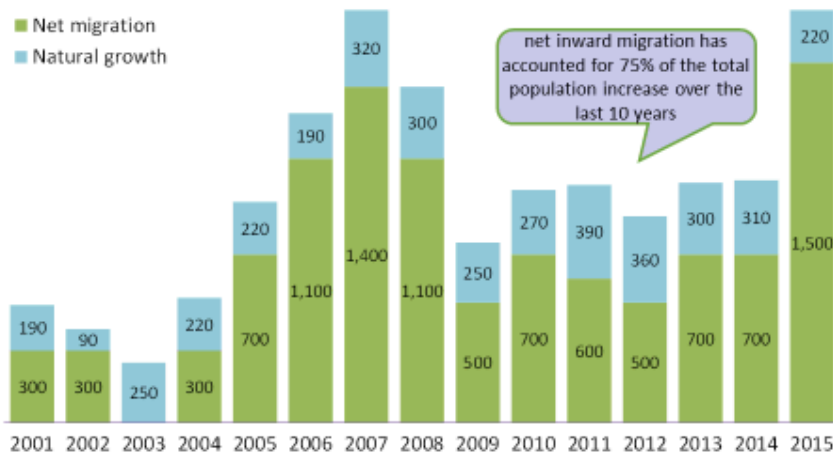
<b>HOUSING QUALIFICATION PERIOD</b>	<b>DATE AGREED BY STATES</b>
19 Years	18 January 2001
18 Years	14 February 2002
17 Years	18 November 2002
16 Years	24 June 2003
15 Years	9 December 2003
14 Years	17 May 2005
13 Years	2 May 2006
12 Years	25 April 2007
11 Years	13 May 2009
10 Years	1 December 2010

# Total Employment

Annual percentage changes in total employment: 1999-2015



## Change in resident population 2001 - 2015



Within this, it is reasonable to believe that the reduction in the housing qualification period *did* mean that some people stayed when they otherwise would have left, and that this has had some impact. In particular, each time a reduction was proposed by the Housing Committee or Housing Minister of the time, an outline of the number of people who may qualify was provided, with the final reduction to 10 years indicating that 300 - 500 people would likely qualify early as a result of the reduction to 10 years. Equally, it is important to be clear that the effect of housing qualifications in isolation was most likely about people staying longer, not on the total level of population in Jersey; and if they had left, to a substantial degree, they would have likely have been replaced by newcomers as businesses sought replacement staff. Assuming this is the case, this would have the following implications:

- (i) *Demand for housing* – people staying longer and obtaining their entitled status will place additional demand on the *qualified housing* market as they obtain access to this market; but it does not mean more people are in Jersey or that the overall demand on the housing market is greater (as people who leave are replaced by newcomers as businesses replace staff).
- (ii) *The island's demographic profile* - people staying longer will have an impact on our demographic profile as these people staying will be ageing. The impact of this on our demographic profile will not become evident for some time - with 64% of arrivals in the census period 2002 – 2011 being 35 or under.

As these people do age, however, it will add to our ageing demographic, most notably having an impact on the number of people in the age 65 – 69 age cohort by 2065 (see Jersey population projections, 2016 release:

<https://www.gov.je/Government/JerseyInFigures/Population/Pages/PopulationProjections.aspx>)

However, our established population is also ageing, and to place some context around this:

- At net nil migration, the over 65 population will increase from 16,700 in 2015 to 29,800 by 2065 (and at +325 migration to 32,600, and at +1,000 migration to 38,500).
  - Indeed, any migration scenario of less than +325 will see the workforce size also reducing over this period.
- (iii) *Economic growth* - businesses being able to retain staff with more knowledge and expertise of working in Jersey is likely to benefit economic growth, especially in relation to higher skilled staff staying longer.

It is also likely to reduce transactional costs on business, as the longer they retain staff, the less recruitment they have to process, and the less they have to invest in training new staff. Indeed, one of the reasons Jersey has been able to attract talent and business has been the relatively positive business environment.

As to the Control of Housing and Work Law, it is used in line with the current strategic plan objective to “secure migration which is targeted and delivers the greatest social and economic gain”.

In 2015, Jersey experienced record private sector employment of +1,900 workers, but we also experienced high levels of net migration of +1,200 workers as a result due to businesses being unable to source all their labour needs locally.

Within this, half of all new permanent registered permissions requested under the Control of Housing and Work Law were refused (460); and of those approved (458); most were in construction (153); financial services (94); and private health and education businesses (45). These were also the sectors where employment growth was strongest. As such, decisions taken under the Law are clearly correlated to employment growth, and as such, the nature and level of economic growth.



This strong economic growth and consequent net inward migration does impact on our housing position. The latest housing needs survey reported a shortfall of 1,600 homes over the next 3 years, assuming nothing gets built over that period and applying a net migration assumption of +1,000 over the next 3 years.

However, work is underway to further target and focus the Control of Housing and Work Law, and a large number of homes are under construction, or planned, including 1,000 from Andium Homes supported by public investment.

In addition, other government strategies are aimed at working toward a growth in housing supply in the context of a better town while preserving our countryside, including the growth of other social housing providers, the use of public lands to deliver homes, and the development of the Jersey International Finance Centre to provide better office space which creates opportunities for the conversion of commercial units elsewhere. This is all consistent with the overall housing strategy – more and better homes in better neighbourhoods.

As can be seen, these are complex and inter-related issues; ageing, our environment, our economy, housing, and net migration. This is why the Council of Ministers have supported the development of a long-term plan for Jersey, enabling a direction to be set which achieves the best overall outcomes for the Island, including measures to reduce future demand for new migration, for example, higher skills and educational performance, healthy life expectancy, and a more productive economy. This is about securing a good quality of life for Islanders into the future. The “MyJersey” Survey has been completed as part of this work, which will culminate in a new long-term plan in the summer of 2017, supported by a broad evidence base.

## **2.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE IMPACT OF BENEFIT CHANGES ON LOW INCOME FAMILIES: [9732]**

### **Question**

Does the Minister have a figure for the impact of the Income Support freeze of personal components along with the reduction of £10m from Income Support disregards and direct benefits equivalent to the figure recently reported in the U.K. by the Policy in Practice consultancy group which states that “just about managing” households would be £2,500 a year worse off by the end of the decade as a result of benefit cuts and rising rents and inflation, and if not will she state why?

Will she commit her Department to undertake research into the impact of benefit cuts on low-income families?

### **Answer**

The analysis undertaken by Policy in Practice seeks to forecast the likely impact on existing benefit claimants of a number of decisions taken by the U.K. government in respect of their benefit systems over the next four years. Any forecast over a four-year period will also need to make assumptions as to future levels of inflation, rents, wages etc.

As such, there is no direct comparison between Jersey and the analysis carried out by the U.K. Policy in Practice consultancy group, as the Jersey benefit system is completely separate and the two jurisdictions are subject to very different political pressures. For example, the U.K. analysis considers the impact of rising private sector rents, and includes the impact of a large number of families in temporary accommodation paid for by their local housing authority. In the U.K. Job

Seekers Allowance, Employment Support Allowance work related activity group and Income support rates, child benefit rates and housing benefit rates have all been frozen for the next four years. Other areas of the U.K. benefit system are subject to future reductions in eligibility or the value of allowances over the same period. All of these factors are included in the U.K. analysis.

Last year the States Assembly agreed to hold the benefit budget of the Social Security Department at its 2015 level throughout the Medium Term Financial Plan. My Department contributed to the MTFP by identifying measures over this period which result in a reduction of the 2019 benefit budget by £10 million, allowing the Council of Ministers to invest in the priority areas of health and education. Although investments in these areas benefit everybody living in Jersey the impact of investments in health and education areas will always provide the most significant benefit to low-income households.

The great majority of the benefit changes need to realise the total of total of £10 million have already been implemented. The agreed cash limits for 2017, 2018 and 2019 include an allocation of additional funding to increase overall tax funded benefit levels. The Department is already committed to annual increases in social rental components. In addition, an element of this funding is available to be applied to increasing other component levels or incentives or a combination of measures. Detailed options will be considered during 2017, taking account of the level of benefit claims and external factors at that time. For example, Brexit continues to create significant uncertainty in economic and labour markets and flexibility will need to be available to support any local downturn.

We remain committed to helping individual households towards financial independence by helping people into employment. Jersey has also continued to invest in social housing, improving both the quality and availability of homes for low-income families. It is in the interests of all households in Jersey, not just those on low incomes, for government finances to be sustainable. If benefit expenditure increases faster than our income from taxation, we will not be able to deliver a benefit system in its current form.

The Social Security Department provides detailed information on Income Support claimants through the Annual Report and will continue to monitor the levels of assistance it provides to tax funded benefit claimants, particularly when considering the value of potential increases to the components and incentives included within Income Support.

## **2.13 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING MINISTERIAL CONTROL OVER THE OPERATIONAL DECISIONS OF ANDIUM HOMES: [9733]**

### **Question**

Will the Minister inform Members what control she has, if any, over the operational decisions made by Andium Homes in terms of fixing targets for the provision of refurbished properties and new build affordable homes for rent or assisted purchase?

### **Answer**

The Minister for Housing has responsibility for the policy framework within which Andium Homes and the housing trusts carry out their business activities. The Minister is not responsible for operational matters relating to Andium Homes – these are matters for the Andium Homes board which is accountable to the Minister for Treasury and Resources for the decisions it makes.

This is in accordance with the principles adopted by the States Assembly in P.33/2013 *'The Reform of Social Housing,'* which stipulated that housing policy-setting, operational and regulatory functions should be separate from each other.

As such, the Andium Homes governing documents state that one of the company's objectives is to:-

*"Provide affordable housing, together with any associated facilities, amenities or services, which meet the policy objectives of the Minister for Housing and the Strategic Housing Unit."*

The Memorandum of Understanding ("MoU") between the Minister for Treasury and Resources and Andium Homes provides assurance that the organisation is accountable for the delivery of this particular objective. For example, in approving the Andium Homes Strategic Business Plan, the MoU outlines that it is the responsibility of the Minister for Treasury and Resources, as guarantor, to ensure that the Andium Homes strategy reflects the Minister for Housing's policy objectives and priorities, with this delivered in practice through engagement with the Minister for Housing.

This means that the Andium Homes Strategic Business Plan is closely aligned with the Housing Strategy and related strategic documents such as the Island Plan, which have guided the numbers, types and standard of housing and housing services that Andium Homes aim to deliver over the next five years – including more than 1,000 affordable homes; 300 homes for purchase; and delivery of the Decent Homes Standard on all its housing stock four years earlier than originally planned.

Work continues with the housing trusts to ensure that the objectives of the Housing Strategy are similarly reflected in their strategies and business plans.

The third principle approved by the Assembly in P.33/2013 was the introduction of a regulator to oversee the activities of Andium Homes and the housing trusts. The Minister for Housing is currently undertaking a consultation on the introduction of a regulatory framework and draft proposals will be brought forward in the first quarter of 2017, which may include revised contractual agreements with Andium Homes (such as the MoU) and the trusts to ensure that the Minister's policy objectives are delivered.

A regulatory framework will provide a clear statement of the housing policies that Andium Homes and the housing trusts need to meet – such as the standard of housing and housing services provided to tenants and use of the Housing Gateway – in addition to a performance monitoring and reporting system in order to ensure that these policies are delivered effectively. The regulatory framework will also cover financial management and governance arrangements to provide comfort that Andium Homes and the housing trusts remain financially robust and properly placed to continue with their plans for growth.

### **3. Oral Questions**

#### **3.1 Deputy S.Y. Mézec of St. Helier of the Minister for Housing regarding consideration of a policy to ban letting agent fees for tenants: [9739]**

Following the announcement of the U.K. (United Kingdom) Government in the Autumn Budget that it intends to ban letting agent fees for tenants, will the Minister consider implementing such a policy in Jersey?

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

I can be very brief: the answer is yes, we will be planning to review letting agency fees for tenants during 2017.

**Deputy S.Y. Mézec:**

That completely does away with my supplementary. I am grateful for that answer.

**The Bailiff:**

We come to the next question ...

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

Sir, there are some supplementaries.

**The Bailiff:**

All right. I did not think that any clarification was needed, but please do.

**3.1.1 Deputy M. Tadier:**

The first piece of clarification that is needed is: can the Minister give some information about what the review will entail? Will there be any consultancy or is it a policy that this Minister and the Government is actively seeking to pursue and introduce during this term of office?

**The Deputy of Trinity:**

Yes, as I said, it is something that we will review because we need a bit of clarity and also working with the Consumer Council who brought out a review on this back earlier in the year, I think. They raised 6 points that needed clarification. So nothing is ruled in and nothing is ruled out.

**3.1.2 Deputy M. Tadier:**

Would the Minister be able to give some clarification on what those other 6 points include and state whether it also includes charges that are levied by agents or landlords for renewals of contracts, which the Residential Tenancy Law interestingly says: "A tenant has the right to request a lease contract but the landlord has a right to charge for giving that contract."

**The Deputy of Trinity:**

I would like to make clear that the majority of letting agents and landlords operate in a professional manner and they do play an important role. The Consumer Council did highlight 6 areas and I have them there: lease drafting and renewal, agency introduction fee, credit check, agency holding fees, card charge and hearing fees. We will be working with that but, as I said, nothing is ruled in and nothing is ruled out.

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

I just seek clarification over the word "review". It is quite a wide term. It might mean many things. Is this a review with a view to action as necessary or is it a review so that we can park it in a report and put it on somebody's top shelf?

**The Deputy of Trinity:**

Top shelf. This is a review, as I said, nothing is ruled in and nothing is ruled out. But also if we have to make some changes I hope we can use the Residency Tenancy Law, which was used a little while ago to outlaw recharging of utilities.

[9:45]

Hopefully, if it does need change, and I am not saying it does or it does not, I think probably it does but I am not committing myself to anything, hopefully we can use this bit of law.

**3.1.4 Deputy G.P. Southern:**

Is the Minister aware of one particular agent who charges £200 for pressing a button on the computer to get a new version of the licence with the dates changed?

**The Deputy of Trinity:**

No, I am not. As I said, the majority of letting agents and landlords do operate in a professional manner.

**3.1.5 Deputy S.Y. Mézec:**

Just to confirm, I know the example Deputy Southern is talking about and it does happen in the Island. Included in this review that she has spoken of: will there be any consideration of a code of conduct, voluntary or otherwise, for letting agents and estate agents?

**The Deputy of Trinity:**

That is one possible outcome or, if necessary, hopefully we can use the Residential Tenancy Law.

**3.2 Deputy M.R. Higgins of St. Helier of the Chief Minister regarding the outcomes of the Access to Justice Review: [9742]**

Will the Chief Minister advise Members what tangible outcomes have come from the Access to Justice Review and, in particular, what assistance is being given to litigants in person as a result of the review?

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

The third interim report of the Access to Justice Review was presented to Members on 1st August this year. So far the review has covered a broad range of topics all of which are relevant to improving access to justice and has served as an important examination of these areas. The review has identified positive examples of work already being undertaken to improve access to justice, for example, by the Citizens Advice Bureau and the Jersey Legal Information Board. A simultaneous piece of work to review the rules of the Royal Court has also been undertaken and a review of administrative justice has produced a consultation paper with a final report due soon. The review has highlighted the benefits of mediation as an alternative means of resolving disputes and encourage those bodies who offer mediation to further promote their services to Islanders. The initial trend is encouraging with an increase in the take up of mediation services, particularly community mediation, which is offered by the Jersey Citizens Advice. The review's advisory panel has been made aware of some challenges that face litigants in person, for example, in obtaining court transcripts and has also sought reassurance as to how a litigant in person is supported when appearing in court. The review is ongoing and now has a focus on legal aid, affordability and the legal profession.

**3.2.1 Deputy M.R. Higgins:**

I thank the Minister for the answer. With regard to litigants in person, one of the biggest problems that they face is equality of arms. For example, if they are in litigation with a government department the government department is supported by Crown Advocates or the Law Officers and the litigant in person has to rely on their own means. Therefore there is a total imbalance in the scales of justice. What can the Assistant Minister tell us about how they are going to deal with this inequality of arms?

**Senator P.F. Routier:**

If a litigant in person chooses to represent themselves within the court I am aware that the courts themselves, across all of the courts, do help to do their best to ensure that the litigant in person is able to put their case effectively. I know that the judges do go out of their way to ensure that they do hear the evidence that is required. So I have been reassured by that fact when I have spoken to the judges.

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

One of the problems that litigants in person face is not only the fact that they have to stand in the court themselves and argue their case, although sometimes there is an *amicus curiae*, one of the main problems is the compilation of the evidence and preparing all the papers that need to be put before the court. What assistance is going to be given in that way? For example, is there any way of the court providing some paralegal assistance or the state to do that so that there is this balance between the state and the individual?

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

One of the things I have been really encouraged by in carrying out this review is the use of mediation, trying to avoid going to court. We have been encouraged that a number of people are following that course right now. With regard to additional support being given to somebody who does use the court process, I believe that is something which we can include within our review as a suggestion, but if the Deputy would like to make a representation to our panel I would be very welcome to hear those views.

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

I thank the Assistant Minister for his invitation, I will. On this particular issue I feel very strongly about it because there are many people who have been let down by the legal system. I am afraid the legal aid system ...

### **The Bailiff:**

Question.

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

Sorry, a question.

### **The Bailiff:**

Not a speech.

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

I am trying to put it in context here. So many people are suffering because the legal aid system is not helping them. Can I ask the Assistant Minister what is being done about the legal aid system itself and giving people proper access to it?

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

As the Deputy will be aware from the most recent interim report, which was published, the review of legal aid is ongoing. We are having discussions with the Law Society about how they are progressing with their own review and we will be awaiting the outcome of those discussions.

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

Can the Assistant Minister tell us when the Law Society review will be finished because it could take years? People are being failed by the system.

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

We have had some initial thoughts from the legal profession and we are due to have more meetings with them in the next month or so. It is anticipated that our work will be finished in July of this coming year and within that there will be the proposals on the legal aid.

### **3.3 Deputy J.M. Maçon of St. Saviour of the Minister for Economic Development, Tourism, Sport and Culture regarding the contract with condor Ferries: [9734]**

Will the Minister activate the break clause in the contract with Condor Ferries and put the operation of the ferry route out to tender, and, if so, when; and if not, why not?

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

I assume the Deputy is referring to the option contained within clause 6 of the current operating agreement. Clause 6 contains the option to activate a 3-year wind down on the 7th anniversary of the commencement date within which time the States would have to identify a replacement operator. While there have been operational difficulties with car and passenger services following the introduction of Condor Liberation, our lifeline freight services on which we all heavily rely, have continued to operate at almost 100 per cent reliability. It is perhaps worth mentioning to Members Condor's freight operated without a single breach of service during the recent storm, for which credit is due. The recently published comprehensive service review establishes a basis by which additional capital investment by the operator - and I stress "by the operator" - could be made. The Deputy asked me why not, and that is because I am committed and remain committed to working with Condor and our colleagues in Guernsey to secure a long-term sustainable and commercially viable car passenger and freight service to and from the Island.

#### **3.3.1 Deputy J.M. Maçon:**

We have seen in the headlines that the possible introduction of subsidies on the ferry route might be a way forward in order to secure the sustainability of the ferry. Can the Minister please outline his position on subsidising the ferry route service?

**Senator L.J. Farnham:**

I think that is one of the problems with giving too much attention to headlines. The headlines are not always representative of the actual facts. I have distributed the comprehensive service review, a copy to all Members, and there is a meeting next Tuesday afternoon with the Chief Executive Officer of Condor to answer any questions. There are no plans for subsidies and my position at this moment in time, and is likely to remain during my tenure, is: I would not be supportive in any way shape or form of offering a subsidy to Condor.

### **3.4. Deputy K.C. Lewis of St. Saviour of Minister for Education regarding student loans, student grants and other assistance for people in higher education: [9741]**

Will the Minister update the Assembly on what progress, if any, has been made regarding the provision of student loans, student grants or any other form of assistance provided to people in higher education?

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

Thank you to the Deputy for allowing me to bring Members up to speed on where we are with this issue. An additional £600,000 will be added to the higher education budget for 2017 to increase the maintenance grant and threshold levels from September next year. That means more students will receive more funding help from the States. Next week our officers and others from Guernsey and the Isle of Man are having a joint meeting at the U.K. Department of Business, Innovation and Skills to discuss higher education issues. A meeting has also been arranged with a representative of the student loan company to discuss possibilities for extending the scheme to Jersey students. We continue to work on the Campus Jersey concept providing more degrees on Island, and we also recently visited Caen University, increasing our links with a view to making it a real, viable

alternative to Jersey students, not least because the degree tuition is free. I also welcome a Scrutiny review in this area.

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

I thank the Minister for his reply. The £600,000 is very good news, indeed. There was a problem a while ago with local families applying for student loans in the U.K., some actually receiving them. Could the Minister inform the Assembly whether these loans are safe or do they have to be repaid immediately?

#### **Deputy R.G. Bryans:**

In relation to the loans: at the time when this first became an issue we wrote to all parents to say not to accept these loans because we felt they were in breach or could breach the requirements of the Student Loan Company. Some people chose to ignore that situation and took out those loans. At a further juncture the Students Loan Company then realised the mistake that had happened and began to ask for those loans back. We then said to anybody who had been in that situation to come back and discuss with us to see if there was anything we could particularly do for them at that point in time. We only had one family at that point come back to us.

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

The Minister mentioned the possibility of courses at Caen University because they are free. Has he taken into effect a possible Brexit, and what effect that might have on those free courses?

#### **Deputy R.G. Bryans:**

Yes, we have. Thank you very much for the question. We asked that question of them and they seemed very surprised that we were even concerned about it because they take in a huge intake of international students right across the board. The prospect of Brexit means there are potential changes in opportunities for Jersey. Members may not be aware but the U.K. Student Loan Company have said that from September 2018 students from Europe will no longer be eligible for the loans. So we would be asking whether there is now scope for the Jersey students to join. One suggestion is for the States of Jersey to underwrite loans for our students by paying in the money we spend on higher education annually instead of having a Jersey-based grant system.

#### **3.4.3 Deputy J.M. Maçon:**

The Minister mentioned a series of meetings and of course you will be aware that the Scrutiny Panel is doing a review into higher education as well. Will the Minister give an undertaking to make available to Scrutiny the minutes of those meetings as and when they get them?

#### **Deputy R.G. Bryans:**

Of course we will.

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

It is extremely sad that I have heard recently in the British Isles at the moment parents are absolutely convinced that their children will not be better off than they are. This is the first time this has happened since the war; that the children will not be better off than the parents. They need all the assistance they can get. My final supplementary: in his negotiations will the Minister also be discussing the status of Jersey students regarding local or overseas or national status?

#### **Deputy R.G. Bryans:**

Our status remains the same except for 3 universities, which is Cambridge and Imperial; I cannot remember the third one now.

[10:00]



We are having discussions with Cambridge in the next month, I believe. Every other university has now accepted the fact that we are a U.K. student, so there are not any problems in those areas.

**The Bailiff:**

Deputy Southern, as Senator Ozouf is due to arrive back in the Island at 10.30 I propose to take the question, which I think he was going to answer, after questions without notice.

**3.5 Deputy T.A. Vallois of St. John of the Minister for Education regarding nursery education funding: [9738]**

Following approval of the amendment to the Medium Term Financial Plan Addition regarding nursery education funding, will the Minister advise what the position with nursery education funding will be from next year and what effect changes introduced under the M.T.F.P. (Medium Term Financial Plan) have had on the early years partnership agreement?

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

Members will have seen the news release that we put out just yesterday saying that we are intending to postpone, so just to give some background to that. Since the M.T.F.P. debate, discussions have been taking place in the department and with members of the early years' community including owners of private nurseries. The conclusion has been made that more time is needed before implementing means testing, so it has been delayed until September 2018. This means that the system will remain the same for the next academic year. It was important that we put this out, rather like we did with the original discussions in the nursery education funding because we wanted to make parents fully aware of the situation as early as possible. Registration begins in January, so we decided to put it out just yesterday. Minor amendments have been made to the partnership agreement following suggestions from nursery owners. The changes included removal of out-of-date terminology but overall the agreement remains largely the same. Means testing has no real impact on the content of the contract, which exists to set up the terms under which nurseries receive the money from the Education Department.

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

Would the Minister be able to advise then what is happening with regards to the funding within his department if it is staying the same for the next academic year? How he is funding that money if it is no longer being means tested.

**Deputy R.G. Bryans:**

Sorry, I just missed the last part.

**The Deputy of St. John:**

If means testing is not going ahead for the next academic year, how is the department funding that? Where is that money coming from?

**Deputy R.G. Bryans:**

We have had discussions with the Treasury. Obviously the money will have to come from somewhere else, so we looked across the board. We have discussed it with the Minister for Treasury and Resources and we have discussed it with the Treasurer and indicated to them that we can accommodate it for the moment.

**3.5.2 Deputy S.Y. Mézec:**

The Minister said that this likely will not go ahead until September 2018 when of course there may well be a new Government with different priorities in place at that point, so does he therefore concede that it is possible that this simply may not go ahead at all?

**Deputy R.G. Bryans:**

No, I do not. Not at this point in time. The Assembly did vote on this quite some time ago. The problem we had, and was accepted by the Assembly, was that the funding for the Nursery Education Fund was under threat because there were so many new applicants for this fund; so St. Michael's is an example, and St. George's, in which case it was unsustainable. So the concept of means testing was accepted. Our problem has been that it is extremely complicated so we wanted to make sure that everybody was aware of what we needed to do, hence the reason for postponing it.

**3.5.3 Deputy M. Tadier:**

Just to clarify, I thought that this Assembly asked the Minister to go away and introduce means testing in this regard. It was the Minister who brought the overall package to do with nursery funding to the Assembly. Is it not right that the Minister should abide by the Assembly's decision even if he and the department do not necessarily like it?

**Deputy R.G. Bryans:**

I think in the last answer I have just given that is the indication I have just given; is that we will continue down the route of means testing. Our problem is that when the Assembly then said it should be across all schools or state schools that complicated the matter. It is that complication that we have to address.

**3.5.4 Deputy M. Tadier:**

Perhaps the Minister can elucidate further because again that was the will of the Assembly. The Assembly said if we are going to means test and do it across all schools, and that is something that surely the Minister should be able to reconcile because that is the will of the Assembly. If it was not possible to means test across all sectors then the Minister should never have let that go to the floor of the Assembly for debate. Is that not the case?

**Deputy R.G. Bryans:**

No, the situation is quite simple. The Assembly decided to means test across all nurseries, whether it be private or state nurseries. What we want to do is make sure that we get it absolutely right before we go out there.

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

Can I ask the Minister with regards to the early years partnership agreement is it not the fact that it was agreed at the time when this means testing was happening earlier this year, and that there are issues with regards to whether it is play-based or educational-based nursery provision? That parental choice it should be the matter of fact and that negotiations should continue with regards to revising the partnership agreement?

**Deputy R.G. Bryans:**

The discussion is still going on in that particular area. I will just indicate that this has not been ratified but indicates another direction of travel and should hopefully answer to some degree what the Deputy is asking. This has been agreed at the moment with all partners but the actual ratification has not happened yet. The Education Department and Nursery Education Fund providers are committed to working together to improve outcomes for children and families. By

working in partnership it is the aim of the Nursery Education Fund to enable the department and nurseries to deliver high quality preschool education to prepare children for school.

### **3.6 Deputy G.P. Southern of the Minister for Social Security regarding consideration of measures to assist Jersey's 'Just about managing' working households: [9736]**

What measures, if any, is the Minister considering to assist Jersey's "Just about managing" working households that would be equivalent to the U.K. Chancellor's decisions to allow those on universal credit to keep an additional 2p in the pound of their earnings and to raise the national living wage to £7.50; and, if none, why is she not considering such measures?

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

As Deputy Chairman of the Health and Social Security Scrutiny Panel, the Deputy will already be aware of my commitment in respect of work incentives within the income support system. For the benefit of other members, I will quote from my recent formal response to the Scrutiny review of living on a low income: "The cash limit available for 2017 for income support does allow for some improvements in component levels and work incentives. Previous Ministers have increased the work incentives from the original 6 per cent to the current level of 23 per cent. This level will be considered again during 2017 and the suggestions provided by the panel will be included in those deliberations. It is too soon to say how the additional budget available in 2017 will be allocated but I can certainly confirm that I will be very keen to improve our incentive levels if at all possible." The second half of the question refers to a national living wage. As Members will be aware, Jersey does not have a national living wage. This is a U.K. concept that applies to workers aged 25 and above. Jersey has one minimum wage that applies to all age groups. We will be debating the value of the minimum wage later in this session.

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

Will the Minister also consider unfreezing the living components of income support in order that all people in receipt of income support should be able to survive?

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

It was agreed in the Medium Term Financial Plan that the income support benefits would be frozen for 3 years up until 2017. As I have said, in my first answer to the Deputy, that the support for income support clients will be reviewed and we will either increase incentives or benefits, and that will happen in 2017.

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

The Minister has talked about steps such as increasing the disregard for earned income from 6 to 23 per cent, which is a laudable step to take, but nonetheless it masks the problem of low paid work and simply increases the subsidy to low paid workers and gives no incentive for employers to pay a living wage. Does the Minister accept that a significantly higher minimum wage or something moving towards a living wage is going to get rid of the need for the taxpayer to subsidise low paid work, and that it is better for everybody to make sure that work pays in the long run?

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

I think I have made it clear in many answers that I have given to the Deputy that the Social Security Department; the height of their principles is to get people back into work, hence the increase in the disregard to encourage people to do that. It means now that they keep 23 per cent, either 23p in every pound that they earn is disregarded. We wish to keep that incentive going to get people back into work, which we know is far better all round, inasmuch it is not just financial. It is from a self-esteem and a social point of view as well.

### **3.6.3 Deputy S.Y. Mézec:**

Deputy Southern's question refers to working households. If you are a household where both people are working you do not need an incentive to go to work because you are already in work. So the question is about what is being done to assist those families, many of whom are struggling and who are not earning enough to make ends meet. So on that basis what consideration is she prepared to give to looking at what the aims of the national living wage are in the U.K., which is to raise what has essentially become their minimum wage to a much higher level so people can get by on it. It is about people in work not those out of work. What are her plans?

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

I am sure this will be discussed at length in the debate on the minimum wage. The national living wage I must remind the Assembly and public, is only available to those over 25. The minimum wage in Jersey is available to all of those over 16 so it caters for a much larger branch of the population.

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

Will the Minister consider the introduction of a fresh disregard for earnings for the second worker in the family because at the moment the disregard is eaten up by one person's earnings? If the second person wishes to go to work there is no disregard and therefore very little incentive to work because every penny you earn will get taken away off your income support.

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

The whole review will be put into force by October next year when we have the wherewithal to increase the income support benefits but we do not know yet in which way that will be done. I would hope it would be an increase in the incentive but it is very difficult to say in a year's time what will be the demands on other parts of the income support.

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

Will she give consideration to the second earner?

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

We will give consideration across the board.

## **3.7 Deputy M.R. Higgins of the Chief Minister regarding complaints from the public considered by the States Employment Board: [9743]**

Will the Chief Minister advise Members how many complaints from members of the public, if any, are currently being heard by the States Employment Board and summarise the nature of those complaints?

### **Senator A.K.F. Green (Assistant Chief Minister - rapporteur):**

The States Employment Board is currently dealing with one complaint from a member of the public. It is a matter of potential litigation hence it is not appropriate to make further comment.

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

Can the Assistant Chief Minister tell the Assembly how many complaints have not formally got on to the agenda but have been delayed? In other words, not formally been recorded by the States Employment Board. I, on behalf of one constituent, have forwarded a complaint and it was delayed. In fact at one point it was suspected that a lawyer may be involved and it was delayed even further. Now that a lawyer is not involved, I have spoken with the chief executive and it has

still not been dealt with. Can the Assistant Chief Minister tell us how many people are waiting to get on the complaints list?

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

I cannot, but what I can say it is very rare. There is not a “waiting” list as such. What happens is that departments deal with their own complaints. It is only when things go terribly wrong or there is a failure to agree that it might ... if it involves a member of staff might end up with the States Employment Board.

**3.7.2 Deputy M.R. Higgins:**

Will the Assistant Chief Minister agree to perhaps creating a complaints register so it is online so the people can see how many complaints are being heard either by the States Employment Board or by any department in which the public have made complaints by?

[10:15]

So we can see how long it takes for the departments to deal with those complaints.

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

The States Employment Board, as I said, get very few complaints. They are a board that deal with employment matters. Departments do get complaints from time to time and some of them are of an extremely sensitive and personal nature, particularly when you are talking about social services and social security or health, or even education. So it would not be appropriate to start publishing people’s details on a register; so the answer is no.

**3.8 Deputy J.M. Maçon of the Minister for Environment regarding the masterplan for five Oaks: [9737]**

Will the Minister explain what action, if any, he or his department have taken regarding the masterplan for Five Oaks that was proposed in the Island Plan 2011?

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

Since the adoption of the Island Plan 2011 neither the former Minister, myself, nor my department have undertaken any action to progress the proposal to develop supplementary planning guidance for Five Oaks. It is unfortunate but the progression of proposals set out in the Island Plan are dependent very much on the availability of resources during the 10-year period of that plan. Since the adoption in 2011 the limited resources of the planning policy team in my department have been prioritised on other work, including the delivery of affordable homes, the regeneration of St. Helier, and the revision and development of other new supplementary planning guidance to support the objectives of the plan.

**3.8.1 Deputy J.M. Maçon:**

It comes as no great surprise that St. Saviour once again is put as a bottom priority or no priority, as the case may be. Can I ask the Minister: will he be honest with the Assembly then, given the restrictions and just say that within the period of this Island Plan that Five Oaks will not be receiving a masterplan, then at least we know where we stand?

**The Deputy of St. Martin:**

I will always be honest with Members. I can say to the Deputy that resources are also currently involved in the masterplan of St. Helier, the revision of planning guidance for planning obligation agreements on space standards for new homes, parking standards among others. We continue to work on Future St. Helier project and other strategic priorities and we have given a commitment to

do some work in St. Brelade's Bay. Planning guidance is usually developed to address specific planning challenges and issues. I am always happy to listen to any Members, especially Deputy Maçon, to get a better understanding of his thoughts about the Five Oaks area. But I would say to him, I drive through the area at least twice every day. I am fully aware of the importance of green open spaces and I would hope he would appreciate my views through my work with the Future St. Helier. I am aware that this proposal came about probably because more open space was wanted to be safeguarded in the Five Oaks area, but I would say to him it is always in my thoughts and I have raised this issue with officers before. I will always safeguard open spaces.

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

I am surprised that the Minister is confusing supplementary planning guidance with a masterplan. I did not think there was that similarity. However, does the Minister have a list of the masterplans and the local development plans that were in the Island Plan so that he can have a proper schedule of works set up and then we can all find out when our various local development plans or masterplans are going to appear?

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

I would just repeat to the Senator, as I said just now, planning guidance and work on masterplan, any work in the Planning Policy Department is done as specific challenges arise, and sometimes very specific challenges arise during the course of a plan which have to override others. We will, and I will, prioritise my work as I see fit. Certainly the Senator has raised the issue of St. Brelade, and that has been brought up the agenda and is something we have committed to do during this Island Plan. I fully understand, as the Senator would expect, the difference between supplementary planning guidance and masterplanning, but it is all work that comes out of the Planning Policy Department. In some cases an S.P.G. (supplementary planning guidance) update may be more important than work on a masterplan.

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

Perhaps the Minister would be prepared to put resources into the policy and the planning guidance and masterplans and adjust his budget because, as we speak, there are houses all over St. Brelade's Bay being knocked down and reconstituted. Will he consider speeding up the plan of putting in planning guidance and masterplans and so forth?

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

Certainly I am happy to assure the Senator I will look at how I might reprioritise that work within my department. But I can only say again that as important matters come to light we have to address them. Recently we have been told by one of our inspectors that our parking standards are not good enough and that is quite clear that there is work there that had to be done. That has been raised up the agenda again. Certainly I will look at the priorities.

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

Does the Minister not agree that with relatively little money urban areas could be improved, street furniture, tree-lined avenues, open spaces, because there are many areas like Five Oaks, Georgetown and, as I say, urban areas that could be improved with relatively little money or resources from his department? Could he not see to it to comply with the Island Plan in some regard and areas could be improved like that?

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

Certainly I agree that relatively small amounts of money can make vast differences to areas. The Future St. Helier project is St. Helier not a Parish - St. Helier a town - and it encompasses areas like Five Oaks, Georgetown, as far out as First Tower, and I can assure the Deputy that as money

becomes available to the Future St. Helier project we will look not only at the regeneration of the heart of St. Helier but at other areas outside where we can make them more pleasant and interesting for people to be.

### **3.8.5 The Deputy of Grouville:**

Would it not make sense to be working with the Parishes now so they can have some input rather than just be part of the St. Helier sprawl? Once you have done St. Helier you then get on to the outlying areas. The Constables of the Parishes and Parish representatives could be working on ideas for his department now.

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

Certainly if any Member of the Assembly wants to come and speak to me about how their particular constituency might be improved I am happy to see them and happy to help them where possible. I work as close as I can with the Minister for Infrastructure and I know that he has had a number of village schemes over the years which have been hugely successful in trying to green up areas and make them more pleasant, and I welcome any initiatives by Deputies or Constables, Senators, that can improve the Island.

### **3.8.6 Deputy J.M. Maçon:**

Given that over the next few years, given the priorities the Minister has outlined, the fact that 2018-2019 will be seeing the development of a new Island Plan, as this one expires in 2021, given that context, is it not fair to say that despite the promises of what might go into St. Helier and the outlying areas, the fact of the matter is St. Saviour will remain a poor relation from this Government and the States Assembly and simply will not be receiving the type of support the Minister has indicated? That simply this masterplan will not be produced during the lifetime of this plan.

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

It is disappointing that the Deputy has not raised this issue with me. I have been Minister nearly 2 years now. If he feels strongly about making St. Saviour and parts of Five Oaks more heavily safeguarded he could quite easily have raised that with me. But what I will say to him is this: I have said to officers at my department more than once in the 2 years that I have been Minister that there are fields in the Five Oaks area that I will be looking to put additional safeguards on in the next Island Plan. I am looking at the Senator of St. Brelade. There are fields in St. Brelade as well. Indeed I drive round the Island and think to myself, as I drive through St. John; there is another one there. There are fields all over this Island that need to have additional safeguards placed on them because they are green open areas which the public have got used to enjoying and they need to be safeguarded even more strongly than they are currently.

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

### **The Bailiff:**

We come to Questions to Ministers without notice. The first period is for the Minister for Home Affairs.

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

Further to my written question, could the Minister advise whether there are checks on animals or specifically dogs coming into the Island from the U.K., and it is not only just from France?

### **Deputy K.L. Moore of St. Peter (The Minister for Home Affairs):**

Under the Pet Passport scheme it is only from France that dogs are checked by officers of the Environment Department but what I can say is that it is every owners' responsibility, and indeed we agreed in the recent amendment to the Dogs Law earlier this year, that it is the owner's responsibility to licence the dog through their Parish Hall and also, as I mention it, to pay G.S.T. (Goods and Services Tax) on importation of that dog if they bring it in from another place.

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

Does the Minister not believe that in this day and age, and with moving forward, especially being in Jersey, that with regards to the specific legislation of Customs and Excise (Import and Export Control) (Jersey) Order 2006 that we should be determining dogs being brought into the Island based on their behaviour and not just because they are a particular breed?

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

This is an area of much debate and consideration, indeed the R.S.P.C.A. (Royal Society for the Prevention of Cruelty to Animals) have written a lengthy paper about breed specific legislation. It would be a matter for the Assembly to decide upon. At the moment we operate under the legislation that we have in this Island, which is appropriate and fit for purpose.

#### **4.2 Deputy J.M. Maçon:**

Following some correspondence received by an Islander last Friday looking at improvements or modernising various laws with regard to speed detection in the Island, can the Minister confirm or otherwise whether she has had discussions with her counterpart at the Department of Infrastructure and whether they will be launching a review together in this legislation to modernise the law, in order to allow for new technology to be incorporated within speed detection laws?

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

This is an area of great interest. I believe particularly in the Parishes and I think there might have been a vote in Grouville last night. **[Aside]** I apologise, it is tomorrow night on this issue. The Minister for Infrastructure and his department have been running a series of workshops over the past year, I believe, which I have attempted to attend, and my department and I are very happy to work with the Minister and the department.

#### **4.2.1 Deputy J.M. Maçon:**

Specifically on the matter I raised about incorporating new technology into the law, has that matter been specifically discussed and if not will the Minister have that conversation with the department?

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

I believe it is a matter for the Minister for Infrastructure.

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

Will the Minister update the Assembly on the status of the Operation Blast files please?

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

I believe that those files were destroyed some time ago.

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

May I ask who authorised the destruction of the secret files on States Members?

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

This goes back way beyond my time and I have discussed this matter with the Deputy in the past, and would be happy to do so offline if he wishes to once again.



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

I was going to ask a different question but I am intrigued by that last response. Could the Minister seek to find that information and bring it back to the House? It is not only of interest to Members, I would suggest that there is an inherent public interest in the Operation Blast files, how they came about and then how they were subsequently destroyed. If we cannot have faith in our public elected agents to act openly and freely without States surveillance and then know about what files were kept and then subsequently destroyed on whose authority, then it has massive questions to answer for democracy. Does the Minister not agree that it is a significant area of public interest and will she make an undertaking to provide the information that the Deputy has sought; not just privately but in the public domain?

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

I would be happy to do so. As I said, this is an historic case which occurred long before my time in the department.

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

Can I ask the Minister if she could explain the process used by the Police Complaints Authority in investigating complaints against the police and whether she believes it is adequate?

[10:30]

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

As pointed out in the written question provided to the Deputy, this process is outlined in the law, and I believe it is quite clear. As mentioned also in the written answer, we are looking at the Police Complaints Authority and whether there is any need to modernise its processes currently.

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

The Minister says “looking at it”. Is there any possibility of an independent Police Complaints Authority being established so the complaints are not being investigated by the professional standards section of the police force but by officers from outside or individuals from outside so it is a truly independent investigation?

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

The Police Complaints Authority are independent members of the public who carry out very important work on behalf of the public on a voluntary basis.

#### **4.6 Deputy A.D. Lewis of St. Helier:**

I wonder if the Minister could update us on the future use of the current States of Jersey Police site at Rouge Bouillon and can she confirm that she has committed to working with the Parish of St. Helier, Property Holdings and most importantly Education to maximise the opportunity for the future use of the site.

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

It will be a point of great interest to me, going forward, as to the use of Rouge Bouillon but without meaning to be difficult I would have to refer this to the Minister for Infrastructure who ... the use of our property portfolio sits within his brief. I would be happy to work with that Minister and we have already had some initial conversation.

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

Would the Minister support the use of this site for community use, education use and general wellbeing of the people that live in the area?

**The Deputy of St. Peter:**

I think that answer would be for the Minister for Infrastructure to answer.

**4.7 Senator S.C. Ferguson:**

When the Minister has her review and updating of the complaints procedure would she make sure that letters saying that the complaint has no veracity are not sent out signed by the officer who the complaint was made against? I have seen these.

**The Deputy of St. Peter:**

This is not something that I have any knowledge of. As I said, the Police Complaints Authority is an independent body who work independently.

**4.7.1 Senator S.C. Ferguson:**

If she would make sure that letters saying there was nothing to do, the complaint was not valid, which is sent out by the Professional Standards Department and is signed by the officer against who the complaint was made, will she just make sure that does not happen anymore?

**The Deputy of St. Peter:**

I would be happy to discuss with the chairman of the Police Complaints Authority.

**4.8 Deputy M. Tadier:**

Could the Minister tell the Assembly how many emails or calls she has had in relation to the ongoing situation with Mr. Bronx and will she be making a statement any time soon on that issue?

**The Deputy of St. Peter:**

I have had a great deal of communication from members of the public on this subject. I am very grateful to the majority of those members of the public who have been extremely polite and helpful in their correspondence. It is always good to engage. Just yesterday a statement was sent out on behalf of the Assistant Minister to communicate that the department is considering this specific case because it is a matter or a decision for the Assistant Minister to take as she has delegated responsibility for customs and immigration and this decision now relies upon the Customs and Excise Law 1991. What I can say is that officers are working very hard to ensure that an answer is decided upon, upon proper advice, within a very expedient timeframe.

**4.8.1 Deputy M. Tadier:**

Supplementary, if I may. Does the Minister accept that we are far from an ideal situation not just in this case but generally with the law where we have a situation where a dog, which is probably not a dangerous dog, can be brought in to the Island as a puppy with nobody saying that is wrong or incorrect. Then it can be registered at a vet's without anything being picked up to suggest that it is a dangerous dog, then for the couple to take the dog away to France only to find that when they try to come back to Jersey with the same dog they are told: "We think that there might be a chance that this is a dangerous dog" but nonetheless they are allowed to go home with their dog that is 4 to 5 months old. Of course we know that there is no requirement to register a dog with the Parish Hall until 6 months of age so it has not been picked up there and in the meantime you have effectively a loved family member, albeit of the canine variety, and the family and children put in this very difficult situation where they cannot enjoy their human rights under Article 8 to the enjoyment of privacy of family life let alone to do with enjoyment of their possessions, not that I would call a dog a possession in the sentimental sense, but legally speaking, it may be. So it is a very complex area. Does the Minister think that for the sake of not just this family but for dog lovers all over the Island that some action needs to be taken to resolve this ever happening again?

**The Deputy of St. Peter:**

I am grateful for the wide-ranging question there. Firstly, I would say as a dog owner myself and a parent I fully understand the sensitivities around this issue. I do not however wish to be drawn on one specific case. The Deputy has helpfully asked a question about the state of our legislation in the Island as it stands. There are a couple of points to make if I may. Firstly, that in my answer to the Deputy of St. John earlier I referred back to the Dogs Law that we amended recently which places the responsibility on the owner to licence the dog through the Parish Hall. Secondly, yes, that is right, at 6 months, and that is allied to the point about the timing of that licensing, is that it is my understanding that it is not possible to positively identify some specific breeds of dogs until they reach at least 8 months of age and so that also poses some, perhaps, level of difficulty in identifying certain breeds at specific times when they are young.

**4.9 Deputy M.R. Higgins:**

Is the Minister aware that certainly on one occasion, and I suspect many others, the States of Jersey Police have not reported to the Police Complaints Authority that they have received a complaint but they should have? It has recently come out in correspondence.

**The Deputy of St. Peter:**

That is not correspondence that I have any recollection of seeing and perhaps I would be grateful to the Deputy if he could supply me with further information so that I can make enquiries.

**Deputy M.R. Higgins:**

I shall provide the information.

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

Further to the seminar that was held with regards to domestic abuse, which I thank the Minister for inviting the Scrutiny chair along to, it was an extremely good seminar, could the Minister advise ... at that seminar we were asked 3 specific things that we thought may assist in improving our system to protect individuals. What 3 things did the Minister take away with regards to what we could do to move forward?

**The Deputy of St. Peter:**

I thank the Deputy for her question and also for her attendances at what was a really inspiring conference. To state 3 specific things is quite a challenge because it was a wide-ranging conference. I think we are making great progress in this area, particularly as the Assembly agreed earlier in the year to ...

**5. Questions to Ministers without notice - The Minister for Treasury and Resources****The Bailiff:**

Well done, Minister, you have managed to talk it out. We now come to the second part of question time which is for the Minister for Treasury and Resources.

**5.1 Deputy A.D. Lewis:**

Unfortunately the Minister was not present for the in-committee debate on higher education funding however I am sure he has read every word that is written in the Hansard minutes. He will note from that that the Education Department are very much of the view that the funding issue is one for the Treasury and not for their department. Could the Minister for Treasury and Resources update us as to what, if anything, his department has done or pursued regarding to future funding of higher education?

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

Well, I would certainly agree with the Deputy in one department and one fact and that is that funding issues are a matter for Treasury to find solutions to, working with Ministers. I can tell the Deputy that I have had a number of discussions with the Minister for Education in regard to ways which can help to improve the situation for higher education. Indeed, the Deputy will be aware that in the current Medium Term Financial Plan that by 2019 an additional £2 million has been put into that area to try to assist. That is very much a catch up in terms of funding and we are having ongoing discussions in terms of what other options may be available and also trying to understand the exact scale of the problem that we are seeking to try and deal with bearing in mind the challenges the U.K. has seen itself trying to deal with such matters.

**5.1.1 Deputy A.D. Lewis:**

Supplementary. Could the Minister give some kind of timescale as to when he might come back to this Assembly with some proposals on proper funding going forward for the future of higher education?

**Senator A.J.H. Maclean:**

I am not entirely sure what the Deputy means by “proper funding”. Of course we do, or were I should say, investing £10 million in this area. That has been increased, as I have said, by a further £2 million per annum. So £12 million is being invested. So part of the discussions are around how that money can be most appropriately allocated to ensure that students wanting to go for further education do get the opportunity to do so. We are looking at some other options. To give a timescale at this stage is very difficult but I am happy to keep the Deputy updated. I know it is a matter that does interest him and many others of course.

**5.2 Senator S.C. Ferguson:**

Given the fact that A.I.S. (automatic identification system) ship information systems are available will the Minister be encouraging J.T. (Jersey Telecom) to seek compensation from the ship owners whose ship has broken the cables this morning?

**Senator A.J.H. Maclean:**

The Senator, of course, raises a very important point, very disturbing news that we heard overnight about the loss of 3 cables to the U.K. Fortunately what this demonstrates is the resilience that is in place because, of course, there is a cable running to France and that is where the traffic is being diverted to, to ensure minimum disruption to Islanders and in particular Island businesses by this damage. The point of the Senator about damage and liability, J.T. will of course be investigating all options. This matter is, of course, an insurable issue but if there is damage that is attributable to a particular owner or organisation then of course that will be pursued.

**5.2.1 Senator S.C. Ferguson:**

Supplementary. Will J.T. also be looking at compensation for the other broadband suppliers?

**Senator A.J.H. Maclean:**

I am sure that J.T. will look at all areas that are relevant in terms of remediation for this particular incident. I do understand that not all cables were damaged although there were a number of other cables that were impacted. Again, this incident only happened overnight and it is still being evaluated.

**5.3 Deputy J.M. Maçon:**

Again, looking at funding for tertiary education. Can the Minister explain why a savings scheme for tertiary education was not introduced in his budget or being proposed in his oncoming budget

and whether that option is being explored further given that the Minister said he is only looking at the extra £2 million that is being provided?

**Senator A.J.H. Maclean:**

First of all, I did not say I was only looking at the additional £2 million. What the Council of Ministers sought to do was to address an immediate problem. We felt that to bring up to date the funding, taking into consideration the inflation increases as, of course, this area of funding had previously been frozen we thought it was appropriate to bring it up to date and that was the purpose for the additional £2 million. In terms of other options that are being considered, such as saving schemes, that is a matter that has been discussed with the Minister for Education and we are still keeping open all options in ways in which we can assist. A savings solution is possibly one of those, not in the short term, that could be beneficial of course because you have to start the programme, but it would be helpful, perhaps, in the longer term but there are, like many of these issues, no straightforward answers but it is still available for discussion and we can report back to the Deputy on progress.

**5.4 Deputy G.P. Southern:**

What consideration has the Minister for Treasury and Resources and what discussions has he held with the Minister for Social Security over the possible introduction of workplace pensions in the Island?

[10:45]

**Senator A.J.H. Maclean:**

I have wide-ranging discussions with the Minister for Social Security and other Ministers. Issues, such as the one raised by the Deputy, is one that is interesting. It has not progressed further at this stage but certainly is a matter that is on the table for further consideration in due course.

**5.4.1 Deputy G.P. Southern:**

When did the Minister last talk to the Minister for Social Security about this particular issue and when does he have it scheduled to talk further about this issue given that we are conducting a major review of pension provision?

**Senator A.J.H. Maclean:**

I am happy to come back to the Deputy and give him an update. He is clearly after a timetable which he is trying to eke out of me. I am not going to give him any dates and times standing here today but I am happy to come back to him and give him some degree of confidence in terms of timings.

**The Bailiff:**

I think, Minister, the question was when you last talked to the Minister for Social Security about it.

**Senator A.J.H. Maclean:**

As I said in my opening answer, I talk to the Minister for Social Security on a regular basis. In terms of this particular matter, off the top of my head, I think about a month or so ago.

**5.5 Deputy M. Tadier:**

Does the Minister for Treasury and Resources accept that the living wage, i.e. being paid a wage with which you do not need to seek States assistance, is not just good for the self-esteem of the individual worker but it is of benefit to the Treasury because it will save his department money in the long run and if so does the Minister support that principle, I guess is the first question?

**Senator A.J.H. Maclean:**

I think the principle of a living wage is supported. We have seen it introduced to a degree in the U.K. and indeed as far as Jersey is concerned the voluntary element of a living wage is perfectly reasonable. I think that many companies have been encouraged to follow and pursue that issue and most, I would suggest, probably do.

**5.5.1 Deputy M. Tadier:**

Does the Minister accept that of course voluntary only goes to a certain extent and it covers the people who wish to pay a living wage? They may already be paying a living wage so it is easy to say that they are doing that voluntarily and it provides no comfort for those, of course, who are not in that position. But more alarmingly perhaps, is it not the case that the Jersey Conservative Party is falling behind its counterparts in the U.K. who are starting to look remarkably progressive when faced with what is going on in Jersey?

**Senator A.J.H. Maclean:**

I did not or was not aware there is a Jersey Conservative Party so I am not quite sure, tongue-in-cheek, what the Deputy is referring to. Standards change around the world. We have seen changes in the U.K. in terms of approach and I think we need to make sure that we keep up to date. It is appropriate, clearly, that workers, people within the Island, are paid appropriate amounts of money to be able to live and survive. Of course we do have to take into consideration that we have a social security system which is generous and we have other benefits that are also supportive. So it is looking at the whole package as opposed to just looking at one specific area, I think, is probably as relevant as anything else. Also definitions of living wage are areas that have to be thought about quite carefully.

**5.6 Deputy A.D. Lewis:**

The one word I did not hear from the Minister earlier on about education was student loans. Could the Minister give us an update as to what, if any, investigations he has done into this regard as student loans seem to be one of the most viable ways forward? Could he update the Assembly on what, if any, discussions he has had with this regard, particularly with the student loan company in the U.K.?

**Senator A.J.H. Maclean:**

I think there are a number of issues with student loans, lumbering students with significant loans over a period of time, depending of course how the loan system is structured, can be problematic. It can cause quite a degree of difficulty in the medium to longer term for the individuals and their families. We have seen in the U.K. of course the cost of the loan scheme that was initially put in place. It has cost considerable amounts of money and has not necessarily delivered in the way that perhaps was intended initially. So I am not convinced that a loan scheme as such is necessarily the way forward although there is some progress that is being made now I think with the student loan organisation in the U.K. compared to when it started. I know that the Minister for Education has, and is sighted, in terms of where they are and will be updating me, I am sure, in due course.

**5.6.1 Deputy A.D. Lewis:**

Supplementary. Has the Minister thought to ask those that are most wanting this sort of funding this question to see whether they would like to see a loan system because I suspect if he does he might be surprised by the answer?

**Senator A.J.H. Maclean:**

I think what you will get is a mixed view. You will get some who think it is an excellent idea. Others will not commit themselves necessarily so freely that a loans system ... it depends of course on the terms of the loan. That is the critical part. Some will feel it is a good idea, others will not but of course it has got to be affordable as far as the Island is concerned as well so it is getting that right balance. If the Deputy is asking me if I have asked them, I have not asked every individual person. It would be impossible to do so. The Minister for Education has a much clearer picture of need and want.

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

Continuing the theme. Does the Minister for Treasury and Resources have a picture for what proportion of a workforce already has occupational pension schemes in place and if not will he do so over the coming time?

**Senator A.J.H. Maclean:**

No, I do not have a statistic particularly to hand that I can give the Deputy but certainly I can see if we can get some numbers for him, but he will be aware as I am about the level of statistical information in that area.

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

I am not aware of any statistical information on that particular field. Does the Minister know more than me?

**Senator A.J.H. Maclean:**

That was the point I was making.

**The Bailiff:**

Does any Member have any questions for the Minister for Treasury and Resources where either the Member or the Minister knows the answer then? **[Laughter]**

**5.8 Deputy G.P. Southern:**

I shall do my best. Would the Minister outline to Members briefly where he is on the advent of property taxes in the near future because the last time I saw that his predecessor was ripping up a chunk of so-called property tax policy in front of the electorate?

**Senator A.J.H. Maclean:**

In this modern age if I could refer the Deputy to his inbox he should, yesterday, have received the documentation with all that information in it, so he can read it to his leisure. I can say in summary there is no radical change, which I have said previously when I have updated Members verbally, with regard to that review that was undertaken some while ago.

**5.9 Deputy M. Tadier:**

Will the proposed new taxes include not just dilapidated property but specifically dilapidated greenhouses which are not only a blight on the landscape in Jersey but also a shocking underuse of valuable agricultural land?

**Senator A.J.H. Maclean:**

I think that is more a question for the Minister for the Environment in some respects but I take the point of where the Deputy is coming from; should we seek to tax disused and dilapidated buildings? It is not a route that I would particularly want to go down but I do think we need to try and find ways to address matters. I agree with the Deputy insofar as there are some very

disappointing sights with regard to dilapidated buildings and greenhouses in particular that we should seek to address.

**5.10 Deputy A.D. Lewis:**

I am not going to give up on this one. The Minister has, in answer to my questions earlier about higher education funding, said he will not put any more than £2 million into funding in grant form. He does not think the loans are a very good idea so what, if anything, is the Minister going to do in the short to medium term so that hardworking parents that want to send their kids to university and kids that want to go, what can they look forward to in terms of some assistance with enabling them to go on to higher education because we are not getting any answers? When is the Minister going to give us some?

**Senator A.J.H. Maclean:**

I do not think I said earlier on that £2 million was the only thing that was happening. I just simply said that we sought to address what we saw as an inequity; that allowance having been frozen some years ago. That was the right and appropriate action to have taken. In terms of finding large sums of additional money for a loan scheme, which the Deputy perfectly well knows, because he has been in to discuss with the Treasury, would cost many, many millions of pounds, tens or hundreds of million pounds in the longer term, potentially. Quite frankly that is not affordable so what I have simply said is that we do need to look at alternatives where we can seek to try and target, as best we can, the funds that we have available. We do not have the solution at the moment. We can see elsewhere in places like the U.K. where systems have not worked and have been extraordinarily expensive as such but that does not lead us to a position where we want to follow such an outcome.

**Deputy A.D. Lewis:**

Supplementary. The Minister knows full well that there are alternatives to ...

**The Bailiff:**

No. I am sorry, Deputy, we are now past the 15 minutes allocation. Deputy Southern, Deputy Mézec we were going to take question 5 and 8 after Questions to Ministers Without Notice on the basis that the Assistant Chief Minister, Senator Ozouf, was the one you particularly wanted to answer your questions and it would seem sensible that as he is the one most briefed on it that he does answer the questions rather than anybody else although I am sure that the Deputy Chief Minister is anxious to step into the fray if he is asked to do so. I would be minded to leave question time now and come back to your 2 questions at some convenient time later in the agenda if that is convenient to you and ...

**Deputy G.P. Southern:**

Well, we are in your hands I think but I would far prefer the Assistant Minister in charge of the topic to answer the questions. Could I, at this point, make a complaint that in fact this must be the sixth or the eighth Tuesday when the Assistant Minister in charge of innovation has not been present in this Assembly? I remind the Chair that we have a prime duty to be here on a Tuesday. He is not here often.

**The Bailiff:**

Well, you do not need to remind the Chair of that. The Chair is always here but still I think very much ...

**Deputy G.P. Southern:**

Could I suggest an idea for future reference which might be helpful is that we could replace the seat where Senator Ozouf sits with a T.V. (television) screen and then he could beam himself into the



Assembly to face a grilling from anywhere on the planet without necessarily even needing to come back to Jersey?

## **PUBLIC BUSINESS**

### **The Bailiff:**

Thank you, Deputy. Very well, there is nothing under J or K and we now come to Public Business and the first item is P.94, Ministerial Government: referendum. I ask the Greffier to read the proposition.

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

Before the Greffier reads that out I wonder if I might ask for the indulgence of the Assembly. I have a medical appointment at 2.30 p.m. and looking at the way in which the Order Paper is structured at the moment it seems to be possible that Deputy Martin's proposition might go on until close to the lunch hour. I have asked her whether she might be willing to allow me to take the Draft United Nations Financial Sanctions (Jersey) Law before the Ministerial Government: referendum proposition. She has very kindly agreed to allow me to do that subject, of course, to the will of the Assembly. I am not sure, the Greffier may like to assist, but the note on the Order Paper suggests that I also need the approval of the Assembly to abridge ...

### **The Bailiff:**

No, you do not, Senator, no.

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

I do not. Well, I merely ask whether I can take this matter before the ...

### **The Bailiff:**

Deputy Martin, are you happy for P.108 to be taken ...

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

Yes. I was promised the Senator was not coming back [**Laughter**] today. I mean today but, yes, obviously he is not going to be here so obviously I concede and he can take this before me if everyone else is in agreement.

### **The Bailiff:**

Do Members agree?

## **6. Draft United Nations Financial Sanctions (Jersey) Law 201- (P.108/2016)**

### **The Deputy Bailiff:**

Very well, then we take P.108, the Draft United Nations Financial Sanctions (Jersey) Law 201- lodged by the Minister for External Relations. I ask the Greffier to read the citation of the draft.

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

Draft United Nations Financial Sanctions (Jersey) Law 201-. A Law to enable financial sanctions, required by United Nations Security Council resolutions, to be implemented in Jersey and for related purposes.

### **6.1 Senator P.M. Bailhache (The Minister for External Relations):**

Perhaps I can thank Deputy Martin very much for that although I do hope to be back in the Assembly at some stage. I hope it is not as serious as all that. Members will be aware that sanctions are the new means by which the international community and indeed nation states impose or seek to impose their will upon other nation states who are transgressing in some way or another. It is a measure of enforcing international will which falls short of going to war. The purpose of this law is to mirror legislative provisions which are under consideration in the United Kingdom Parliament under the Policing and Crime Bill and to close a gap between the making of financial sanctions by the United Nations and their implementation by the European Union. If sanctions are not implemented in very short order and asset-freezing orders made there is a risk that money will flee the jurisdiction and escape control. So the principal aim, therefore, of the law is to address 3 issues. The first, as I have mentioned, is to minimise the delay in implementing asset freezes mandated by the United Nations.

[11:00]

The law will, to that end, allow the Minister for External Relations to make an interim or a final designation to implement U.N. (United Nations) sanctions resolutions. We will come to the detail of that in due course but the interim order would generally last no more than 30 days and the final order no more than 12 months. The second provision is to enable protection to be given to the human rights of persons affected by these orders and to allow appeals to be made to the Royal Court by persons who are subject to designation orders. The third purpose of the law is to reconcile an inconsistency between the sanctions which are contained in the Terrorist Asset-Freezing Law 2011 and the European Union Legislation Implementation Law of 2014 and this law by increasing the penalties from 2 years to 7 years in the first 2 mentioned laws. I move the principles of the Bill.

**The Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All Members in favour of adopting the principles kindly show. Against? The principles are adopted. Deputy Brée, does your panel, in the absence of Deputy Le Fondré, wish to scrutinise this legislation?

**Deputy S.M. Brée (Vice-Chairman, Corporate Services Scrutiny Panel):**

No, we do not.

**The Bailiff:**

Minister, how do you wish to proceed?

**6.2 Senator P.M. Bailhache:**

Perhaps I can take the Bill in parts and take first part 1 which is Articles 1 to 3. These are the interpretation Articles setting out the meanings of various phrases used in the Bill, in particular the meaning of a U.N. financial sanctions resolution and a U.N. listed person and also in Article 3 the meaning of a designated person. So I move those 3 Articles of the Bill.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on these Articles? Those in favour of adopting them kindly show. Those against? The Articles are adopted.

**6.3 Senator P.M. Bailhache:**

I move to part 2 and Articles 4 to 6 of the Bill which gives the Minister power by order to make asset-freezing orders. An interim asset-freezing order is made where the resolution appears to be a U.N. financial sanctions resolution and accordingly it appears that it will relate to one or more U.N. listed persons. Such an order will last for no more than 30 days and will contain a sunset provision

to ensure that it does lapse after 30 days. Article 6 deals with a final asset-freezing order. One would generally expect that within the period of 30 days the European Union would have made provision under its own rules and regulations for the designation of the person specified in the U.N. resolution but if that had not happened in order to allow for the order to continue in force the Minister has power to make a final asset-freezing order which, despite its name, lasts for no more than 12 months again in the expectation that the European Union would by that time have enacted some provision to deal with the U.N. resolution. I move Articles 4 to 6.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak? Those Members in favour of adopting Articles 4 to 6 kindly show. Those against? The Articles are adopted.

**6.4 Senator P.M. Bailhache:**

I take part 3, Articles 7 to 15, and these Articles contain the meat of the different obligations which will be imposed on persons who are either financial services entities or indeed associated with them. Article 7 deals with the freezing of funds and economic resources. Article 8 making the funds available to a designated person. Article 9 making funds available for the benefit of a designated person. Article 10 making economic resources available to a designated person. Article 11 making economic resources available for the benefit of a designated person and then exceptions to those provisions which are set out in Article 12. Article 13 gives power to the Minister to give a licence to allow a designated person to act notwithstanding the prohibitions contained in the earlier Articles, for example, where a bank might wish to receive a sum of money into the account and a licence can be given for that purpose. Article 14 contains a penal provision for circumventing prohibitions which have been imposed. Article 15 contains the reporting obligations of the financial institutions. I move those Articles of the Bill.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on these Articles? Those in favour of adopting them kindly show. Those against? The Articles are adopted.

**6.5 Senator P.M. Bailhache:**

Part 4, the remaining Articles of the Bill, contain a number of miscellaneous provisions. Article 16 incorporates Articles 22 and 23 of the Terrorist Asset-Freezing Law of 2011. Articles 22 and 23; Article 22 of the 2011 law deals with the power to require information. Article 23 deals with the production of documents. Article 17 of the Bill contains provisions relating to appeals to the Royal Court and empowers the court to make rules of court. Article 18 contains a number of different offences and also applies to Articles 33 and 36 of the 2011 law to this law. Article 19 applies to Article 38 of the 2011 law. Article 20 gives the States power to make regulations to amend a number of Articles of the Bill and Article 21 is the usual order about transitional consequential incidental provisions and those are set out in Articles 22, 23 and 24. Article 25, the citation and commencement Article, allows the Minister to make an order to bring the law into effect so as to achieve the law coming into force at precisely the same time as the United Kingdom Act currently before Parliament will be brought into force. It is not certain at this stage exactly when that Act will come into effect but it is expected that it will come into force some time during the spring. I move those Articles of the Bill.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on these Articles? Those in favour of adopting them kindly show. Those against? The Articles are adopted. Do you move the Bill in Third Reading?

**Senator P.M. Bailhache:**

I move the Bill in Third Reading.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak in third reading? Those in favour of adopting the Bill in Third Reading kindly show. Those against? The Bill is adopted in Third Reading.

**7. Ministerial Government: referendum (P.74/2016) - as amended**

**The Bailiff:**

We now come back then to P.94, Ministerial Government: referendum lodged by Deputy Martin. I ask the Greffier to read the proposition.

**Deputy J.A. Martin:**

Before the proposition is read could it be read as amended by myself please, if that is possible?

**The Bailiff:**

Do Members agree? Yes, the proposition can be read as amended.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion, (a) to agree that a referendum under the Referendum (Jersey) Law 2002 should be held on the day of the 2018 general election with a single Yes/No question to ask voters whether they agree that the States Assembly should continue with a ministerial form of government; (b) to request the Privileges and Procedures Committee to bring forward for approval the text of the referendum question, having received appropriate independent advice and undertaken consultation thereon, and the necessary Referendum Act to enable the referendum to take place.

**7.1 Deputy J.A. Martin:**

Just a few words. I did amend my own proposition and took out the question because it was pointed out to me that Privileges and Procedures are, which I am on ... nearly completed the work of a commission for referendum. They will construct a question that is directed from this House. The commission will never come up with questions unless we ask them to do that. I will say a bit more on the commission when I get to the comments from the Council of Ministers. Why now have I decided I think we should ask the public if they want to continue with this style of government? Well, I think we should have asked them in 2000, 2001, 2003, 2004 or 2005 before we went down this road but we had a Mori poll, 1,000 people answered that Mori poll and it was very muddled. So I do want to know now what the public think so I want it put to a referendum. That is the only way I see that we can get a direct answer from the public. So let us go back. When Clothier was first mooted and we saw the report it was quite a good report and people thought: "Hmm, well, it has got some good parts in it", but Clothier himself said: "Do not cherry-pick." So in 2000 there was a small group set up and then 9 members added. There was a large steering group and from that moment on the steering group, and I will read out what it said on ... it is an appendix to Machinery of Government on P.122 at point 7.1. It said: "Before examining the committee's proposal for a system of scrutiny it is worth considering what is actually meant by the word 'scrutiny'. Scrutiny ..." sorry, I am reading out the wrong part but I will read this part because it does say about scrutiny. "For the purposes of scrutiny it should be regarded as embracing 3 main activities, namely participation in the development policy and the review of legislation and the examination of the performance of Government." All the scrutiny that was

promised in the debate, in the review, to my mind has not happened. Unfortunately, we have set up a scrutiny system that is basically set up to fail. We, in Scrutiny, are looking backwards all the time on policies that are made by the Council of Ministers. The Council of Ministers who have many policymakers behind them, officers in their departments, we do not know the thinking, the thought process, what was asked of them, and that is where Scrutiny start.

[11:15]

Sometimes when it is confidential or policy in the making Scrutiny is then absolutely denied that they should have these papers. When the steering group was formed they sat down and they decided at the first meeting on 8th May 2001 there were 2 main areas. Out of all of Clothier 2 main areas, and it was ministerial government and Scrutiny, and then they were off. They were running. They were not looking at the reform of government. They were not looking at anything else. They come back and if you turn to my appendix 2, Members, page 16 where they look at ... in the electoral officer there should be a central register. Agreed. Polling station. What these things they could agree on was a polling station to remain open from early morning until late evening, agreed. One general election day for all States Members with 12 Parishes. That was not agreed. There is a page on why and why not. The role of Senator should be abolished. Oh, sorry, 6, every candidate shall produce a policy statement, agreed. Again, 7, the role of Senator, another. Paragraphs of they cannot make up their mind. This is the steering group that reported back to the States who could not make up their mind on fundamental issues. I mean if you brought this as an essay in your ... to put something forward it would not pass and it should not have passed then. Constables to be at ex-officio; again, no decision. But then later on they say the Committee of Constable ... they do not answer the question because they needed the Constables to vote with them but then on 9 they say: "The Constables should consider where a Parish's committee should be consulted whenever the Parish is particularly affected." Basically put, the Constables out but keep them in if they want to come in and then if there is something affecting their Parish they consult with the Comité des Connétables. So we literally went along down this road on some very dubious recommendations from a massive steering group. There were originally 4 or 5 and they added 9 States Members, all with differing views. I do remember in the debate we were sold it and I have looked ... we did not have Hansard. I have tried to find something on the tape. We were promised that Scrutiny would be much more involved in policy making and we now know this is not the case. So people are saying to me: "Oh, well, you know, I do not know if I am going to support that because ... well, what are you offering the people, Deputy? What are you offering?" People have put words in my mouth. There is nothing in my proposition that says: "Go back to committee." There is nothing except to find out what the people think of the way we are doing things today. They know they still elect people the same way. They elect people sometimes with hundreds of votes, sometimes a Senator with thousands of votes. They think they are going to make a difference when they get in here but they are not in the chosen 10 now and they have no say; literally no say. So when they go back to their constituents and say: "Well, I am not in there. I am not even an Assistant Minister for that department. I literally ... I find out things on the grapevine. I find out now that the policy has been made." Again, I go back to, what were the alternatives, because we used to have them. We do not have any alternatives. We are given a *fait accompli* by the Minister, sometimes in just a Ministerial Decision, and you do not think the public understand this. I am sure they do understand it. We have some extremely fantastic talent in this House and it is side-lined, absolutely side-lined. As I say, I am not having ... I think what Scrutiny does within its terms of reference is great but again I say it is always looking backwards and you cannot be as good and effective if you are looking back and you produce evidence like the Deputy of St. Ouen did. I am just going to take this one example on the Scrutiny Panel for zero contract hours. He produced the evidence. He interviewed hundreds of people, companies, and the Minister says there is no evidence. So why would you? Why would you keep navel-gazing back at the Minister's decision when the Minister

can just say: “No, sorry, there is no evidence”? So this is where we are with the public hat there. The Council of Ministers, the comments, well, they were not expected, were they? I really have to laugh. They do not like my question. It could be yes or no. Although I took the question out but Senator Routier, Senator Ozouf, Senator Maclean, Senator Gorst, Senator Farnham, Senator Bailhache, Deputy Green and Deputy of St. Martin are all now on the Council of Ministers who, the same people in 2014, voted for Deputy Green and it was written in the question: “Do you want the Constables to stay in the States? Yes or no.” They all voted for it. All voted for the yes or no question. Today the same Ministers are saying: “Yes or no question, a bit leading.” Well, what do you want me to ask? Maybe the moon will come out tomorrow. I do not know. It absolutely beggars belief. I really love this one, paragraph 7. Now, they are absolutely supportive of ministerial government. They are 100 per cent behind it. So in paragraph 7 they say: “It will bring considerable cost and it will require considerable energy at times at all levels of government over a number of years.” This was the experience from the move from committee system to ministerial. So in their own words they think they are going to lose. You put it to them and we are going to spend thousands of pounds and time moving back to something or inventing something new. Why would you put that in? Today is not the day to have the debate on what comes next, what it might be. Today is the day when you absolutely show the respect of the people of Jersey that should have been shown 16 years ago and it has gone on and on. We have cherry-picked this. We have amended that. We should not, if we have 2 types of members in their own steering group, or 3 types of members, we should not have a single day election but we have. So we have mucked around. We have now got collective responsibility. Also with Assistant Ministers we have collective responsibility. I really do not understand why they do not want to ask the people. This is not our Government. This is their Government. This is not our Assembly. This is their Assembly. They literally want a say in this. I really do not understand. I mean over the weeks, yes, we have had some really good comments. I mean we had a great article in the *J.E.P. (Jersey Evening Post)* by the editor and he is literally saying what I am saying; people are fed up. In Deputy Green’s amendment to ... it was on the Constable, he said: “Anecdotal evidence.” Some people say they want the Constables, some people do not and in his own words he says: “So what I want to do is put it to the public” and I want to ask him and the Deputy, sorry, now Senator, is not in and that is what I want to do. I want to ask the public and I cannot see any reason, it is not so straightforward, that the public is not going to be asked. Because literally today it will be something the public will want to know in 18 months’ time, either you support this and then you will have what the commission, the Electoral Commission ... sorry, the Referendum Commission will be set up to do, is to make sure you have got the right teams. Make sure nobody is spending hundreds of thousands. They will make sure the question is right but, as I said at the beginning, they will not ever decide what the question will be to be put to the public. They will go by direction. So I have had phone calls. We have had today an ex-States Member who, like myself, was never sort of enamoured with going down the Council of Ministers ministerial way forward, and he, like me, was always told: “Well, that will happen tomorrow. Jam tomorrow. We will put the meat on the bone tomorrow.” But it is getting worse. It really is so bad now that I just think the people have got to be asked. I mean I have to laugh. There was a ... and I am not going to hold it up. I do not know if you can see on the screen. He was on Clothier and on 23rd September this year, just after I lodged my proposition, he says: “The problem with politics in Jersey is there is not enough giants.” There are not the giants that they had that solved all the problems after the war in the 1940s, 1950s and 1960s with social security, health and housing. “Where are the giants?” he says and I laugh. It says: “By comparison today’s generation of States Members with few exceptions are midgets.” Midgets. But he is then saying we have not got enough giants and 2 weeks later on 4th October, oh no, committee system cannot work. It never worked. It will not work and it did not work except when you had the giants working and they did all the things. They laid all the foundation for what we have today, social security, the hospital, the health system, everything. These people worked in

that system. I am not saying that would be the best system. My system would have been the Vibert amendment which slowly might have got to where we are today and would not have cost. Let me go back to the comment of cost. Has anybody ever costed the price of ministerial government? The many more policymakers in each department, the more chief officers or executive officers who serve these Ministers, their P.A.s (personal assistants). No one has ever costed this. This did not happen under committee. Hundreds of thousands of pounds pumped into the ministerial system to give them power and it is all about the power that sits behind the throne or under the throne. These people have a lot of influence. Do you want these civil servants, these policymakers, these chief officers, deciding the government of tomorrow or do you really trust the people who elect you that you are going to be in 18 months' time saying: "Vote for me again please but I do not want your opinion on the way we run you. I do not want your opinion on the way ministerial government works but vote for me because I am a good chap or I am great person and I will do what you say." I have just explained, you cannot. Under this system you cannot say that to your electorate unless you are in there. Unless you are in that close knit 10 with the little ... I will say midgets or minions, assistants, that give good assistance and are collective to their department now and any policy that overruns. If you do not tell me social security, health and sometimes even education do not gel together, so you have got then 6 Assistants that are going to vote all the time with the Council. Where did the public vote for this? Where did they say: "This Deputy to the left of me" or "That Deputy to the right of me has got more power in that government than this one"? They never did. They were never asked. I think it is straightforward. I think dismiss ... you cannot rely on the comments from the Council because they all are hypocritical. They all voted for the Yes/No question only 2 years ago and they were quite happy to do it and the same 10 have written these comments today which do not stand up. They do not stack up. They have no, utterly no, respect for what the public out there think. Put it to the people and if you are so confident that you are going to win you will have your yes campaigners. You will have your no campaigners. That is where the debate starts. Because, as I said, whatever way you look at it, it will be an election issue because I will certainly make it one. If you do not vote today **[Interruption]** ... oh, when I go round knocking I will have the list of people who said no to you. You, Joe Public, you do not have a decision in your Government. I rest my case. I think I have kept it quite short and I look forward to the comments.

### **The Bailiff:**

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

[11:30]

#### **7.1.1 Senator L.J. Farnham:**

I would imagine that we all believe in popular sovereignty which is, as I am sure Members will know, the principle that there is no higher authority than the will of the people which is, of course, the basis of the whole concept of democracy. Democracy is well practised here in Jersey in this very Chamber by elected Members with differing political views and representing all walks of our society. Generally speaking, we are all elected by constituencies made up of either a District, a Parish or by an Island-wide mandate. This, in my opinion, means we have a most representative parliament, if you will excuse that description of our Assembly, in this instance. With 49 Members for a population of about 100,000 people that is roughly one politician for every 2,000 people and that is a strong voter influence. We are all very approachable and we are all influenced by the electorate on a daily basis. While I do not agree with every decision this Assembly makes, I believe, on balance, often, it gets it right even when it goes against the Council of Ministers. A referendum, as we all know, is a vote in which the electorate can express a view on a particular issue or subject. While proponents of referendums would argue that they can be used to check the power of elected Assemblies and promote wider political participation, I believe that the

disadvantages are worthy of careful consideration. For example, referendums allow politicians to manipulate the political agenda and absolve themselves of responsibility for making difficult decisions, a familiar pattern with issues relating to electoral reform, the makeup of this Assembly, the machinery of government and this Assembly. They leave political decisions to the public who often - and I mean this respectfully - have the least information to make a decision and are most susceptible to the media and other influences. They provide at best only a snapshot of public opinion at one point in time. They tend to simplify often complex political issues by reducing them to questions that have a yes or no answer. In response to Deputy Martin's allegations - they were not allegations they were facts - yes, we did vote that way, I think the majority of the Council of Ministers did. But, with respect, the question of whether the Constables should remain in the States is clearly one that can be answered quite properly with a yes or no because if it is yes they stay, if it is no they leave. There is a solution for both answers. I will come on to that more in a little bit. The whole topic of our machinery of government is a complex issue and one that has evolved upon expert advice in the past and mature political debate from a consensual style of government, i.e. the committee system, to the more executive style of government that we use today and a ministerial system. Having worked in both I know which one I prefer but being mindful that the debate today is about whether we hold a referendum relating to the continuation of a ministerial form of government and is not a debate about the committee system versus ministerial government. I hope I have kept and will keep the rest of my speech appropriate in both duration and focus and would hope other Members do the same, otherwise this is going to be a very long debate. Now, there are a number of shortcomings with the proposition and I refer Members to the comments of the Council of Ministers and I know other Ministers will speak in more detail about those. But specifically the fact that this proposition proposes a referendum on whether we abolish what we have without any clear proposal as to what will replace it, and that was the main difference between this question and the question on the Constables. They are completely unrelated in terms of the referendum question. It is also worth remembering that we do not have a very good track record with referendums and without the appropriate legislation to carefully guide the process we run the risk of not being able to deliver the views expressed by the public which would almost certainly lead to a calamitous loss of confidence in this Assembly. Finally, I do believe we can have a more inclusive style of government under the current ministerial system. I understand work is underway exploring a number of options on how this might be delivered. With that in mind, I am firmly of the opinion that a referendum is not the answer and I respectfully ask Members to vote against the proposition. Thank you.

### **7.1.2 Deputy S.Y. Mézec:**

I respect and admire Deputy Martin very much and in virtually any other situation she would be able to count on my support for the propositions she brings, as she has when she has brought forward other propositions on better ways to hold the Executive to account or when she has brought forward propositions on protecting support for disabled people in our community. But I cannot support this proposition today because I think it offers false hope to those who want to see something better for Jersey and will ultimately lead to disappointment for the thousands of Islanders who are being let down so badly by the appalling performance of the current Council of Ministers. I think it harps back to a bygone age, which was far worse that people are prepared to admit as they look back with rose-tinted glasses. The underlying point that this proposition is trying to recognise though is absolutely right, and that is that our Government is failing so many people in our community and that those who have presided over this absolute mess of a Government, and the ones that preceded it, have no clue whatsoever on how to fix our democracy and move towards a situation where the public can actually have faith in the people who sit in this Chamber. I think the proposition does provide a partially correct diagnosis that there is a problem but I think that Deputy Martin is prescribing the wrong solution to it. The underlying issue about



how our political system is failing to deliver for Islanders is - and Deputy Martin said this and she is right - a problem which is not going to go away any time soon. In the senatorial by-election this summer the question of the committee system versus the ministerial system came up a lot, and it came from people from all sides of the political spectrum, people who felt disillusioned at the performance of the Council of Ministers, even if they were people who were ideologically sympathetic to what many of those Ministers stand for. You would have to have been living in the Minquiers for the past 10 years to fail to see that our political system is a complete and utter shambles. That is leaving the broken voting system to one side for now. We have a Government which ultimately represents the interests of the rich and powerful and is utterly clueless about how the majority of ordinary Islanders live their lives and the struggles that many of them face. The public have no faith in us whatsoever. All the opinion polling done shows that Islanders do not trust politicians, they think we are in it for ourselves and that we do not care about ordinary Islanders. The Annual Social Survey in 2014 showed that 75 per cent of the public have no faith in the States and the most recent change.je opinion poll had 82 per cent of the public saying that we are going in the wrong direction. When we go out knocking on doors at election time asking for people to come out and vote for us, we are faced with the same statements time and time again: "Why should I bother voting? It will not make a difference, they are all the same. They are not interested in what the public want and they are not interested in listening to the people of Jersey." Who can blame people for thinking this way when we have a Council of Ministers who perform so poorly and act completely oblivious to their own failings. Those failures are numerous. Firstly, they have no control whatsoever on population growth with their own targets being breached 4 times the limits that they set themselves. They have completely ignored public opinion and scrutiny over the building of the offices on the Esplanade, which no one wants and which is risking tens of millions of pounds of taxpayers' money to deliver. They lose hundreds of thousands of pounds on films which never happen and on companies which disappear off the face of the planet, they let their civil servants fly business class around the world on jollies and do not have the guts to discipline them when it is clear that they have behaved wrongly. They waste millions of pounds on consultants because nobody is prepared to take ownership over decisions and take the blame when things go wrong. They have made no effort to find proper solutions to student funding. They spend £5 million finding out that the best place for the hospital is where it currently is. They are looking for whatever excuses they can to raise taxes despite promising they would not. Their response to the catastrophe that is the Condor Liberation has been woeful and embarrassing and they seem to think you can fix seaweed problem on St. Aubin's Bay by dumping it back down the bay, seemingly oblivious to the fact that there is something called the tide which simply brings it back up again. They cannot even get it right first time on an ice-skating rink. But worst of all - worse than any of these - is that not only have they presided over growing income inequality, a drop in the standard of living for thousands of Islanders and the rise of foodbanks, but they have made it worse by pushing through £10 million of cuts to support we provide to pensioners and disabled people, some of the poorest and most vulnerable people in our community, with no second thought as to the impact it will have on these people's lives while they go out of their way to protect the wealthiest people in Jersey. They tell us that the Island is doing brilliantly and they genuinely believe it because they are so out of touch with reality. That is why the public have so much contempt for politicians. The shake-up that this democracy needs is for the people of Jersey to do what the people of Alderney did last weekend and go out to vote and throw out the people who are letting them down so badly. How we deal with the problem we have in our democracy is by embracing the electoral process by voting for the right candidates. The problem, I do not believe, is the ministerial system, the problem is the Ministers. It is the individuals who hold this office because the system of ministerial government is a system which works incredibly well in many small jurisdictions across the planet where Ministers are elected on proper manifesto platforms which they can take off from the moment they are elected and deliver on what they

promised the public, and if they fail the public kick them out and they give somebody else a shot instead. One example that I have spoken about several times before in this Assembly is Gibraltar. They are the size of St. Helier, they have ministerial government but they get far better government outcomes than we do, better value for money, and they are able to take on grander schemes than us in shorter periods of time because their leading politicians are far more competent than the ones we have in Jersey. This proposed referendum, while they have asked if we want to continue on with ministerial government, it does not give any indication of what the alternative is. I wonder, the results of that referendum will be utterly useless to us. If the public vote to keep ministerial government there will some who will use that as an agenda to say that their performance in the Council of Ministers has been brilliant, the public love them and we can carry on business as usual or the public vote against it and then we spend 4 years being governed by a system which has just been rejected and have to have what I presume will be an absolute mess of a debate trying to decide what we move to instead. I think, as I mentioned earlier, there are people who look back at the previous system and who will stand up in this referendum campaign and say we should go back to that committee system. They will even talk about Guernsey and say: "Oh well, see Guernsey has gone to a committee system and they are doing so brilliantly" and the 2 problems with that is, one, Guernsey is not doing brilliantly, their politicians are held in just as much contempt as the ones in Jersey are. They are not some magical beacon of democracy in the Channel Islands and also their particular version of committee government has only been in place for a few months so we cannot even tell if it is going to deliver for the people of Guernsey. I have a lot of friends in Guernsey and they have the same disillusionment with the government system in Guernsey. I tell you, it is nothing to do with committee system or ministerial system or electoral system, for them it is that they are fed up of voting people who when they get elected do not go ahead and implement policies that they promised the electorate they would get on with. They just become part of the club. That is the problem is that a committee system is not a government, it is a club. You elect people who then sit on their committees and then form policy and the public have no direct say in giving a mandate to policy, they just have a say in giving a mandate to people who then go on and form policy. That is why people will not go out to vote in a system like that because their vote will feel worthless. You vote for one person who, yes, they seemed nice on the doorstep, they get elected and then they just go and do whatever and your vote has no impact whatsoever in the Government outcomes you get.

[11:45]

That sort of system will cause just as much, if not more, disillusionment in our political system than the current system. I have already said that our current system certainly has a lot of work that needs to be done to it to make it work properly, but I think the way that that will be achieved is not by doing what I think this proposition does, which is that it, I think, falls short of what the ambition of those of us who have no ideological sympathy with the Council of Ministers should be aspiring to. The ambition of people in our society who have progressive views and who are opposed to what the Council of Ministers stand for on philosophical grounds should not be simply trying to manipulate a government system so that we can try to mitigate what these people do because these people will always be in power. Our ambition should be far greater than that. Our ambition should be to kick these people out and replace them. The ambition of people on the progressive side of politic should be to take power so you can use that power to transform our society and provide good public services for the people who depend on having progressives in Government. Those are the squeezed middle, they are the poor, they are the vulnerable, they are the people who are completely let down by this Council of Ministers which is ideologically attached to the idea that if you look out for the wealthy everything else will simply fall into place there. To create a government system to try and mitigate what they can do is the wrong way to go about it. We should be having a proper cabinet-style government with party politics where the public have the

opportunity to kick out a government they do not like, replace it with a new one and when any government of any strike or any colour takes office they are able to stand with their election manifesto and turn it into a blueprint. It should not just be a C.V. (curriculum vitae), it should be a potential blueprint for government that when you are elected you get on with it and you implement. That is how we will be able to save millions of pounds that is spent on consultations and consultants that does not mean anything. That is how we will be able to have internal processes built into the civil service so that they have contingency plans for when a Council of Ministers loses an election and is replaced by a new one so that they will not get complacent, they will not have this poisonous culture that currently exists where they are able to get away with a lot more than what they would be allowed to in any other democratic jurisdiction. So I think that rather than accepting this proposition to have a referendum in May 2018 on ministerial government, we should reject this position and we should have a proper referendum on election day and that should be a referendum on the performance of the Gorst and Ozouf Government and we should use that election to cast a verdict, kick them out and get people in who know what they are doing. That is what will restore faith in politics in Jersey, not this proposition. On that basis, I will not be supporting it.

### **7.1.3 Connétable M.P.S. Le Troquer of St. Martin:**

When I first read the proposition I believed the Deputy was seeking to return to a committee style government. Many of us in this Assembly today have never worked under a committee style government so it is difficult for us to know if more was achieved and if it worked better than what we have now. However, the more I read the proposition there really is just one of asking the electorate what they think of ministerial government and to do this by way of another referendum. We had a questionable record on referendums, I think we have had had 3 in total as some have alluded to already. The first being the ... it probably was not seen as such at the time but it was a test referendum on British Summer Time - Greenwich Mean Time. The second referendum was rejected by this Assembly and, of course, an own goal. The third endorsed the role of the Connétables in this Assembly and created an even greater change for those trying to change something that they thought was better. There was a clear result given and there was a mention earlier this morning about the yes/no and that yes/no question on the third referendum was put purposely because of the second referendum question that caused so much trouble. The Deputy has indeed worked under committee style government as well as ministerial so is obviously aware of each and which one she feels more was achieved. I am not sure why she would want to put a proposition forward now but suspect - from her speech this morning - it is much out of frustration on her part believing more could be achieved by other means and with more involvement from all Members and not, in her view - and maybe she is right - merely lip service from the Council of Ministers. Probably many people have told her too that they feel frustrated at how our Government is being run. I can tell the Deputy that there are many, many times, and with increasing frequency, that I too become totally frustrated, both in this Assembly and in the Parish. Parishioners have told me they are frustrated with how things are going. I am sure the question in another referendum, without an answer on how to deal with that, is the answer today. The answer would probably be a no vote. The electorate will vote not to continue with ministerial government. I think that is what is going to happen. If that is the result, what do we do next? I am not comfortable with referendums in the first place, when do you hold them? Why do you hold them when we have been elected Members to make decisions? What subjects are worthy of a referendum? The role of the Bailiff in the States Assembly. Should we reduce the number of Senators? We did that, we did not ask them. Should there be a living wage on the Island? I think we will be speaking about that later today or tomorrow. Should the speed limits be 30 miles an hour throughout the Island? Let us ask the public, a referendum. Should the Island seek independence? There are many, many more; where do we stop? Deputy Martin starts her report by stating she believes the public has strong

views about the effectiveness of ministerial government and its accountability to them. Yes, there may be some, it should be all, but hard as it may feel to say this, I really believe that the majority are not bothered and those that are are not bothered about ministerial government, they are worried about Government full stop. What do the public really want? The public want things to happen, they want to see decisions made promptly and those decisions kept. They do not want to see money wasted, they want to see money saved and we do not have a good track record there. They want to States Members to work hard. For the fear of criticism, States Member do work hard. Every States Member in this Assembly works hard, I see it but the public might not see that they do. Is that not what the public want? There will, of course, be others who want this Government to do things that are not possible and we will always have those. Some people will never be pleased. If the Deputy wants ministerial decisions to cease then I do not think a referendum question about ministerial form of government is the answer. I appreciate her amendment tries to address the issue. I have to say that I was disappointed with the comments paper from the Council of Ministers, even as a perceived loyalist of the Council of Ministers. We know the 4 objectives, we have heard them many times in the last few years. There is no need to tell us again. What really drew my attention was the Government speak lower down in the comments and I will read it: "However, with care and attention and while difficult, positive, constructive and considered change is possible. This is what the Council of Ministers would like to see, including promoting engagement and inclusiveness in the development of strategic and financial policies, and in doing so considering a wide range of options." That is a line straight out of "Yes, Minister", is it not? Like Deputy Martin's proposition, again no answer as to how we achieve things and where we are achieving it. It is interesting to note that, maybe not for the chairman of P.P.C. (Privileges and Procedures Committee), once again just 4 weeks after we had another proposition on polling cards and polling stations we have yet another member of P.P.C. bringing a proposition to this Assembly while the committee on which she sits and is a member, are about to bring forward legislation in relation to referendums and a Referendum Commission. While accepting any Member can bring a proposition, it is P.P.C. themselves who are bringing forward the legislation in the next few months building on the previous recommendations of R80/2014. I read that again at the weekend and a very informative piece of work it is. The Deputy has, of course, realised this and submitted an amendment to her own proposition to cater for the wording of the question. Finally, I am sure the Deputy has brought the proposition because she thinks it could be done differently, it could be better, even if she reverts to what we had before Clothier. In the broadest sense, her proposition today really is a vote of no confidence. I see it as a vote of no confidence in the Council of Ministers and that is the way she brought it today. I just had that feeling when I read it. Serious stuff and therefore I am unable to support. What she has not been able to do is to offer that alternative, and even the Deputy accepts that herself. There may be another Clothier report on the composition of government, I rest my case, more expense, so I cannot support the proposition. Thank you.

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

The frustration of Deputy Martin is obvious and I think to be truthful that many Members of this Assembly share her frustration. It is just that I think the solutions that Members would offer are not the same. The solution that Deputy Martin offers to remove her frustration would, I am sure, make matters infinitely worse. In fact what she recommends as a solution is not very clear. Her report asked for a referendum on whether Jersey should continue with ministerial government, but what if the answer to that question is no? What is the Deputy putting in place of ministerial government? Does she want to go back to the committee system? She suggested that in her speech but it is not at all clear from her report that is what she wants to do. She certainly does not say so in her report. On the contrary, she includes a very large section from the report of the late Deputy Mike Vibert which was relating to an amendment that he put forward in 2001 but his amendment, rejected at

that time, sought to introduce a combined committee ministerial system. Does the Deputy want a combined ministerial committee system? She does not say so. What she does say is that: "It could be something else entirely" but she does not tell us what it is going to be. So the proposal is, in a nutshell, that the public should be asked if they want to abolish our current system of government but we are not going to tell the public what we would propose to put in its place. That would be a recipe for chaos. I am sure the Deputy does not want that. She refers in her report to the report of Sir Cecil Clothier and I reread that report over the weekend. Although not all the recommendations of that panel have been adopted, it is surprising how many have in fact been accepted over the period of the last 15 years. I think Clothier got it wrong in relation to the role of the Bailiff, he got it wrong in relation to the role of the Constables and in a number of other ways too. But he did recommend that the Assembly should, if ministerial government were introduced, reduce its numbers substantially. There we have so far failed. I was speaking at the end of last week at the British Irish Consul to member of the Manx delegation and I learned from them that although they have a smaller Assembly every member who is a member of the House of Keys has a role in executive government if he wishes to have it. Everybody does have a role in executive government save one, I understand. They told me that that did not prevent members who were what we would call Assistant Ministers, members of their departments from serving on Scrutiny Panels and, indeed, they said that they thought that experience of serving in Government enhanced the scrutiny process and they became better scrutineers. Our absurd rule which limits the number of Ministers and Assistant Ministers prevents us from involving more Members in executive government.

[12:00]

Members cannot have it both ways. We can either be inclusive as Deputy Martin wishes us to be, involve all Members in the governmental process, or if we are not prepared to do that, which is our current system, then we are heading, as Deputy Mézec would have it, towards a party political system. Deputy Mézec treated us to a wonderful tirade about the deficiencies of Ministers and their failings but I think that what he was really telling us is that he would like to be the Chief Minister. The difficulty is that there are perhaps not too many people who would share that aspiration. He spoke about Gibraltar and cracked up what was happening in Gibraltar, but Gibraltar has an assembly of 17 members, the Isle of Man has 24. How many do we have and are we prepared to do anything about it? When it came before the Assembly on the last occasion Deputy Mézec voted against and kept the numbers that we have. I hope that Members will reject this proposition, well intended as it might be. A referendum needs a clear binary yes/no choice between 2 different options which can be easily explained and easily understood. We do not know what our options are here and I hope that Members will not push into the lap of the public the solution to a question which they should not be asked to solve. We should not abrogate our own responsibility for sorting out the deficiencies of our current system.

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

Many, many years ago when I first started farming, before I was allowed to farm I had to go and prove my qualification to the Committee of Agriculture. I sat opposite the committee, across a long table of 7 committee members and at the end was the chief officer, one man. Just before being elected about 3, 4 years ago I again went to meet a Minister. This time I sat across the table, the Minister was opposite me and there were 5 officers and one secretary taking minutes. I put my series of questions and they were all answered by the officers and apart from saying: "Hello, Chris" and: "Goodbye, have a nice day" the Minister said nothing. This is how Government has changed. Clothier was in some respects a very, very good report but where he failed, and it was pointed out by the previous speaker, was to recognise Jersey's heritage and Jersey's closely guarded parochial system. The Parishes are the constituents and any form of amalgamating and changing Parish boundaries to different constituencies I believe will be strongly opposed. At the same time the

public have spoken through the referendum to keep the Constables and again to keep the Parishes. One of the things Clothier made very clear was do not cherry pick. That is exactly what has happened. I think what we have is a problem that needs to be recognised before we can find a solution. In any private business you have a management structure and you have the managers. You can have the best managers in the world but if the structure in which they work is not correct they are ineffectual and the business will fail. Equally you can have the finest structure but if the managers themselves are not any good, again the business will fail. The advantage the private sector has is that they can change their structure to fit their managers to ensure the success of the business. We have had committee government and we have had ministerial government. I can remember people complaining about the committees in the past, in much the same way now we have complaints about the ministerial government. We have a fixed management structure of ministerial government. I am not going to comment whether that is right or wrong but unfortunately it is not working because the people in it are not performing. A classic example is the fact that almost every piece of legislation comes late. This morning we were asked to take the draft United Nations Financial Sanctions early, the budget was lodged late, the hospital site was lodged late and we have only just had the lodging of how the hospital is going to be financed. The comments papers from the Council of Ministers are usually circulated on the morning that we sit and so those of us who have amendments or propositions do not have the time to read what the Council of Ministers have to say and therefore respond to them. There is also the issue that when we do get comments you cannot quite understand them. I refer here to the Ministerial Government Referendum P94/2016 - Comments by the Council of Ministers, and I will read the first sentence: "In recent months a number of changes to the workings our democracy and system of government have been proposed." What on earth is meant by that? Nobody has proofread this. Anybody, any child who would have proofread this would have said: "Dad, there is something wrong with this." I honestly do not know what that means. This is the evidence that we have that unfortunately it comes down to timeliness, to decision making, to leadership. Within the Council of Ministers they do not have the necessary discipline, leadership, timeliness of decision making that is required and we as an Assembly keep getting a load of rubbish, and this is the example. The example, the fact that so much information comes to us late is all the evidence I need. The other issue we have is Scrutiny. I have worked extremely hard and I know on the various panels that I have worked on my colleagues have worked extremely hard as well, only to be brushed aside by the Ministers: "No, no, that is very interesting, well done." But if read, I believe it was Clothier, he said Scrutiny should assist in policymaking. But if we ask: "What are you doing?" we are told: "Oh, this is policy under development, we cannot tell you." That is what we are there for. Will you please, please, consult Scrutiny before you make a decision and not just come to this Assembly and say: "This is our proposition", it is read out, the proposition is made: "Does Scrutiny want to look at it?" "No, it is too late." "All right, let us move on to the next one." I find it difficult to support this proposition but I am going to for the simple reason of the frustration among us, there are people in this Assembly who are as frustrated as the general public outside and at the end of the day I am afraid it is up to the Council of Ministers to sort themselves out. We have to have leadership, timeliness and effective government. Thank you.

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

So there was a former Member of this Assembly, and I will not name him just in case the quote that I am about to give was either off the record or for other reasons does not want it to be attributed to him. He used to say: "Jersey is a one party state masquerading as consensus politics." In particular that was in the context of the committee system whereby we would always say: "Jersey is great, there are no different sides, we all agree, we are all here in the best interests of Jersey" and essentially saying that in reality there is a one party state which is led often by the top, whether that was by committee, the chair of the Policy and Resources or Finance and Economics, as it was in the

day, and now we simply have a ministerial government. But we know who the equivalents are of that in the current system. So this myth of consensus politics still lingers though the reality, especially in the more complex and cosmopolitan Jersey I think has become less sustainable to keep that illusion going. Now, you have to question to what extent there is a systemic problem here and no doubt there is to some extent a way in which the current system can definitely be improved, and we will talk about some of the ideas for that. But there is also a problem to do with the incumbents and the way that they treat ministerial government. I think you have to be fair and say that ministerial government is relatively new and there has not necessarily been a blueprint of how it is done, the conventions have not really arisen in the way that they might have over a long period of time with the previous system or in other areas where there are long traditions of having ministerial systems along with an oppositional government. So we need to bear that in mind while criticising or critiquing the status quo. But it is extraordinary, is it not, that time after time, especially during this debate when we are potentially talking about changing the whole structure of government and putting that question to the public that the leader of the government is not even in the Assembly and that another key proponent of his government is somewhere in the coffee room, I have just seen him, come off a plane. Could we imagine a scenario, for example, in the House of Commons when on a Wednesday the Prime Minister was not there even though she knew that she has to face questions every Wednesday and that there will be a barrage. The House would not accept it over there and the public and media certainly would not accept it, yet in Jersey we say: "Oh that is fine, they must have something more pressing than being in the Assembly, which is their core function that we have elected them to do." The problem does not lie with the system or the public, it lays with us because time and time again we do not stand up for our own rights as an Assembly and let ourselves be walked over, even though - and it has to be said in the Jersey context - we are in the majority. We have built a system of ministerial government deliberately with checks and balances. It is not something that we all ask for but the checks and balances were put in place. There are 11 Ministers, I think, if that is correct, with some Assistant Ministers and even with their Assistant Ministers they are still technically in the minority. Now we know there is an element of fiction around that, of course, because they have a good starting position and they only need to nobble a few Back-Benchers to get their policies through but they cannot always do that. So we have an inbuilt position yet we seem to be crying, saying: "We do not think this is fair, we would like to be more included in government policy" and therefore we get to the position where I completely understand where Deputy Martin is coming from with some of the frustrations and, of course, she is talking to parishioners and particularly some of the older generation who are the most active when it comes to engaging politically, certainly at the ballot box. Of course they will say: "Were things not better in the past? Did it not run a lot better in the past?" So let us look at that because I think that there is a logical fallacy which is being put out there perhaps unintentionally where we look back ... the fallacy is the one of cause and correlation. So people look back at the past and say: "Well, 20 years ago, 50 years ago, States Members were not paid" and we had all these very macho, big giants as they were called, they tended to be men, they were sometimes quite tall, they were sometimes very outspoken and boisterous but goodness me did they not get things done even against popular opinion in certain cases? But that fails to recognise that the circumstances were quite different. We did have some political giants. It has to be said that there was a different financial and economic climate at the time.

[12:15]

Quite frankly we had money coming out of our ears and it could not be spent quickly enough, even the amount of follies that the States of the time ... they used to try and spend on things like a steam clock, the whole potato saga that I remember as a very young lad. The Beauport potato man was idolised in song form by the famous Jersey Band. That happened during the committee system. That was not a ministerial failure and there are no doubt other litanies that could be attributed to the

committee system as well as some very good hard work in normal day-to-day policymaking and good provisions that were made in the past by people sitting around a table. So you cannot say that any plus side is due to ministerial system or any negative consequence, if you are on the other side, is necessarily down to the ministerial system. I think that is just part of the territory. Government and Assemblies sometimes get things right, they sometimes get things wrong and you cannot necessarily attribute that to the system. I would put on record as well, remember ... and I spoke to somebody who perhaps was on the government side saying: "Well, you know, in the past we had some great people there who set up the economic stability for the day and life was great" and pretty much to use those clichés. I said: "Yes, but remember that there was systemic child abuse that happened on their watch." I am not saying that they knew about it but for decades these things were going on and for the remaining decades we have had to deal with the social consequences of that and more recently the financial consequences of that as well. So let us put this in context. Again, that cannot be attributed per se to the committee system but it did happen under the committee system. Now I think that there are some positive steps that we can take as an Assembly to reclaim back our power because what we clearly have here is a ministerial form of government which is increasingly very powerful. We see, in particular, the Chief Minister's Department becoming very powerful, gaining extra resources. Departments which were previously separate like housing and other things, social policy increasingly come under the auspices of the Chief Minister and there is a concentration of power there definitely. Absolutely, that is correct and that is what is happening. At the same time Back-Benchers find themselves impoverished when it comes to the resources that they have. Even in Scrutiny we find that perhaps Scrutiny is not even necessarily spending the budget that they have year upon year, let alone demanding more money and more resources. What provision is there for the individual Back-Bencher who has perhaps been elected, like most Members of this Assembly, as independent or the 3 of us who have been elected as a party, we do not get any particular resources apart from the basic wage and some shared facilities. Now this would not be acceptable in other Parliaments and other Assemblies, they would demand the basic tools that we need to do our jobs but it seems that once we are here we remain humble, which is of course important. It is important to remain humble for and with the electorate but certainly we should be demanding that we have the wherewithal to do our jobs correctly. That is certainly one thing which I think should be put forward. I have certainly learnt that in the last week in meeting parliamentarians from all around the world and Deputy Wickenden, I am sure, in the future might say the same thing. That even in small jurisdictions, like Monserrat which has 4,000 and which has party politics interestingly enough, it goes to show that party politics is not just for bigger countries. Small jurisdictions, smaller than Jersey, can and have done that very successfully. They tend to be resourced generally much better than in little old Jersey which is trying to punch above its weight, and which does punch above its weight in so many ways on the world stage. But we seem to accept a raw deal from the Back Benches. So that is the first point and I think we could also do more in terms of all parliamentary working groups, or cross-bench groups, if you like, in the Jersey context. I think that we could do that in terms of interest groups. It has been said that no individual section of this Assembly has the monopoly on ideas or policy and Deputy Martin herself said that there is much talent in this Assembly. I think that is true. There is also much talent outside of the Assembly which perhaps has not had the opportunity to get in here yet either. It is probably incumbent on us, and we do not need to wait for the Government to suggest it or even the Privilege Committee, that if there are interest areas, whether they be to do with human rights, to do with housing, to do with other social or economic interests, there is nothing to stop us forming those groups as Back-Benchers with Ministers and discussing policy openly and doing that. But, of course, there is a much easier way to do it, you form a political party or you join a political party. I think it has been said elsewhere that if you want to improve your work place you join a union, if you want to improve society you might join some of the many groups that exist in the charitable sector, and I think if you want to improve your Island



and improve politics you join a political party. It has been said by the Constable of St. Martin that this could be seen as a vote of no confidence in the Council of Ministers. I am not sure how that works necessarily because we are going to have to wait for this to be put to the public in the form of a referendum and even a no answer does not give us a chance to kick out this Government because it is the election which will be the chance to either kick out or endorse this current Government, and I firmly think that is where the battle lines should be drawn. I would ask the Deputy and the many Back-Bench Members perhaps in this Assembly, and even Assistant Ministers and perhaps even Ministers who are privately critical of some of the direction or some of the systemic failings that we have to consider their positions in the future because I do not think, even if you are a talented individual - and no doubt we all bring different talents to this Assembly - simply by being elected to one of the seats in this Assembly does not give us the right to govern. The right to govern currently happens by the mandate of this Assembly as we all know but that is where the deficiency lies because the public do not have any say in who becomes the next Government. To their credit, the Council of Ministers have to work as a team and they do work as a team under collective responsibility. That is what any self-respecting party would have to do if they were in Government, even as a coalition they would have to do that. The issue is that they are a coalition of 11 different Members without any party mandate and some of them have to rip up their manifestos as soon as they get into the Council of Ministers to abide by collective responsibility. Even the Chief Minister cannot push through policy that he wants to, that he stood on for election to the public and to this Assembly because he does not think he can get it through either his Council or the Assembly and that clearly is the restraints under which we work. So I think there are positive things that we can do, we can demand better of the current system while we are in this Assembly and I would suggest that a referendum, if nothing else, apart from the question of not giving us a clear direction for the future, it would act as a distraction for the next election when we should be debating the fundamental policy differences, the direction of the Council of Ministers, to what extent they have it right, to what extent they do not have it right, but more importantly what are the policy directions and alternative policies that people are putting forward. So I do put a challenge out to Members both within this Assembly and potential candidates outside looking in thinking about maybe whether they want to join this esteemed body, whether they might consider some of the ideas that they have if they are shared with other people who are like-minded. If there is a current anti-government mood and people have constructive ideas for a different direction of travel then why do Members not simply get together. There is a party already which exists and we are currently accepting applications from existing Members and those outside the Assembly. But similarly if this particular brand is not for you then form your own brand. One of the key policies that you can put in your manifesto ...

**The Bailiff:**

Deputy, I have given you consideration latitude but you really must come back to the proposition and not invite membership of your party. While I am addressing ...

**Deputy M. Tadier:**

You stopped me just as I was about to get back into the proposition.

**The Bailiff:**

That is always the way.

**Deputy M. Tadier:**

What was it the former Constable of St. John used to say? Cut me off at the knees or something like that. I will not resort to that cliché quite yet. The point is that you can achieve what this proposition sets out to achieve in a different way because, let us be frank, it is probably not going to get through today. You can put it in your collective manifestos and you can call yourself, if you

like, a one issue party, the single issue is that we want to get rid of the ministerial government and replace it with ... I do not know because it has not been specified, but that might be to replace it with a committee system or to just pull something out of a hat and replace it with that. While you are about that you could also put some other policies in there perhaps to do with a living wage or to do with long-term funding of higher education. Really the possibilities are endless and would it not be great for once for the public to have a clear option and it could be done under a coalition, not just to get rid of ministerial government but to replace the Government with some other leadership with a clear vision, a better vision, and one which is more responsive to the public. I do not think the referendum is the way forward on this issue but I do think there is a lot of common ground to improve the way we currently run, even in the next year and a half but certainly in future Assemblies.

**The Bailiff:**

Deputy, can I also ask you to withdraw the word “nobbler” which is unparliamentary and talks of nobbling other Members, you could talk about persuading them?

**Deputy M. Tadier:**

I will withdraw nobbler and add it to the list, Sir.

**The Bailiff:**

Thank you, it is always a good thing to learn. Does any other Member wish to speak? Senator Ferguson.

**7.1.7 Senator S.C. Ferguson:**

I thought people would like to hear me in silence. I retract that, unreservedly. You know, the problem I have been thinking about as we sit here listening to the views pushing for political parties, it is a bit like revolutions and regime change and the problem with those is that only the people at the top change and everybody else stays the same. So you are generally mistreated by both sets of elite. The problem with Clothier is he wanted a regional assembly as recommended by the E.U. I came into the States just after the change to ministerial government was agreed but I worked under the committee system to begin with and I can say it worked and it was inclusive. The public understood it. There are very few of us in the Assembly now who have worked under that system but this is not the matter under debate so I will not linger on it. What I can say is that during the recent election one of the major complaints I was getting from people was that the Council of Ministers were not listening and that there was perhaps a lack of transparency. Senator Farnham has already referred to the public being influenced by the media. I regret to say but I do not know where he has been recently but with the advent of the internet and social media the public is now very much better informed. How else does the Royal Square bubble explain Brexit, the election of Mr. Trump as the next President of the U.S.A. (United States of America) and not to mention Alderney. There is a referendum in Italy shortly and some general elections due in Europe and I suspect that the parliamentary bubbles in Europe are going to be equally shocked. Deputy Mézec talks about the change.je survey. I think the only way we can decide whether it is valid is what was the sample size? But to go back to the point, the problem is that population feels that no one is listening and they also perceive Scrutiny as being ignored. Deputy Martin is offering us a genuine referendum despite what both the Reform Party and the Council of Ministers both say. We do have a ... sorry, wrong page. The referendum being proposed is going to take place in just under 18 months' time. This gives plenty of time for P.P.C. to come up with a plan B. I would respectfully suggest that they review the Swiss Constitution if they are short of ideas because that is very much more direct democracy than either the committee system or the Council of Ministers. So, yes, I think we ought to have a referendum and I will be voting for this proposition.

[12:30]

### **7.1.8 Connétable J.M. Refault of St. Peter:**

I think Deputy Martin is acting as a loudspeaker for the voice of the people in bringing forward the report to her proposition, because if you talk to people they are very unhappy with the way that government is run at the moment. I too am critical of both the Ministers and the Assistant Ministers but I talk to them, I tell them what I am unhappy about and we talk about the issues. I might make a recommendation, they are free to ignore me and they often do, but we have a very good working relationship. We can work within to help to improve ourselves. One of the things that really ... my own experience of coming into the States is I came initially as a Back-Bencher, I was the vice chairman on the Public Accounts Committee initially and also on the Environment Scrutiny Panel at the same time. That was a very interesting piece of work to do. It was only later when at the end of my first term I was invited to go into Treasury as Assistant Minister I saw a completely different side of government by being inside the Government itself working alongside the Council of Ministers. It is a great shame that most Members in here will not have that experience because the breadth of that experience that it gives you and seeing the amount of work that goes on inside the ministries is phenomenal. It is unfortunate that people cannot see that. Senator Bailhache raised that very point in his speech. The rules that we operate under at the moment does not allow all of us to be able to see the workings and the ramifications of working inside ministerial government. That is one thing that, if we do change anything, is one thing that I would certainly support the change of, so you could work inside the ministries, everybody having an opportunity to work inside them. In talking some time ago now, probably about 3 or 4 years ago even, to one of the members who was on the Clothier panel, he did say to me at that time that one of the recommendations when you change a Government, you should after a period of 2 or 3 years review it and see how it is performing against what you expected it to do. I would have rather seen that recommendation coming through today as a recommendation to ask the Chief Minister to bring forward a review on the ministerial government to see how we can improve it and make it better. Because it is not just the Council of Ministers that is in issue here, and I know I am not going to be popular in saying it, but there are also issues with Scrutiny in itself. Yes, it is being ignored but sometimes the way that Scrutiny has operated may create the environment where they are ignored. For example, recently there was a Select Committee report done in the United Kingdom about Select Committees - that is the equivalent of our Scrutiny Panels - and they are very critical of the Scrutiny members who use the process of scrutiny, their Select Committees, for their own personal objectives, looking for a headline rather than having an outcome they are looking to achieve in working with Government. Quite often if you look at the way we work with Scrutiny Panels here, private briefings with Scrutiny are excellent. They are a good working environment. Public meetings become formal and almost aggressively challenging. It is not helpful to get that throughput of information across where Scrutiny members then feel more engaged and able to contribute more openly and the Ministers themselves become more receptive in a less challenging environment. So I think Deputy Martin is right to echo the voice of the general public at the moment, but I do not think the referendum is the way to do it. I would have rather seen her asking the Chief Minister to institute a review of the process of ministerial government at the moment to see how better we can improve it, because I do believe we can improve it given the will and given the motivation.

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

I have had the privilege of working in both systems, firstly as a clerk and officer in the Civil Service, and I came into the States just as ministerial government began. So I have seen through both ends of the telescope and Members will know that I have been on the ministerial side and on Scrutiny. I do not believe this is the right time to question the system we currently have. Question

it yes, but change it no. We would need a whole review of the whole set-up we have here in this Assembly, the electoral reform process. All those sorts of things need to happen first. But I think the Deputy's intention is honourable and she is, as Members have said, reflecting what other members of the public are saying. We are there to do that and I hear similar from constituents myself. I walked in today with a constituent that sits on our Roads Committee. He was quite adamant that the ministerial system simply does not work. It was not until I spent 5 minutes explaining to him how it works that he kind of started changing his view a little bit. That is the issue here, communication. I do not think our current Government is very good at communicating. They get bogged down with things that are minutiae in terms of the public seeing that minutiae instead of the bigger picture stuff. Perhaps the bigger picture stuff is not as interesting to the public as ice rinks, as nursery education funding and, dare I say it, higher education funding, but the Government are not very good at communicating that. Why get bogged down with a debate about own goals really about the ice rink and nursery education funding and not putting the minimum wage up to the same rate as everybody else? Why get backed into that corner, which creates this horrible feeling among the public that somehow they are not being listened to? It is about communication and I think that is where the Government need to resolve matters, is on communication. It is not about creating what was when I was in the Civil Service, 48 committees. We used to go round and round in circles to try and get any decisions made and that was from an officer's point of view, which is what I was at the time. Then suddenly I came into the States and was faced with what was 10 ministries then. It seemed to me a much, much better system so I would not want to see that changed in a hurry. But my biggest issue with this proposition, though, and other Members have mentioned it, is what would you replace it with? So we have a referendum here that makes the public think if they say no to the current system, which is basically voting against the current Government, almost a vote of no confidence I think one Member mentioned or described it as, but with nothing to replace it with, it is the wrong question perhaps to ask at the wrong time. I think the population would be disappointed perhaps in the answer that was accumulated from that bit of market research really and you would have no solution to offer. So without a solution and just a question: "Do you like the current Government system or do you not?" as the question they are really being asked would be of no benefit, I think, to anybody, least of all the populace at large who want action on various things and a solid, strong Government that have a mandate, that have collective responsibility and can make things happen. We on the other side - I say we; Scrutiny, Public Accounts and so on - scrutinise and challenge that and we can challenge that in this Assembly, which we do. That Government are still in the minority, which is really unusual. You say that to people in other Parliaments, as I have done on conferences and so on, and they find that remarkable. I think that is the quite quaint thing about our Parliament but it kind of works. I know Deputy Tadier disagrees and says that people can be nobbled I think was the word he used, I think regarded as unparliamentary so I am sorry to repeat it ...

**The Bailiff:**

So there is no need to repeat it.

**Deputy A.D. Lewis:**

I am sorry, Sir. Anyway, the fact is that I think the system works because there is that check and balance. I am sorry if I disagree with some of my Scrutiny colleagues, but I can say from my current experience on P.A.C. that the Government have listened and have taken on board the recommendations that have been made by my committee and the C. and A.G. (Comptroller and Auditor General). Not completely, but neither would I expect them to, but they have taken on board some of those recommendations. I will be following up to make sure that that continues because I am not too sure that is sustainable but I can say that those recommendations when made have been taken on board, particularly by the Treasury in recent times. So I am perhaps breaking

the mould there. I cannot support this proposition for the reasons I mentioned, which is it is too narrow, it is the wrong time and it is not providing any kind of proper solution should the referendum go against the current status quo.

**7.1.10 Senator P.F. Routier:**

I am one of those Members who have been around probably too long. **[Approbation]** **[Laughter]** During that time obviously I have experienced quite a bit of different feelings from the general public. During that period there have been many times over the years that people have been dissatisfied with Government, even before ministerial government, even before my time when I think about the demonstrations in the streets for the introduction of social security, a coffin being trailed around in the square and people were totally dissatisfied with Government. But the Government have to do their work and do what they think is right for our population. I can recall the committee system, when the proposer of this proposition talked about the giants that were around at that time. There were giants but they were giants and the committees sometimes did not have a say in what was happening. The presidents used to run the show and they might have had 5 or 6 Members with them sitting in a committee once a month, but the presidents got on with it. Do not get these rose-tinted glasses of what it was like in the past as what we should be heading back to. I do agree there is a need for us to be more inclusive. We had a meeting, the Chief Minister and I, with Deputy Martin about how we could achieve that with Assistant Ministers, and we have quite a few suggestions about how that might be achieved with Assistant Ministers being able to be on Scrutiny Panels as well. I think we should aim to be doing that; certainly that is something to aim for. There were some comments. I think the Deputy of St. John was very critical about the Council of Ministers currently and he has some justification in saying that sometimes we are ...

**The Connétable of St. John:**

Point of order, Sir: I am the Constable.

**Senator P.F. Routier:**

Sorry, did I say ... I might have been talking about the Deputy. **[Laughter]** Sorry, the Constable of St. John about the Council of Ministers not being very timely with various propositions and things coming forward. Somebody else also mentioned that there were more departmental officers now than there were in the past. In reality, that is not the case. There might be more people working on the coalface, working for the States generally, but policy officers within departments, they are really hard-working people who are struggling to get things done and prepared for us. **[Approbation]** I think we need to recognise that we see them working late at night and at weekends to get things done to meet the timetables which this Assembly sets, and it is very, very difficult for them. So I hope Members will recognise that. Deputy Mézec quite rightly identified that it is not necessarily the system that is at fault, it is the personalities that are in the system. That may well be the case, but the people we have in this Assembly are elected by our community. From that, we then elect a Chief Minister. We are responsible for that. I can recall the Chief Minister has attempted to form a Council of Ministers. He has approached certain Members and they have declined the offer to become involved because they want to be Back-Benchers. Now they come back as Back-Benchers criticising the Council of Ministers. They have not wanted to be involved, which I think is a great shame because they obviously have the ability and the talents to help formulate policy and to bring forward ... but to come now and be very critical of the Council of Ministers is a great disappointment. The actual practicalities of this proposition I think leave a lot to be desired because if it was to be had that we should have a referendum at the next election day, we would then be in such a position where we would be aiming to dismantle what we were going to have, those people who had just been elected, and there would be so much uncertainty during that period that it would be something which we should not really be putting the next

Assembly through because it is not something that would be a very easy thing to achieve. I hope Members will reject this proposition, but I do accept we need to do a lot better at working together as an Assembly and all Members should try and support each other rather than just be backstabbing and having a go at each other all the time. Please, please, do try to work together.

## **LUNCHEON ADJOURNMENT PROPOSED**

### **The Bailiff:**

The adjournment has been proposed, so the States now stand adjourned until 2.15 p.m.

[12:44]

## **LUNCHEON ADJOURNMENT**

[14:17]

### **The Bailiff:**

We resume the debate on P.94/2016. Does any other Member wish to speak? Senator Green.

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

There are a number of points that I want to cover but, before doing so, this is only the second time - just to remind Members that make comments about the Chief Minister - since I have been Deputy Chief Minister that I have had to cover for the Chief Minister. He is away on very important business, meeting with European Ministers, fighting our corner over the Brexit stuff. If you are not at the table, you get things done to you. The Chief Minister always makes efforts to be here, but on this occasion, if he had not have gone, the meeting would have gone ahead without us and I think it is important that he was there. But I think, in the absence of the Chief Minister, I do need to say a few words. I do understand the frustrations that have been expressed today. I do not agree with all that has been said, far from it, but I do agree that, as Ministers, we do need to try hard to include States Members in how we formulate policy and how we make decisions. I think it was Senator Routier that talked about some of those options. I am sure the Constable of St. John did not intend to mislead the Assembly, but he said this morning that P.108, lodged by the Minister for External Relations, was late. It was not late. The Minister merely asked that it be brought up the Order Paper today. It was not late. Proposition 110 on the hospital was not late. It will be debated tomorrow. It has been lodged for the requisite 8 weeks. The facts need to be correct and I am sure the Constable did not intend to mislead the Assembly, but I could not let that go unchallenged. I have certainly learnt a lot about including States Members as you work through policy. I learnt a lot from the deliberations - and I think we need to have a more formal arrangement for the future - on the new hospital. It has been really hard and I believe that we have made good progress on building a close relationship and understanding those issues. The debate on the new hospital is for tomorrow, but I just use that as an example where many, many States Members gave up time to be involved in workshops and I am very grateful for that. I know we need to do more. We want to do more. Credit is due, I think, also to the Minister for Infrastructure for the workshops that he has run, but we need something more formal where people know that they are going to be heard. This positive way of going about things, this constructive way of going about things needs improvement, but it is a start. The proposition asks the public if they want to continue with, or replace, the ministerial government, but what with? Others have said this. What are we going to replace it with? We are here to represent the public, to explain to them why we should be elected, which we do at the hustings, and then we represent them. We should not undertake referendums lightly and it should only be on the most important matters and, for me, only when you give a positive choice, the ability to vote for something. So, in the case of the Constables ... and I do enjoy when Deputy

Martin has a pop at me, because she is so good at it, and I really do enjoy her being there because she is so passionate and really believes in what she says, but she is also, as I say, very good at it. But the referendum on the Constables, which, if I remember correctly, was my amendment to some proposition that we had at the time about the membership of the Assembly, that referendum was that. It was about who should be Members of the Assembly. It was not about the machinery of government, which is what we are talking about today. The proposition does not give the public something to vote for. It only gives them something to vote against. Following the Brexit vote and, as a small jurisdiction competing for investment, and as we try to improve our economy and as we try to develop public services, I think this proposition is extremely unhelpful. Here I am glad to see Deputy Mézec sat in his seat, because he read out a catalogue of things that the Government have done wrong. Well, I have a catalogue of things that the Government have done right, like much improved social housing, £250 million going into improved social housing. Ask the people at Pomme d'Or Farm what they think about that, at Le Squez, at La Collette high-rise, those in the new houses at Lesquende. That is something the Government have done: much improved social housing. Improvement and a long way to go yet in children's services; improvement and still more to do in mental health services; bus passes for the disabled; a rent safe system; rental deposit schemes; a long-term care scheme that is the envy of everybody I speak to when I speak to other Health Ministers, that protects the assets of hard-working, ordinary people; £40 million new investment going into the health service, and that is just off the top of my head. We were the only Government that foresaw ... well, did not foresee but certainly prepared for Brexit. The comments I have received from Ministers elsewhere - and I do not travel widely, I am nearly always in Jersey - and the people that plagiarise the work that was done by Senator Bailhache, Senator Ozouf and the Chief Minister shows that we were prepared, in case it went the way we did not think it went. That is what this Government are doing. Let me just look back and take the rose-tinted glasses off on the way it was. I was brought up in a house with no electricity, with no water. My bedroom was on the landing. My father cut the windowsill out to get the bed in. We shared a toilet down the lane with 7 other cottages: about 15 people using the same toilet. There was no unemployment benefit; there was no personal care component; you had to pay the full price of medicine. That is the Jersey I remember under the old system and that has changed. So let us think about the things that are positive. If you go round telling people everything is bad, eventually they believe it. Things are hard for some people - I know they are very hard for some people - and some of that is as a result of the economic downturn in America that we all suffer from. But people still want to come and live here. This is a good place to live and we have safety nets for those that struggle. Our society is ageing. We need new infrastructure. We need more housing still and the Minister is working on that. We need to preserve our environment. We need to prepare for climate change. We need to reform our health service and improve our educational performance. I could go on. There is lots more that I could talk about, but I believe our focus should be on these things and not again on ourselves. There used to be, I think, a correspondent in the *Jersey Evening Post* years ago called "Park-Bencher" and she always used to speak to her man in the square. Well, I spoke to my man in the square this morning as I walked across and he had a right - to use the term - pop: "You are talking about yourselves again." That was what he said: "With all the things that we need to do in this Island, you are talking about yourselves again." Do we really need to spend the next term of office in a root and branch exercise on how to introduce a new form of Government - which we have no idea what it might look like yet - and having a public vote on something that we do not know whether we can even achieve it? No, we need to make progress. This Assembly needs to make progress on the things that have been raised today. We need to find ways of combining the best bits of ministerial government, the decisiveness, the ability to co-ordinate across the Council of Ministers' table, with more inclusiveness and transparency. There is no doubt that we must make use of that talent, everybody's talent, that Deputy Martin referred to, but what we should not do is throw Jersey into the unknown. We should not have that referendum on whether to replace

ministerial government, and we have no consensus, as I said before, on what we should replace it with. What should replace the Council of Ministers? Where does the scrutiny function fit in? None of that is clear. We should not jeopardise what is a well understood, although it is fairly new, form of government when we arguably need it the most. Ministerial government was brought in for a very good reason. It was brought in to be more decisive. In an increasingly globalised, competitive and quick-moving world, this is needed more than ever. To be clear, though, this debate is not about what form of government we should have. This debate is whether we should have a referendum or not. It asks the public if we should continue with the system we have. I cannot see how this sort of referendum helps Jersey. I simply cannot see. What I can agree with the Deputy and where I think she is right is we need to be more inclusive, as I have said before, and that is why the Chief Minister supported Deputy Martin's proposition on the election of Assistant Ministers earlier this year, accepting the principle, agreeing to changes alongside other changes to include more States Members in decision making, and to bring back a proposal to the Assembly following that engagement. This work, as Senator Routier said, is underway and I expect Members to be consulted soon. As the Chief Minister said in his comment at the time of the change in the Assistant Ministers, the change of system of a government is fundamental and we must find practical ways that devolve for years to come. I, for one, look forward to that work, but as for this proposition I believe it simply turns the problem over to the public and the next Assembly. We should not do that. We should solve it now. We have important challenges ahead. We must work together. The more we listen to each other, the better we will be able to face challenges for the benefit of Islanders. This means recognising the good in our system as well as the bad, but not throwing it all out and starting again. That is not good for Jersey at this time, or any time. It is often said to be careful what you wish for, but on this occasion we do not even know what the Deputy wishes for, clearly. Have we not learnt the lessons of piecemeal change? While much of what has been said I can agree with, I urge Members not to support this proposition.

#### **7.1.12 Deputy J.M. Maçon:**

Listening to the speeches of various Members today, of course, as with all things, I think there has been a selective view of history. Again, Deputy Martin is not necessarily asking for a revert back to the committee system, though on that one point what is significantly different between that system and this system - and I remember Deputy Duhamel often saying it - is that the States Assembly was the supreme decision-making body, which is very different to what we have now.

[14:30]

It gave States Members at the time much more ability than they have now and Deputy Martin is absolutely right: in our ministerial system a lot of the decisions are *fait accompli*. By the time Scrutiny get to look at them, either far too much money has been spent on consultants for States Members to be able to implement anything, or the pressure is so incredibly high, like with the Depositor Compensation Scheme, things have to be done yesterday and, therefore, it does not give the ability of Scrutiny to be able to function properly. No one else has mentioned that yet, though, have they? What I would also say is that today it is a different age. We have social media. We have a very different tone in our media itself, kind of the more tabloid attitude towards the news, which does change the perception of politicians and of Government as a whole. That is very different to what we had in the past and that does change people's perception of the States Assembly. Whether that means that necessarily they are better informed or not, it is certainly a mixture. Sometimes I often feel that there is a lot of information, which I am aware of, which, perhaps, the general public are not aware of, and again even today I had to refer to someone and say: "If you did a quick Google search you would find this information quite readily." So there is that to bear in mind as well. We had some discussion over the Clothier Report as well but, of course, another thing that has not been mentioned is that within that report, which was not supposed



to be cherry-picked, was also the establishment of a public sector ombudsman. Now, why was that? That was to allow States Members the ability to focus on the strategic issues affecting the Island, to do away with some of the more minutiae work that they do within departments, in order to allow the reduction of membership within this Assembly. But no one ever speaks about that, do they? That is another one that gets forgotten. Also, in making Members more inclusive and perhaps going back to what was proposed some time ago, the ministerial board system, whereby you allow members of Scrutiny to be part of the Executive, I will tell Members I have sat on a review looking at this aspect. If that happens, you will kill the scrutiny process. Now, that may not be a bad thing if we have a different form of government, and this is what Deputy Martin is saying. Let us look at ourselves. How can we provide a better service for the public? I am not convinced ... as valuable as the scrutiny process is, there are many times where I have come forward with a recommendation, and I have said this all the way along, Scrutiny is only as powerful as this Assembly allows it to be and 9 times out of 10 this Assembly ignores and does not support Scrutiny when it comes forward with something. I have found myself a lot of the time wondering why I am wasting my time on Scrutiny. I personally get a lot of knowledge and information out of it, which does help my thinking going forward, but this Assembly - I am sorry - does not respect Scrutiny. Let us not pretend for a moment that it does. We have the nice platitude from a Minister now and again when it is something marginal, something which they can agree with, but if it is a fundamental different point of view on policy, 9 times out of 10 it is the Ministers that will get their way. This comes back to the very good speech that Deputy Mézec gave earlier listing all the different problems, and it ties in with what the Constable of St. Martin says, who might be very frustrated about the whole system. But who supports the system? Who are the Members allowing this system to carry on? At the same time, who elects those Members in order to be in the Assembly in order to allow that system to carry on? For as much as those Members who might criticise the system or want it to change, time and again those are not the Members that are going to be bringing forward propositions looking to change this Assembly, though, are they? They are not the ones who are going to be the revolutionaries. They are not the ones who are going to say: "Right, this is the grand scheme." We have just had the speech from Senator Green talking about how we should not do piecemeal change, but time and again when it comes to wholesale change it is always: "This is revolution and we cannot stand revolution. It must be evolution by slow and gradual change." Because this is the problem which we have always had in this Assembly. We find it very difficult to accept wholesale change. That is why we have had this piecemeal and incremental change over time. Who is to blame for that? The very Members of this Assembly. Looking back in the day, again when the whole thing of ministerial government was established, it was obvious that it was a concentration of power to individuals who knew that they were going to be in the ministerial positions. It was never about being more inclusive. It was an opportunity that certain Members of the time thought: "Brilliant, we can have a lot more influence in the Assembly and we do not need to listen to all of them, because we will have the power, we will have the decisions." Now, you might say: "Deputy Maçon, you are being a bit harsh there", but let us think about this. Ministers say they want to be more inclusive. Well, wait a minute. Chief Minister Gorst, when he stood for the position again for Chief Minister, what was he going to bring in? The equivalent of the 1922 Committee that they have in the U.K. Why was that? To allow Back-Benchers to be able to air views to him as Chief Minister. What happened to that committee? What happened to this commitment from the Chief Minister that we are going to be more inclusive of States Members? Nothing. Not a single thing. So, I am sorry, I cannot believe Ministers when they stand up and say that we want to be more inclusive, because when you look at the facts, at the evidence, about the actions that they bring forward to make the Assembly more inclusive, it does not materialise. Again, Senator Green talked about the hospital. Yes, but that was ignoring the shambles that we had beforehand, because States Members were not brought on board, or enough of them were not brought on board, beforehand. We had all the political interference behind the

scenes because we know certain States Members did not want the Waterfront site to be the one to be chosen. Finally - or not quite finally - another point looking at our system, one of the moves to ministerial system from the committee system ... and wait for this, one of the reasons for it was to make Members more accountable. The point was you knew who the Ministers were, you knew who made the decisions. Instead of having the argument of the president of the committee of the day saying: "Oh, well, I wanted to do this but I was held back by my committee and I could not do what I wanted to do", this was: "Right, you are the Minister, you are the one making the decision, you are the one that is accountable." Now, if you went out there and spoke to the public and asked them: "Do you feel that the system now is any more or less accountable than it was?" I do not think anyone is going to say that they feel the system is more accountable, and that is part of the reason why we changed it or why it was changed in the first place. So, again, it is not really where we need to be. I am going to support Deputy Martin and the reason for this is because I want to see the Ministers out there. I want to see them arguing why the system is so good, why it is so inclusive, why it is delivering for the public, because at the moment I am not one of the ones who can stand there and say that. Now, do not get me wrong, there are some Ministers who are doing some good work. There are a lot of Ministers that care about what they are trying to achieve. I am not going to take that away from them. I believe that most Members who come to this Assembly are here for the right reasons, but I do not believe that the system, as it is structured, is delivering for the public of the Island. One other point, to review the points that Deputy Mézec put out and the ones that Senator Green put out, yes, our system does not work for some people and it does work for others. Any political system will do that. There will be those who win from a system and those that do not. But the question which we need to ask ourselves is: does our current system provide enough wins for those people that we want to look after? We know from the Reform Party they are very much about the more vulnerable in society, although, of course, they would add they care about the middle earners as well, whereas, of course, we have different sections of society who we know are there to support the other spectrum of society. Of course, all aspects need to be represented, that is good and proper, but certainly someone who always tries to represent those in the middle ground, the ones who are squeezed, the ones who are targeted with health charges, *et cetera*, I do not feel that they get the representation that they certainly deserve in this Assembly. I do not see how this system that we have is going to improve the situation. We have had other Members saying how awful it is that we do not know what an alternative might be. Unfortunately, unless we have the public turn around to say: "We do not like this system", we are never going to get that bucket to change, are we? Because we will always have those other Members saying: "Oh, well, we have not had it for long enough. Oh, well, it is the individual Members that are the problem." No, it is as much a systemic one as it is the individuals who are there, as are the electorate who put them there. We talk about the problems about a low turnout within the Island. Well, maybe if we had a system which allowed an elector to vote for someone who they believe would have much more influence, or some influence in how decisions are made on this Island, they would be more likely to engage instead of the situation where so many Members are kept out of the decision-making process, or by the time it gets to a decision it is a *fait accompli*. That is not good for the public. That is not good for the people that I represent. So no, I feel that we do need to give the electorate a chance to give their verdict on this system, which they never had in the first place, as Deputy Martin has quite rightly said. If they endorse the system, fair enough, that will be an interesting debate, but that is for them to decide. As I stand, this system does not provide best for the public. It certainly does not provide the ability for the talents of all States Members across the Assembly to deliver their full to the Island. Therefore, simply staying where we are, how is that a way forward? How are we going to deliver something better to the public in the system that we have? For me that is not an answer and, therefore, I think Deputy Martin has provided us with something which will help take us forward and that is something which she should be congratulated on. I will be supporting her today.

**7.1.13 Deputy S.M. Brée:**

I have sat through this debate getting increasingly concerned that Members of this Assembly have not quite read the proposition correctly. I have sat through at least 2 party political broadcasts. **[Laughter]** I have sat through people ...

**Senator L.J. Farnham:**

We only have one party as far as I know.

**The Bailiff:**

Please continue, Deputy.

**Deputy S.M. Brée:**

Sorry, does the Senator wish me to give way or not?

**The Bailiff:**

I am sure he does not.

**Senator L.J. Farnham:**

Definitely not, thank you.

**Deputy S.M. Brée:**

Well, I would ask the Senator, through the Chair, possibly not to interrupt when other Members are speaking and afford us the same courtesy that we afford him. **[Approbation]** As I was saying before I was rudely interrupted, the point about this is not whether we believe in ministerial government. The point about this proposition is bearing in mind the increasing voter apathy, the disconnection the public have with what happens within the States Assembly and the general feeling that we are, most of us, getting from the public that they are not entirely happy with the system of government, we should ask them the question. It is not a question to be scared of. It is a very simple question. If you firmly believe that ministerial government is the best way forward for this Island, then you would hope for resounding support from the public to that effect. It is more about while we are elected representatives of the public, the public themselves do not very often have the opportunity to voice their thoughts and concerns. While we try to listen to our constituents it is more important, I think, with something like this that we do go out to the public and say: "Do you support ministerial government?" If the answer comes back a resounding 'yes', then we continue as we are, but obviously always look for ways to improve the system. If the answer is 'no', then we start work on looking at alternatives. This proposition is not intending to propose anything other than a referendum. It is not the place of this proposition to propose anything other than the question that will be put to the public. Should the answer come back that the public does not wish to continue with ministerial government, then we, as their elected representatives, work together to find a solution. The problem we have at the moment is the public are not seemingly content with the machinery of government we have. Now, that could be a vocal minority, or it could be an overwhelming majority.

[14:45]

We do not know, because the only time that the public can voice their views is at election time. We need to get this question answered before the next election. Yes, there probably will be a lot of work required should the answer come back the public wish to change. But to say you cannot support this proposition, because it does not offer a solution, I feel that Members are missing the point completely about what this proposition is. It is not here to offer a solution. It is here to pose a question. Now, it may well be that some people are scared of the answers. I would suggest that we need to listen to the public of the Island more and this is one way we can do it. As to the

question of: “Ministerial government is good, it is just the people in it that are wrong,” well, I am sorry, we are all elected representatives. To suggest that it is a personality problem, not a system problem, I think is missing the point completely. It does not matter whether you like somebody who is in a particular role, or you dislike them. What matters is whether the system provides and works for the public, not for the States Assembly but for the public. We have all suffered, I would imagine, going round at election time facing that awful apathy, that awful distrust of politicians, that awful: “Why should I bother to vote, nothing is going to change.” Well, perhaps we owe it to the public to go: “Here is your opportunity to change things if you want to.” We are not saying: “Here is the alternative”, because we do not know what that is going to be yet. Everything needs to change on the one hand, or everything needs to stay the same on the other hand. It is not our right to dictate to the public what system of government they will have. It is not our right to have decisions being made at ministerial level without referral back to the elected representatives. Perhaps ministerial government does need to change, perhaps ministerial government does need to be more inclusive, or perhaps we need another system. This is our opportunity to go back to the public of this Island and ask their opinion. There is nothing wrong in that. That is what we should be doing. As an elected body, we should be seeking the opinion of the public, because we are here to serve the public. The public are not here to serve our own agendas. If we fail to gauge public opinion, or to take public temperature, whichever phrase you care to use, we are letting down our electorate. It is not up to Deputy Martin to come up with the solution to all our problems, irrespective of how much certain Ministers seem to be suggesting that she should have come up with this wonderful panacea that is going to solve all our problems. That is not the point. The point is: do we as an Assembly wish to talk to the public? Do we wish to represent the majority public view? If we do, then let us support this proposition. If we do not, then let us be honest about that and go: “No, we know best, we are not going to go back to the public. The only time you, the public, can change anything is at election time.” As we know, the turnout we have at elections is abysmal and that is because the public do not feel connected to the politics and Government of this Island. They do not feel they have true representation. They do not feel there is the right leadership in place to take forward their thoughts and concerns. That is why we have low turnout and that is why we need to show the public, show the electorate who voted for us, that we are willing to listen. That is all this proposition is saying. It is not a debate about whether we think ministerial government is good or bad. It is not a debate about whether we think the committee system was good or bad. I think, unfortunately, some of the Members who have spoken in this debate have attempted to lead the argument in the wrong direction, to confuse the issue. It is a very, very simple proposition. If you fail to support it, then unfortunately the message that you are sending to the public is: “We know best, we are not willing to listen to you.” That is why I urge Members to think very seriously about how they are going to vote on this proposition.

**The Deputy of St. Martin:**

Could I have a point of clarification, please? The Deputy said the referendum would be before the next election. I am sure he means on the day of the next election.

**Deputy S.M. Brée:**

My apologies, yes, I meant on the day of the election. Thank you for the correction.

**7.1.14 Deputy R.J. Renouf of St. Ouen:**

I think it is true to say that Deputy Martin’s proposition reflects the frustration that is out there with the work of the Council of Ministers and the way that the council does work. Now, I have a note that Senator Farnham told us that work is underway in the reform of machinery of government, but is that not typical, it seems to me, of the Council of Ministers? We were not told what work, what

is happening, who is being consulted, just that: “Work is underway.” Who is doing it, yes, that is right.

**The Deputy of St. Peter:**

On a point of order, if I may, I do believe it is P.P.C. and not the Council of Ministers who are undertaking this.

**The Bailiff:**

I am not sure it is a point of order, Minister, if I may say so; it may be a point of information. Frankly, I do not know the answer to that.

**Senator L.J. Farnham:**

May I be of assistance and just as a point of correction? I did say that I understand work is underway exploring a number of options on how this might be delivered and I understand that discussions, as other Members have mentioned, have been had by the Chief Minister and Assistant Ministers.

**The Deputy of St. Ouen:**

I am not sure I am much greater informed by the Senator.

**Senator L.J. Farnham:**

Well, it was a just a subtle correction of the misinterpretation of my comments that the Deputy made.

**The Bailiff:**

You may be no wiser, but you are better informed.

**The Deputy of St. Ouen:**

If we are led to believe that something is going on, but I am sorry, I apologise to the Assembly, I did not know that anything was underway. I have sat in this Assembly for 2 years, I have been elected by parishioners of St. Ouen, and I would have hoped somebody might have come to me, if views were being sought, about how this Assembly works, how Government should work. I am afraid to say that communication has been poor, very poor in some cases, from the Council of Ministers: communication to States Members, communication to the wider public, and there can definitely be improvements. States Members, Back-Benchers would want to assist, would want to take part in ideas to improve the way we work. We have heard Ministers and Assistant Ministers talk about wanting to be inclusive; well, I think we would like to see some evidence, some practical outworking of that. So, clearly there are faults; we have heard many critiques of ministerial government, but what is the remedy? Here, I am afraid, I have to disagree most strongly with the previous speaker, Deputy Brée, because I have read the proposition and the proposition uses the words: “Whether they agree that the States Assembly should continue with a ministerial form of government.” But that seems to me to beg the question: should we continue? Okay, if not, then what? I think it is irresponsible to put half a question to the general public. It is suggested that if the answer was: “No, there should be no continuance of Council of Ministers” then the matter comes back to this Assembly. So we have given the public half an issue and we have kept back half the issue. Once we have decided on some other sort of alternative, is the suggestion that it goes to further referendum? What would happen then if that was rejected by members of the public? This is a recipe for chaos, surely. This is a recipe for asking ill thought-out issues. A referendum should have a clear result and, unfortunately, to ask whether something should continue or not does not produce an answer that is at all helpful. This sort of exercise would take years to resolve and we would be subject, again, to members of the public saying, well, we are talking about

ourselves time and time again at just the same sort of period in which we want to engage members of the public on electoral reform. What a confusing mix to talk about the machinery of government and electoral reform together. Superficially attractive that this proposition is, I am afraid I cannot give it my support because of the uncertainty that results from asking that sort of question and, for those reasons, I am afraid I cannot support Deputy Martin.

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

I think I will say something reasonably shocking now: ministerial government does not work in its current form. It is patently not working, or we would not be having this discussion, would we? I heard it said recently in this Assembly, which just basically sums up the frustration: “We are not a rubber-stamping exercise for the Council of Ministers.” I can understand the frustration from some quarters. When I am in this Assembly I am sometimes shocked at the personal attacks on the Council of Ministers, because the frustration surely is with the system as it stands; the system is not working. The people, the members of the Council of Ministers are, by and large, good people trying their best in a system which was voted for by this Assembly, which we must not forget about. Yet again, this Assembly has turned in on itself and it is navel-gazing yet again because this is about, really, Members of this Assembly wanting to feel loved, wanting to feel useful and not feeling useful. So it is to utterly throw the baby out with the bathwater instead of looking at the system and adapting the system, which is what we need to do to make it more inclusive. The suggestion has been made by Senator Bailhache that, yes, maybe Assistant Ministers serve on Scrutiny outside of their area, there be more cross-pollination, maybe more Assistant Ministers. Maybe, I do not know. People say: “No. Yeah, well, the system we have got now does not work, does it?” No. So we have to come to some sort of consensus for a system that does work. Now, I do not know if that is the answer; we need to do some work on it, is what we need. We need to make sure that more Members of the Assembly are involved with the forming of policy; we need to do that. But suggesting that the system we have got right now does not work and looking back with rose-coloured glasses at the old administration. I love that, yes, Deputy Brée: “Shock, horror, probe. The public are not happy with Government.” Oh, that has never happened before. Now, this is brand new, this is. Oh, wakey-wakey. This has always been the case; it is the public’s job not to be happy with Government; that is why you have elections. So that is not what this is about, this is about some of the egos and some people in this Assembly who want to feel more involved with policy. Fine: work on the system that makes that possible. If anything, I would like to thank Deputy Martin for bringing this into this Assembly so just maybe we can shake up the system, make people more involved in the machinations of government. But what this is, is a bit like saying: “Yes, my car needs a service.” “Oh, yes?” “Yes, so I am going to get rid of it.” “Oh, why?” “Well, you know, what is the point, does not work, does it?” “Oh, what are you going to do?” “Well, I am not going to buy a new car because cars do not work, do they?” “Yes, you have just got to fix it.” Also, this proposition does nothing more than ask people what they do not want, let us not kid ourselves.

[15:00]

Please tell us what you do not want. It is a bit like being in a pub, going round your mates and saying: “I will get your drinks.” “Oh, yes, okay. I do not want Crème de Menthe.” “All right, yes.” “Oh, and I do not want sherry.” “Yes, all right.” “And I definitely do not want Advocaat, I hate the stuff.” Go up to the barman and he says: “Yes, how can I help? What do you want?” “I have not got a clue. I know what I do not want.” I suggest we reform the system so that we know what we do want. That is the way this should go, and so, while I do appreciate the fact that this proposition has been brought before the Assembly, I wholeheartedly suggest that you vote against it and then we can make sure that the system is reformed.

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

I feel like I have to speak after that last speaker. With regards to: "Let us again review the system." I have been in the States Assembly for, what, 8 years now, and I have been on both Machinery of Government reviews. Both times we have tried to make changes, both times we have tried to improve it. Every time you try to improve it, somebody has a brighter idea or a better way of doing it, or a more informative way of doing it, or power gets in the way. Even better, egos get in the way. Deputy Martin is asking us to ask the public whether they believe ministerial government should continue. The problem is that the public, I do not think, realise how ministerial government works, for one; but 2, the former speaker just mentioned that the public vote in the Government. They do not, they vote in the Parliament. The Parliament vote in the Government and we are supposed to hold the Government to account. The problem is, you try to hold the Government to account and, well, let us look at it: over so many years, I have tried to work as hard as I can in terms of Scrutiny to hold the Government to account; numerous recommendations. Deputy Lewis mentioned before about P.A.C. (Public Accounts Committee) making recommendations to Treasury. Well, Treasury might accept those recommendations; it does not mean it will get done. That is why we are constantly going round in circles, following each other's tails all the time. If you notice, if we picked up all the recommendations that have been done previously, you realise the work that we are doing again is probably going to make the same recommendation we made 6 years ago, 7 years ago, 10 years ago. The fundamental point in all of this is that we find it fundamentally difficult to work with each other. Why? We are humans, we live on an Island: compared to America, compared to the U.K., it is a pretty small place. We can speak to people on a daily basis. Our problem is we do not listen; that is our problem. We can blame each other all we like. I can sit here and blame the Chief Minister, the Minister for Treasury and Resources, the Minister for Environment, the Minister for Education, until the cows come home, but it is not going to get a result, a solution for the people. No matter what decision is made, we are going to find issues because, guess what, we are all human. It really frustrates me when Ministers try to blame one side, or the other side tries to blame Ministers; we are all responsible for making the system work, and we are. Deputy Brée said it is not about personalities, it is not about personalities at all because, if you work in a place of business you will come across people that you do not necessarily like, but you still need to work with them. That is what we should be doing. Ministerial government does not work because it is supposed to be for a political party system; we do not have a political party ... well, we have a political party but we do not have a system of political parties. I will just redefine that. As States Members, we could all join together and make up our own little parties and come in and become the Government and be all adversarial, just arguing with each other, shouting at each other. Really, are we going to get anything done? Are we just going to create more bureaucracy? So, why not ask the people of Jersey what it is that they want to do? Do they want ministerial government? The solution can come later on. We have got to learn from the things that are going on around the world, surely. If you do not listen ... look at the things that have happened: you have got Brexit, you have got President-elect Trump. You have got these types of things happening in the world, and yet we sit here and we are all trying to keep our little cosy numbers among us and making sure ... there is so much back-stabbing that goes on in this role, instead of just confronting the issue, facing up to each other and dealing with the problem. We empower a culture of blame on each other. Why? We are all responsible, we are all humans. I am going to support Deputy Martin. I am elected by the public to represent them, to do a job. When it comes to constitutional reform we love talking about ourselves, we really do love talking about ourselves. I have lost count of the amount of hours I have sat in the States Assembly talking about ourselves. I want to ask the public, see what they think, see if they know what they want from their elected representatives, because they manage to do it every 3, 3 and a half years now, and they have got the elected representatives that sit in here and make the decisions on their behalf, whether it be tax, whether it be health, whether it be education. But that is one of the fundamental issues: we do not have those big policy debates in the States Assembly, we do not have those big policy issues

debated together. Back-Benchers get blamed for looking at specific little micro-management issues, but the Ministers are just as bad at it. So, when we are talking about big policy issues, we are talking about what kinds of systems we want to achieve, what kind of future, what kind of society we want to achieve in terms of developing the policies. I have got to the point where I have worked on both sides, I have worked as an Assistant Minister; look at the good that did me. I have worked on Scrutiny, I have worked as the Assistant Minister for Education; I try to work with all Members, and I still try to work with Ministers: as a Back-Bencher I am on 2 Scrutiny Panels. But we all need to work together, and it is not happening because it is too easy to walk back to your office, or walk downstairs into the comms room and forget that this ever happened. I think that is the biggest issue that we have got to learn from this. I would suggest that people support Deputy Martin's proposition purely because I want to know what the public think, how they feel about ministerial government; we have never asked them whether they want ministerial government. We came into this ministerial government with the Clothier Report; we have had numerous reviews, and we are just going to continue asking for review after review until it tells somebody, whoever it may be at the point in time who has the power, to make the decision to change. I would ask Members to support Deputy Martin, as I will be doing.

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

I agree with the Deputy of St. John, and also the previous speaker to that, that we are falling into a little bit of navel-gazing, but I think it is important for us to share our views of the state of play and the state of things to come, and how we see that the public see ourselves. Because, as Deputy Andrew Lewis said earlier, I think there is a bit of a communications problem here and, as a former media person myself, I think I am probably well-placed to say it. I think, from the Council of Ministers' perspective, we sometimes play with too straight a bat. We want to get out and tell people about what we are doing and what we are thinking and planning to do, rather than getting into the nitty gritty of political talk, and this debate is a really good example of that. What we have going on here is a couple of counter-intuitive arguments that contradict each other. One major argument put forward today is that Members say ministerial government is costing the public more because there has been an increase in the civil service, then another Member comes along and says: "The Council of Ministers do not know what they are doing." So I ask the Assembly, if the Council of Ministers do not know what they are doing, yet they are being assisted and served by an increased and bloated civil service who are telling them what to do, what exactly is the truth here? Like the previous speaker, I have been on both sides of the fence: I have sat on the Chairmen's Committee as well as the Council of Ministers and I see things from a slightly different perspective. The Council of Ministers are a group of elected people, they have been appointed to their roles by this Assembly, they have been elected by the public, and we have all taken our public duty very seriously, we are all here for the right reasons and trying to do our best for our community around us and with the long-term interests of the Island at heart. We are assisted by a very professional civil service, which has recently, and over a number of years, been subject to serious efficiency programmes, to the extent that they are quite strapped, and that takes us back to the communications issue, because we have to make decisions about what we communicate about, because we do not have a larger resource to tap into to say: "Oh, let us spin this argument" or: "Let us spin that argument." We are focused very much on telling people the essential things that we have to do, because we are focused on our policy objectives and our business, and that is all we have the resource to do. Deputy Mézec rightly asks: "How do we restore faith in politics in Jersey?" It is a very important question and I would suggest to the Assembly that the best way to do that is to stop using divisive language. We sometimes fall into that, because a certain group is promoting its opinion and trying to gain traction. Let us think about what really is the truth and what really is the situation that we are dealing with and I think the public can generally see through these arguments because they are very savvy and they have seen it all before, generally. There is a



way forward and I do not really think there is a lot of support for this movement, but what I could suggest is that a possible way forward is that we abolish the Troy Rule. Because, if Members wish to see greater inclusivity, then that is the barrier to that inclusivity because if it was not for the Troy rule, then we would be able to have more Assistant Ministers, who are involved in policymaking and ministerial government. It is slightly controversial, but it is worth putting out there for the Assembly to consider. I think Members will have understood that I cannot vote for this proposition.

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

First of all, I would like to apologise to the Assembly for not being in the Assembly first thing this morning. I will be answering questions shortly, but it is relevant to the point that I wish to make. I am elected, like everybody in this Assembly, to serve the people of Jersey, which I have done with pride like other Members, and I have done so for 17 years. Other Ministers, other Members of this Assembly, concentrate on different areas of responsibility: some on representing their Back-Benchers in big constituencies in important issues, the Constables with their Parishes, and some Ministers. Scrutiny serve in a very important role, and I am going to come on to that. My work is to ensure, if anything, that the income line for Jersey is defended in terms of the income to protect our income-line jobs and growth, which are a part of what this Assembly wants to do in terms of spending money to provide services to keep taxes low. I am sorry that I was working late in London last night and, unfortunately, because of the M25 this morning, I did not make it over to the Assembly this morning. I always take my responsibilities to be here seriously and I have to get up very early in the morning to do so, but it is a pleasure to serve, but on this occasion it did not work. I am here as soon as possible. I would also suggest - I did see the Chief Minister yesterday in the London office, and I would echo the comments - it is unfair for Members to criticise the Chief Minister, I think, with respect, for not being here.

[15:15]

He is defending Jersey with his counterpart in Guernsey in Brussels. If there might be any doubt of the absolute earthquake of change that is underway across Europe and how we may be affected, Members will understand that he has a duty to ascend this Assembly to do whatever he can to also represent Jersey. I do, in my role, in terms of the jobs and growth agenda that I am charged with. Those people who have brought this proposition, and Deputy Martin, I should first of all say that Deputy Martin and I are apparently members of a sub-committee of P.P.C. looking at Standing Orders, and I think the proposition has been lodged, and I thought that sub-committee was due to look at the system and how it could be improved, not to simply completely throw it out and revisit it. I have joked with Deputy Martin that we are a committee of 2 and she has got the casting vote and I find it extraordinary that we have not had a discussion at P.P.C. about this. It may be questionable, it may be a reason at the time why P.P.C. was responsible for bringing machinery of government in and I do not know whether or not she could just nod to me ... I think she was one of those Members who originally did not vote in favour of bringing in ministerial government, as I recall. Yes; I thought that was the case. It is quite important that one puts that into context. There are some people who have never, and will never, agree with a separation of ministerial versus non-executive power. I have heard a lot of things: I listened to some speeches immediately on landing at the airport and then listened on the radio. I heard a litany of everything that is wrong with this Island. Maybe it is because I spend, apparently, so much time outside of the Island and I bring so many people here to the Island, that I perhaps have a perspective that I do not understand. Not everything is right but, my goodness me, if any Member could point to another jurisdiction of 105,000 people, who are enjoying the economic resurgence and the economic success and the financial stability that we have, I would be pleased if they could tell me. Not one single one. If I may make a regrettable comparison to our neighbours in Guernsey, who have moved back to a

committee system, I note with interest the fortune to their finance industry, I wish it was to be different, but I cannot help but think that this Assembly and those people who serve it, both in this Assembly and in the other Assembly, do make a difference. I thank Members of this Assembly for getting it right on so many important issues. Not everything is wrong in Jersey, not everything is bad. Some of the Members that are basically wanting to vote in favour of Deputy Martin's proposition, I have heard them: they said that the finance industry would be dead. They said we would be finished. Well, today, we have got more people in the finance industry even than we had in 2007 and we are the only offshore centre of our size that is in that same position and we are growing. I was pleased to be able to open the Gaspé House, the Royal Bank of Canada building, where the Chief Executive of the global group came over. That building can take 1,000 people, and they are not making that sort of investment if they were not confident in Jersey. I was delighted to see the announcement last week after a bitter ...

**Deputy S.Y. Mézec:**

Sir, could I raise a point of order, please? I believe that this is around about the third time we have heard this speech and he is talking about a lot of things that have not even the slightest relevance to the proposition that is before us. Should we not be asking Members to get back onto the subject?

**The Bailiff:**

Thank you, Deputy. I rule against you: what is sauce for the goose is sauce for the gander.  
**[Approbation]**

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

Let me turn to the real reason why I am raising this: I say that the opposition for ministerial government is from a group of people who appear to have a set of grievances that they have always held. They are discontent; they are fuelled by now a world which has a view about the so-called political elite, which has been punished in the United Kingdom because of the Brexit vote. They have been punished in the United States and they have been punished elsewhere. What happens elsewhere in the world washes across to us here. Maybe we are a political elite, maybe we do not communicate and maybe the Deputy of St. Peter and the other Members are absolutely right to say that we are not communicating. I agree. But the moment that the Council of Ministers suggests that we spend any more money on communication, on explaining, we are told that we are spin-doctoring, and that is wrong. We then get criticised by the media even more. I am afraid to say that Jersey is different. There were people in this Assembly and people who are apparently going to be supporting this proposition, who know the future, who apparently have the benefit of knowing the future now, and they certainly criticise with the benefit of hindsight. Nobody does. We know what works in a democracy, we know that it is pretty well free markets, I am afraid to say, and I know some people do not agree with that, most of the people who spoke against it; I can see Reform shaking their heads. I know what they think about free markets. I want, effectively, an open democracy with lots of people with much money to spend, promoting social mobility: moving everybody; not people born into a situation where there is a glass ceiling, but getting everybody to be socially mobile, up and away from the limitations of their apparent roots giving opportunities for all. How do you all achieve that? How does democracy, translated through a parliamentary system, achieve that? Of course, it is Government's role to pass laws, to raise taxes and run services. It is the perpetual challenge of all Parliaments. The problem is that it requires some trial and error. A number of Members have spoken about criticism; I agree with Deputy Vallois, although I cannot understand why she is voting in favour of this proposition, but effectively finding the right solution, especially in a small place where everybody knows what is going on, is a matter of experimentation, which means that sometimes you get it wrong. Opponents then basically blame you. It is fair enough to say that they blame you and you should stand accountable. In the

committee system you never knew. I was in the committee system; nobody can tell me that a committee system and a move away from ministerial government is the right form of system. Does Deputy Martin not remember? She was here; I used to sit next to her as a Deputy. Does she not remember those days when the committee system was at work, which must be, of course, the opposite side of this referendum. There is no way that you are going to say yes to ministerial government and then say: "Well, what is the opposite?" I know there is some movement in the middle and there certainly should be some evolution in the middle, of course there should be, but the committee system was, frankly, a nightmare; I worked in it. Those people who look back with rose-tinted spectacles have got barnacles on them. I know that, I worked in the committee system, which failed to deliver any savings at all until 2000. The Deputy of St. Peter is quite right when she says that there are some unpopular decisions of the States because we are cutting back on expenditure. There have been 3 rounds of expenditure cuts; the most important was the C.S.R. (Comprehensive Spending Review) which was effectively taking £65 million out of the cost base. It is only because of the co-ordination of ministerial government that allowed efficiency. I was looking back to the Clothier Report and it is all very well for people to forget what was in that report, but it is very revealing. Deputy McLinton said, quite rightly, if you look at the paragraphs of it, what the problems were, there was a Mori poll back in the end of the Clothier Report which basically said people were totally dissatisfied with the system of government and there were a number of recommendations in it. We remarked, they said, that change is uncomfortable, but basically they said change has to happen. The Mori poll effectively said people were discontented with the system of government: it did not work, it was too slow. There was a: "General dissatisfaction with the current membership of the Government. Most residents think that the state lacked leadership and it takes too long to make decisions and has too many committees." Well, they were absolutely right. I inherited a number of committees, one of which was the Environment and Public Services Committee; I do not know why they merged that lot, it was the most toxic, poisoned, chalice that I have ever seen. It was a toxic chalice of a planning committee that had passed an Island Plan with the wrong numbers for rezoning homes for people who needed it. I had to clean that one up. Public Services was spoken about as: "What is yellow and sleeps 5?" That was efficiency, was it not? Then there were long discussions at the Public Services Committee about whether, or not, the grass should be basically lawn-mown one way or the other. Absolute nonsense. I sat in committees and it was incoherent nonsense. It was like a slippery eel: you could not work out who was responsible. It was not one committee, it was numerous, and committees used to communicate by Act: you used to send an Act. What a great thing to do: send an Act to another committee. I used to sit on the Industries Committee and they sent an Act to the Housing Committee. What a waste of time. What an absolute nightmare. Where would this Island be if we had not changed the system of government? We talk ourselves down and I am sorry if I have misrepresented Reform, because my good friend the Deputy Chief Minister has said that Reform are not supporting this proposition, so I apologise; I did not know that. I withdraw that. I am pleased to say they are not supporting it, but they did criticise the whole system of government. They did criticise what the Government was doing.

**Deputy M. Tadier:**

Would the Member give way?

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

I will give way; certainly.

**Deputy M. Tadier:**

I think it is fair to say we did not criticise the whole system of government; we criticised the current incumbents of the Government.

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

That is called democracy and that is fine, because I have been on election platforms with a number of members of Reform and there have been election results and some of us have got in and some of us have not got in. What Clothier was about ... we talk about the issue of cherry-picking; if ministerial government is not working it is because, to some great extent, it was cherry-picked, it was watered down, it was made not to work; it was almost set up to fail. It was said that there was not going to be a government in that sense of an executive; that does not mean to say that the members of the Council of Ministers are any better than anybody else in this Assembly. Everybody in this Assembly is equal, but there are some people that are charged with responsibility and with responsibility comes accountability and accountability was brought in in 2005: you can nail the individual because you know who has made the decision. There is much comment about civil servants; I think civil servants are given a huge amount of criticism unfairly. But, of course, there will always be problems and there is a new system that was brought in in 2005 called accounting officers and that is what Deputy Andrew Lewis presides over on P.A.C: accounting officers, who are personally responsible for the implementation of policy. That is what works in democracy and it needs to work and I agree at the moment there are some blurred lines and I certainly agree that there should be more to be done. Of course, I would like to do so much more: of course I would like to have lower taxes and not to have to do the 2 lots of C.S.R. that have happened and to have the Minister for Treasury and Resources with the Chief Minister and Council of Ministers, to have led the last set of saving. We are being a responsible jurisdiction, unlike others. I was speaking to a very senior economist yesterday, who again said: "Is it not amazing that Jersey is tackling the healthcare of the future?" The U.K. Government is simply not doing it at all; they are putting it off. They had a referendum on Brexit. Well, fine; the people voted for Brexit, but did they really know what they were voting for? Of course, they did not. On both sides of the debate it was largely a fictitious argument and there are going to be no winners, but we have to live with it. What I would say that we have to live with is now an increasingly uncertain world. Putting a referendum, which is going to basically say: "You know what, we might chuck out the whole system of government and start again with a committee system" or something like that.

[15:30]

What a way to send out a message of stability in a world in which we are promoting ourselves as the stable rock of granite stability: "Come to Jersey, because you know what you have got, because you have got a good, effective democracy, which is improving. Yes, we are going to bring forward the changes to the reform of composition of the States, yes, we are going to make improvements to things, yes, of course." That is what democracy is about. We are elected to improve things. If I may say, the one thing that I regret about ministerial government is the lack of inclusiveness of Members. I absolutely agree with that. I can see Deputy Martin being completely bored by what I am saying ... well, I know I am not going to convince her, but I am certainly going to try and convince some other Members and tell some Members what it was like and what the implications are of sending out a message of absolute uncertainty in a world where we need to be projecting certainty. In an unstable world we are the granite rock of stability. Sending a message to have a referendum on what system of government we are going to have, I am afraid, is just about as destabilising as it gets. If Members want to stand at the ballot box, either in alliances or political parties, and propose a different form of government, then people will elect them on that mandate. If there is a requirement for the people of Jersey that want political parties or alliances, then they will pull for it. We will know it, because we will be listening. I certainly think that we should do a lot more listening. The one thing I will say with Scrutiny is this: I was disappointed to hear Deputy Brée's remarks. I know he can be fairly caustic sometimes and he can be quite critical, but I think that what he is doing with me and what his panel is doing with me, in scrutinising my area, is scrutiny at its best. I am trying to get that Scrutiny Panel and my department to be an exemplar.

Sir, you have said about the importance of scrutinising legislation; something which has been very importantly missed. I think what Deputy Brée is doing in his committee and the assistance ... and I spoke to him on the telephone; I am sure he does not mind me saying, and I am not buttering him up; I think that he made a real difference with the scrutinising of legislation, doing the right thing. Could that have happened on a committee? Could that happen with Deputy Martin's move back? Because, this is what we are talking about: moving back to the committee system. You need a separation of functions. We had a debate and I know this is not an issue for today, it is about the separation of the judiciary from politics ...

**The Bailiff:**

You are right.

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

... no, it is not an issue for today and you are not here as a judge, Sir, you are an independent chair and you are chairing this Assembly, as usual, in a completely independent way and I thank you for that. But there is an issue about the segregation of duty of Members: Members who are Executive Members and those who are non-Executive Members. You cannot get that if you are part of a committee and a club, you are simply not going to get that challenge. Deputy Brée gives me challenge. I compliment him for improving 2 or 3 bits of legislation. My department is relishing the prospect of going to him to test their policies and talk to him about them. They have officers meetings with him and then he grills me in public and they should be televised. By the way, that was a Clothier recommendation as well: bring the people in, open up democracy. There is so much more we can do to, basically, make ourselves more relevant to the public. People, who are blessed to have eyes and ears, should not only hear us, but they should see us and they should see us at work in this Assembly. I am proud of the fact that I have been doggedly pursuing the issue of bringing the cameras into the States, so that they can remove the mask and see what goes on: see people debating the things that matter to their lives. What matters to their lives is about the things that we should be discussing. We should not be throwing out the system of government that we have got, or suggesting that we are going to hurl it out, we should be working on improving it. We know the system of government that works in most jurisdictions. We are no different; we are not the United States and we are not a small island of 10,000 people, but a segregation of duties between 2 types of politician of equal value: of those who are in the Executive and those who challenge the Executive, is what makes democracy work and improves policy determination. I am a proud Jerseyman. It has been the most enormous privilege; I never imagined that I would be serving the interests of Jersey and representing Jersey for as long as I have and I hope that I will continue to be able to play some sort of role in the future. All of us are here to serve the interests of Jersey. I will say this; and, finally, do we think the interests of Jersey are served by sending out a message of instability in the way that we govern ourselves at the next election, in a world which is in absolute turmoil? There is an earthquake going on in the world: with an uncertain Brexit, with an uncertain relationship with transatlantic arrangements, with other threats, Russia, and all the rest of it, and all these other issues. We have been, for generations, a place of stability and certainty and that is what we should be. We do not want revolution, we want evolution. I know the system of ministerial government can evolve to be better and communication is part of it, engagement is part of it. I thought that evolution was happening with Deputy Brée's panel, which is doing a great job of holding me and my respective responsibilities to account and making a difference. I urge Members to decisively reject this proposition, so we can get on and start dealing with the real issues that matter to people: improving their lives, social mobility, providing services, improving and preparing for the long term of Jersey, not navel-gazing, looking at ourselves and thinking the system is going to change it. It is not. It is getting down to the issues properly in the right structure and ministerial government is around the world the system that works **[Approbation]**.

### 7.1.19 Deputy G.P. Southern:

That speech gets better every time I hear it. That is the third time now. But there was one element of reassurance in there, for which I am most heartily grateful: that accountability is in the system, so that whoever is responsible for losing £700,000 on Logfiller I intend to hold to account for it, whether that is a civil servant, or a politician, and I hope I manage to do that. That, at least, focuses on the problem we are discussing today, which much of that speech did not, which is accountability. The problem we have is that Ministers are not accountable to us here: we cannot seem to hold them to account and they are certainly not accountable in any way whatsoever to the voting public outside. The voting public outside cannot choose, does not choose, is unable to choose its own Chief Minister. It is unable to choose its own Ministers, or Assistant Ministers. It does not choose a Government; it chooses a set of individuals, who spin the same yarn every time they show up on the hustings: one of - what are the words here - "certainty and stability." What does stability mean? It means holding on for grim death to a 20 per cent tax rate. It means protecting the wealth in our Island from proper full taxation. It means £10 million cuts for those who are worst off on benefit. The anarchist in me wants to vote for this proposition. I want to kick over the apple cart and say: "To heck with it, let us change." But change for what? There is no clue on there. Let us stop doing what we do today and hope it works out. The anarchist in me thinks: "Yes, it could not get any worse, could it?" Well, maybe it could. Listen to Senator Bailhache and he talks about cutting down the number of Members in the States, reducing democracy and then sharing out Assistant Ministers to double up doing some Scrutiny as well. That is no answer. I hear the Constable of St. John, in the same breath, talk about how we were told not to cherry-pick Clothier but then extolling the position of a Constable in the States when Clothier said: "Whatever you do you cannot work with 3 types of Member, you are going to have to have one type of Member." It is also interesting that the amount of emphasis that has been put on apparently the only alternative to ministerial government and while I am here, who invented ministerial government? Who brought it in and under what form? A committee did. A committee brought it in, so there are no answers, necessarily, in committees. Where I do agree with Senator Ozouf is that committees tended to go their own way. They were no more accountable than our ministerial system particularly. The only difference between a ministerial system and the committee system was the committee system leaked, so stuff would get out. You would know what they were thinking, because it would be gently leaked out. When you have 8 people round a committee, sitting round, you can almost guarantee that one of them will have a little word with so-and-so down the road and, all of a sudden, it will go out via St. Martin and come back from St. Ouen completely changed sometimes. But they did leak and they also tended to be inconsistent. I was on the Home Affairs Committee when it was being operated by a female Senator and I would certainly walk away from a meeting thinking we made decisions on that, that and that and that is pretty clear to me. That was unanimously passed and then, a week later, I would get the message coming round: "Hang on, that, that and that is now this, this and the other," because the chief officer had got into her ear and gave her a little verbal chatting to and policies were changed like that with nobody there. It does not work that particularly well. Then, you also had the playing politics with the committee system and the classic of this nature was Senator Shenton, Dick Shenton, who used to regularly, in the run-up to an election, the election was at the end of the year, come Christmas he would be on the front page of the *Post* and he would pick a fight with a committee and say: "What you need is me" and, in accountability terms at least, you know where he stood. He would say: "I will put myself up for this committee and I will do this for it." In terms of accountability it was more accountable than what we find today. The nearest we have come to it is Senator Green. "Go Green in '14" as I well remember. I cannot get it out of my head. He said: "I want to put myself forward as Minister for Health and Social Services and I will come back to you within 100 days with my proposition for a new hospital and a new system."

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

Will the Deputy give way?

**Deputy G.P. Southern:**

Let me finish my line first and then I will apologise to you if I have it wrong. £5 million later and something like 712 days later he is coming today with the proposition for the siting of the hospital. But at least he tried to be accountable: "Vote for me and you may well be voting for a Minister for Health and Social Services, who will make things happen." Sadly, he did not quite manage it. So, yes, I would like to be able to support this particular proposition. Unfortunately I cannot and the worst bit of "I cannot" is it is about a referendum and we have just seen the horrible mish-mash, the horrible bath of lie, piled on lie, piled on lie, in the Brexit referendum. It was shameful. Are we going to see a bus touring the country Parishes with £350 million a day to the E.U. (European Union), or the equivalent in Jersey? Maybe a tractor even with a shorter message on it, with slightly smaller numbers but, nonetheless, because without a Ministry of Truth to establish any truth, any grain of truth in any statement made a referendum goes to the bottom. The least common denominator it seems to me is: what wins.

[15:45]

The bigger lie you tell, the more often, the more effectively you do it and you promote it then that is what sways opinion and that, for me, at this stage, at this time, I cannot support.

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

I am sure the Deputy did say he would apologise if he quoted me wrongly. He did quote me wrongly. What I said was I would come back within 100 days, having reviewed the 2-site options. That I did. Unfortunately it has taken me a bit longer to find the alternative to the 2-site option.

**The Bailiff:**

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

**7.1.20 Deputy J.A. Martin:**

It has been a very interesting debate and I have been accused of being bored. I was sitting there in amazement at some of the speeches and the relevance and when I looked round, Sir, you had your head in your hands, so I think it was not just me. But now I have to sum this up and where am I? I will mention some individual speeches, because they are too good not to do, but let me just say the people who got it were: Deputy Brée, Deputy Maçon, the Deputy of St. John, the Constable of St. John and Senator Ferguson. They absolutely got what this is not and what it is: a very simple request for a referendum to the public. Let me go back before I start to Clothier. The Clothier Panel reviewed and interviewed 130 witnesses and had 160 written submissions and then there was a Mori poll; I think that covered 1,000 people and they did not all reply. That is where the most public input into going to ministerial government ever happened. I am listening today and I started writing down: "Senator Farnham said and Deputy Mézec said" and then there are themes running through this. There is a theme of how dare Deputy Martin? The audacity of Deputy Martin to come here today and say: "Let us go and ask the public." It is a yes, or no, question: "Do you want ministerial government to continue?" The presumption of everybody, who has spoken against me, is that the public will say "No". There is not one speech that thinks the public will say "Yes". How bad is that? Then why would I bring alternatives? I will get the office workers in my back office, shall I, to bring up the policy? I will get who? It is me and only me. Where are the amendments? All of you criticise: I did not do this, I did not do that. Not one amendment; not one amendment and it was funny with Senator Ozouf coming in late and automatically presuming the Reform Party and now we have all been speaking, because I said the 2 Members, now it is the 3 Members of

Reform, said this is not the right way in respect to what I am doing. What way? They tried. They tried the Speaker of the House, the S.T.V. (Single Transferable Vote) vote. That really got them a long way, did it not? No support from this Council and this is how it will continue. It continues on and on. The Constable of St. Martin and Senator Ozouf, which really peeved me, mentioned I am on P.P.C. and how dare I bring a Back-Bencher's proposition on a referendum about ministerial government? It is mad. Do people really understand what P.P.C. is? It is the servant of this Assembly. We decide what we ask it to work on and yes, I am working on the revision of Standing Orders with Senator Ozouf and we have gone out to every Member of this House to ask them what they want us to look at. We do not go off and do things on our own. When it comes the day that if you sit on P.P.C. you cannot have your own opinion or bring Back-Benchers' propositions is the day I resign. Or is that the next thing coming from this Council of Ministers? There has been a theme running around the S.T.V. vote, the Bailiff's vote. Senator Farnham stood up weeks ago and said: "That Deputy Martin, she is bringing a referendum. How dare she? She is on P.P.C." What is going on? I am elected by the people to look at the system, but I get accused of not coming up with an alternative, again with all my workers, but why would I? We have had Deputy McLinton, the Deputy of St. Peter, Deputy Mézec, Deputy Tadier, Senator Farnham, Senator Bailhache, Senator Green and, of course, knowing everything about ministerial government, Senator Ozouf, have all stood up and given you an alternative. It is going to be better. It is going to be more inclusive. We are working on it. There is a big pot of jam coming down the road tomorrow. Well, I am sorry, not today, no way. How dare they stand up and do the job on the cuff? Do your research, bring an amendment and then we might listen to you. I want to go back to Senator Green. When he was Deputy and he stood up speaking in place of the Chief Minister, he said he could not remember why he brought an amendment, or what he brought an amendment to, when it was a straightforward yes or no question on the Constables. I will tell you what it was on. It was on a year and a half's work on P.P.C.'s 118 and I will read out the question. It went out. There are pictures here. They asked questions on vote.je. We got it passed in 2013. It was only 22 votes to 21. P.P.C. was told to go back, bring the question back and it was going to go. This is what was going to go to the referendum after lots of research: "Changes to the membership of the States Assembly are being proposed for 2018. There would be a single type of elected Member to the States Assembly; 49 Members would be elected. The allocation of seats within the Parish districts would be proportional to the population. Should this proposal of a new system be introduced? Box yes or box no." Straightforward. That was thrown out by 2 pages brought by Senator, he was then Deputy, Green, who said, and I must quote him: "I constantly hear the electorate do not want Constables in the States as an automatic right. Equally I hear the opposite that they should be in the States. The truth is we just do not know what the electorate wants and we have to ask them. Therefore, I respectfully suggest it is time we did it and, in my opinion, that is by asking only one clear question and we had the question: 'Do the Constables remain in the States, yes or no?'" Threw out all the work that was done and research with focus groups, much work ... Deputy Maçon is nodding ... we went out there. We really consulted and that was the question and it was an independent question as well, thrown out on a whim. Today I am standing here and I am like where have all these people gone off? I am saying, and it is straightforward, my proposition is ... I have taken the question out because I was told the question was leading. We are having the principle do we put a question to the electorate? I have heard the electorate do not understand, the electorate will never understand, the electorate will always vote "No", the electorate, the electorate, the electorate. Please remember, as Deputy Brée so eloquently put it, these are the electorates who put you and will put you either back in your seat, or not, in 2018. You treat them with contempt at your own ignorance, really. That is the only word I can think of. The people absolutely understand. The people, I am asking a very, very straightforward question: do you want to continue with ministerial government? There will be a campaign for yes and there will be a campaign for no. That is exactly how all the other referendums work. There was the A campaign, the B



campaign, the “keep the Constables in”, “get the Constables out” campaign and there will be another campaign. You only have to pass it today. That gets to me: “The public are fed up. We are navel-gazing again.” We are talking about ourselves. No, I am not. Do you think if I could do this without coming here to get a question put on the ballot paper when we have an election in 2018 I would not have done it? Of course I would but this is how we do things. There is always a challenge. It could be amended. It never happened. There could be a challenge. There is a better way forward. It never happened. That goes back to why would I come forward with an alternative, when I do not know what the public are going to say? We all seem to know. It is quite frightening for me that most Members, or every Member of the Council who has spoken, are too frightened to put this question to the public. What are they scared of? Senator Ozouf did the state of the nation speech; everything but this. We have been there. He has been on both sides of things, well, 3 sides. He has never been on Scrutiny. He has been in Committee and he has been in ministerial, but he has never been on Scrutiny and he is now glad that Deputy Brée is holding him to account. He should have been held to account many, many years ago. Then, yes, I cannot forget the speeches. There are a few I must bring out. The Constable of St. Peter: “Scrutiny are their own worst enemy and their demise is in their own hands. They have put things the wrong way.” What is he talking about? But he is lucky, because he is now an Assistant Minister and he has the ear of his Minister, so he can go trotting along and say to him: “Have you thought of doing it this way?” or: “Could you put it to the policy makers in the masses of civil servants you also have behind you and ask if this could work a better way?” It is easy, because he is the Assistant Minister. He has a foot in 2 camps as well. He has the ear of 2 Ministers. It is a great system, an absolutely great system, as I say, if you are in it. Loads of talent here and I was disappointed with the speech of the Deputy of St. Ouen, because I think he has a lot of talent. Again he thinks it is not the time to ask the people. I do not know when the time is. I really feel we have come to a point we went down this road. Something I read when I was researching it, yes, and it was me researching this. I could not get all my office workers to do it, or my policy maker, or my P.A. (personal assistant), they were having the week off. I wish; really, come on. We are here and I really think it is so straightforward that we have never asked the people. I read somewhere before the Clothier Panel the Policy and Resources Committee had decided something was wrong with the committee system. Something did not work and it had to be changed. They did not know what change, but something had to go, and then they appointed this steering committee, Clothier, and they gave them a steer. It has been cherry-picked. Senator Ozouf is convinced that we will have a new system of electing the Government by 2018. I am on the same committee. I am not privileged to be on that sub-committee, but we have all been to press the buttons and we were sitting next to somebody who does not have a seat next time and they go: “I did not realise that meant that.” There are only too many ways you can cut that cake now. You have said you want to keep the Constables, so this is where it goes. I am now digressing - which I have accused other people of doing - but it is so hard to keep to the very simple. You had faith in the public to put you in here every 3 years; it will now be every 3 and a half years. You have never, ever had faith in the public to go to them and say: “This is the system of government we are going to have.” You did not do that then. Sixteen years later and somebody says: “Why is she doing it now?” Because I have waited 16 years for an improvement. I have waited to see it get better. I am watching it get slowly worse and worse - as if it could - but it has. It really has and I was on committee. From 2001 to 2005 they cut the committees down. I was on a fantastic Education Committee with the Deputy of Grouville, Deputy Bernstein, Deputy Fox, myself and I am not sure, bless him, if he was in, Senator or Deputy Vibert was the Chair and it worked fantastic. We introduced the nursery refund in the private sector. We did do things, so I do not know, maybe Senator Ozouf was one of those obstructive people on his committees, because he was shouting about they have never worked, or never delivered, but I can assure you they did. But today is not about that. It is straightforward. People have stood up. They have invented a new system. We have been promised much more inclusion, because it is not

working. Senator Routier said it. Deputy McLinton said it. So-and-so, so-and-so said it. Senator Ozouf said: “It is not quite right. We are going to get better.” Just one more thing and I will finish here, the Deputy of St. Peter. I think she missed the point about communication, because her statement was asking that you communicate with each other, with us, not the public at large.

[16:00]

So her excuse was we have had to sack some of the communications officers, because we had to make some cutbacks and we are not getting our message out there. Well, getting your message in here first would be one result. But the Deputy of St. Ouen did not even know any of this was going on and he is on the Chairmen’s Committee and he is the chair of the Scrutiny Panel. So, all this inclusive ... if nothing else today, we have got the Ministers to admit it does not work, they want more inclusivity, we do not know how that is going to look. We do know that, somehow, I should have come up with some massive Clothier report all on my own and they would have been happy then, quite happy. I do not think so. I had to avoid, or go back to, because I would have been hung on that. Find out, go to the public, you are going to them in 18 months’ time anyway. It will be a massive election issue. You either make it a proactive one, whether it is a yes, or a no, campaign, or you make it a destructive one where there will be people like me going around and saying at the senatorial hustings and the Deputies and the Constables: “You know these people, this person or that person, who is now standing up for your vote, wants you to vote for them, did not trust you to decide what sort of form of government you want and are entitled to.” I will and so will others and I bet these who are not supporting me behind me in Reform will do it with relish as well, because they know in 18 months’ time and now it is the people out there who decide. It is the people who should have been asked 16 years ago before we went down this road. We cherry-picked Clothier. We have a mish-mash. We have power here, concentrated in 10 hands, with massive policy-makers and civil servants behind them and you will never, as good as Scrutiny is, hold them to account. If that is the system you want that is all right for you. You have to ask the public and explain it to them and then see whether they still want that system. It is very simple. I maintain the proposition and I ask for the appel. Thank you.

**The Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on the Ministerial Government: referendum, Deputy Martin, P.94. I ask the Greffier to open the voting.

<b>POUR: 12</b>		<b>CONTRE: 29</b>		<b>ABSTAIN: 0</b>
Senator S.C. Ferguson		Senator P.F. Routier		
Connétable of St. Saviour		Senator A.J.H. Maclean		
Connétable of St. John		Senator L.J. Farnham		
Deputy J.A. Martin (H)		Senator A.K.F. Green		
Deputy of Grouville		Connétable of St. Helier		
Deputy K.C. Lewis (S)		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. Ouen		
Deputy R. Labey (H)		Connétable of St. Brelade		
Deputy S.M. Bree (C)		Connétable of St. Martin		
Deputy T.A. McDonald (S)		Connétable of Grouville		
		Connétable of Trinity		
		Deputy G.P. Southern (H)		
		Deputy of Trinity		

		Deputy M. Tadier (B)		
		Deputy E.J. Noel (L)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy R.J. Rondel (H)		
		Deputy S.Y. Mézec (H)		
		Deputy A.D. Lewis (H)		
		Deputy of St. Ouen		
		Deputy M.J. Norton (B)		
		Deputy of St. Mary		
		Deputy G.J. Truscott (B)		
		Deputy P.D. McLinton (S)		

**The Bailiff:**

Before returning to the agenda, can I just inform Members that in some of the speeches on the last proposition there was confusion about the note that appears on the agenda as to whether it refers to the Draft United Nations Financial Sanctions Law, or the Future Hospital: preferred site. Misreading this one, as I did with the Greffier when I was looking up the note, we both agreed we are going to change that in the future and the notes will now appear below the proposition in question. That, I hope, will be the natural way to read it. The P.110, the Future Hospital: preferred site, cannot at present be debated until tomorrow, so we will take the next, P.112, the Greville Bathe Fund.

**Deputy G.P. Southern:**

Are we not asking questions?

**The Bailiff:**

We were going to have questions but, unfortunately, Senator Ozouf is not here.

**Senator I.J. Gorst:**

I will see if I can find him.

**8. Greville Bathe Fund: appointment of Jurat (P.112/2016)**

**The Bailiff:**

That would be helpful. Thank you, Chief Minister. In the meantime perhaps we can go to P.112, the Greville Bathe Fund: appointment of Jurat. I ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of the opinion to approve the appointment of Jurat Roseanne Barbara Thomas, née Rosenthal, for the purpose of administering the income of the Greville Bathe Fund.

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

Before moving the proposition, I believe it would be useful for Members to understand the purpose of this generous fund. The late Mr. Greville Inverness Bathe bequeathed assets to the Treasurer of

the States of Jersey for himself and his successor to be held in trust, known as the Greville Bathe Fund, for and on behalf of the States, for the following purposes as detailed in his will, dated 9th October 1961, and I quote: “The income of the fund should be available to distribute as grants for relief to sick, aged and needy individuals, of either sex, whose legal domicile is the Island of Jersey and for support to local charities, whose objectives are the same as the Greville Bathe Fund.” Examples of the grants awarded are those to assist Jersey residents struggling with their rent, nursery fees for children, assistance of families whose children attend hospitals in the U.K. so both parents are able to go, *et cetera*. Each applicant is sponsored by a professional person, for example, a doctor, health visitor, social worker or similar professional and completes an application form on their behalf. The will expressed that the administrators of the fund should be 4 persons resident and domiciled in the Island of Jersey, who are not Members of the States Assembly and would prefer those appointed by the States of Jersey be Jurats of the Royal Court, as they are non-political and have been elected by an electoral college established under the law. The Greville Bathe Fund also supports local charities, whose objectives are the same as the fund. Recently, these charities have been invited to apply for grants for a specific use. In 2014, for example, a total of £399,000 was awarded to 20 local charities. In 2015, a total of £460,000 was awarded to 25 local charities. The Trust Jurats held a meeting on 26th May this year to discuss the awards to local charities in 2016. It was agreed a total of £403,000 would be distributed between 28 charities this year. Moving to the proposition itself, I am seeking Members’ approval for the appointment of Jurat Roseanne Barbara Thomas, née Rosenthal, Jurat Thomas, to oversee the Greville Bathe Fund. Jurat Mrs. Susie Marett-Crosby is retiring from her position as a trustee for the fund and I am seeking Members’ approval for the appointment of Jurat Thomas, with immediate effect, to replace Mrs. Susie Marett-Crosby. I can confirm this appointment is supported by the fellow Jurats overseeing the Greville Bathe Fund. Jurat Thomas possesses integrity, common sense and patience: essential qualities for this role and I am sure she will make a valuable contribution based on sound judgment. I hope all Members will therefore support me by approving this appointment. I would like to take this opportunity to sincerely thank Mrs. Susie Marett-Crosby for her time and service with the Greville Bathe Fund that was given enthusiastically and freely. I move the proposition.

**The Bailiff:**

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

**8.1.1 Senator S.C. Ferguson:**

I think it would be helpful if the accounts were attached to such a proposition and the other thing is that the Assistant Minister mentioned the fund provides relief to children. According to the rubric of the proposition, it says sick and aged persons. I wonder if the Assistant Minister would clarify that.

**The Bailiff:**

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

**8.1.2 The Connétable of St. Peter:**

With regard to having the accounts attached, that will be noted for the future. I will read again, if it helps the Senator, the quote I made earlier on: “The income of the fund should be available to distribute as grants for relief to sick, aged and needy individuals of either sex whose legal domicile is the Island of Jersey and for support to local charities, whose objectives are the same as the Greville Bathe Fund.” Those objectives are also for children.

**The Bailiff:**

Will all Members in favour of adopting the proposition kindly show. Those against? The proposition is adopted.

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

I am assured the Senator is on his way, but I just wondered if we could deal with the Appointed Day Act in the meantime?

**9. Draft Road Works and Events (Jersey) Law 2016 (Appointed Day) Act 201-(P.114/2016)**

**The Bailiff:**

We come to P.114, the Draft Road Works and Events (Jersey) Law 2016 Appointed Day Act. I ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

Draft Road Works and Events (Jersey) Law 2016 Appointed Day Act 201-. The States in pursuance of Article 71 of the Road Works and Events (Jersey) Law 2016 have made the following Act.

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

The Appointed Day Act before us today is the first of 2 such Acts and is, in principle, intended to commence the Road Works and Events (Jersey) Law 2016 road event provisions, notably parts 12 and 13 in time for the 2017 event calendar. The second, and final, Act will be brought to the States in 2017 along with the secondary road work legislation to commence the law's remaining road works provisions once supporting administration arrangements and new codes of practice are finalised and this should be due around mid-2017. The Road Works Events Law, which was unanimously adopted by the States on 20th January of this year, was drafted with the aim of creating a lean administrative tool. This Act will commence an important simplification to the means by which road events, such as the Battle of Flowers, hill climbs, *et cetera*, are legally enabled on public roads with associated temporary traffic changes. This will replace the current system of event orders administered by my department which involves 19 administrative stages and takes up to 3 months to prepare in each case. The simple system of discretionary licensing, administered directly by the relevant highway authority, be that my department, or by an individual, or a group of Parishes. However, the law will also allow my department to delegate its own road events licensing to the Parishes in relation to particular roads, or events, where to do so would be a better fit and this is where we have effectively a States road and we can pass over by discretion for an event back to the Parish to administer. This would be in particular to events carried out, for instance, in the town centre where it would be more beneficial for the Parish, under the direction of the Constable, rather than my own department. My department is currently in dialogue with the Parishes to identify which road events in 2017 and beyond might be best licensed at the Parish level. We are also working with colleagues from E.D.T.S. and C. (Economic Development, Tourism, Sport and Culture) to ensure that they continue to have appropriate involvement in events that take place on our beaches under the legislation and in particular I am referring to the sand racing series. In all, this is aimed to simultaneously remove the unnecessary administrative costs and to make the whole process quicker, more flexible and to serve the Island's community. I maintain the Act.

**The Bailiff:**

Seconded. [Seconded] Does any Member wish to speak? All those in favour of adopting the proposition kindly show. Those against? The proposition is adopted. Now, Senator Ozouf, is it convenient to take questions now?

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

I apologise, I was taking an urgent call. Yes, of course.

**The Bailiff:**

Very well, we will come first of all to question 5 on the Order Paper, which Deputy Southern will ask of the Assistant Chief Minister.

**QUESTIONS**

**10. Oral Questions - resumption**

**10.1 Deputy G.P. Southern of the Chief Minister regarding the grant from the Jersey Innovation Fund to the Logfiller proposal: [9735]**

Will the Assistant Chief Minister provide the written report submitted to the Jersey Innovation Fund Board resulting from the full economic assessment conducted by their economic adviser regarding the Logfiller proposal as required by section 8.1 of P.124 of 2012 as amended and, if not, why not?

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

I apologise again for not being able to answer questions earlier. I can confirm that an economic impact assessment was completed for Logfiller, as was the case for all applicants to the Innovation Fund. However, the document is commercially sensitive, as Members will be aware, and that was provided to the States for economic purposes and the States does not have an ability to publish this information without the permission of the applicant. It is for these reasons therefore that certainly at this stage it is not possible to release the information in the public domain.

[16:15]

**10.1.1 Deputy G.P. Southern:**

As I understand it, Logfiller has disappeared off the Island and I cannot believe that presents a commercial sensitivity sufficient to withhold what is a report, made by one of our employees, about an investment, made by one of our departments, into the economic future of the Island. Surely that must be capable of being released.

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

No, I am afraid, as much as I would like to do so, it is not. But what I can say to the Deputy is that there is a review being undertaken, both internally by my own department and, as the Deputy is aware, Logfiller is not finished, it is in liquidation and that process is a legal process, which continues, and in which the States retains all its rights. The Logfiller issue, it would be wrong to comment on something which has not yet finished its process and as and when there can be appropriate release of information, together with all the issues in relation to the Innovation Fund, I will do so. But I certainly cannot release it. Of course, the Deputy asks for the economic impact assessment. That is, of course, only one aspect of it. The economic impact assessment is about jobs and other matters, but there are a whole load of other issues in relation to every applicant that is obviously confidential, but when that report is issued at this time it will prejudice Logfiller's creditors and Logfiller's interests elsewhere. I just simply cannot be drawn on the situation with Logfiller, because it is under a process and the whole of the Innovation Fund and its review is under review by the Comptroller and Auditor General.

**10.1.2 Deputy M.R. Higgins:**

Perhaps the Minister can, first of all, tell us whether it is true that the people, or the principals, behind Logfiller have left the Island and whether his department knew they had left the Island

before they did so and, secondly, what due diligence was done on these individuals before the loan was given.

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

I am more than happy to answer those questions at the appropriate time, but since the Comptroller and Auditor General, who I saw in the London office yesterday, who was working on the report, and has been working hard on dealing with the Innovation Fund report, completes her report, I think it is completely inappropriate for me to make any comments about the conduct, or otherwise, of my department, or any aspect of it, and particularly until the liquidation process itself is completed. As and when that information can be, of course we talked about accountability earlier, of course accountability must remain and, as far as policy is concerned, that is a political matter. As far as administration, that is matters for the Accounting Officer.

**10.1.3 Deputy M.R. Higgins:**

Can the Minister tell us what timescales we are talking to, or will it be after the next election before this comes out?

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

The Comptroller and Auditor General works for this Assembly and reports directly to this Assembly and then, of course, it is a matter for her reports to be then submitted and then questioned by the Public Accounts Committee. My understanding is that best endeavours are being made to release that and certainly it is not for me really to comment to say when her report is going to be made. There was an erroneous media report that said it cost about £40,000. It is not, she is doing it within her normal budget, but I imagine it is within the next few weeks. I would hope that process would be completed by the end of January, if not before.

**10.1.4 Deputy M.R. Higgins:**

For clarification, the Minister mentioned originally that delays in publishing this would also involve the liquidation, so, if the Comptroller and Auditor General finishes her report, will it be withheld until the liquidation is complete? So when will we get the full information?

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

I know that there is a salacious desire for Members to hold people to account for a failure of an innovation firm and the Comptroller and Auditor General is not going to be referring specifically to individuals, as I understand it, as she explained kindly to me yesterday that her report is looking at the processes and procedures of effectively the terms of reference and the adherence thereon. So, effectively, no, it does not matter about the Logfiller liquidation itself, because effectively she is looking at the processes before that and all the issues about due diligence, *et cetera*, so that is completely separate, so her report can be issued. The issues about Logfiller itself and the situation of that company - I remind Members again that loan has been written off completely together with the loans - and again I am not going to speculate on the subject of people being here or not or any other actions. Effectively, the States withholds its position in relation to the fund and until we have that advice and report I am not really prepared, and I cannot be really prepared, to say anything.

**10.1.5 Deputy M. Tadier:**

My colleague Deputy Southern asked quite reasonably, I think, why the application and the full economic assessment could not be released. Does the Assistant Minister agree that the liquidation process is completely irrelevant to that assessment process and that is not a good reason for not disclosing the assessment, which has been asked for?

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

The Deputy might not understand what the process of liquidation is. The liquidation is that the company has effectively decided that it ceases to trade as it currently is. There are creditors, there are clearly, maybe, assets and maybe there is intellectual property, *et cetera*, so the business case and the ideas at the heart of Logfiller, which must have been pretty good ideas, otherwise they would not have got through the Innovation Fund, are obviously of value. Now, there are going to be businesses that are going to succeed and those that are going to fail, but the commercially-sensitive information about what Logfiller does, as all the other loans in the Innovation Fund, are commercially confidential information. It is called innovation, it is called being first to market, it is called getting something to the marketplace earlier than anybody else and not basically telling everybody else what that idea is. To release that information would be completely prejudicial to the interests of the creditors of Logfiller.

**10.1.6 Deputy M. Tadier:**

Clearly the ideas could not have been that good, otherwise Logfiller would not find themselves in liquidation, which is a concept which I do understand, on a very basic level, the Minister might be surprised to learn. But does he not accept that it should be possible, because this is information that is in the public domain, sorry, rather is in the public interest, taxpayers' money - very significant amounts in this case - has been handed over on what looks like a dodgy gamble with the power of hindsight and, at the very least, the Assistant Minister could release a redacted version so, if there is still commercially sensitive information in there, which I doubt is necessarily the case, that could be released and the public interest test could be met with that redacted release.

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

Clearly the Deputy has absolutely no understanding, with the greatest of respect, of how companies work and how innovation works. I said in an earlier speech that effectively people apparently know the future with the benefit of hindsight. I have no evidence of the future and, effectively, innovation is about investing in businesses that look as though they have good business propositions. Now, those are the issues. I cannot release any information until the process of liquidation ends, but I assure the Assembly that, as in the totally proper way, this information will be properly released as it can be and there will be all the reports, both my own internal department reports, together with the reports that can be made available without breaching confidentiality and the C. and A.G. reports, will be made public. That is accountability. But there is a time that accountability can be made and it is not at this moment.

**10.1.7 Senator S.C. Ferguson:**

Given the previous incidences of poor due diligence in that particular department and given the public interest in the matter, does the Assistant Minister not understand that the public is entitled to know why their money has disappeared without trace, particularly when the Assistant Minister has previously said that all the loans from the Innovation Fund are commercially sensitive and, therefore, questionable?

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

I would refer Senator Ferguson back to the Hansard of when this Assembly set up the Innovation Fund. There was no doubt that there was a requirement to basically make Jersey more innovative, we needed to reinvent ourselves, needing to find more products and services. The new potato did not happen by accident; that one worked, other things did not. There is all sorts of innovation. There were some things that worked, but apparently people like to criticise. There were many, many successful entrepreneurs, I think of some of the world's most famous entrepreneurs, the gentleman now sadly deceased running Apple Computers, Richard Branson, who have had businesses that have failed. There are Virgin matters that have failed. Just for people to cast aspersions and say: "That is bad", we revel in failure in this Assembly. I would remind the Deputy



that there is lots of innovation in Jersey and that is why we have record numbers of people in work, both in terms of business and financial services and a growing tech sector.

**10.1.8 Deputy G.P. Southern:**

Could the Minister, on this particular question specifically, and not generally, state whether either the economic adviser or the Minister for Economic Development asked the J.I.F (Jersey Innovation Fund) Board to commission experts to provide specialist technology, financial or legal advice; was there any specialist advice sought and did the Minister seek that advice?

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

The Comptroller and Auditor General is reviewing all these matters and it would be improper for me to basically, effectively, cut across what I know is a widespread review, which is covering all of these issues and I simply think that it is inappropriate for me to speculate. I have my own views on Logfiller and the Innovation Fund and I have made those views known to my department and I have made changes therein. Now, I am not going to speculate on what the C. and A.G. says; I know that she is writing her report and it will be published as soon as possible and then we will make up our minds, or Members can make up their minds, as to who did what when, *et cetera*.

**10.1.9 Deputy G.P. Southern:**

Matter of clarification: it is not a question of commenting on the Auditor General's findings. It is: was any specialist technology, financial or legal advice sought in this particular case?

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

Yes, of course there was.

**Deputy G.P. Southern:**

Yes, or no?

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

Of course there was at the time; of course there was, otherwise it would not have been granted.

**10.2 Deputy S.Y. Mézec of the Chief Minister regarding the Jersey Innovation Fund: [9740]**

Would the Assistant Minister inform Members why, in his statement to the Assembly of 16th November 2016, the Assistant Chief Minister described the position of existing loans from the Jersey Innovation Fund as delicate and state what professional support, now required from Grant Thornton, who are to assume operational management of the loan book, was missing from the original decision-making structure of the fund?

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

The Innovation Fund existed and exists and the remaining funds exist to deliver growth and improve competitiveness to diversify the local economy and create employment by investing it in innovative local start-up and scale-up of existing businesses that have struggled, or would struggle, to raise funds from conventional sources. As I noted in my statements of 14th June and 16th November, what was central to P.124 of 2012, which was approved by this Assembly with full information and a complete Scrutiny review, which was very helpful, investment in start-up and scale-up businesses carries risk. When P.124 was carried 41 votes to 1 it was acknowledged that some schemes would have a high degree of risk. The Members at the time recognised that the rationale for the intervention would be well-founded; there was huge support for it. There was robust international evidence that market failures prevent genuinely promising businesses from receiving support and that access-to-funds programmes, such as the Jersey Innovation Fund, could

improve performance and deliver benefits to the wider economy of Jersey, which, of course, we are seeing. Members will note that the policy trend is further supported by, for example, even the Chancellor of the Exchequer on 23rd November announcing that he is putting in place £400 million to support a British business bank and specifically innovation funds. Members will be aware that Grant Thornton have been engaged to support the monitoring and management of the loan book: they are not part of the decision-making process as it relates to the consideration of all applications. Indeed, Members will be aware that the fund is now, pending the reviews that I have undertaken and that I started, closed to new applications until such time as we have completed the ongoing reviews and we have learned and, effectively, the world has changed as well in terms of credit markets.

**10.2.1 Deputy S.Y. Mézec:**

I was listening there to see if I could hear a specific and direct answer to particularly the last part of the question that is in front of me. I very specifically asked: what professional support was missing from the original decision-making structure of the fund? If Grant Thornton have now had to be brought in that is surely an admission that there was something not in place that, ideally, should have been in place; so can he be open and explain what procedures were not in place that may have contributed to the situation we now find ourselves in?

[16:30]

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

I am going to refer back to the comments I made some moments ago. The Comptroller and Auditor General is the right individual to review this: she is basically this Assembly's individual to review such matters and to make any speculation as to what I think, frankly, would be to disrespect the fact that we have a serious professional with huge experience reviewing this whole issue and I think what she says matters better and more appropriately and I will comment when I see her report.

**10.2.2 Deputy M.R. Higgins:**

One of the areas that worried me when I heard the Assistant Minister's statement to the House on the Innovation Fund, in fact it was alluded to in Deputy Mézec's question, was he mentioned the delicate nature, or delicate situation of the other firms. Now, that, to me, worried me because are they all in trouble? The Minister said at the time he could not say too much, but basically using the terminology he did put the thought in everyone's mind. Can you reassure us that the other firms that have received funds are not experiencing any problems at the moment and are sound, or are they heading the same way as Logfiller?

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

I recall very well the Deputy's own comments in the Hansard, I am not going to ...

**Deputy M.R. Higgins:**

Sorry, I will just say, yes, some firms fail; I accept that I said that at the time. However, we still need to understand why the firm has failed, whether it was a failure on our own part.

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

I am not somebody - with the greatest of respect to the Deputy - that shies away from tackling issues. I have taken responsibility, political oversight of the Innovation Fund, and no stone will be left unturned in terms of dealing with and making sure that we have the most innovative process. I want no business and no individual that has a good idea, that has a lack of finance, not to be able to create jobs and growth and diversify our existing financial services and professional services and digital economy. I want everybody to be able to succeed and the Innovation Fund is the way to

achieve that. Other governments are doing it with huge success and I believe that the Innovation Fund, as was always said, would have a likely 50 per cent failure rate. I am not going to speculate. There will be some other firms, surprisingly the Deputy, he knows, well he should not be surprised because he said so, that some firms will fail; others will blossom and others will be great Jersey companies of the future, and quite a lot of them did not even need the Innovation Fund because they have had the signals and signposts to the plentiful funds that are in Jersey already, because we are a successful finance centre and they have had investments in their business. There is huge innovation in Jersey, we just have to basically make sure that those companies that are unable to get finance get it properly and there are proper controls and I am going to make sure that happens.

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

Could the Minister answer the question about the delicate nature of the existing firms?

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

Delicate means that, by definition, it is not a slam dunk that you effectively can basically get a rock-solid guarantee. It is called risk. That is what banking is, that is what finance is. Apparently, the Deputy used to work at the Financial Services Commission, surely he will understand that banks and the whole issue of finance is about how you basically intermediate cash, you allocate credit according to risk. Now risk is effectively when you have an unproven technology, you basically are going to be in a much more risky position. That means risk. But the risk also has a big upside and the upside is a growing, successful economy, such as we are seeing in Jersey in the moment. But we love to revel in the failures.

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

We are hearing a lot of spin today and the Assistant Minister has been telling us that, well, of course these people could not get bank loans for whatever reason, because, probably, their ideas either were not good enough, or they did not have good enough credit ratings and the word has got out there on the street that you can come to Jersey because, guess what, they have been conned a blinder in the past by previous sham film companies, who have received good money out of the Jersey Government, so why do we not chance our arm as well? Now the Minister seems to be saying that: "I cannot answer any of your questions, I choose not to because the C. and A.G. is looking at it." Does he not accept that this Assembly is responsible for holding Ministers to account when it comes to policy? That is exactly what we are trying to do here, to see if the policy was being followed and until the Minister starts giving reasonable answers to this Assembly, we and the public will not have any satisfaction from him and this matter will rumble on.

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

There is a time and a place for accountability when the facts are known. The facts will be known when the C. and A.G. reports and when my own department reviews have been completed; that is when there is accountability and when the facts are known. There has been a huge amount of speculation and frankly outrageous speculation. I have had to endure myself sitting on logs with the wrong number because that number was leaked, apparently, to some sort of media organisation. That is fine, that is democracy, but effectively there is a huge amount of blame I am receiving: effectively, anonymous letters saying resign. I have seen social media, I do not look at it, but I am told that there is social media alive with the fact that I am responsible for wasting taxpayers' money. I would ask Members respectfully to wait until the fact when they see it. I am not somebody, throughout 17 years in politics, who has shied away from responsibility, or shied away from dealing with problems and tackling them. I do not shy away from them, I tackle them head on and deal with them and I do not want to see taxpayers' money wasted any more than the people answering these questions. But instead of being effectively assisted and encouraged to do the right thing with things effectively, I, like other Ministers, when you do have issues and things will go

wrong - Innovation Fund loans will be written off that was said from the start - basically you get slated. Well, I am afraid I am up for that, I will get slated, but I will stand up for the people of Jersey and do the right thing and by tackling problems, sorting problems out, making sure that things are right and making sure that no business and no individual that has a good idea has a barrier to finance. That is my job and that is what I am going to carry on doing.

**10.2.5 Deputy A.D. Lewis:**

The Assistant Minister will be aware of other development agencies across the U.K. that also invest in these types of initiatives by taking equity in them. Can the Minister tell us whether any equity has been taken in any of these businesses and, if not, would he, in the future, recommend that was a possible way forward as at the moment it seems lose/lose, whereas if one had equity there is a possible gain as well. Is that a concept that he would agree with and would want to do in the future?

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

As every special fund had to be set up by the Minister for Treasury and Resources, even though it was the Minister for Economic Development's department, I was pleased to be able to bring that forward, and it was said, at the time, that an equity provision, which currently is not envisaged under the Public Finance Law, was available. I do not recall any request being made to make that change to the Public Finance law. No doubt that will be forming part of the conclusions. But what I can say is that there were some trigger clauses in the loan agreements, which allow that provision to be triggered in the event that the businesses, some of which will be, of course, spectacular successes.

**10.2.6 Deputy G.P. Southern:**

Does the Assistant Minister accept responsibility should any lack of professional support or weaknesses in the initial economic assessments be discovered by his report?

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

Ministers are responsible for policy. Accounting officers are responsible for implementation of political policy and the will of this Assembly. There is obviously a Jersey Innovation Fund Board and there is a range of individuals and professionals that are involved. I take responsibility for overseeing and asking the questions that I ask and all that is going to be revealed, no doubt, in the C. and A.G.'s report. So I would wait before he wants to call for my head. I think he said that I should resign apparently before, but he can do whatever he wants, he has voted no confidence in me before; no doubt he will do it again. But let us have the facts out before we start blaming and let us not revel in the fact that, unfortunately, one company that obviously had a very, very good idea, because it would not have gone past the Board, failed. We spoke about this Assembly being a blame game place, well my goodness me this is a jolly good example of it. Members knew that some Innovation Fund loans would fail. This has failed, and now Members are and certainly the media is revelling in the prospect of that failure. Let us look at some of the upsides, but of course Members do not want to do that. Sometimes, all they want to do is play the point-score and blame game. I am going to carry on serving the people of Jersey and doing the right thing for the department and putting the right structures in place. Where I am not satisfied with the departmental structures in place, I will put alternative arrangements in place. Please wait for the Comptroller and Auditor General's report.

**The Bailiff:**

Final supplementary.

**Deputy G.P. Southern:**

That is a ...

**The Bailiff:**

Final supplementary.

**Deputy G.P. Southern:**

Another supplementary.

**The Bailiff:**

We have had nearly ...

**Deputy G.P. Southern:**

Another supplementary, I have asked one question.

**The Bailiff:**

Deputy Southern, we have had 12 minutes already on this question, I would never have allowed that much had it come earlier ...

**Deputy G.P. Southern:**

The final question is ...

**The Bailiff:**

Final supplementary.

**10.2.7 Deputy S.Y. Mézec:**

To take what I think Deputy Southern was going to ask is: when can we expect this further information to come out, because the Minister has said that we have to make decisions on the basis of facts, but question time is used to try and get those facts out, so we know what we are talking about, yet this Assistant Minister has simply stood up and not attempted to answer these questions so we know what these facts are. As the initial question said that a process has been put in place, which in itself is an admission that there was something wrong before. Why can he not tell us what there was wrong before and what he has done, if he wants to boast about how brilliant the work he is doing. Can he then explain to us why he has taken this measure and what was wrong in the first place that he is now trying to correct?

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

I have repeated and will repeat again: I am not going to speculate on to the results and the conclusions of the Comptroller and Auditor General. That is completely inappropriate for me to do so. I have made my views known, the department is aware of my views and there is a time and a place. I am afraid 24-hour news journalism and immediacy that we want to have everything done today means that everything cannot be done today and you need to know the facts. Sir, you sit most of the time in a court and you hear evidence, let us hear the evidence and then we will make a judgement. I cannot really add any further than that. Evidence is needed. That evidence is being gathered by the best people around. Then we will decide, or then this Assembly will decide who has the right and the wrong and all the rest of it.

**Deputy G.P. Southern:**

Point of clarification: the Minister said there is a time and a place, when will he be issuing his report, the departmental report, and when can we expect to see the Comptroller and Auditor General's report?

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

I cannot speak for the Comptroller and Auditor General and would not seek to do so. I understand that she is working hard on it and she is trying to, as far as I understand it, deliver that report before Christmas, but of course further evidence is always available and I probably even said something that I should not have done, but of course she is working hard. As far as my own departmental reviews, they will be by the end of January.

## **PUBLIC BUSINESS - resumption**

### **11. Minimum Wage: revised hourly rate from 1st April 2017 (P.115/2016)**

#### **The Bailiff:**

We come now to P.115, Minimum Wage: revised hourly rate, lodged by Deputy Mézec. I ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of the opinion to request the Minister for Social Security to revoke the Employment (Minimum Wage) (Amendment No. 10) (Jersey) Order 2016, scheduled to come into force on 1st April 2017 and to take such steps as are necessary to make a new order fixing the minimum wage at £7.20 per hour from 1st April 2017.

#### **The Bailiff:**

Deputy Mézec. Sorry, Deputy Tadier. I have 3 lights flashing. Deputy Norton.

#### **Deputy M.J. Norton of St. Brelade:**

I was going to ask, given that this is likely to be quite a lengthy debate, I wondered if Members would consider an adjournment at this time and if I could call for it.

#### **The Bailiff:**

It is quite early, but it is a matter for Members. Those Members in favour of adjourning now, kindly show. I am sorry, can we have the appel? The appel is called for, the vote is on whether to adjourn at this stage and I ask the Greffier to open the voting. If you are in favour of adjourning at this stage you press pour.

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

Could I just ask the Chair to confirm, we are coming back tomorrow anyway presumably?

<b>POUR: 23</b>		<b>CONTRE: 14</b>		<b>ABSTAIN: 0</b>
Senator A.J.H. Maclean		Senator P.F. Routier		
Senator L.J. Farnham		Senator A.K.F. Green		
Senator P.M. Bailhache		Senator S.C. Ferguson		
Connétable of St. Lawrence		Connétable of St. Clement		
Connétable of St. Ouen		Connétable of St. Peter		
Connétable of St. Brelade		Connétable of Grouville		
Connétable of St. Martin		Connétable of Trinity		
Connétable of St. Saviour		Deputy of Trinity		
Connétable of St. John		Deputy J.M. Maçon (S)		
Deputy G.P. Southern (H)		Deputy S.J. Pinel (C)		
Deputy of Grouville		Deputy of St. Martin		
Deputy K.C. Lewis (S)		Deputy of St. Peter		
Deputy M. Tadier (B)		Deputy of St. Ouen		

Deputy of St. John		Deputy G.J. Truscott (B)		
Deputy M.R. Higgins (H)				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy P.D. McLinton (S)				

**The Bailiff:**

We will now adjourn. As Members will be aware, we are having a formal session at 9.30 a.m. tomorrow morning in order to say goodbye to the Governor and there will be a brief adjournment then and we will reconvene at 11.15 a.m.

**ADJOURNMENT**

[16:44]