

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 14th DECEMBER 2016

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[9:30]

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

**PUBLIC BUSINESS – resumption**

**1. Draft Budget Statement 2017 (P.109/2016): fifth amendment (P.109/2016 Amd.(5))**

**The Deputy Bailiff:**

Very well, we now continue with Public Business and the amendments proposed to the Budget. The next is the fifth amendment lodged by the Deputy of St. John entitled Draft Budget Statement 2017 amendment 5 and I ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

Page 2. After paragraph (d) insert the following new paragraph - “(d) to agree that the estimate of income from taxation during 2018 and subsequent years shall be increased by removing the additional personal tax allowances awarded to cohabiting couples with one child or more and to direct the Minister for Treasury and Resources to bring forward the necessary changes to the Income Tax (Jersey) Law 1961 for consideration by the Assembly during 2017;”.

**1.1 Deputy T.A. Vallois of St. John:**

Hopefully Members can bear with me, I seem to have developed a cold much worse in the last 2 days. So this amendment that I am asking of the Treasury and Resources Department may on the face of things look simple but it is far from it, as Members can probably see from the comments that have been kindly provided by the Minister for Treasury and Resources. The main purpose for me asking for this amendment to be made now is that there is an unfairness that sits within the tax system, but also even more importantly is the recognition that the Minister for Treasury and Resources has given to the differentials between married couples and cohabitees in terms of the tax system, hence the reason for him wishing to increase the partner’s allowance under this Budget. I am asking next year that the department prioritise this particular area in terms of the allowance that is given under what is classed as a single-parent allowance but only for cohabitees. It is mentioned that the single parent allowance, as it is known, for standard rate payers in last year’s Budget is being phased-out and that would mean a person would have to be earning approximately £69,000 to be on that standard rate. I am not asking for the additional person allowance to be removed completely; I am only asking that the Treasury consider for the next Budget to remove it from cohabitees so it will still be in place for single parents. I am only asking that there is more a comparable between a married couple and a cohabiting couple and that it is seen as a much fairer system. But there are much more complexities behind the marginal relief system that need to be considered alongside the way that of course we now have an income support system, which assists the lower income areas, which in some areas reach across into the marginal relief system that we have in place on the tax. So, on that basis, I ask that Members consider what I am putting forward and I look forward to hearing any views from Members.

**The Deputy Bailiff:**

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

**1.2 Draft Budget Statement 2017 (P.109/2016): fifth amendment (P.109/2016 Amd.(5)) - amendment (P.109/2016 Amd.(5)Amd.)**

**The Deputy Bailiff:**

Very well, there is an amendment to the amendment lodged by the Minister for Treasury and Resources and I ask the Greffier to read that amendment.

**The Deputy Greffier of the States:**

Page 2. In paragraph (d) for the word “removing” substitute the words “phasing out”.

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

I thank the Deputy for bringing her amendment, which, as I will explain in a moment, we are broadly supportive of, albeit with a caveat. We certainly support the intention behind the motive of what the Deputy is seeking to do and that is that married and unmarried households should receive the same tax treatment. We are already working to amend our Income Tax Rules to remove the differences in taxation between married and unmarried cohabiting couples and civil partners. I have addressed part of the differential, proposing that the second earner’s allowance already available to married couples increases by £500 in 2017. This will reduce the difference in treatment between married and unmarried cohabiters and is contained within the Budget proposals as Members will have noted. We are supportive of the amendment; however we are concerned at the speed of the proposed introduction. What the Deputy is effectively saying is that middle to lower income households will see the effect immediately if the proposal of amendment goes ahead unamended, removing therefore £4,500 of tax relief immediately. That would leave affected people paying an extra £1,170 of tax per year. That is nearly £100 per month and is, we believe, a large increase to manage in just one year. That is why my amendment proposes to introduce this change over a slightly longer period, so people affected can adapt and change to the new proposed rules. Our amendment to the Deputy’s amendment gives the Treasury the flexibility to consider an appropriate phasing out of the allowance. We also need to consider that cohabiting is not always more tax advantageous than being married. In certain low-income households, married couples or civil partners would pay less income tax than cohabiting couples. So, although we are supportive of the Deputy’s primary objective, we need to work through these anomalies as we establish how best to phase-out this allowance. I am sure none of us in this Assembly would want to disadvantage those on low income cohabiting in a household. So we would support this amendment from the Deputy but ask Members to support the amendment to it first. I maintain the amendment.

**The Deputy Bailiff:**

Is the amendment seconded? **[Seconded]** Any Member wish to speak on the amendment? Deputy Kevin Lewis.

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

Just one brief question of the Minister: the replacing of the word “remove” to “phasing out”. Phasing out could be one month to 10 years. Could the Minister be a bit more specific?

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

I am accepting the amendment to my amendment anyway, but I need a commitment from the Minister, because he stated that the issue of, if we were to remove it and it dropped and people were liable by that £1,170 in that one fell swoop was unfair, I would ask him to consider also phasing it out for those people who get married during that phasing out period as well, because, if they get married during that period, they will also feel that cliff edge. So I would be happy to accept the amendment on the basis that it is applied to those people who get married during that period at the same time.

**The Deputy Bailiff:**

Does any other Member wish to speak on this amendment to the amendment? I call on the Minister to respond.

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

Deputy Lewis asked a question with regard to the phasing period. We have left it open so that it can be assessed appropriately obviously, but the intention is, as has been the case in recent circumstances of phasing out allowances, the period anticipated is 3 years, which seems to spread the payments over a more manageable period. So that is the timeframe that I would envisage.

[9:45]

With regard to the Deputy of St. John, I would like to thank her for accepting the amendment to her amendment, and with regard to her point about married couples, she makes a fair point. Of course it is a choice as to whether to get married or not, but nevertheless it is also a fact that there is the same cliff edge effect, so I will undertake certainly to look at that as part of the process and I see little reason why that should not also apply in the same way.

**The Deputy Bailiff:**

All those Members in favour of adopting the Minister's amendment, kindly show. Those against? The amendment is adopted.

**1.3 Draft Budget Statement 2017 (P.109/2016): fifth amendment (P.109/2016 Amd.(5)) - as amended**

**The Deputy Bailiff:**

Very well, we now return to the debate on the amendment of the Deputy of St. John, as amended. Does any Member wish to speak on that amendment?

**1.3.1 The Very Reverend R.F. Key, B.A., The Dean of Jersey:**

I am not sure that in the 12 Budget Statements to which I have listened I have risen to my feet before but I think Members will think that marriage is something that falls within my remit and particularly the number of couples that end up in my study wanting wedding licences and it is a joy to spend a couple of afternoons a month with this stream of couples. I used to say young couples, but now couples of all ages, including those in their 70s, are coming to get their wedding licences. For some it has been a real long road while they have tried to work out, not their commitment to each other, but the economics of expressing it in marriage and how to move from 2 flats to one, how to work out the right moment, how to save up for what myriad magazines and television channels tell them are all important on the wedding day. In fact sometimes I try and suggest to them that they need to do rather more preparation for the 40 years of marriage that will follow than simply for the few hours of the wedding itself. But it has always seemed to me to be a grave disincentive to one of the foundation building blocks of our society that the tax regime should ever provide disincentives to being married and so I rise simply to congratulate both the Deputy and the Minister for Treasury and Resources on bringing this to an end. **[Approbation]**

**The Deputy Bailiff:**

Does any other Member wish to speak on the amendment?

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

Very briefly, I would not wish to say anything in contrary to what the Dean said, but of course I am sure that he was referring to the state of relationships of, not only those that are able to attend him at the Anglican communion, but also those of same-sex choice as well.

**The Dean of Jersey:**

I am delighted to be able to give that point of clarification and the Minister knows that I am entirely in agreement with him.

**The Deputy Bailiff:**

Very well, if no other Member wishes to speak, I call upon the Deputy of St. John to respond.

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

Thank you to the Dean for his speech. I thank particularly the Treasury Department and the Comptroller of Taxes for their assistance with regards to this. This is an extremely small part of an overall complexity of trying to equalise the treatment of individuals under the tax system. There are issues when you look at the lower income side of the tax system; there is a historical issue here and I hope this will encourage Treasury particularly to look at this part and the income support side of things during the next year so that when it comes forward in the Budget 2018 we can appropriately ensure that we do not do any harm to any individuals in any serious way with regards to tax liability. So, thank you, and I maintain my amendment.

### **The Deputy Bailiff:**

All those in favour of adopting ... the appel is called for. I invite Members to return to their seats. If Members have had the opportunity of returning to their seats then I ask the Greffier to open the voting.

#### **POUR: 34**

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

#### **CONTRE: 2**

Deputy G.P. Southern (H)  
Deputy S.Y. Mézec (H)

#### **ABSTAIN: 0**



#### **1.4 Draft Budget Statement 2017 (P.109/2016): third amendment (P.109/2016 Amd.(3))**

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

Very well, we now come on to the next amendment, which is lodged by Deputy Mézec of St. Helier entitled Draft Budget Statement 2017 amendment 3. I ask the Greffier to read that proposition.

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

Page 2. After paragraph (d) insert the following new paragraph - (e) to agree in principle that from January 2018, owner's rates for residential properties should no longer be a tax-deductible expense for landlords when calculating the income taxable under Schedule A and to direct the Minister for Treasury and Resources to bring forward the necessary changes to the Income Tax (Jersey) Law 1961 for consideration by the Assembly during 2017."

##### **1.4.1 Deputy S.Y. Mézec of St. Helier:**

Can I start by thanking the staff in the Treasury Department who were incredibly helpful when I wanted to formulate this amendment and gave me the information I needed to do so and that they were very helpful. Can I also thank the Minister for Treasury and Resources who will, after this, be proposing an amendment to my amendment, which I do consider enhances what I am trying to do, and so I will support that. I had initially considered including what he is suggesting in my initial amendment, but I was not 100 per cent sure what the politics of that would be in this Assembly so I took the cautious side and decided not to, but I am glad to see that has been brought up instead and I will support that. I will be brief in just explaining the rationale behind this. This occurred to me when I spoke to somebody who had recently become a landlord and we were talking about our tax returns we were doing at the same time and he brought up the fact that this was the first tax return he was having to do since becoming a landlord and thus starting to receive extra income from that investment property. He had simply found it quite surprising that he was able to deduct his payment of Parish rates as a business expense on that property whereas of course if you are renting a property you do not have the option of deducting your Parish rates from your income tax or if you own a property that you occupy you also do not get that ability. I thought that to me was a little bit strange because at the end of the day housing is a social good and the sort of rules in terms of how we allow people to become investors in that market when it is not a market that people have any choice to be a part of, we all need to be a part of it because we need a roof over our heads, the sort of morality underpinning the regulations that underpin that market I think sort of sometimes have different principles when we are talking purely about consumer goods instead. So I simply wanted to put it to the Assembly that, for what is another tax for these people, that it would not be right to allow them to deduct that as a business expense. There are plenty of other legitimate things that could count as business expenses, whether it is renovating a property or having to deal with damage done to it, but we all have to pay Parish rates for the properties we reside in and if it is not deductible for tenants and people who own the properties they live in then perhaps for these people it should also not be something that could be exempted. Of course the amendment is to include commercial properties in that and I think many of those same principles can apply to that as well. So I offer that to the Assembly to cast a verdict on but I happen to think it is a good idea and I hope Members will as well and so I make the amendment.

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

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

#### **1.5 Draft Budget Statement 2017 (P.109/2016): third amendment (P.109/2016 Amd.(3)) – amendment (P.109/2016 Amd.(3)Amd.)**

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

There is an amendment to the amendment lodged by the Minister for Treasury and Resources and therefore I ask the Greffier to read that amendment.

**The Deputy Greffier of the States:**

Page 2. In new paragraph (e) for the words “owner’s rates for residential properties” substitute the words “rates paid by the owner of a property under the Rates (Jersey) Law 2005”.

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

I find myself in somewhat uncharted territory on the grounds that effectively I am in a position where I am broadening an amendment being brought by Deputy Mézec. I am in this case delighted to be doing so. He has laid out the rationale and I find it curious in a sense that he was concerned about, I think he was saying, going too far in his amendment, which is why he limited it in the way that he did. But, frankly, we looked at the situation and thought that he is right and, to be fair, we have as one of our 5 principles of taxation, fairness, and where possible we can accommodate, I think it is therefore right to do so. I would like to just make a few other comments if I may. At the moment owner’s rates are a tax-deductible expense, as has been pointed out, and that was the case under the Income Tax Law. Some other jurisdictions do not allow property rates as a tax-deductible expense, indeed that includes Guernsey, which deducts property rates when calculating the Guernsey income tax; they do not allow that. I am grateful that the Deputy has also brought this as an “in principle” type of amendment, giving time to Treasury to prepare the necessary legal changes for next year’s Budget. That is a very reasonable approach to take and I thank him for that. It certainly makes life a lot easier. An approach that is necessary to bring this into effect in Budget 2018 does require a comprehensive set of rules, which need to be addressed, and all possible circumstances need to be considered, so that is why there is a degree of complex drafting involved with making changes of this nature. I should also say that, based on the low level of rates charged in the Island, the impact of the Deputy’s amendment is estimated to be approximately £300,000 per annum, which equates to around about £30 of income tax per rented-out property. I think it is useful just to put that into context. I am aware that the public would like to see the business sector contributing more to tax revenues, so I have proposed, and that is the basis of this amendment to the amendment, that it extends the Deputy’s amendment beyond just residential property to encompass as well commercial property. So my amendment to this amendment raises an extra £300,000, again the additional States revenue is relatively limited because of the low property rates charged in the Island; relatively low property rates charged in the Island. The average additional income tax from my amendment is estimated at less than £100 per commercial property per year, as opposed to the stamp duty change proposed earlier by Deputy Renouf that we have already debated, this change is considered to be so small that it would not impact on the competitive position in any shape or form. I make the amendment and ask Members to consider whether they would like to extend the amendment of Deputy Mézec in the way that I have described to include commercial properties on the basis that the impact is relatively low and it does appear to me to be a fair approach to take to include commercial properties as well as residential and I hope Members will support it. Thank you, I maintain the amendment.

**The Deputy Bailiff:**

Is the Minister’s amendment seconded? **[Seconded]** Does any Member wish to speak on the Minister’s amendment? The Connétable of St. John.

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

Just to declare an interest and I will not be participating in this debate.

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

The Minister for Treasury and Resources just mentioned the 5 principles of taxation and we started with 3 yesterday and I think I extended it to 4, could he just tell us, remind us, what the 5 principles are of taxation?

**The Deputy Bailiff:**

Does any other Member wish to speak on the Minister's amendment? Then, Minister.

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

Yes, low, broad, simple and fair. I think there might have been an addition there, it was 4. Thank you, Deputy, for pointing out the error. [Laughter]

[10:00]

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

Just on a, not a point of order, but a point of clarification, one Connétable has declared an interest, obviously we all ought to have our register of interests, and I imagine this is affecting a large class of people, of which there are a number of landlords in the Assembly, of which I am one, so just, as one Member has risen, as in Budget debates we have a rule that, if it affects a large group of people, then we do not make an individual declaration, but if it is necessary I will do so. I will not withdraw but ...

**The Deputy Bailiff:**

No, I think in these circumstances this is an amendment, which would extend to a large category of individuals, and therefore it is not something that will create a conflict in a Member here voting on it.

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

Even so, we are worse off.

**The Deputy Bailiff:**

That depends on whether you are going to vote for it or against it I suppose. Those in favour of adopting the Minister's amendment, kindly show Those against? Very well, the amendment is adopted.

**1.6 Draft Budget Statement 2017 (P.109/2016): third amendment (P.109/2016 Amd.(3)) - as amended**

**The Deputy Bailiff:**

We now return to the debate on Deputy Mézec's amendment as amended. Does any Member wish to speak on Deputy Mézec's amendment? The Deputy of St. Mary.

**1.6.1 Deputy D. Johnson of St. Mary:**

I again declare that I have a slight interest in that I am a landlord of a small property here. I have concerns on 2 points arising from this proposition, which both stem from the one set of principles, which is that arrangements have already been made on the basis that the allowance is to be granted. My immediate concern is that, if this allowance is not available to landlords, then it will simply be passed on to the tenants. That is my principal concern. Certainly on behalf of the landlords they will have made certain financial commitments, possibly going as far back as acquisition of the property concerned, mortgage arrangements and more particularly the present tenancy arrangements, which anticipate that the allowance will still be available and they will be disadvantaged if this proposition is passed. I do ask, if the proposition is approved, would the Minister agree to look into the situation and continue to apply the allowance to those people who

are already committed for a longer period than is covered by the proposition, i.e. it is possible that a landlord may have entered into an agreement now for say 5 years. That might well anticipate a cost of living index increase in rent that would not apply to the rates. I would simply ask that the Minister for Treasury and Resources agree to be accommodating to those landlords by allowing pre-existing arrangements to continue. But, on the basis that the proposition does have unfortunate consequences, particularly for the tenant, I propose to oppose the proposition.

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

I find it difficult to support this proposition. Commercial properties are run as businesses often, even a portfolio of domestic properties, and those groups of properties have an expense to run them. They are only taxed on their profits and at the moment we tax people that own property, their income, at 20 per cent, whether they be resident or not. So it is simply an expense against running that property, which then fuels public services and provides the services that you need in the area to run those properties, whether it be emptying the waste carts or whatever. So it is simply an expense that should be deducted from your income tax. I do not understand why we should change that at all because we are already taxing people on the profits of those incomes, so I find this quite difficult to support. Also, simply, some landlords will simply increase their rents to cover it, it is an expense that they will be incurring, so I think it is a perfectly legitimate expense to put on a tax form against the property income, as it always has been. So I find it difficult to understand why the Minister for Treasury and Resources would support this on the basis of how it has been done for many, many years. Expenses against properties incurring income are taxed at 20 per cent, as they should be, and I do not see why this should not be allowed as an expense.

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

I just thought I ought to address here, as I can, the point raised or the point in particular by the Deputy of St. Mary. First and foremost this is of course an in principle decision, we have to work up the detail and it is for Budget 2018 so this is not coming into immediate effect. I would also point out that the numbers are relatively low, as I suggested earlier on, and in fact the true impact of this in fact is the reverse of what Deputy Andrew Lewis was saying a moment ago; the impact would be 20 per cent of the rates, so it is 20 per cent of the rates is the element that would be in effect the impact, which is again a very small amount. I would say that, over the period of time, Treasury will look at the issues, and certainly I have noted the points made by the Deputy of St. Mary as the legislation is developed over the coming 12 months for Budget 2018.

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

Does any other Member wish to speak on the amendment? I call upon Deputy Mézec.

#### **1.6.4 Deputy S.Y. Mézec:**

There is very little I think that can be added to the comments that were just made by the Minister for Treasury and Resources. I am sure he is as glad as I am to be taking a collaborative approach to this and long may that continue when it is evident we have so much in common on our tax policies when we are committed to at least one of those 4, 5, or is it 6 principles behind taxation. Just I did work out the amount; the amount of extra tax on average that will be paid by landlords per month is £2.50. I do not know who is going to go through the cost of administration fees with their estate agents to get rent increased by £2.50. The admin will probably be £100, maybe £200, to get that done. It seems a bit too much effort for just £2.50, so I do not agree that it will be passed on to tenants when it is such a small amount like that. So I ask for the appel please.

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

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

**POUR: 32**

Senator P.F.C. Ozouf  
 Senator A.J.H. Maclean  
 Senator L.J. Farnham  
 Senator P.M. Bailhache  
 Senator A.K.F. Green  
 Senator S.C. Ferguson  
 Connétable of St. Clement  
 Connétable of St. Peter  
 Connétable of St. Lawrence  
 Connétable of St. Brelade  
 Connétable of St. Martin  
 Connétable of St. Saviour  
 Connétable of Grouville  
 Deputy J.A. Martin (H)  
 Deputy G.P. Southern (H)  
 Deputy J.A. Hilton (H)  
 Deputy of Trinity  
 Deputy K.C. Lewis (S)  
 Deputy E.J. Noel (L)  
 Deputy of St. John  
 Deputy M.R. Higgins (H)  
 Deputy J.M. Maçon (S)  
 Deputy S.J. Pinel (C)  
 Deputy of St. Martin  
 Deputy of St. Peter  
 Deputy S.Y. Mézec (H)  
 Deputy of St. Ouen  
 Deputy R. Labey (H)  
 Deputy S.M. Bree (C)  
 Deputy M.J. Norton (B)  
 Deputy T.A. McDonald (S)  
 Deputy G.J. Truscott (B)

**CONTRE: 2**

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

**ABSTAIN: 1**

Connétable of St. Ouen

**1.7 Draft Budget Statement 2017 (P.109/2016): fourth amendment (P.109/2016 Amd.(4))****The Deputy Bailiff:**

Very well, we now come to the fourth amendment, which is that lodged by Senator Ferguson, and it is entitled the Draft Budget Statement 2017 amendment 4, and I would ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

Page 2. After paragraph (d) insert the following new paragraph - “(e) to agree in principle that from 2018 a 20 per cent tax on profit should be applied to all large retail businesses operating in Jersey, whether owned by Jersey resident companies or by non-resident companies, where taxable profits are above GBP 500,000 per annum providing this does not pose a risk to the Zero/Ten regime and to direct the Minister for Treasury and Resources to bring forward the necessary legislative changes for debate by the Assembly during 201;”.

**1.7.1 Senator S.C. Ferguson:**

I will make no apologies for a quick look at the background of this because I think that most Members in this Assembly now were not here at the time when the original Zero/Ten came in. All the Crown... it started with the implementation of the Zero/Ten policy. All the Crown

Dependencies recognised the inequity of the position with regards to overseas companies trading in the Islands, but they felt powerless to do anything about it at that time. There were 3 fairly comprehensive scrutiny reports, which discussed the matter. It was recognised that a Jersey branch of a U.K. (United Kingdom) company, the full profits would be taxable in the U.K. as soon as they are earned. But in the case of a U.K. group with a Jersey subsidiary, the subsidiary will pay no tax in Jersey and the group would only pay tax when its profits are paid to the U.K. parent as a dividend. A dividend would attract tax, so there is a strong incentive to avoid receiving dividends from Jersey subsidiaries. The profits could be reinvested tax-free either in Jersey or elsewhere in the group or extracted by way of a loan to the parent group. For instance, there is a large department store in the Island, which is, when I last looked, owned through a Luxembourg subsidiary. For businesses owned outside the U.K. the treatment would vary, but it does seem likely that a Guernsey company would be able to avoid or postpone for a long time any tax on its Jersey operations. Off-Island owned trading companies will pay no Jersey tax and therefore they will be able to avoid or delay paying tax elsewhere. This gives them an unfair advantage over locally-owned businesses and it also means that Jersey businesses will be more valuable to off-Island investors than they are to Jersey residents and it gives a tax advantage, as I have said, to off-Island investors, which would only accelerate the current trend for Jersey businesses to be sold to non-Jersey investors, all pretty prescient I would say. In S.R.14/2007, the Corporate Services Scrutiny Sub-Panel followed up one of the major concerns identified in its reports, this fact that non-Jersey owned businesses would escape tax liability in Jersey. The panel and their adviser adapted a proposal originally submitted by Jurat Blampied - the Blampied Proposal - for a tax on owner-occupied business property as a workable solution. The Minister for Treasury and Resources acknowledged that the proposal had some merit and agreed to investigate the economic impact and the potential yield. The result was the Draft Income Tax Amendment No. 32 (Jersey) Law 200-, which was lodged on 21st October 2008. As a result of the various elections to panels and ministerships following the election, an agreement was reached between the Minister and the Scrutiny Panel that, after the legislation had been reviewed by the new panel, it would be debated. The debate was scheduled for March 2009. The new Minister and the Scrutiny Panel adhered to that agreement and the then current Corporate Services Panel presented their report to the States. The panel was greatly disappointed that no substantive work had been done by the Treasury concerning the implications of the comments made by the panel in 2008. It appeared that the onus had been put on Scrutiny to justify the progression or lack thereof of this piece of legislation. Certainly the panel has received no evidence of further consultation and, apart from some indicative work done by the Tax Department, there is no detailed evidence to support the Minister's reluctance to introduce the deemed rental amendment. The conclusion was that there were 2 main issues inherent in the proposal, the first was that all businesses profiting from their activities in Jersey should contribute to the Island. This is eminently fair. The second issue was that of equity between non-finance local and foreign-owned trading companies. This question of equity for local businesses remains extremely important and must be addressed, it still goes on. The panel was of the opinion that the deemed rental concept had much to commend it, but it did depend on the availability of the information. The biggest problem, as was pointed out by the Comptroller of Taxation, was that the information was difficult to access and was incomplete. As most comptrollers are only too happy to collect as much tax as possible, I must consider that his regret over this was absolutely genuine. The Treasury estimated that Zero/Ten proposals would cost the Island £10 million to £12 million in lost tax revenue from foreign-owned non-finance companies. The department also estimated, this was at the time of the report, that the deemed rent tax would recover about half that sum, some £4 million to £6 million. So, for nearly 10 years we have had a tax policy, which is incredibly inequitable for local businesses and encourages local owners to sell out to foreign firms.

[10:15]

I cannot blame them, but it would be nice if we retained some local ownership of local businesses and all we have done is wring our hands and say: “Woe is me”, or whatever is the political equivalent. In the meantime, the Isle of Man produced a ‘Tesco tax’ in 2013 and Guernsey produced an amendment to their budget legislation in October 2015 and all we hear is words, not deeds. I ask the Assembly to support me in this amendment so that we can start producing deeds, not just words.

**The Deputy Bailiff:**

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

**1.8 Draft Budget Statement 2017 (P.109/2016): fourth amendment (P.109/2016 Amd.(4)) – amendment (P.109/2016 Amd.(4)Amd.)**

**The Deputy Bailiff:**

There is an amendment to the amendment lodged by the Minister for Treasury and Resources. I ask the Greffier to read that amendment.

**The Deputy Greffier of the States:**

Page 2. In new paragraph (e) for the word “20 per cent” substitute the words “higher rate of”; after the words “applied to” delete the words “all large”; and for the words “taxable profits are above GBP 500,000 per annum” substitute the words “annual taxable profits exceed a certain threshold (which is to be determined during 2017)”.

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

I have already said publicly on many occasions so far that we are considering broadening the scope of companies that pay tax in Jersey. I am actively looking for a way to tax the profits of larger retail businesses. At the moment, such businesses in Jersey are of course zero tax rated, whether they are locally or non-locally owned. In making any changes, we have to protect the internationally compliant status of the Island’s Zero/Ten corporate tax regime. That means not discriminating between locally and non-locally owned businesses. So any taxation, just to emphasise the point, or any changes to the corporate taxation regime, requires that both locally and non-locally businesses are treated exactly the same. It does mean that most companies and most profits must be taxed. The Zero/Ten regime states and makes it absolutely clear that the majority of companies and the majority of profits must be taxed at the zero rate to maintain that compliance. Now the wording of the Senator’s amendment is very specific, it is a copy in fact of the retail tax introduced in Guernsey in 2016, and although the tax models used by Guernsey, and for that matter the Isle of Man, are useful starting points, they might not be appropriate for Jersey, as our finance sectors differ in a number of different ways. If we are to make a properly-informed decision about how to broaden our tax base, we need to first be in a position to gather evidence on company profits. We need to know how many companies and what percentage of profits are taxed at zero compared to those taxed at 10 per cent and 20 per cent. Now, we have already started gathering this evidence, in fact the process started long before the Senator lodged her proposition. So this is something that has been in train and is ongoing and it resulted from the fact that we made changes to the 2015 Corporate Income Tax Return form to allow us to collect the information necessary from companies and by exchanging also information with the Jersey Financial Services Commission. You cannot get the information necessary on company profits without going through an appropriate process in the income tax return form and information exchanged with the J.F.S.C. (Jersey Financial Services Commission) are the routes and they take a small amount of time obviously before that can be completed. My Budget proposals, of course Members will be aware, will allow the Taxes Office to collect the profit data from all companies, which are taxable in the Island, as a result of that. Based on that information, I will work with Treasury officials to

determine whether it is safe to propose a change to the taxation of larger retail businesses in Budget 2018. It is a point that the Senator herself makes in her proposition that to bring forward the proposal, providing it does not compromise our corporate tax system, and so we are agreed on that point. So my amendment to Senator Ferguson's amendment gives the Treasury quite simply more flexibility to use the data gathered from the company tax returns when we have received it to develop a solution that is evidence-based and is appropriate for Jersey and the makeup of Jersey corporate profits. We are simply saying that, by removing the sum taken or applied in Guernsey of half a million pounds of profits, we do not know at the moment, because we do not know the profit levels, whether half a million pounds is right. It might be higher than that. It might be that we have to reduce it to a figure lower than that. We do not know at this stage because the corporate profit information is not available here in the Island, so we want the flexibility, when the data is collected, to be able to set it at an appropriate level. But what I can say to Members is we are committed to looking at ways of expanding the scope of businesses that we can bring within the corporate tax net to address some of the issues that the Senator has rightfully raised. Latest data that we have in Treasury suggests that the tax leakage, if I can put it that way, that is between non-locally owned companies trading in the Island where the profits go off-Island, those profits of course are still going to be taxed in the jurisdiction where the shareholders reside, but it is revenue that is lost to the Island and we think that tax leakage amounts to around about £7.5 million to £8 million a year. The measure of expanding the scope of Zero/Ten will help us to close that gap. It is again a matter of fairness as well as a matter of generating some additional revenue and making sure that we do not have leakage in our corporate tax system. So my amendment to the Senator's amendment is simply saying: "Yes, we agree with the principle; yes, we want to do it; yes, we are doing it, we have started the process of collecting the data with the intention of bringing back a firm proposal in Budget 2018." But we do, and I would urge Members to support the fact that we want to have the data first, which will come as a result of the new information from the 2015 corporate tax returns, which will be then analysed by the Treasury Department and allow us to bring forward an informed proposal of the exact levels that we need to apply and on the basis that we are able to proceed because we do not damage the Zero/Ten corporate tax system. So I would therefore ask Members to support my amendment to the Senator's amendment. Thank you.

### **The Deputy Bailiff:**

Is the amendment seconded? [**Seconded**] Does any Member wish to ... Deputy Maçon.

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

Yes, there are just a couple of points that I would like to make on this. Senator Ferguson, when she opened this, and I appreciate we are talking about the Minister's amendment, did mention the history of course, what has happened in the time is certainly the cultural change, the attitudes towards corporations and companies and particularly the banking sector in the past 8 years. It has vastly changed, even in Jersey, to when it was a sacred cow that you could not say anything against, to the greater attitude of calling for reforms in those sectors. But something I specifically want the... and therefore when we looked at what happened in the past, you had the race to the bottom that was led by the Isle of Man, which then had a knock-on effect. Then of course the corporations are wringing their hands and of course playing the jurisdictions against one another because the threat was always: "Well if you do not do it, we are going to move to another jurisdiction." So therefore the point I want to ask the Minister for Treasury and Resources, in undertaking this work, what emphasis is going to be done in working with the other Crown Dependencies in order to avoid the jurisdictions being played off against one another yet again, because we have seen ... I do not know if it is one of Deputy Southern's questions previously, but when we have looked at the shift from corporation tax to personal taxation and the way the balance has thrown, that has not really been... in some ways it has not been good for the population because of the way that the tax burden



has shifted. Of course the counterargument is, yes, but at least we still have the finance industry. So there is that aspect to it. So, I want to know what work is going to be done in order to prevent jurisdictions being played off against one another when this work is going to be reviewed.

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

It sounds a bit like the tax review I asked for at the Medium Term Finance Plan. Yes, the tax leakage, well my figures come from 2008/2009, so obviously they will be different. When the Minister talks about taking evidence, the note on the company tax return applies to Jersey companies, I think you will find, not companies overseas or branches of other companies. Those will come with the Base Erosion Profit Sharing Regulations, which are coming in later in the new year, which will cover this. But the Minister raises a number of points in his amendment. He says he is seeking a way to subject the profits of larger retail businesses without setting the internationally-compliant status of the Island's Zero/Ten tax status at risk. No problem there. I have no argument with that. But maybe I am being a little slow because Guernsey and the Isle of Man are both subject to the same regime and risks and it is 3 years since the Isle of Man changed their system and over a year since Guernsey changed theirs. Has anybody heard anything about objections? I think not. According to the report, the Minister proposes to postpone any decision until the 2018 Budget proposals. What is the point of leaving it until 6 months before the next elections? That is what his amendment means, to agree in principle that from 2018, and goes on to say: "Bring forward the legislative changes to debate during 2017." So we agree on the basics and all we are debating is the rates, 20 per cent and £500,000. There is a fairly supercilious comment, which is not worthy of the Minister about my lifting the proposal from the Guernsey proposal. The Guernsey one appears to have been lifted from the Isle of Man proposal, except the Isle of Man has gone for 10 per cent. The Minister has also struck out the word "all" preceding "retail businesses". But, if we are to comply with Zero/Ten, we must apply these rules to all businesses. Effectively, the Minister's amendment maintains the *status quo*, I wonder if I dare use that phrase, say a lot, make broad general hints, and do nothing. The Minister may not have noticed, but I said: "In principle" like Deputy Mézec's proposition to amend the Budget. I did not say "must", I did not say "shall", I left a degree of flexibility with "in principle". If the Minister does not like 20 per cent or £500,000, it gives him freedom to change these, provided he has the evidence and rationale to support these changes. What is wrong with not reinventing the wheel? The most effective Article in the Income Tax Law has been Article 134A. For the layman, this is the Article, which allows the Comptroller to take a long hard look at your affairs and decide whether or not he is going to investigate. I am assured by people who are more expert in tax matters than me, including a previous Treasurer - a vintage one I might add who was incredibly tight-fisted - that this Article was effectively purloined from New Zealand legislation. The current philosophy that profits should be taxed in the jurisdiction in which they are earned is equitable. Employee taxes that we get from these companies do not cover the wear and tear on the infrastructure of the Island.

[10:30]

There will be comments that this will put up costs to Islanders, but what about the U.K. companies trading here who, not only leave the U.K. V.A.T. (Value Added Tax) on the prices they charge, but they charge G.S.T. (Goods and Services Tax) on top of the U.K. price, which includes V.A.T. My proposal, I emphasise, in principle, is a very simple one. If the Isle of Man and Guernsey have not had their changes queried, why should we? Why should we not provide a degree of equity for local companies? Why do we need to make my amendment so bland that it will sink without trace and be buried in the long grass? Why can the Minister not be reasonable and say: "We accept your proposition," instead of trying to make it meaningless and then bringing it back virtually unchanged in a few months' time? I ask the Assembly not to support this amendment, which will emasculate my amendment.

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

I think that Senator Ferguson is to be commended for bringing this matter before the Assembly because there is a great deal of misunderstanding abroad about the Zero/Ten tax system, which we have in relation to corporate taxation, and I think it is good that the Assembly has the opportunity to debate amendments to the system. I think it can fairly be said, and I speak as a Minister in the Government, that the Government has been a little over-cautious in relation to the edicts of the European Union Code of Conduct Group on Business Taxation. As Members will know, I am sure, this is a political group made up of the Finance Ministers of the countries of the European Union on which the Island is not represented. We have nonetheless agreed some years ago that we would seek to comply with the precepts laid down by this group because we do not wish to be accused, with any justification, of having unfair tax practices. It is generally accepted in the international community that it is unfair to discriminate in the tax treatment of companies, which are owned by residents, and those that are owned by non-residents, and that in essence is why we have brought into our system the Zero/Ten treatment of corporate taxation. The basic rate of taxation for companies is zero because, if it were not so, a large proportion of the financial services industry would be adversely affected and the tax revenues of the Island would take a considerable dip. No one wants to see that I am quite sure. Therefore one should be careful I think about tampering with the Zero/Ten tax system because it is the bread and butter of our economy. It enables Jersey to attract financial services companies because there is a zero rate of taxation. I think Senator Ferguson agrees with much of that. She does not wish to jeopardise the acceptance by the international community of the fairness of our tax system in accordance with international norms. I am sorry that she will not accept the amendment of the Minister for Treasury and Resources because all that the Minister is seeking to do is to achieve a little more wriggle room in the way in which changes are to be brought forward. For my part, I am very happy to put it on record that I am very sympathetic to the proposals that have been put forward by Senator Ferguson. There will no doubt be discussions, both among the Council of Ministers and with the Corporate Scrutiny Panel and perhaps more widely on what the appropriate way to tax companies carrying out retail business in the Island might be. But for my part I must say I am very sympathetic to the notions that have been put forward by Senator Ferguson. I shall however be supporting the amendment of Senator Maclean, not in any sense because it is brought with the intention of kicking this into the long grass, I do not believe that to be the case - I am sure that the Senator will confirm that when he sums up the debate - but I hope that Members nonetheless will support the giving a little more flexibility to the Minister for Treasury and Resources in bringing about some appropriate change to the tax system.

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

For once it is a real pleasure to follow the last speaker and I agree with everything he has said and I was not going to speak in this debate but it is really to urge Senator Ferguson, because when I saw this, her amendment, and then her: "Hmmm", it is, as these comments say, very prescriptive. They have only introduced it in 2016, it is sometimes best to wait a little to see what mistakes they have made and, well, basically I think it is always a little better to come a little bit after, and that is all to me. The Senator says that this will basically ruin her amendment and I did not see it like that when it was lodged and I still do not see it after I have heard both you and the Minister for Treasury and Resources. I think it is a really sensible amendment and I just think it is saying it is not being too prescriptive, they have been saying they are going to do something about it, so for once ... not "for once", it seems like for once, but I have to say well done to the Minister for Treasury and Resources in this and I will be supporting his amendment. It is so very rare, I had to say it, thank you.

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

I rise to support strongly the Minister for Treasury and Resources' amendment from the financial industry point of view. Zero/Ten was never an easy issue to deal with and while I accept the remarks are made by the Minister for External Relations that the Island voluntarily complied with the Code of Conduct Group, which were the opining body, which caused, not only Jersey, but Guernsey and the Isle of Man, to move to the Zero/Ten model, and of course it must be said that it was not zero that caused the main erosion of income, it was the move from 20 to 10 per cent that caused the majority of the erosion of the income because we had the exempt company status. Now, the unintended consequence, which has vexed and been a difficulty for this Assembly, including previous Ministers for Treasury and Resources, the last 2, has been how to deal with the conundrum of needing to comply, voluntarily or otherwise, we had to comply because if we would have been blacklisted by the E.U. (European Union) we would not have a financial services industry. Now the important difference is, I think it is important to say, that there was always a greater latitude in the Isle of Man, who brought in the so-called 'Tesco tax', because their financial services industry is so much smaller than ours. Ours is much larger and therefore the effect of that means that the balance of the amount of companies to defend the zero rate is different, and the Minister is being absolutely right in saying that he, as I had done previously, is going to be getting much more information for us to defend. I also compliment and thank the current Minister for Treasury and Resources for saying very, very clearly the statement of confidence that the finance industry needs, which is that, until the world changes - and we have no idea, as we have seen seismic events in the world on the last year - until the world changes Zero/Ten is the form of tax, which is in the Island's best interests, even though it has the unintended consequence, which none of us have ever been comfortable with, of having effectively local companies that are trading here, such as retailers, not paying tax. The Deputy of Grouville is on duty in Westminster representing and leading the delegation with Senator Routier and Deputy Wickenden and she is one of those Members that has raised these issues many, many times before. If she would be here, because she has been debating this and put forward amendments asking previous Ministers for Treasury and Resources to look at this, she would be also I think be saying that it is good that we are looking at the ability of charging a retailer. The Isle of Man, however, is a different economy and the Isle of Man 'Tesco tax' is just that; I am not aware of any other large retailer that is caught by the 'Tesco tax.' What the Minister is attempting to do is effectively giving himself some wriggle room in order to see just how wide he can cast that net, but without at the same time, and the words in his amendment are absolutely vital, that it does not propose a risk to the Zero/Ten regime, which would be effectively translated to mean an issue to our financial services economy. Now, I just remind Members that our financial services economy, despite all of the predictions of some people, is growing, and is growing strongly. I think it is a matter of pride to I hope all Members of this Assembly that today we have, as the Minister for Treasury and Resources said in his speech, a larger number of people employed in financial and business services than we did at the peak of the crisis in 2007. If Deputy Wickenden was here, he would also say that 30 per cent of jobs in any event, because of technology, have disappeared. So that means that we are working hard and we are being very successful. But, to be successful, we have to have at the moment, and even Deputy Mézec in a recent Senatorial by-election accepted the need for the zero, and I certainly appreciated Deputy Mézec saying that on a public platform, saying that he understood why, even though there is the unintended consequences of local companies not paying tax, that he understood why the zero was necessary and I think that was certainly of great comfort to many people in the finance industry. I am happy to give way if he wishes.

**Deputy S.Y. Mézec:**

No, I am putting my light on to speak later.

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

I know that no Member of this Assembly would wish to in any way limit what has been a fantastic resurgence in confidence in our financial services sector. Now I realise Members want to raise tax, as I have always wanted to raise tax, from businesses in Jersey that are operating and the unintended consequence of Zero/Ten imposed on us by the E.U., but of course made much more difficult by the 10 per cent rate, which was put by the Isle of Man to compete with Ireland at 12.5 per cent; that was the majority of the revenue that we lost. That is often something that is forgotten. So we need to do 2 things, we need to send out a very clear message to our growing and resurgent financial services industry that until the world changes, until perhaps the B.E.P.S. (Base Erosion Profit Shifting) world sets international rules, which means that tax will be paid in the jurisdiction where the profit is made. The profit is not made in Jersey on the capital that is here, which is the thing that gives us the ability trade as a finance centre. The zero is zero on the capital because we expect people to pay their taxes before they bring their capital here and we aggregate it, it then gets obviously up-streamed largely to the United Kingdom as the capital economic reports show, it is obviously the co-operative stance that Jersey has that where that capital ends up it gets taxed in the economic value that is added. The economic value that is added here is in the services and that is at 10 per cent. What the Minister is doing I know also is looking, as his predecessor and his predecessors before that, at just how far can we push that 10 per cent band without compromising the arguments of zero.

[10:45]

Because the arguments of zero are at the fundamental heart of the heartbeat of the engine of our economy; the engine of the economy of St. Helier, the engine of the economy, which means that we can have a Budget and continue with our low tax and also all of our other good work that we are doing in providing services. It is absolutely vital that the Minister for Treasury and Resources' reasonable amendment, which does give him 2 wriggle rooms, (a) first of all sending the clear message that Zero/Ten matters because it absolutely does and anybody that sends a message that says it does not matter is effectively jeopardising the future of the financial services industry in the current world we have. Secondly, it gives the Minister the ability to do further than the Isle of Man, which we do not have tests over here, but what the Minister has said is he has removed effectively the figure plucked out of the air of £500,000 for retail businesses. I think the Minister is right to say: "Look, I am prepared to look at this. If the evidence that the data gathering exercise on companies can yield a solution which does not compromise the zero" then he will bring forward matters in legislation which would mean that we can bring more revenue than we thought. But it is of fundamental importance that until the world changes, until the world accepts B.E.P.S. and those international rules have agreed, there is no alternative and the Island's overall on balance best interest is to have Zero/Ten even though I, as other Ministers and as the Minister for External Relations have said, always have found it very difficult to have to deal with the unintended consequence of local companies not paying tax. But that is massively outweighed by the benefit of having the finance sector which is now not in the state that many Members might have thought 5 or 6 or 7 years ago was in decline, it is growing and it is growing strongly, and this amendment sends out the message that until the world changes we keep Zero/Ten and we will defend it. So I urge Members to support the aspirations of Senator Ferguson but also the pragmatism and the clear statement and widening the opportunity that the Minister for Treasury and Resources does effect; he is helping us in giving him slightly more wriggle room when we get the information which should be helpful to the Assembly rather than not. I urge Senator Ferguson again, I do not really quite understand why she has not accepted this because it seems to me to be an extremely reasonable amendment, carefully thought through by experts, which is worthy of this Assembly's approval. Thank you.

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

A few brief words; as Minister responsible for business I think it is important that I just remind Members that while I am supporting this I just think that we need to plan carefully because many retail businesses have and are investing significantly in their businesses, investing large amounts of money, growing the employment numbers in the sector and so we need to be mindful of that. Also, I would remind Members that retail is struggling. We are in a different world at the moment with the growth of the internet, so that is even more reason, I think, not to make what we decide now too prescriptive because we do need plenty of space to debate this in 2017 and if we make it too prescriptive now we are going to limit that debate and we could end up not getting anywhere. So I too just want to join the previous speakers in asking Senator Ferguson, I think it will make this debate quicker and easier if she would consider accepting the amendment to her amendment because I think otherwise we stand the chance of not reaching this debate next year; we will end up throwing the baby out with the bathwater, as it were. Thank you.

#### **1.8.8 Deputy S.Y. Mézec:**

I had put my light on to speak when Senator Ozouf referenced the position that I had made clear during the hustings in the Senatorial by-election campaign earlier this year, and his recollection of course was accurate, I did stand up in that public platform and say what I believe to be true which is that the zero rate itself is incredibly important and that it should not simply be thrown away without serious consideration about the impact it would have on our economy. Senator Ozouf described why that was the case and why a zero rate makes particular transactions viable where otherwise they simply would not be and the effects that it would have on things like double-taxation. I of course agreed wholeheartedly with that. I have to say, from when I have heard other commentators stand up and speak about Zero/Ten, often people who philosophically I have got much in common with, they often speak in a way that to me suggests that they do not quite understand why the zero rate exists and I find that worrying, and from the proposer of this original amendment, sometimes I do have to say I think she sometimes uses language that makes me worry that that particular point has not been considered properly even though I do share her aspiration that we need to get more businesses paying tax where it is reasonable and proper that they should be doing so. Senator Ozouf and Senator Maclean both stood up in their speeches on this amendment to say that they support more businesses paying tax. I could not help but feel a bit of a sense of *dejà vu* here because I remember the first time I saw both Senator Ozouf and Senator Maclean was in 2008 during the Senatorial election campaign, it was the first time that I met several other Members of this Assembly like Deputy Maçon, like Deputy Southern and Deputy Tadier, for that matter too, where they stood up in the hall in Hautlieu School where I was a student at the time. I was 17 years old, I was young, aspirational, starry-eyed and idealistic, obviously nothing like what I am today. **[Laughter]** Yes, you do get cynical once you have been here a few years obviously. I remember hearing what they all had to say about many topics and Zero/Ten was one of them and I remember the then Deputy Maclean, as he was, standing to be Senator where he would eventually be successful of course, he stood and said virtually the same things that they have said here today. Senator Ozouf stood and said virtually the same things they have said today and we are 8 years forward in time and not any progress has been made at all trying to address the problems that were caused when Zero/Ten was introduced. I have to say that I think that is a sign of a political system which, frankly, is not working and that means that I do not have the confidence of those Ministers, when they stand up and say that they genuinely want to make progress in the area, that we are going to see any tangible improvement any time soon. It is that position that makes me incredibly sympathetic to what Senator Ferguson is trying to do and that means that I am almost certainly inclined to vote to support her amendment, and will do so wholeheartedly and as a demonstration of my philosophical view and the policy that I have put forward at election time that I do want to see progress made here to get more businesses paying tax where they should be and where it is proper without doing anything that damages the viability of a particular part of our economy which

depends on that zero rate for its viability. I think that is a very moderate and sensible position. It is also a position that, it does have to be said, some Members of this Assembly had 10 years ago when the whole debate on Zero/Ten was going on in the first place. Those Members, and Deputy Southern was the one who I remember very clearly, who made many comments about Zero/Ten when it was going to be introduced, about the problems it would cause and Members derided those Members who made those comments. The language was a bit different then, they used to say that not only were you anti-finance if you had that point of view but you were anti-Jersey. I am glad to see that we have moved on from that because that is a divisive and unnecessary way of speaking about people who have simply a different opinion especially when now, we know, they have been vindicated because what they said turned out to be right. Does anybody remember deemed distribution? [Aside] Well I remember there were a small number of States Members, Deputy Higgins I remember was one, Deputy Maçon, Deputy Southern in particular was also one who made the point where the Government simply had their fingers in their ears and could only take action eventually when they were forced to. So I think the attitude of the Council of Ministers towards Zero/Ten has been to blame, I think, for why we are largely in the mess we are in terms of our public finances. What Sarah Ferguson ... Senator Ferguson, sorry, I should say to use her title, is trying to do with this amendment is something philosophically I am on board with, I support that. I want to see real progress made but I will make the point that with the current leadership of the Government in Jersey I have no faith in them to make any real progress, especially when they are putting an amendment which, as Senator Ferguson says, really does take the bite out of the original proposition, I think. Some Members shake their heads but we see this often where Back-Benchers attempt to bring forward amendments to provide constructive alternatives to what the Council of Ministers want where the Council of Ministers either amend it to take away any obligation for them to do anything or they say: "No, we are rejecting this" or: "We promise we will have a review." We have lots of reviews, do we not? That is really nice and that obviously means we make progress although sometimes that progress takes 10 years rather than what would happen in a proper democracy where things would happen much quicker because we would not accept delaying tactics like this, and not just the politicians but the members of the public would be demanding much better from their Government, much higher standards which is not the case. So, as my little way of trying to do something positive on this subject, which has plagued our Island for so long, I will be supporting the amendment of Senator Ferguson and commend her for making it, not just because it is a good idea but it is what she said she would endeavour to do if she was re-elected as Senator. I think it is a very nice old-fashioned tradition when politicians go ahead to do what it was they said they would do when people voted for them. So I will be supporting it.

**The Deputy Bailiff:**

Could I just remind Members that this is obviously a debate on the Minister's amendment to the amendment. Deputy Southern.

**1.8.9 Deputy G.P. Southern:**

Thank you for that reminder and I will strictly confine my comments to this amendment. The Assistant Minister for Treasury and Resources points out and cannot understand why Senator Ferguson does not want to accept this - what does he say - carefully thought out amendment. No, carefully thought through by experts. Carefully thought through by experts' amendment.

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

Excuse me, I wonder if Deputy Southern would mind just ... it is not the Assistant Minister for Treasury and Resources it is the Chief Minister that made those comments.

**Deputy G.P. Southern:**

I do apologise wholeheartedly for misunderstanding exactly what role the Assistant Minister does have. He seems to have so many hats on. The Assistant Minister to the Chief Minister then, who suggested that rejecting this carefully thought through by experts' amendment, you can understand why she would. Well, let me perhaps explain why Senator Ferguson would not accept this amendment, and, in particular, why it reminds me of a previous incident when the Deputy of Grouville brought a very firm, very clear amendment or proposition to a Budget measure before, suggesting that we had to find a way of making sure that foreign-owned companies paid some tax in Jersey and did not come here to trade for free. What happened when she brought that was that, lo and behold, it was amended. It was very finely amended with an amendment that was carefully thought through by experts. What was the phrase that was used which scuppered that proposition and meant that no progress was made and meant that the Minister for Treasury and Resources, then, could come back to this House and say: "We have looked at it, we cannot do anything about it" and why they have done that repeatedly since over the years? Why we made no progress is exactly because of this carefully thought through by experts' amendment which says: "Providing this does not pose a risk to the Zero/Ten regime." Now, Senator Ferguson seems to think that this particular measure will not cause any problems with the Zero/Ten regime. I am more suspicious than that. I think this reminds me almost of the Gibraltar solution which was "office space tax" which was immediately spotted by the officials who said: "Come on, you cannot get away with that, you are just trying to get round your Zero/Ten rules, your zero in particular." It is not obvious that this will be acceptable. What is obvious is that the move to sabotage any move in that direction, no matter how well thought out or thought through, is time and time again capable of being sabotaged by a simple phrase: "Providing this does not pose a risk to the Zero/Ten regime." I believe that that will be triggered and that will give this Minister for Treasury and Resources, yet again, like his predecessor, the opportunity to say, hands in the air: "Nothing we can do." So we will get no progress on it if we accept this amendment. So I am fully supportive of Senator Ferguson saying no to the amendment: "Let us get on with the measures I have proposed and that way perhaps we can get some progress." This sabotages the proposition altogether.

[11:00]

**1.8.10 Deputy M.R. Higgins of St. Helier:**

I may just tread into some of the areas you say we should not do but it is in response to what Ministers have said in the debate because it needs to be corrected.

**The Deputy Bailiff:**

It is not a question of should not, Members will have the opportunity when this amendment is voted on to make whatever points they want in connection with the Senator's original proposition, so it is not that you are going to not have the opportunity it is just that this is a different debate, that is all.

**Deputy M.R. Higgins:**

Very well, Sir. What I would like to come back to is that since Zero/Ten came in we have had a situation where over 85 per cent of all taxes are coming from individuals, ordinary people. We have no taxes coming from companies other than the 10 per cent coming from the finance industry and the 20 per cent from utilities and what we have seen, over the time that I have been in this Assembly, is an unbelievable switch from corporate taxation to personal taxation and this is what is causing the problems we have in our society. Many people are struggling, not just the very poor. We keep on talking about middle-Jersey, they are definitely struggling; we are all struggling because of the Zero/Ten tax regime which came in and the switch to personal taxation. To be honest, there are many companies who would say: "You should be happy that we are here and we are providing employment. You are getting your taxes from our employees." Therefore, they are quite happy to see this switch away from them to the individual. I am not and I have always been

against the system that has concentrated our economy in one area. For example, we are always talked about being anti-finance, this is the thing and if I go back to what Deputy Southern was saying.

**Deputy G.P. Southern:**

The good old days.

**Deputy M.R. Higgins:**

Yes, the good old days. When we started drawing attention to some of the problems of the policies that were being pursued by the Council of Ministers, we were wreckers; we were anti-finance, we were anti everything. Well, let us just look at it another way. Senator Bailhache mentioned how we are attracting more financial service companies. Senator Ozouf was talking about: “Yes, we are seeing the revival of the industry” and so on. What we are seeing is greater concentration into the financial services industry which we will never escape from. Can I just say, I am not anti-finance, I will make that very clear? We have an industry that is providing employment for an awful lot of people in this Island and we have got to value the industry for that but at the same time we have been vulnerable as an Island because we have concentrated all our eggs in the one basket. I remember thinking of the 2008 election, I said exactly the same thing. What we are doing is we are just increasing our reliance on that one industry and if you think back to the 2008 recession, which we have only just come out of, it was made worse because it was a financial services induced recession and they are the worst that you can get, and the more reliant you are on finance industry activities the longer the recession will last and the deeper it will be. So we are feeling the consequences of that. Now, we need to rebalance our economy. I have said it before, we keep on hearing about economic growth, we are going to diversify the economy; we do not because the Ministers are piling more and more into the financial services industry. Okay, let us go back to this then, so what we have got then is the Minister is trying to protect the 30,000 companies that are registered in Jersey but pay no tax. This is where the capital was coming in that the Minister was talking about. So they are trying to tread a sort of tightrope in one sense, but we have to deal with the ordinary person in this Island and we need to rebalance the tax take so it becomes alleviated from the personal and put it back to the companies. What Senator Ferguson is putting forward, I will support. We need to find other ways of trying to reduce the burden on the ordinary citizen. If we go along with the Minister it will be put off for another year, another 2 years, another 3 years, it will never happen. So, I would argue that we should support the Minister and, again, do it to help the ordinary person in this Island who is suffering under the current tax burden. Thank you.

**1.8.11 The Deputy of St. Mary:**

Very briefly, I have difficulty in understanding why this debate is continuing. I appreciate why Back-Benchers are suspicious, if that is the right word, of Ministers bringing in amendments which may cause delay but this amendment does not do that. It follows closely the original proposition and finishes up by saying: “Bring forward the necessary legislative changes for debate by the Assembly during 2017.” Surely if we approve that proposition as amended they are committed to that. I therefore see no reason not to adopt the amendment and I shall be supporting it. Thank you.

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

I was listening to Deputy Mézec’s speech and it was that that caused me really to rise to my feet because it seemed to me he gave a very cogent speech until the point really where he came to reject the very reasonable amendment to the amendment, it seems to me. He wants to reject that amendment because he wants to castigate the Council of Ministers for past inaction rather than anything that is put before us today. It seems to me that he is taking an oppositional stance for political reasons. I think all of that is unnecessary because we are all agreed, it would seem, on the outcome we would like to achieve here. Both the amendment and the amendment to the



amendment seek an agreement in principle and both have the proviso that nothing should create a risk to the Zero/Ten regime. To Deputy Southern I would say that if he believes the Council of Ministers intend to be obstructive then they could be obstructive to Senator Ferguson's amendment because that equally is an in principle decision and contains the proviso. So, if that intention is there, then why are we having this debate? But we are having this debate because it seems to me the Minister for Treasury and Resources has brought forward an amendment to Senator Ferguson's amendment which works and is very helpful and flexible. It seeks an agreement in principle also but it seems to me that Senator Ferguson's proposal asks for that in principle agreement but is nonetheless restrictive. It limits us to considering the 20 per cent tax rate and limits us to considering a threshold of £500,000 per annum. However, the amendment proposed by the Minister for Treasury and Resources does give us that flexibility to allow us to further consider that detail when the evidence becomes available. So, really I felt just the same as Deputy Martin, this is very reasonable and I would have hoped that Senator Ferguson would have been able to accept it, allowing us to consider far more detail when the research and evidence is available to us. Thank you.

**The Deputy Bailiff:**

Senator, you have already spoken.

**Senator S.C. Ferguson:**

I was going to say that if the Minister can assure me that this will come back to the Assembly before the summer recess then I will accept his amendment, and provided he will accept the amendment in total as amended. If he can give those assurances ...

**The Deputy Bailiff:**

That is a helpful intervention, Senator, it obviously does not amount to a second speech it amounts to a confirmation of your position and the Minister will respond at the end of this and you will hear what he has to say then. Does any other Member wish to speak on the Minister's amendment? I call upon the Minister to respond.

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

Thank you to Members for their comments. I will try and deal with some of the points that have been raised just before I deal with Senator Ferguson and the point that she just asked about. There were some questions raised and I do think I need to address these first and foremost. We start in order with Deputy Maçon who was concerned about what I think he described as a race to the bottom by this being a change to the corporate tax system. I did in fact make it clear, I hope, in the Budget speech yesterday that I am absolutely committed to Zero/Ten and the zero rate specifically which is central and key to our economy and is central to tax neutrality and all the points made previously by Senator Ozouf. In fact the proposals that we have here are in relation to adjustments to the broadening of the scope of the corporate tax system to bring some additional businesses within scope. There is no question of racing to the bottom because of course what we are proposing here is that we follow the moves already made by the Isle of Man and Guernsey, broadly, it is just a question as to what the profit thresholds might be and what the exact rate might be, upwards not downwards; you cannot go clearly below zero but we are talking about an adjustment to the 10 or 20 per cent rates as to whether the businesses would come into those areas. So, it is nothing to do, I am afraid, with a race to the bottom, or I am delighted to say it is nothing to do with a race to the bottom, this is about potentially bringing large retailers who have a physical presence in the Island within the corporate tax net based on data that we are collecting at the moment but the work is yet to be finished. I thank the interventions of, clearly, Senator Bailhache and those that were helpful. I would make one comment about my other ministerial colleague, Senator Farnham, who, representing the business community, raises understandable concerns but of course the

proposals are based on taxing substantial profits so I do not think there is any concern. But I am sure over the passage of time we will deal with any further concerns that he may have. I was delighted, I was puffed out with pride almost, at Deputy Martin **[Laughter]** extolling such praise in my direction. As she said, she almost ruined it by saying it does not happen very often or it does not happen at all. But I very much hope that this welcome change will become a habit and we can continue. I would just add to that, Happy Christmas, Deputy. **[Laughter]** Some other points I would just pick up on: Deputy Mézec, we also had been getting on rather well today and then suddenly we had this, and it was a point raised by Deputy Southern and I think Higgins, about this distrust for Ministers, this feeling of conspiracy and that we are trying to derail Back-Benchers' propositions all the time. That is not the case and it is certainly not the case here. What we are proposing, I believe, is very reasonable indeed in terms of this amendment to the amendment. I would also like to just say to Deputy Mézec, I really wish he would not ... he makes a lot of interventions and makes some very positive statements which are very good and some very incisive statements at times, but he also tends to come out with comments like, which other of his colleagues do, that the public finances are in a mess. Our public finances are not in a mess.

[11:15]

They are the envy of most places around the world. We have significant assets and the economy in this Island is performing very strongly, and I think we just need to put that into clear context. It is not all doom and gloom and I really wish that the Deputy and his colleagues would be a little bit more positive or less negative even, if they can manage that in those areas. The Deputy also made the point about how long it has taken to bring this forward, or any form of measure to bring more companies within the net. I made it clear in the Budget Statement yesterday that it is a stated aim; we are actively working on it, we have made changes to the income tax return forms to collect the data, as I have said. The fact is this is complex. We cannot afford to be in a position where we have our corporate tax rate scrutinised by the Code Group or run the risk of going on blacklists and so on. That is why we have to tread carefully with this. It was exactly the position we got by the deemed distribution system, which was of course picked up by the Code Group, and that is why that came to the end of its short tenure. This amendment to Senator Ferguson, I think is very reasonable, and I have to say that Deputy Southern surprised me with the comments that he made for the simple reason that I am not certain that he had read the amendment, the underlying amendment from Senator Ferguson, terribly clearly. She is bringing forward, and it says in the opening lines: "It is to agree, first of all in principle." He is suggesting that as soon as the amendment to the amendment was agreed that we would find ways not to do it. That is not the intention. We are trying to find ways to do it based on the data that we are collecting. Secondly, within the Senator's own amendment it says: "Provided what we discover does not pose a risk to Zero/Ten." I think all Members in this Assembly, the vast majority, agree with that; it is a sensible and pragmatic approach to take. So, to suggest that it is sabotage and conspiracy is completely inaccurate. Moving on to Senator Ferguson and the position in particular around Guernsey and the Isle of Man. She makes the point that they have moved ahead and done that and yet we are taking time to get on with it. We need the data, as I have already pointed out, and I should just say to Members that the Isle of Man were able to progress and be the first Crown Dependency to broaden the tax base into this area, and I emphasise "into this area" because they went along to the Code Group and they had the data and the evidence to be able to present the case. We do not have the data and that is why we are not in the same position that they found themselves in; we have to collect it first to be able to prove the case and to make certain that we maintain the principles of the majority of companies and the majority of tax fall into that area, and that is the work that we are seeking to do. All the amendment is asking for is that we have the additional flexibility when we have the data, the £500,000 that the Senator would like to do this, which she has broadly picked from Guernsey and the Isle of Man. We do not know that is applicable to this economy. It may be

less, we may reduce it below £500,000, we may go lower; we just do not know, and the 20 per cent rate, we may find we cannot do 20 per cent, we may do 10 per cent. I just do not know, it will depend, we need to get the balance entirely right. Now, the Senator stood, a moment ago, and said that in principle she would accept the amendment to the amendment if I can give an undertaking to come back by the summer. I think what the amendment says is that we need to bring this back for Budget 2018. I do not know the exact timings for collecting the data and being able to analyse the data. I cannot stand here and give her that undertaking but her proposition makes it very clear; all we are changing is the amounts; the £500,000, we are taking that out to give us flexibility and we are taking out the 20 per cent rate to give us flexibility. Otherwise it is exactly as per her amendment. I am prepared to give way if she would like me to.

**Senator S.C. Ferguson:**

No, it also takes out the word “all”, tucked away. “All retail businesses” has been deleted and it is just “retail businesses”.

**The Deputy Bailiff:**

Applied to retail businesses it takes out “all large retail businesses” so that would simply apply to, retail businesses would be the general statement of retail businesses.

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

It simply broadens it again. We want to leave all the options open because we do not know what the data is going to show us. Again, I do not feel that is constraining, in fact it is broadening. Of course I would stand here and say that but I do feel that this is very, very reasonable and I really would just urge Members. I think perhaps we should have a vote on it unless the Senator will accept what I am seeking to do; I am very happy if she would. But if not, I suggest we go to the vote because I think it improves her amendment.

**The Deputy Bailiff:**

I think we have to go to a vote in any event, Minister, whether the Senator accepts it or not because it is now open, the vote is now open. Very well.

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

Appel, please.

**The Deputy Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on whether to accept the amendment of the Minister for Treasury and Resources to Senator Ferguson’s amendment. I will ask the Greffier to open the voting.

**POUR: 35**

Senator P.F.C. Ozouf  
Senator A.J.H. Maclean  
Senator L.J. Farnham  
Senator P.M. Bailhache  
Senator A.K.F. Green  
Connétable of St. Helier  
Connétable of St. Peter  
Connétable of St. Lawrence  
Connétable of St. Ouen  
Connétable of St. Brelade  
Connétable of St. Martin  
Connétable of St. Saviour  
Connétable of Grouville

**CONTRE: 2**

Senator S.C. Ferguson  
Deputy G.P. Southern (H)

**ABSTAIN: 0**

Connétable of Trinity  
Deputy J.A. Martin (H)  
Deputy J.A. Hilton (H)  
Deputy of Trinity  
Deputy K.C. Lewis (S)  
Deputy E.J. Noel (L)  
Deputy of St. John  
Deputy M.R. Higgins (H)  
Deputy J.M. Maçon (S)  
Deputy S.J. Pinel (C)  
Deputy of St. Martin  
Deputy R.G. Bryans (H)  
Deputy of St. Peter  
Deputy S.Y. Mézec (H)  
Deputy A.D. Lewis (H)  
Deputy of St. Ouen  
Deputy R. Labey (H)  
Deputy S.M. Bree (C)  
Deputy M.J. Norton (B)  
Deputy T.A. McDonald (S)  
Deputy of St. Mary  
Deputy G.J. Truscott (B)

### **1.9 Draft Budget Statement 2017 (P.109/2016): fourth amendment (P.109.2016 Amd.(4) - as amended**

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

Very well. We now return to the debate on Senator Ferguson's amendment as amended. Does any other Member wish to speak on that proposition? Very well. All those in favour of adopting ... the appel is called for. I will ask the Greffier to open the voting.

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

Do I not have to close it, Sir?

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

You proposed, it was seconded but as no one has spoken on it there is no reply to anything.

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

Oh, that is frustrating. [Laughter]

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

Not for us, it is not. [Laughter]

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

So, I invite Members to return to their seats and I will ask the Greffier to open the voting.

#### **POUR: 35**

Senator P.F.C. Ozouf  
Senator A.J.H. Maclean  
Senator L.J. Farnham  
Senator P.M. Bailhache  
Senator A.K.F. Green  
Senator S.C. Ferguson

#### **CONTRE: 3**

Connétable of St. John  
Deputy of St. Martin  
Deputy G.J. Truscott (B)

#### **ABSTAIN: 0**

Connétable of St. Helier  
 Connétable of St. Peter  
 Connétable of St. Lawrence  
 Connétable of St. Ouen  
 Connétable of St. Brelade  
 Connétable of St. Martin  
 Connétable of St. Saviour  
 Connétable of Grouville  
 Connétable of Trinity  
 Deputy J.A. Martin (H)  
 Deputy G.P. Southern (H)  
 Deputy J.A. Hilton (H)  
 Deputy of Trinity  
 Deputy K.C. Lewis (S)  
 Deputy E.J. Noel (L)  
 Deputy of St. John  
 Deputy M.R. Higgins (H)  
 Deputy J.M. Maçon (S)  
 Deputy S.J. Pinel (C)  
 Deputy R.G. Bryans (H)  
 Deputy of St. Peter  
 Deputy S.Y. Mézec (H)  
 Deputy A.D. Lewis (H)  
 Deputy of St. Ouen  
 Deputy R. Labey (H)  
 Deputy S.M. Bree (C)  
 Deputy M.J. Norton (B)  
 Deputy T.A. McDonald (S)  
 Deputy of St. Mary

### **1.10 Draft Budget Statement 2017 (P.109/2016) - as amended**

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

Very well. That concludes all of the amendments so we now return to debate on the main Budget proposition. Does any Member wish to speak? Very well, if no Member wishes to speak then all Members in favour of adopting the budget, kindly show. The appel is called for. Minister, I assume you are taking this *en bloc* and not on a paragraph by paragraph basis?

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

Yes.

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

You are. Yes, indeed. Very well, the appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting.

#### **POUR: 35**

Senator A.J.H. Maclean  
 Senator L.J. Farnham  
 Senator P.M. Bailhache  
 Senator S.C. Ferguson  
 Connétable of St. Helier  
 Connétable of St. Clement  
 Connétable of St. Peter  
 Connétable of St. Lawrence

#### **CONTRE: 2**

Deputy G.P. Southern (H)  
 Deputy S.Y. Mézec (H)

#### **ABSTAIN: 0**

Connétable of St. Ouen  
Connétable of St. Brelade  
Connétable of St. Martin  
Connétable of St. Saviour  
Connétable of Grouville  
Connétable of St. John  
Connétable of Trinity  
Deputy J.A. Martin (H)  
Deputy J.A. Hilton (H)  
Deputy of Trinity  
Deputy K.C. Lewis (S)  
Deputy E.J. Noel (L)  
Deputy of St. John  
Deputy M.R. Higgins (H)  
Deputy J.M. Maçon (S)  
Deputy S.J. Pinel (C)  
Deputy of St. Martin  
Deputy R.G. Bryans (H)  
Deputy of St. Peter  
Deputy A.D. Lewis (H)  
Deputy of St. Ouen  
Deputy R. Labey (H)  
Deputy S.M. Bree (C)  
Deputy M.J. Norton (B)  
Deputy T.A. McDonald (S)  
Deputy of St. Mary  
Deputy G.J. Truscott (B)

## **2. Draft Finance (2017 Budget) (Jersey) Law 201- (P.113/2016)**

### **The Deputy Bailiff:**

The next item is the Draft Finance (2017 Budget) (Jersey) Law lodged by the Minister for Treasury and Resources and I ask the Greffier to read the citation.

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

Draft Finance (2017 Budget) (Jersey) Law 201-. A Law to set the standard rate of income tax for 2017 and to amend further the Income Tax (Jersey) Law 1961, the Rates (Jersey) Law 2005, the Stamp Duties and Fees (Jersey) Law 1998, the Taxation (Land Transactions) (Jersey) Law 2009 and the Customs and Excise (Jersey) Law 1999. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

Following the decisions reached in the Budget debate, the Draft Finance (2017 Budget) (Jersey) Law proposes a standard rate of income tax and the income tax exemption thresholds for 2017. It also makes a number of amendments to the Income Tax Law, in particular changing the allowances, deductions and reliefs available to personal income tax payers, it also makes a small number of administrative changes for income tax purposes which include reporting of zero per cent company profits. It amends the Rates Law, Stamp Duty Law and Land Transaction Tax Law. It also sets the level of impôts duties for 2017. I move the principles.

### **The Deputy Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles of the Draft Finance Law? Connétable of St. Clement.

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

I do not wish to speak on the principles, I think the principles are right, but I do think it is a great pity that this law has been used to try and amend the Rates Law which I think, quite honestly, needs a lot more consultation and a lot more thinking because there are so many problems. It needs in-depth consultation, in-depth thinking about it, more consultation, certainly with the Constables and with the people it is going to affect. So when we come to part 2 of this law I would ask that the Articles be taken separately so that we, who wish to oppose them, can do so.

**The Deputy Bailiff:**

Of course we will come on to a debate upon the various Articles in Second Reading in due course, Connétable. Does any other Member wish to speak on the principles of the law? I call on the Minister to respond.

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

I maintain the proposition.

**The Deputy Bailiff:**

Very well. Those Members in favour of adopting the principles, kindly show. Those against? Sorry, could those Members in favour of adopting kindly show clearly? **[Aside]** The appel is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

**POUR: 36**

Senator A.J.H. Maclean  
Senator L.J. Farnham  
Senator P.M. Bailhache  
Senator A.K.F. Green  
Senator S.C. Ferguson  
Connétable of St. Helier  
Connétable of St. Clement  
Connétable of St. Peter  
Connétable of St. Lawrence  
Connétable of St. Mary  
Connétable of St. Ouen  
Connétable of St. Brelade  
Connétable of St. Martin  
Connétable of St. Saviour  
Connétable of Grouville  
Connétable of St. John  
Connétable of Trinity  
Deputy J.A. Martin (H)  
Deputy G.P. Southern (H)  
Deputy J.A. Hilton (H)  
Deputy of Trinity  
Deputy K.C. Lewis (S)  
Deputy of St. John  
Deputy M.R. Higgins (H)  
Deputy J.M. Maçon (S)  
Deputy of St. Martin  
Deputy R.G. Bryans (H)  
Deputy of St. Peter  
Deputy A.D. Lewis (H)

**CONTRE: 1**

Deputy S.Y. Mézec (H)

**ABSTAIN: 0**

Deputy of St. Ouen  
Deputy R. Labey (H)  
Deputy S.M. Bree (C)  
Deputy M.J. Norton (B)  
Deputy T.A. McDonald (S)  
Deputy of St. Mary  
Deputy G.J. Truscott (B)

**The Deputy Bailiff:**

Very well. Minister, how do you wish to take the Articles in Second Reading?

[11:30]

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

The way I would propose to take the Articles would be Articles 1 to 14 *en bloc*. I would then, taking into consideration the Constable's request, it is effectively Articles 16 and 17 so I will take Articles 15, 16 and 17 individually and I will then propose Articles 18 to 20 *en bloc*, due to the amendment relating to the alcohol impôts and I will propose Articles 21 and 22 individually. I will then finally propose Articles 23-27 *en bloc*. So if I could summarise: 1 to 14, then 15, 16, 17; 18 to 20 *en bloc*, 21 and 22 individually because they relate to the impôts, and then finally Articles 23 to 27 *en bloc*.

**The Deputy Bailiff:**

Do you wish to speak to the Articles?

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

Yes, I will just give a brief summary, if I may, so Members are clear on the key ones. Article 2, as Members are no doubt aware, are the annually set... the standard rate of income tax, therefore Article 2 sets the standard rate at 20 per cent for 2017. Article 3, the increase in exemption thresholds, a maximum deduction for childcare costs for 2017, reducing the differential between married and co-habiting couples by increasing the second earner's allowance. Article 7 gives the Comptroller of Taxes the power to obtain details of the profits reported by all companies resident in Jersey. Article 8 enabling regulations to be created that will require local banks to report certain information relating to Jersey residents to the Taxes Office. Articles of other relevance, thank you very much. Article 8 enables the States the powers to make regulations that will require local banks to report information as I have pointed out. Article 9 enables the Taxes Office to move a cohort of exempt individuals from previous year tax payment basis to a current year on the event they would become liable to pay tax. Article 10 introduces new unilateral relief provisions under which certain qualifying companies may claim relief from the effect of international double taxation. Articles 11 and 12 introduce minimum retirement capital tests. Article 13 introduces new provisions to allow an individual whole or partial exemption to tax or lump sum payments from overseas pension schemes, and Article 14 allows the Taxes Office to share information for the purposes of administering the high value residency regime. I propose Articles 1 to 14.

**The Deputy Bailiff:**

Are Articles 1 to 14 seconded? **[Seconded]** Does any Member wish to speak on Articles 1 to 14? Very well. Those Members in favour of adopting Articles 1 to 14 in Second Reading, kindly show. Those against? Articles 1 to 14 are adopted. Yes, Minister.

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

Article 15 simply provides the interpretation for part 2 of the Finance Law, so I propose Article 15.



### **The Deputy Bailiff:**

Is Article 15 seconded? **[Seconded]** Does any Member wish to speak on Article 15? Those Members in favour ... I beg your pardon, Connétable of ... no. Those Members in favour of adopting Article 15, kindly show. Those against? Article 15 is adopted.

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

Article 16, which we will take separately, gives the States the power by regulations to revalue the rateable values of properties, so I propose Article 16.

### **The Deputy Bailiff:**

Is Article 16 seconded? **[Seconded]** Does any Member wish to speak? Connétable of St. Clement.

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

I really believe that it is a shame that the Minister is using this debate, this Budget debate, to attempt to introduce 2 major changes to the Rates Law, which should, I suggest, be part of a stand-alone proposition and, as I said before, subject to wide consultation. The first part is talking about a revaluation. Now, the so-called revaluation of rateable values is totally unnecessary, totally inappropriate and indicates to me that perhaps the Minister has not quite understood the current Rates Law and operation because not for some 11 years now has the rateable value been based on rental values but rather on attributes, which means the facilities of the land. For example, size, rooms, double-glazing, central heating, parking, location and other things but certainly not the rental value. One of the reasons the States changed the system, which the Minister wants us to return to, is that rental values in sectors can move both up and down over time. Following the freezing of rateable values some 11 years ago or so, the rental values of good agricultural land, for example, fell from £120 a vergée to something like £70 a vergée. But this has since reversed with rental values increasing again. That is the simplest of examples but it raises a question as to whether rateable values should be recalculated because the relativity of rental values in different sectors has changed. But even this overlooks the fact that rental values are no longer relevant to the rateable value. The States took the decision to move away from rental values and instead use the concept of attributes which I have just described. It has not been explained by the Minister why rental values should be the basis of assessment instead of attributes; he has not told us in his comments why he would want to make this change. The important thing to remember, or an important thing to remember is that the payment of rates is not directly linked to the provision of services to a ratepayer but it is a local tax to meet the running costs of the Parish or to fund the Island-wide rate. As the ratepayers share directly in funding those costs any decrease for one sector will result in an increase for other ratepayers. There will be no change in the amount raised in rates, only in the distribution between ratepayers of different sectors. I have got to be honest with you, I am not aware of any sector complaining they are being treated unfairly. In any event, it must be remembered that the Rates Law already provides a mechanism to adjust the rateable value of land or property if someone feels they have been assessed unreasonably. The law requires that rateable values shall be proportionate to the attributes. That means the land with the best attributes shall have the highest rateable value and the land with the poorest attributes shall have the lowest rateable value, and so in proportion for land with attributes between those extremes. So if a new office is built with better facilities of a higher quality than those of other offices, this should be reflected in the rateable value. The rateable value should be proportionately higher. Rateable values can be reviewed at the request, not only of the owner or occupier but also of the Connétable, the Supervisory Committee or a member of the Assessment Committee. No case has been made for this massive piece of work which will bring no benefit to the Parishes or the States but will bring significant work and costs without one penny of recompense coming from the ratepayers. The committee is of the view that a revaluation should only be considered if it can be demonstrated that

it will be beneficial. This benefit has not been quantified for any particular sector and nor has the impact on other sectors been calculated. Further, if land is to be revalued then all land should be revalued at the same date; a massive piece of unnecessary work. I hope the States will reject this part of the proposition. It is worth noting, I think, that 3 or 4 years ago the then Minister for Treasury and Resources produced a Green Paper on property tax review consultation and the summary of responses, one of them, which was published by the current Minister, says: "Stability. It was suggested that the current rates system has been in place since 2005 and although rateable value has not changed since then this was seen as a positive as it gave stability and certainty to the ratepayer. It was further suggested that the current system was introduced as a result of the compounded problems [I repeat the compounded problems] of assessing properties on rental value." I will oppose this particular Article.

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

One of the arguments I have heard and it is probably rumour, I do not know, is that rental values have changed. But rental values is not an attribute towards the rateable values put on a property and I will give you an example. Within the agricultural industry land is rated according to its attributes, either zero rates, 70 quarters per vergée or 120 quarters a vergée depending on whether it is scrubland, zero rate, poor agricultural land, which is 70 quarters a vergée and 120 quarters a vergée for prime land. However, on the Island we have different sectors, we have the potato growing sector and we have the dairy sector; 2 totally different industries but all within the umbrella of agriculture. The rents paid by dairy farmers as an average are usually significantly lower than those paid by the potato industry because the potato has a higher value cash crop. Yet the rateable value of the land remains the same. So the rates do not change as to whether it is occupied by a dairy farmer or occupied by a potato grower or any other agricultural user. It could be grazing, it could be intensive cropping, it is the same rateable value, and the same applies for properties. The idea is that 2 identical houses should pay the same rates, although they may be paying different rents if they are indeed rented from different landlords. The idea of the rate system is to provide stability, equality and ease of management. I urge Members to reject this part Article. Thank you.

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

I hope the Minister will explain exactly why the Treasury feels this is necessary. I would have thought that, in line with the Connétable of St. Clement, it would have been a much better proposition to bring an amendment to the Rates Law instead of kind of stuffing it in ... I am sorry, Sir, not Parliamentary, is it? Appending it to the Finance Law and hoping that nobody will notice it. Is this another part of a plan to centralise control of the rates and take it out of the hands of the Parishes; I do not know? Would the Minister please explain?

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

Let us be very clear in that this Article proposed by the Minister for Treasury and Resources is inextricably linked with the next Article which is the issue of the liability of the States paying rates on property. Effectively, those Members who are considering their votes about whether or not the States paying rates need to at least take account of the arguments that are being addressed in relation to that because I think it is fair to say ... and I think I am not going to disagree with the Connétable of St. Clement, and as I look at many of the Constables and as the son of a former Constable and as a defender of the parochial system, it gives me no pleasure to be speaking in a way that Connétables are finding difficulty, and that is going back to being a Connétable's son and a supporter and a firm voter of the Constables staying in this Assembly. It is linked with what I think is a dual opposition to both this Article and the Article which makes the Parishes liable for States property because one simply hangs together. Indeed the reason why it is perfectly

appropriate and why Senator Ferguson, if I may respectfully say, is incorrect, because I think the Constables are opposing both the concept of the States paying rates, so the 2 things are linked and I want Members to be under no illusion that the 2 things are linked. Now, why is this being proposed? Well, I will declare that I was a young Deputy, I think, sitting next to my good friend, Deputy Martin at the time when the original Rates Law was brought to this Assembly, I warned of the potential long-term consequences of not effectively using a revaluation. I cannot use the word "re-attribution" because simply the concept does not exist and the Connétable of St. John has articulated exactly the reasons why we need to do this but for different reasons. I think that I speak with some knowledge about rates and I think also one has to be knowledgeable that the chairman of the Rates Assessment Committee who is the individual that is the overseer of rates assessments and co-ordinates rates assessments, and indeed the St. Helier rates assessment chairman is an individual who perhaps is not liked by some other rates assessors but nevertheless is absolutely behind and fully supportive. I can hear the Constables looking aghast but it is the rates assessor of St. Helier who assesses more commercial property which we are dealing with that is fully behind this proposal and I think that it is important for Members to be absolutely understanding as to why he and I and other Members are so strongly supportive of this and to understand the unintended consequences of what the Constable of St. John says is a simple system, is effectively absolutely unfair with the effluxion of time.

[11:45]

You may have noticed that I popped over to seek advice from the Solicitor General and I wish not to surprise the Solicitor General in surprising him with a question because I think I can answer it from a political point of view but if there is a legal point that he wishes to make then, and if I have erred on the legal side then I stand to be corrected. But attributes for houses, there is no problem. I have no problem at all with the issue of attributes for houses because an attribute is an attribute for a single. It is like the debate we had yesterday, commercial properties are used for all sorts of different things but residential properties are used for living in. They are either bigger or smaller and they have either got nice attributes or otherwise. But they are effectively a domestic residential unit. The difficulty is - and this was explained by the Constable of St. John in opposing this - is that effectively, irrespective of economic use, I will repeat, irrespective of economic use, and he used the existence of agricultural land, whether or not it be dairy or potato, it is the same rates. Well, that is crazy. When you are dealing with something commercial, commercial means business, business means economics, economics means value, you have to look at value. You cannot just look at something which is in a box which is attributes of residential property. I can get my head around assessing a house of different proportions on attributes because it is all about living. What I cannot get my head around, and by action of rates assessors over a number of years has proven the case - and the Constable of St. John is explaining exactly the problem - is that rating non-commercial property is blind to economics and to value. That is absolutely crazy and it is unfair. It has unintended consequences of not updating the economic circumstances of businesses paying rates. What I find an extraordinary position to be in is to be here arguing for what the end result is going to be, which is going to be higher economic value premise paying rates by having a higher number of quarters. I will repeat that because I think it is really important, and it really is about the finance industry. The finance industry is doing well, office rents have gone up, they have gone up a lot and that is good; other business sectors like retailing - which the Minister for Economic Development, Tourism, Sport and Culture referred to earlier - have not been in such a good position. So by casting attributes as the basis on which you pay business rates you are effectively blind to the economic circumstances of that activity which is a commercial activity in a commercial place. We have to look again and we have to look and put the economics back into rateable assessed values. It is absolutely essential, because what has happened since the freezing of the so-called attributes is that all premises are treated effectively on their use, but blind to

economics. I know that I am going to hear next that the fixing of rates was when attributes came in, rents had nothing to do with it; but I have looked at very many of the rates books of the Island and I can pretty well work out if you have got a single landlord with a single property and a commercial property you can look at the amount of quarters. I know what has happened because I declare an interest and I own one, and I know that the similar property which was converted to attributes has not had its quarters since it was brought in. That has had the perverse action of meaning that those sectors whose economic value of premises has fallen has remained the same, that means those sectors of our economy that the Minister for Economic Development, Tourism, Sport and Culture was asking and raising questions about previously was concerning, such as hotels and retail. As the Minister for Digital I can say that there has been a move from bricks to clicks and retail is absolutely one of them; whereas rents on the High Street of St. Helier were at that level, today they are that level because of the reality of the commercial activities and the economics of retailing. Similarly, hotels have seen difficult times and you have seen rent reviews on hotels fall, or at least if they were on a 9-year lease stay stagnant and not increase. It is a crazy world when we are seeing a changing economic landscape with different rents being ascribed to different types of property, that assessments of the rates - because we are talking about commercial business rates as they are called in the U.K., we call them non-domestic for some reason but the plain English explanation is commercial properties - so commercial properties are rated blind of the economics of the actual business that is undertaking of their use class. Now, I know that I am going to hear from the Constable of St. Mary, but she cannot get away from the fact of the truth. Since there has been a fixing of attributes the number of quarters for different types of premises has not changed. I know that because I have got one and it has not changed. The Constable of St. Clement can remonstrate, but the reality is that the fixing of attributes means that those sectors of the economy that have performed better and, therefore, have seen increased rent are proportionately better off than those that have seen their rents fall. I am happy to give way but I know my facts on this because I have been spending years, and I warned the Assembly when the very substance of this came into force in the new Rates Law and I said that it was unwise not to put in place at least the quinquennial review. I celebrate the voluntary nature and want to keep absolutely the voluntary nature of our parochial system. Absolutely there is nothing that I take more pleasure in than knowing that the Parishes collect their rates with a zero cost with voluntary rates assessors. But those rates assessors' hands are tied and they have to be blind to the economics, and that means there is unfairness. Over time that has meant that those business sectors such as retail and hotels have seen their rates stay the same in terms of quarters; and those sectors who are increasing in value, like the finance industry, have seen their premises effectively not increase. The end result of this - and this is a matter which affects St. Helier far more than all other Parishes because it is the commercial heartland of the Island, and I think that I am correct in saying that 80 per cent of all commercial quarters or non-domestic quarters are in St. Helier so presumably the senior rates assessor of St. Helier knows quite a lot about it because he is overseeing the assessment of 80 per cent of all of the Island's rates - are effectively creating a distortion in the amount of rates they are paying. Now, we know that business rates are low in Jersey and we welcome that of course as a cost of business. But, nevertheless, they are still a cost which should reflect the economic value. We know that there are, for example ... I do not believe that was the chairman of the Rates Assessor, Sir, but ...

**The Deputy Bailiff:**

It was a member of the public in the public gallery, who escaped before I was able to fine them.  
[Laughter]

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

Yes, I am sure your ushers will be well on the case in this season of goodwill, and I want to offer some goodwill. I want to say to the Constables, please take on board the arguments of value. The attribute system does not mean economic value, and how can it be right that for time immemorial we do not seek to create a situation where we increase the quarters that are gathered from businesses that are in properties with higher rents like, for example, the finance sector. It is extraordinary. The Constables are opposing both the change and this revaluation, which I accept will cause some work, mostly in St. Helier, but they have said that they want to do it and see the reason. The Constables are also opposing the States paying rates on their own property, much of which is commercial, by the way. If the States is going to pay rates on its property then I would have thought that it would be far fairer and far better for it to be looking at the economic side of the use of the property than this rather bizarre system of attributes. If the system of attributes is so wonderful and brilliant then I ask why I cannot find another single jurisdiction that uses them. Moreover, why for example in the United Kingdom that they update their rates assessment - which of course has an economic and business value - on the value which is rental. It seems absolutely sensible, in fact it is unfair not to have regard to the value of that commercial property. It works fine for houses because it has got the same use so you can ascribe attributes, but I am sorry, a premise that is in different commercial use must have an economic argument associated with it. Now, the good news is that if this amendment by the Minister for Treasury and Resources is passed it will yield an estimated increase in quarters. Some properties that have seen their rents fall but whose rates assessment quarters have not changed - of which I could name quite a few because I have checked, I know I own one - will mean that in terms of retail and hotels their rates bill will fall. So what Members are doing in not approving this Article is they are voting in favour of a situation whereby the finance sector will pay more in business rates, small businesses, retail businesses who have seen their economic value of their premises fall will be paying less rates under a revaluation based upon funding. Now, if any Member thinks that is wrong then I look forward to hearing what their ratepayers have got to say about it, because it seems to me absolutely fair.

[12:00]

What I can say is that I have discussed this with a number of commercial landlords in St. Helier in the finance sector, which is the sector that I have ministerial responsibility for. When I have been through how the calculations worked, based upon the advice that I have been given by the Rates Assessor in St. Helier about how this will be done, not a single one has said: "No, I think that must be fair." Let us be clear, voting against this Article is a vote which does not cut the business rates paid by small businesses such as retail and hotels. It is a vote against increasing the amount of rates that the finance industry, which is growing, will pay. It will also, to all those Members of this Assembly who want the States to pay rates, will mean that there will be no revenue as a result of this revaluation, which is entirely sensible, as I have explained, the winners and losers, there will be a lot more winners. I hear somebody arguing but I think I am right and if I have erred in anything that I have said in interpreting the law, then I invite the Solicitor General to say why I am wrong, is that attributes do not relate to economic value. I ask Members to vote in favour of fairness. That is the word that is at the heart of our taxation system and fairness must be fairness which is linked to value, not some obscure concept of attributes which works for residences but does not work for a variety of different commercial premises. I know it is difficult but it is really important. I also say that any Member that wants to find a solution to the conundrum of the States paying rates are going to put the Minister for Treasury and Resources almost in an impossible position, that the free money that will come largely from the finance industry in St. Helier to pay those rates, will not be able to be achieved. I urge Members to support this Article.

#### **2.4.5 Connétable J. Gallichan of St. Mary:**

I have to say, I am really not feeling very well, and I am going to do my very best to keep this level-headed but it has been very difficult to follow what is going on. Firstly, I think it is a red herring, shall we say, to tie this particular Article about revaluation into the matter of the States paying rates on their properties. That comes in a different part of the law and I do not believe that this is an absolute fundamental reason for going for revaluation. I am not against the States paying rates on the properties *per se* at all; what I am against is the mechanisms that are being proposed in this for doing it. I know, because I have just double-checked it this morning, that when the Constable of St. Helier was continually taking up the cudgel for getting the commitment to pay rates, I do not believe this is what he was looking for. He was looking for a different solution to come forward from the Minister for Treasury and Resources but that is for him to discuss later. But I can take it as fundamentally as this, having listened very carefully to Senator Ozouf's speech, and this is where historically people say: "I like Senator Ozouf." [Laughter] His speech was an absolute vindication of the reason why this particular change should have been put as a stand-alone document in amendments to the Rates Law because it is totally, totally confusing to say: "We are going to tie this down to economic reasons" and then to say: "That is all down to the rental value." No, it is not. The success and economic viability of a business is not necessarily reflected in the rates it pays and I think that is something that is a red herring again. We are being led down this path, and I just do not think that the justification for what is being proposed has been explained. To say it is simply economic, tying it to economic benefit, I just do not wash that. There was a very, very conscious decision taken by this Assembly to move away from rental values as the assessment for rates, and it was taken because the Island had got itself, let us put it in no easy measure, in a real muddle. Similar properties across the Island had different rateable values, similar properties within the Parish had different rateable values. Huge drives were made to get parity within each individual Parish but then we found that across the Island a 3-bedroom semi-detached in one area was being rated in a completely different way in a different Parish. The rates assessors got together and a Rates Assessment Committee was formed, it was a big step forward, because when the 1946 Law came in, low inflation meant that rental incomes were not changing a lot, everything worked very well for a while and that law fitted its time. But by the time we got to the 2000s we were in complete and utter mayhem. The stability that has come into our Parish rates since we changed the law has been incredible. I used to input the rates under the old law and it would take me days upon days because every single year, every single rateable value changed. There was no consistency. Chasing up people who had not submitted on time was a nightmare because the information was not there. Now if someone has not submitted in time we can see that there is no change to the building and there is no change to the attributes. Moving to attributes was a huge departure. To be honest - and it is not very parliamentary, but I am going to use the word "fig" - I do not give a fig if we are the only people who do it. If it works here, then we should carry on using it. If it is not working, if we need to review it, we should do so on the basis of a really comprehensive hard think about it. Not just to say: "Oh, yes, let us just go for rental value" because the work has not been done. The Constables had very few meetings with the Minister for Treasury and Resources Department over this and I do not think the comments that we put forward were taken on board and that is why we have made very much the same comments again in the comments we have given to this law change. The Chairman of the St. Helier rates assessment group and the Island's rates assessment group came to the Constables on Monday morning this week to talk about it and we had so many questions for him then. I do not think the penny had really dropped that it was all going to change this week because there is a lot more work to be done. That became completely evident during the course of the Comité discussions after that meeting that really there is a lot of work to be done. If we are going to change, let us change properly after debate and after proper consultation and proper evaluation of exactly where the problem lies. Because it could be small businesses this week, it could be farmers next week, we do not know. The Minister for Treasury and Resources has been very passionate about small businesses but those small businesses are still making the

same demands on the Parish for infrastructure and for services as they would be making if they were profitable or not profitable. The Parish rates exist to fund the Parish budget. Now there is a mechanism for differentiating between commercial or non-commercial or, as we call it, domestic and non-domestic. That is in relation to the Island-wide rate where we know we are raising a certain amount of money and we have a mechanism to split the proportion of domestic and non-domestic to change the way that is attributed. I think it was done once, I cannot remember, but it used to be, is it, 55:45? We can weight that differently; there is a mechanism to do that. I have not heard anybody mentioning that mechanism but I fundamentally believe that the Rates Law as it is now works and that the mechanisms for discussing attributes and revaluation if an attribute changes, for example, if a new kind of office block is built ... Building 4. I went around there, many Members went around there, the light per workstation is phenomenal. I think they call it a lux value, whatever, everybody is working in natural daylight; it is wonderful. That means an attribute can be created for that. You can measure the amount of light that people have. You can decide that buildings that have a fantastic environment for the workers should be rated more, so we can manipulate and revalue the attributes. If a change happens to a building, it is the owner or occupier's duty to note that change on the next rates form and then the attributes are revalued. That works for property now. If there has been a change in the property, there can be a change in the assessment. If a new kind of building comes along, then it is just a matter of redefining the attributes. I really believe that a mechanism exists now in the Rates Law to do that. Let us not forget one thing, the reason why rates are levied. The Parishes are not unpaid tax collectors and yet I really feel that the reasons behind these changes have not been fully discussed and aired. I would have gone home, I felt so rotten yesterday, but I felt that this is so important. I just regret that I have not had the acuity to really focus on that because I think, like many Members here, many of us have been laid low with this bug. But I just fundamentally feel so strongly about this. This is not the way to proceed. If it needs to be changed, let us have the full discussion. Let us understand why we moved away from rateable values because for many Members in this Assembly they were not around when that happened. I was around in a different life. I worked inputting the rates and I can tell Members now that it was an absolute nightmare. Even if we have a partial revaluation by sector or whatever Senator Ozouf might have in mind, the burden on the Parish to do these changes has simply not been understood or factored-in to these discussions, and it is considerable. I know that St. Helier is having an awful time recruiting sufficient rates assessors to do what is admittedly a most onerous rates assessment task in the Island. I think personally that the burden on Parishes to recruit the rates assessment volunteers is going to increase dramatically because I know how often members of the rates assessment team had to meet. I do not know what other Constables find but we rarely have any rates appeals within the Parishes now. I can remember when there was a queue out of the door to come and see every year because there were discrepancies and there were anomalies and there were arguments about this, that and the other. It was a really onerous task. So if things are difficult in recruitment now, I cannot imagine how they will be able to take this retrograde step. But more than anything I feel that this has been hidden away in a law which is normally very benign. I do not think that this revaluation, if you are supporting the States paying rates in St. Helier by the mechanism that is proposed later, that does not have any impact on that. You can still do that. But I really fundamentally believe that this is not the time and this is certainly not the place to be passing legislation that has unbelievably unintended consequences and I really feel that it is being brushed under the carpet. I hate to use the word... I use it in joke often when I say to my children: "Trust me, I am a politician." [Laughter] But please, Members, trust me. I have got no reason to say this if I am not really, really concerned about this piece of legislation and I really fundamentally believe that this has to be rejected. Thank you.

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

It is good to follow the Constable of St. Mary who, like me, has the scarf on representing the 12 Parishes. Here we are again. The Constable of St. Mary has told us that it is working and she - and it was a Freudian slip - said the law as it worked can do this and that and you can manipulate. She did not mean to say "manipulate". She meant to say, as she went on to explain, if you have a new building you can then put better attributes to that building. What about something that was rated 13, 14 years ago under this law which when Senator Ozouf spoke said "which has got to stay the same" the Constable of St. Clement was saying "because it was fixed" and that is why. So, who do you believe? It can never be changed.

[12:15]

In 2003 when the figures were frozen for all time, and this I would like to read out, it is from the Rates Assessor in St. Helier, and he says: "With non-domestic property there are changes in prime areas for all sorts of reasons. To give 2 examples in St. Helier [and I am a St. Helier Deputy but we are all supposed to work together for the Island benefit] the levels of rents in King Street has decreased by about 30 per cent as retailers deteriorated and the prime office area has moved from Hill Street to the Esplanade. The law does not permit changes to be made just because of a move of prime position. What this means is although the Parishes may only [and I fully understand what the Constable of St. Mary was saying] raise such money as they need to spend in the year plus any capital projects which have been approved by the Parish Assembly, the balance of payment is wrong and in the 2 examples given, the shops in King Street will be paying too great a proportion of rate and the office in the Esplanade too little." As we say, and Senator Ozouf said it, St. Helier has 80 per cent of commercial rate and some of that is not being rated sufficiently. But why should St. Helier suffer again? Because this has supposedly been buried and fixed for all time, frozen in time, in 2003 when people were looking for something better than it was. Did we move to something a bit better? The Constable of St. Mary again says very few people appeal their rates. Well I should not think they do. In most of the Parishes they are less today than they were in 2003. I have got the figures. Why would you argue over a few pounds when literally you are paying the same as you were in 2003? So the argument: this is working better because no one is appealing it does not stand up. We had an hour yesterday morning with the senior rates assessor and it did not take the whole hour to convince us, the St. Helier Deputies who were around the table, that it cannot carry on working like this. As I say, we do need to get this moving, we need the support of the other 11 Parishes, because we again are suffering. We have always suffered under the Rates Law. Keep it the same and we will carry on suffering but at the end of the day it must filter down to you. If you want to see King Street ... we lost Woolworths, then we lost BHS. Our shop centre manager has filled these places; a very short-term lease on the BHS one. But at the moment there are shops; people are putting the rents down, we cannot put the rates down. How absurd; absolutely absurd. But this is your town, your parishioners' town. Everybody in the Island comes to this town and they come here for the High Street. It is, as I say, many retailers paying too much and prime office moved, businesses have moved from Hill Street and they are paying too less. To me that is the simple fact of it; absolutely simple fact. I cannot carry on with this. I am here for fairness. We always hear about fairness across the board, fairness, fairness, fairness. We have been having this argument, it has never been fair for St. Helier. The rates system is still not fair. We are getting there, there will be a bit more to say on the next Article, but we do need this as well as to pay rates because we need to be collecting the right rates from the right people and this will do what is says on the tin. I will leave it there but I really do hope that the 12 Parishes can get together. It is such a shame that it is always St. Helier out on a limb and not supported very much by the others. Thank you.

**Deputy J.M. Maçon:**

I wonder if, arising from the Deputy's speech, I could put a question to the Solicitor General.



**The Deputy Bailiff:**

Yes, you can certainly ask a question of the Solicitor General.

**Deputy J.M. Maçon:**

There seemed to be a conflict between what the Constable of St. Mary has said and what Deputy Martin has said. As I understood it, the Constable of St. Mary was saying if there was a new attribute inserted into the Rates Law, then when the annual return of the rates is made, then presumably a new figure would be arrived at. But Deputy Martin has said that if you already are paying a rate, it then cannot be changed in the future. I just would like some clarity that if there was a new attribute inserted into the Rates Law when the annual return was made that there would be a new figure and therefore new businesses or whatever had moved therefore would be subject to that, just so I am clear.

**Deputy J.A. Martin:**

Sorry, I am not speaking for the Constable, I thought the Constable said if a new building with new attributes - the Solicitor General is nodding - not that you can put new attributes into an old building into the law. I am only remembering what she said.

**The Deputy Bailiff:**

No, but, Deputy, this was a question for the Solicitor General, not an invitation to another speech. Mr. Solicitor.

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

Well, in view of my nodding, it would not be a surprise to say that I agree with what Deputy Martin has said. In terms of the way that the current Rates Law is drafted under Article 3 to do with the maintenance of the rates lists, when the Connétable annually obtains information concerning properties, he is required to specify, or the ratepayer is required to specify, any changes to the attributes of the land or to its use for domestic or non-domestic purposes that have occurred since the beginning of the rateable year. So the way I read that is that if there has been a change of use of the property, if it has changed from, say, retail use to residential use, that would be a change to the attributes of the land. But that is different from a change, for example, in the economic value of that land in terms of whether a shop in King Street is worth as much as an office or another shop in the Waterfront, for example. Those seem to be different things and those do not seem to be caught by the definitions of attributes in the interpretation section of the current Rates Law.

**Deputy J.M. Maçon:**

May I thank the Solicitor General for that clarification?

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

Can I start by praising the Constable of St. Mary for staying the course? She was so ill yesterday, I suggested she go home. But, all credit to her, she has stayed the course so that she can make her points. I want to pick up on a criticism made by the chairman of the Comité des Connétables when he said that the Minister for Treasury and Resources had not properly explained himself with respect of the changes proposed to Article 16. I refer Members to page 3 of the comments by the Council of Ministers which gives more than a page of explanation as to why the Council of Ministers believes that the ability to revalue commercial or non-domestic property is essential. I have to say there is no linkage here between the revaluation that is proposed and the Council of Ministers' problem in finding the money to pay rates. There is no linkage in the comments, or indeed in the proposition. So the fact that some Members may feel that Senator Ozouf in his speech was linking the 2 and saying: "We have got to have the revaluation in order to pay rates",

that is not true. In fact, that is why one of the - I have forgotten how many - various iterations of the proposition the States should pay Parish rates that I made in the last 15 years, one of them in 2008 I withdrew on the morning of the debate when Senator Le Sueur, the then Minister for Treasury and Resources, proposed that, yes, the States will pay Parish rates and, part (b), we will claw-back all that income from the hapless ratepayers of the Island. Of course, guaranteed to fail. If that had been part of the Minister for Treasury and Resources' proposal this morning, or in the Budget, then I believe it would have been equally guaranteed to fail and we would have kicked it out straight away. But what is the Minister for Treasury and Resources asking us to do? If we look at the comments, and the last bullet point is perhaps the most important one: "Article 16 simply creates the opportunity to undertake a revaluation exercise. How it will be done and how regularly will be determined in regulations to be developed in partnership with the Comité des Connétables and the rates assessors and ultimately agreed by the States." So what the Minister for Treasury and Resources is asking us to do today is an enabling provision that will allow this work to go ahead, as I have said, in partnership with the Constables, the rates assessors and to be brought back to the States before that linkage which we could all hear Senator Ozouf moving towards, about linkage and getting the money back from the ratepayers. That is not in the law at the moment. All the Minister is asking to do, as I say, is to carry out this revaluation. I was interested in some of the other remarks by the Constable of St. Mary who said that this is not going to affect her support - I think she said her support - of Article 17 which is that the States shall pay rates. Who knows whether that is the case? I think it is unfortunate perhaps in the way this has been presented that it looks like there is clearly a linkage between Article 16 and Article 17. I do not believe there is and I hope that if this should be lost, and I hope it will not be, but if this should be lost on Article 16 I hope that Members will respect the decision by the States about the States paying rates and they will not use this as a springboard to allow them to vote against Article 17(2). Now, having stressed that this is purely an enabling provision to allow the work to be carried out in consultation with all parties, I do want to emphasise that the current system of rating non-domestic properties is extremely unfair. I think the reason we have heard less from business about it is that I think a lot of them do not know. As Senator Ozouf said himself, non-domestic rates are so low in Jersey compared to the U.K. certainly the bigger firms who operate in St. Helier probably just sign their rate cheques without too much of a concern. But the firms I am concerned about, and we have just had clarification from the Solicitor General, that attributes will not wash when it comes to your business premises having suffered a massive fall in value. You cannot go along to the rates assessors and say: "Well the attributes have changed", that will not wash. So, trading in King Street, trading in Colomberie, even more importantly, you are paying too much rates. Hundreds of businesses in St. Helier are overpaying, are overbilled for rates every year. Businesses down on the Waterfront, down on the Esplanade are laughing all the way to the bank because they are paying far less than they should. The Minister for Treasury and Resources is not asking Members to correct that injustice today, he is asking us to allow that work to go ahead. So I would urge Members to accept this enabling provision and let us get on with the real debate, which has been a long time coming, about whether the States should pay rates. Thank you.

#### **2.4.8 Deputy S.M. Brée of St. Clement:**

I have to say that I am very concerned that these 2 Articles have been inserted into the Draft Finance (2017 Budget) (Jersey) Law. If we are to have a debate on the way in which the Island as a whole applies rates, then let us have that debate because essentially what Article 16 of part 2 of the law is saying is that we are going to be moving, a fundamental move, away from attributes to rental value on the way in which we apply rates. This is not enabling us to have a look at the whole picture to debate the whole picture. I am afraid, as someone who is not an expert in Parish rates, or Island-wide rates for that matter, it does come across to me at least as an attempt to just raise revenue. It is purely about raising revenue, not what is best for all Islanders. Because I am not

expert in the rates system or the Island-wide rate, I certainly, and I would suggest to other Members, that we do look to the Constables for a lead on this. They are the experts on this area. They have a vast amount of knowledge in this area. I may not agree with everything that the Constables stand for or say but in this area, I personally will bow to their greater knowledge.

[12:30]

Despite the Constable of St. Helier's assurances that Articles 16 and 17 are not somehow connected, I am afraid, once again, I find that very hard to believe. I believe that Article 16, if approved, would provide the Minister for Treasury and Resources with the thing that he has been searching for for quite a while now, which is a funding mechanism so that the States can pay rates. I am also concerned about the way in which we are continually compared to the way things are done in the U.K. Senator Ozouf in his speech just now compared us to the way in which the U.K. does things. Unlike some Members, I do believe that the Parish system we have should be maintained, and I would have to remind Senator Ozouf and the rest of the Council of Ministers that we are not part of the U.K., we never have been part of the U.K. and, if I have my way, we never will be part of the U.K. So I am going to support the Constables on their stance on this Article because I think we need a much bigger debate on the overall rates system. Do we believe it should change? How should it change? What is the impact on people if we do make that change? It is an important area and I think that for us just to accept what is in Article 16 would be doing a disservice to the people of this Island. Thank you.

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

I would just like to maybe correct something that Deputy Brée just said. This is clearly not about raising extra revenue, it is about rebalancing, and I think a lot of Members have said that. I would like to go on briefly to reiterate what the Constable of St. Helier was just saying about how much this will be later discussed with the Comité des Connétables. If you go on to page 4 of the comments it clearly says here that: "The change to the Rates Law is silent on how the revaluation should be undertaken; this will be determined at the time that the regulations are developed. The Council of Ministers is committed to working with the Comité des Connétables [which was said earlier on by the Constable of St. Helier] to ensure that the process for revaluation is reasonable and is practically deliverable within the context of the current rates mechanisms." So they are going to be looking at the whole realm and bringing it back to the States. All this does today is give the ability to do that, to look at it closely and bring it back to the States and discuss it in much more detail with the Constables. My slight concern here is this has not happened to a greater extent already. We cannot go back, we are where we are, but perhaps it should have been and we would not be having this debate in quite the same way we are now. But we are where we are, this is a step forward, in my view. As a representative of the people of St. Helier, a Deputy of St. Helier, I can quite understand and completely agree with what Deputy Martin said: this is the time to reevaluate this and look at it more closely in full consultation with the Constables of all the other Parishes. Absolutely. It is our town - all Islanders' town - not just those that live and work here. Let us face it, most people work here, they do not live here, and it is up to us to sort this out so that there is fairness across the board. That is all this is going to do. I say "all", it is a really important step, and it will be done in full consultation with the Constables of every Parish, and that is only right. Sadly, it has not happened already, but there must be a good reason, I hope, and maybe we can learn from it. But this was all it does and it will be brought back to the States and I believe that is the right thing to do. But today I think we need to approve this amendment so we can get on with that very important piece of work. Thank you.

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

Does any other Member wish to speak on Article 16? I call on the Minister to respond.

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

Thank you to Members for their comments. The introduction of a revaluation mechanism has nothing to do with raising revenue and I would like to be absolutely clear about that. A revaluation mechanism will raise no additional revenue whatsoever, neither for the States, nor for the Parishes. This law change is all about fairness and making sure that the burden of rates, both Parish and Island-wide rates, is shared among all ratepayers on an equitable basis. We have heard much mention about attributes which are the basis on which rateable values in the Island are of course set. We have heard that because rateable values are set by reference to attributes and that attributes make no reference to the rental values, it must follow that rateable values have nothing to do with rental values and hence the Treasury have misunderstood the Rates Law. We have not. However, if you look back into the history of how rateable values were originally set in 2003, it quickly becomes clear that rental values are at the heart of the process. That is because when rateable values for properties were originally fixed in 2003, they were fixed by reference to the rental values that property would have achieved in 2001 and 2002. So what happens when a new property is built, or for that matter an existing property is changed? The Rates Law is clear on the process. The rates assessors, having already acquainted themselves with the rateable value of other property in the Island, need to give the property the same rateable value as other properties in the Island with the similar attributes. But we know that all those existing properties that the rates assessors have to acquaint themselves with have their rateable value fixed by reference to the rental values, as I have said, which were set in 2001 and 2002. This means that the Rates Law effectively results in all property in the Island being valued by reference to its likely market rental from way back in 2001 and 2002. The results of the attributes approach is that all properties are being evaluated by reference to the market rental from that time. This is not just the Treasury analysis, this is the analysis and conclusion reached by the chairman of the Association of the Jersey Rates Assessors. That is the basis for setting rateable values. Why is it unfair? Well without doubt, the market rentals from that period back in 2001 and 2002 have changed, in some cases, considerably, and that is not really surprising. For example, the prime locations for offices in town are no longer on Hill Street but have gravitated down towards the Esplanade. However, under the Rates Law, there is no way of reflecting the change, no way of shifting the burden of rates more on to the prime office locations of today, resulting in offices in Hill Street being located in secondary locations but paying prime location rate bills, and that is simply not right. Another example is retail. 2001 and 2002 represents a time before of course internet shopping changed the whole makeup of the High Street for ever. But the Rates Law in this way acts as if the internet had never happened. We are still stuck for the purposes of rating those premises back in 2001 and 2002 and their rates bills that these retailers are paying are not surprisingly far higher than they should be, as the Constable of St. Helier alluded to a moment ago. Again, as I have said, that is not fair. These issues of fairness could only be addressed through the introduction of a revaluation mechanism so that periodically rateable values can be reset, moving us away from that historic 2001 and 2002 so that we can reflect current market conditions. Accordingly, in order to address the current unfairness and prevent it arising again in the future, the Council of Ministers believes that the Rates Law needs to be amended in order to allow this revaluation to take place on a periodic basis. This Article, Article 16 of the Finance Law, is silent on how the revaluation should be undertaken. It just creates a power to introduce regulations under which revaluation will take place. Exactly how and when the revaluation will take place will be determined at the time that the regulations are developed. The Council of Ministers is committed to working with both the Comité and the Island's rates assessors to develop the wording of these regulations, ensuring that the process for revaluation is reasonable and practically deliverable. Senator Ozouf might be right about some of the comments that he was making earlier on but I would say to Members he will only be right if Members of this Assembly ultimately agree and that is what it comes down to. Because in the end the opportunity to review the proposals, the regulations, when they come forward, and indeed to amend them and

agree the final regulations, will be for this Assembly. No one underestimates the challenges of agreeing and drafting those regulations nor, I may say, the practical challenges that will result from the revaluation process itself when it is finally determined. However, this is preferable to a Rates Law that creates unfairness by locking-in rateable values determined from back in 2001 and 2002 remaining the case in perpetuity. It is bad enough, I might say, to be in the position today. Do we want to continue to leave ourselves in the position where that revaluation is based on figures of rents from 2001 and 2002? Property revaluations for rates purposes are carried out in jurisdictions across the globe and hence there is much that we can learn from the successes and otherwise of other jurisdictions in this matter. I would ask Members to support this Article, Article 16. Thank you.

**Deputy J.A. Martin:**

The appel, please.

**The Deputy Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on whether or not to adopt Article 16 of the Finances Law on Second Reading. I ask the Greffier to open the voting.

**POUR: 22**

Senator P.F.C. Ozouf  
Senator A.J.H. Maclean  
Senator L.J. Farnham  
Senator P.M. Bailhache  
Senator A.K.F. Green  
Connétable of St. Helier  
Deputy J.A. Martin (H)  
Deputy G.P. Southern (H)  
Deputy J.A. Hilton (H)  
Deputy of Trinity  
Deputy E.J. Noel (L)  
Deputy M.R. Higgins (H)  
Deputy S.J. Pinel (C)  
Deputy of St. Martin  
Deputy R.G. Bryans (H)  
Deputy of St. Peter  
Deputy S.Y. Mézec (H)  
Deputy A.D. Lewis (H)  
Deputy R. Labey (H)  
Deputy M.J. Norton (B)  
Deputy of St. Mary  
Deputy G.J. Truscott (B)

**CONTRE: 17**

Senator S.C. Ferguson  
Connétable of St. Clement  
Connétable of St. Lawrence  
Connétable of St. Mary  
Connétable of St. Ouen  
Connétable of St. Brelade  
Connétable of St. Martin  
Connétable of St. Saviour  
Connétable of Grouville  
Connétable of St. John  
Connétable of Trinity  
Deputy K.C. Lewis (S)  
Deputy of St. John  
Deputy J.M. Maçon (S)  
Deputy of St. Ouen  
Deputy S.M. Bree (C)  
Deputy T.A. McDonald (S)

**ABSTAIN: 0**

**LUNCHEON ADJOURNMENT PROPOSED**

**The Deputy Bailiff:**

The adjournment is proposed. The States stand adjourned until 2.15 p.m.

[12:43]

**LUNCHEON ADJOURNMENT**

[14:18]

**The Deputy Bailiff:**

Very well, we resume the debate in Second Recording of the Draft Finance (2017 Budget) (Jersey) Law. We have reached Article 17, I think, Minister.

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

We have, indeed. Article 17 removes the exemption from paying Parish rates currently enjoyed by the States in respect of certain property of the States. Article 17 also removes the Parishes' exemption from paying Island-wide rate in respect of certain parochial property. I would just add that clearly the first part of it I mentioned, removing of the States paying Parish rates, was indeed a matter that was approved as an amendment to the States Strategic Plan which was brought by the Connétable of St. Helier, supported by this Assembly overwhelmingly by 36 to 6. I hope that therefore Members will continue to support Article 17. Thank you.

### **The Deputy Bailiff:**

Is Article 17 seconded? **[Seconded]** Does any Member wish to speak on Article 17? The Connétable of St. Clement.

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

I wish to oppose this Article also. It is simply a proposition that the States should pay rates, perhaps. A sound principle, a good principle, but I suggest that to do it without a funding proposal and without a sound rationale is dangerous. I do not think that requiring the Parishes to also pay rates has ever been discussed and I think that too is irrational. The logic that the Minister claims for the States to pay rates is that the States should understand the true cost of ownership of property. Now that is a good plan and a good principle but then he totally negates this by exempting the States, according to his report, from the Island-wide rate, something like half the cost of the rates. How is that understanding the true cost of ownership? It is in fact understanding only half the cost of ownership which is indeed no understanding at all. In the Budget report the Minister shows more of his lack of understanding of the rates system when he says, and I quote: "This change will particularly benefit the Parish of St. Helier, which will receive approximately £600,000 per year from the States in Parish rates. The Parishes of St. Saviour, St. Brelade and St. Clement will also materially benefit from this proposal." Then: "It is hoped that this extra revenue will be used to enhance public facilities in the Parishes." That shows a total misunderstanding of the real situation. That is absolute nonsense. There will be no extra revenue. Each Parish will fix its own budget as now and the rate will be fixed. The income for the Parishes will be exactly the same and the charges distributed among all ratepayers, some of whom might see a modest decrease because of the States making a contribution but there will be no extra revenue unless each Parish decides to increase its budget. Even the ratepayers who might see a modest decrease, they will not, because Parish estimates will need to increase to meet the liability that this decision will place on them for Island-wide rate on Parish properties. The Minister tries to make out that he is doing the Parishes a favour but in reality he is costing ratepayers money in most cases and increasing the administrative burden totally unnecessarily. It might even be worse, because I was getting some advice from the Law Officers' Department the last couple of days that roads are land and the way the legislation has been drafted, it has been suggested to me by the Law Officers' Department, that the States main roads will be exempt from rates but that the Parish roads will not be and therefore may have to be rated and pay the Island-wide rate. Now, the Constables in the main have indicated that they are of the opinion that leading an exemption from the Island-wide rate for the States does not address the primary goal of the States paying rates on an equal basis. I consider that the implications for other ratepayers of the States paying Parish rates have not been fully costed or satisfactorily funded. I do not support the taxation of education by virtue of a payment of rates on States schools and I deplore the fact this proposition is being brought to spend £900,000 of taxpayers' money with no funding mechanism. If the Minister really wants to give the Parishes

£900,000, then can I suggest he just writes out a cheque and forget about the nightmare scenario of all the work that is going to go into this rates system?

**The Connétable of St. Mary:**

First of all, not to speak just yet, but could I ask the Solicitor General, please, for some clarification? Because I too have been to see the Solicitor General, but only at the very eleventh hour, of concerns that I had over how the detail of this legislation hung together. Can I just ask the Solicitor General if he can clarify about the rating of the roads because, contrary to what my colleague said, I believe that the main roads will need to be rated and that the States will have a liability to pay duty on them. Could I ask the Solicitor General if I have misunderstood what he just told me or if he could clarify that, please?

**The Deputy Bailiff:**

Mr. Solicitor, are you able to assist the Assembly?

**The Solicitor General:**

Yes, Sir. As regards roads, there are obviously 2 types of roads: there are the Parish roads and the *grandes routes*, or the main roads. The issue arises as regards both in relation to the existing definition of land which is currently in the Rates Law because that is an encompassing definition because it is defined as “land includes” and then very specific, such as houses, buildings. But on the face of that definition the word “includes” means that roads are potentially land. So, in terms of how this would affect rates, essentially the Parish in respect of Parish roads, it would need to pay Parish rates but it would be covered by an exemption for Island rates in the new legislation. Similarly, as regards the *grandes routes*, the States would also need to pay Parish rates but it would be covered by the proposed exemption in the new legislation in respect of Island rates. So, my reading of the effect of the legislation in summary, is that both the Parish and the States would need to pay Parish rates in respect of Parish roads but both would be exempt from the Island rates in respect of the *grandes routes*.

**The Connétable of St. Mary:**

I am grateful. May I now continue with my speech?

**The Deputy Bailiff:**

Yes, I am happy to call upon you to speak. Yes, Senator?

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

I have got a question to the Solicitor General based upon what he just said.

**The Deputy Bailiff:**

Well, let us get the questions for the Solicitor General out of the way then, yes. Yes, that is absolutely fine.

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

If I may just clarify, the previous debate centred around the revaluation and the revaluation of States land. In fact, I think, all of the land that the Parishes will be made chargeable for rates is non-domestic because the domestic properties, most of it has already been pushed out into Andium, *et cetera*, so apart from perhaps a few properties that the States own, we are dealing with non-domestic property. We have just passed an Article which allows by regulations matters concerning the valuation of the non-domestic property to be established by regulations, so if there is an issue which comes at the last hour, am I not right that the issue of roads which should have been rated

anyway, because if they were not, this does not change the fact that roads are rated, then that can be dealt with by the amendment that we have just dealt with by revaluation?

**The Deputy Bailiff:**

Is this a question for the Solicitor General?

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

It is a question, yes. In other words, can the issue that has been raised not be dealt with by ... because there is a question of whether and at what rate. The question I am asking the Solicitor General is: am I not correct in saying that the valuation approach of what is effectively non-domestic property, i.e., roads, can be dealt with in the manner in which the States have just approved by Regulations?

**The Connétable of St. Mary:**

Excuse me, may I? Just a point of clarification there, we have not approved any regulations. I thought that was the whole premise by which the Assembly adopted that last Article. It was because the regulations, the debate would come later.

**The Deputy Bailiff:**

Yes, I think what the Senator is saying, Connétable, is that the States, by adopting Article 16 has adopted a mechanism whereby valuation can be established before the Assembly on a later occasion and he is asking the Solicitor General whether such a mechanism could cover the difficulties that you are concerned about with Article 17. If I have misunderstood the question, then please ...

**The Connétable of St. Mary:**

I do understand that, Sir, and I thank you for that. I am just at a loss, the Article we are debating now comes into force before we do anything regarding revaluation.

[14:30]

**The Deputy Bailiff:**

Well, Mr. Solicitor, have you followed the question and able to assist us with an answer?

**The Solicitor General:**

Yes, I think I have followed the question. In respect of my answer, I think, while it clearly would be open in any revaluation exercise to deal with revaluation of rateable values of roads, looking at the way that the Rates Law is drafted and the way that this proposed legislation is drafted, it does look to me as though there would be a potential charge in respect of Parish rates in respect of roads in the way I have described that would potentially arise. I am not necessarily sure that it could be deferred off to any subsequent revaluation exercise in the manner that was discussed in relation to the proposed Article 16 that was just voted on by the Assembly. Having said that, the Rates Law obviously does create obligations as regards the requirement to pay rates and the power to levy rates but the fact there is a power to impose rates in respect of particular land does not necessarily mean, I suppose, that it has to be used. I am sorry, that is not a particularly clear answer. I think it is quite a difficult question that the Senator has raised and I am attempting my best to answer it on my feet but it is not a straightforward question, I have to say. I think, in summary, on the face of the legislation, in principle there is a liability to pay Parish rates on roads for both the Parishes and the States but the fact that there is that liability there does not necessarily mean that it has to be imposed immediately. I think that is probably the best I can answer it on my feet in this way without having had the chance to consider it.



**The Connétable of St. Mary:**

Further to that, may I ask the Solicitor General exactly what he means by that? Because there are liabilities all through the Rates Law to pay rates and I have never yet been advised as a Constable and never talked to my rates assessors about perhaps excluding classes of ratepayers because maybe we just do not want to charge them yet. I have never found that to be an option. Is the Solicitor General really saying that we have a choice?

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

May I ask a question? If the Solicitor General is telling us that we have a choice, are we able to choose to impose rates on the States roads and charge them and not on the Parish roads?

**The Solicitor General:**

The liability to pay rates on States roads is a liability for the States and they are exempted in respect of the *grandes routes*. In respect of the Connétable of St. Mary's question, I did say that it was the best I could do on my feet, and I apologise for that, but it is not a straightforward question, and this is quite complex legislation and it is not immediately obvious. I can reflect further on the question and see if I can improve on the answer, that I just gave, but it is not immediately obvious as to the answers to Senator Ozouf's question at this stage.

**The Deputy Bailiff:**

You would like the Solicitor General, then, to reflect and to perhaps answer before the proposer sums up?

**The Connétable of St. Mary:**

Sir, I would extremely grateful, and I do not wish to put the Solicitor General on the spot. This has come to me as the fog cleared in my addled brain, Sir, and I am grateful for his help in this.

**The Deputy Bailiff:**

Well, Solicitor, if you would give this some further thought. The concern of the Assembly seems to be whether or not, if there is a liability for rate, it is something that is capable of being immediately deferred, in other words, not put into effect as of the moment that the legislation is passed or, if it does have to come into effect, whether for it not to be payable at some rate in full would need the passing of the regulations anticipated in Article 16. Is that a fair summary of the question?

**The Connétable of St. Mary:**

Yes, Sir.

**The Deputy Bailiff:**

Very well. The Connétable of St. Mary.

**2.5.2 The Connétable of St. Mary:**

As I say, I apologise for putting the Solicitor General on the spot, but his words to me when he started to answer my question privately before were: "This is extremely complex." It is extremely complex. There are, in my humble opinion, and I am not a lawyer, although I have worked for some of the best, there are unintended consequences in this legislation as drafted. As I said this morning, I have no problem at all with the concept of the States paying rates on the property. St. Mary, under this regulation, loses out, it probably does anyway, but I have no problem with that as a concept. I do have a huge problem with the way this draft legislation has been put together in an attempt to tackle the problem of funding. I think I can almost, as I say, rest my case on the fact that it is extremely complex and there are simple questions being asked which have very complicated

answers. I had a Cheshire cat moment when the Solicitor General told me: “Well, yes, you will have to pay Parish rates on your Parish roads” and I suddenly thought to myself: “Why would I write a cheque to myself?” I have literally gone round and swallowed my own tail. I find this really difficult. A simple problem of St. Helier, and other Parishes, but predominantly St. Helier, requiring the rate-base to recognise the States properties. As the Constable of St. Clement has already said, we are not talking about giving them extra revenue here because you can only raise a rate that covers your budget; that is all you can do. So it does not matter, all we are doing is reapportioning it. The complexity that is being suggested as a method of funding that is absolutely out of all proportion. I am amazed that somebody like Senator Ozouf, who for years has championed the red tape initiative, does not understand that this is a convoluted and confusing and plain crazy way of doing it. Why would we raise rates on properties that we own so that we can pay ourselves? It is absolutely bizarre that it has come to this. I jokingly said to the Constable of St. Helier: “Well, if you need X amount of money, and that is almost equating to the X amount of Bellozanne covenant, why do they not just give you the money for that and then we would all be happy?” It seems to me that there is probably a very pragmatic and very simple solution to funding this. I am glad I have calmed down from this morning, because I was passionate about it this morning, and I do not think I conveyed my concerns. The simple fact that somebody as erudite and as learned as the Solicitor General cannot simply say: “Yes”: “No”: “Yes”: “No” ... I should say that I have come to my concerns at the eleventh hour simply because I put together the new draft law. I took what I had before, I have taken out the bits that these amendments delete, I have added in the new bits, and it was only when I had the documentation in front of me, being able to read it from start to finish, that the total folly of what was being proposed became clear. I am also so concerned again that something as onerous as this has been ... not slipped in, I am not saying it is covert, but has been included in this Finance Law. It should have been dealt with separately; it should have been able to be called in for Scrutiny. There is no possibility of having had this scrutinised, and this is something that has really far-reaching consequences. For years, under an agreement that goes back decades, our Parish school in St. Mary, which technically the Parish still owns, has been maintained by the Minister for Education, in one form or another, and has been used exclusively for educational purposes. I think that has worked really well. But under this I have now, as Constable, got to write a cheque to the Treasury for the Island-wide rate that is payable on that school. I am not getting anything in now to cover the school, I do not have any possibility of recovering that money. I am paying out a new tax from St. Mary on behalf of a building that has been in Parish ownership since it was built in 1901, I think. There is a whole raft of unintended consequences in here that miraculously become clear when you print out a document that has everything in it. I do not recall, as a States Member, being given what I would call a marked-up copy. I think we have really almost been disregarded in the construction of this and I am past being really worried about it; I am quite angry about it now. I really am quite angry about it and, as I said to one Minister just recently, I have lost faith now in any trust that I had that I was being dealt with fairly. I have no problem with a decision that was taken democratically in this Assembly for St. Helier to receive money on the States-owned property that is used in accordance with the agreement, but I really have the most fundamental difficulty taking this piece of legislation and saying: “Yes, that does the job” because, I am sorry, it does not.

### **2.5.3 The Connétable of St. Martin:**

If this is approved today, I think it is unlike Article 16 the Solicitor General is looking at at the moment, this would come in immediately, is my understanding. If I could just refer to Hansard, 4th June 2013: “If the proposition is adopted today then I suppose it will be possible for the Minister for Treasury and Resources to come back to this Assembly next month, maybe next year, to bring his own proposition to remove other parts of those Articles and set the Parishes to rate their own Parish-owned properties and land, and pay at least the Island-wide rate portion to the Treasury for

his or her own properties”; “his or her” being the Connétables: “I suppose it is possible that any Member, in particular a Connétable, and hopefully maybe not next year of all years, could bring a proposition to change other parts of the Rates Law and seek that maybe churches and chapels, or even land used by the Minister for Education, Sport and Culture, be removed from exemptions under Articles 17 and 18, and seek that they start paying the foncier and occupiers’ rates on their buildings or land.” I had concerns at removing the current exemptions from this relatively new law, this piece of legislation. My dad said: “Never say: □I told you so□”, so I should not have read that, but those are the words I used on 4th June 2013, and what we see today. I accept that subsequently it has been approved, when we discussed the Strategic Plan, for the States to pay rates on the properties, and we know that there are going to be considerable gains for St. Helier, St. Saviour and St. Brelade in particular, but there was also talk of some Parishes at the time receiving an incentive as well. Well, I think our incentive in St. Martin is minimal, if there is anything at all. I know that Deputy Hilton queried the Connétables; she had concerns last week, and we did explain when we had the presentation. I do not think her concerns were against the Connétables; she believed something had been approved and that the Connétables were now opposing something that the States Assembly had agreed upon. Well, we did agree to assist by the States paying rates on their properties, but that was all it was. This is something far greater, and I think the Deputy accepted that when we explained it last week. The second part that was never agreed was the Parishes paying the Island-wide rate. I am all for fairness. I spoke to Senator Ozouf during lunchtime; I think I am a fair person, and this morning’s debate was all about fairness. Members need to look at the second part slightly differently, because this is not really about fairness, this is fair, but this is an argument this afternoon that is slightly different to the argument that the Senator spoke strongly about this morning. The Minister has to find some way of funding this, and I know the Connétable of St. Mary has just mentioned it.

[14:45]

The contribution that you can receive from the Parishes is going to be nowhere near the funding that is going to be required. We know it is near £1 million. I have not got the figures with me now, but I would suspect it is something more like 10 per cent probably going to be raised by imposing this. But what we will see is the ratepayers of all Parishes possibly paying more in their Parish rates so that the Parishes can afford to pay the Island-wide rate for the States. I would say to the Deputies of St. Helier, who appear to have had a private briefing with the chairman of the St. Helier Rates Assessors and the chairman of the Rates Assessors, voting against this this afternoon does not affect the States paying their rates to the Parishes, and in particular, St. Helier. This is something different; this is just a means to offset the cost to the States and we will vote to achieve the targets set. I get back to those initial comments I made in 2013: where do we go next? What does it look like to the public this afternoon? I think the Constable of St. Mary has just probably highlighted that for those who are watching and those who might be listening. This is a Parish collecting money by way of rates to run a Parish, the Parish collecting on behalf of the States the Island-wide rate, which we do: for the States Treasury we collect the Island-wide rate. The Parish receiving a contribution from the States to pay for their Parish for the rates, well done to St. Helier, and the Parishes paying the States for the Island-wide rate, paid for and collected from parishioners. And the Parishes are now having to increase their rates, especially with the re-evaluation vision that was approved this morning. We may well have to increase the normal domestic rates on people and the Treasury receiving a greater proportion of the rates; again, it is a help for the Treasury. I am a cynic, and I think I say things as I see them; maybe not probably in the best way sometime, but I hope I try to. The Rates 2005 Law was thoroughly researched and debated at the time, and it was approved. Exemptions were put in place for a reason. We are nibbling away at parts of the Rates Law; this amendment is just another part of the law being nibbled away at. Article 15 is quite clear that rates are to be applied for the payment of the general expenses of a Parish arising during the

financial year that begins during the rateable year. This issue arises when we, the Parishes, started collecting the Island-wide rate, a function we undertake, as I said before, on behalf of the States. As an example, the Constables have tried to work closely with the Ministers for Social Security in the past because of those on income support, and the Social Security Department has been unable to take part of the rates out of the income support so that we can return back to the Treasury what should be owed to them. So there is little more that I can say at the moment; I think we have seen the debate going this afternoon. I am not sure if we should just go to the vote or if there should be a reference back on this issue, but it is something that the Members might wish to consider.

#### **2.5.4 Deputy J.M. Maçon:**

Just very quickly. It is interesting to note that many of the Constables here have highlighted some grave concerns about this. It sounds to me that there has not been that level of consultation about this particular work, there certainly have not been any Parish Assemblies to endorse this approach either, and those Members who will stand up in this Assembly and say: "That is why the Constables are in here, in order to do that as part of their role to get that endorsement" are going to be the ones not supporting the Constables in their concerns today. Given the concerns that the Constables outlined in the previous vote, I supported them on that, I will be doing so in this one as well, and I think Members should bear that in mind.

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

I will be very brief. I would like to have seen this as a standalone proposition so it could have been called in if needs be, and under: "Part 5: general, citation and commencement. This law may be decided as the Finance (2017 Budget) (Jersey) Law 201-, and (2) accept as otherwise provided in Article 5, 6, 7(2) and (13), this law shall come into force on 1st January 2017." I know it is just the mechanism, but the law will come into force then.

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

I do not want to go on about the last debate, but I will cover a few things that I did say in that, but elaborate on them. You look back and we are hearing now: "Why is it today? Why is it done this way? Why? Why? Why?" and everyone agreed, as it says in the comments, I think there were 36 votes pour, 6 votes contre, that the States should pay rates, and it should be in the lifetime of the Medium Term Financial Plan. This is about the last time we can debate to get it in for the years of 2017, 2018 and 2019, so there is your: "Why?" It is always disappointing at the last minute, and the Constable of St. Mary said it was the last minute when she was looking at things, she did not think it added up. I am certainly not picking on the Constable of St. Mary, but I had to pick out a few Parishes. So I did go on a few of the websites and I looked; it is literally what Deputy Maçon says about consultation. All I can find is in October 2015 there was a consultation and it was for littering and dog fouling. There has not been once since to the people who these Constables represent who tell us they should be in this House because they know what their Parishioners are all about. They are, as Deputy Brée alludes to - says they are - the experts on the Rates Law. They agreed in 2015 - I think it was all the Constables bar one or 2 - to pay the States rates. Since then, they have put that to bed and wondered how it is going to be done; again, not consulting with their parishioners, who they all know value the town, and it will affect St. Helier more than anybody else. I am also slightly concerned about the comments from the Constables, because they are contradictory, and I do feel for them because they do not have the experts, so the officers in the Treasury and everything, but on page 5 they talk about the incorporation of the Ports of Jersey and Andium Homes, which means that significant parts of the States portfolio already has moved out of the exemption for public authorities, so rates, both Parish and Island-wide, are paid. At the bottom in the same paragraph it says: "The Housing Department paid approximately £333 in rates to St. Helier alone." Housing always paid their rates before they were Andium, they still pay the same

rate. Let me tell you, for anybody out there who is watching, every States tenant is rated on the rateable value that their home is as well. My States flat is exactly the same as the man across the road, the same 2-bedroomed flat, on the attributes, absolutely, it is rated like that. So be under no illusion Andium Homes now just pay the rates; they have always paid they rates. So you then have to think, and Deputy Brée tells me that the Constables are the experts. So then I start reading the comments, and I am saying: “No.” It is again on page 6, the penultimate paragraph, and it says: “Constables are also mindful that ratepayers of rural Parishes saw their rates almost double when the Island-wide rate was first introduced, and so this further increase is likely to be opposed.” So it is all about money. But it is not. I did ask the Constable of St. Mary to remind me of the former Constable of St. Mary’s name - Mr. Ken Le Brun - who was a great Constable, and so is this Constable. If you go back to 2003, St. Mary’s rate was 1.90, the welfare was 50, and the Parish rate was 1.40, so that was 1.20, but even if you add on the Island-wide rate, it is still lower than it is today: 1.20, 1.70, 1.90; their rate today is 1.20. So I am sorry about your parishioners who think are going to pay more money; to me, it does not add up. The Constable of St. Martin has just stood up and said: “We collect the Island-wide way and are we not good? We try to work with Income Support.” Well, honestly, think on: if you add all the elderly and all the care in each of your country Parishes, what rate you would have to go to your parishioners for, like the Constable of St. Helier, not this one, the one previous who lost his job over it, because he was up to a rate then in 1998, 1999 at 3 pence. It was ridiculous. The same in St. Clement and the same in St. Saviour; they were the 3 highest rates. Now, I listened carefully as well to the Connétable of St. Clement, and of course he picked on: “We do not want a tax on education.” I look at St. Saviour and I see the potential could be £153,173 in cost. Somebody is either missing out on this or, as I was, a 26-year ratepayer in St. Saviour, and I have just moved to the glorious Parish of St. Clement; I always prefer St. Saviour, and I just had to move, but I like both Parishes, but I paid the rate in that. Was I subsidising some very able-paying schools to have services? It seems like I am, and it seems like the rest of the ratepayers in St. Saviour are doing a very good job of it as well. I think it is absolutely short-sighted. Why should they get a free pass?

**The Connétable of St. Mary:**

I just wondered if the Deputy realises that the Parish itself will be liable now to pay rates on the schools; not the schools necessarily, the schools will pay rates, but the Parish will pay the foncier rates as well?

**Deputy J.A. Martin:**

Yes, I do. What I am saying is the services that are made now to the schools are free, so there could be a charge; I do not know how it will work out, but there will be a charge. When the Constable of St. Saviour speaks, and I do not know which way she is going to go on this because it does seem there is an income here ... sorry, there seems to be a confusion over whether it is foncier and whether it is ... well, to be fair to the Constable of St. Saviour, I do not know. I am asking a question of the Constable, because I have heard from one of her Deputies: what is the cost to St. Saviour to provide the services to schools for free? There must be a cost, and it is not a cost to the Constable of St. Saviour it is a cost to the ratepayer in St. Saviour, like it is a cost to the ratepayer in St. Helier. If more people pay rates and they are distributed fairly across, there will be less money to collect. It sort of adds up, and it is not rocket science. But I really do have a problem when people say that their parishioners of this Parish and that Parish will pay a little bit more, when you have not consulted them. You have had a year, you sat, you did your consult before you voted for the States to pay rates. Have you in your Parishes done proper cost-benefit analysis of what this will mean? But now say: “Oh, you are bringing this in the wrong way. It should not be today.” When should it be? Because 2017 is rapidly approaching. This is our last States sitting; we might be here tomorrow but, other than that, we will not be back until 17th January 2017. So we need a

solution. This is what was put forward, and the rates are approximately in each Parish the same as they were in 2003: St. Helier was rescued, St. Saviour was rescued and St. Clement was rescued because of income support. We could not sustain, but we were there. The other Parishes were well coming up behind us and they would have tried to pay all this; it just would not have been sustainable. So today we are asking that they pay the Parish rate and, to me, you have seen the potential figures that are in the comments from the Minister; they are not that much, but if it was a penny on each person's rate in the Parish, well, not a penny, because it is 0.05, or 0.10 more on a quarter, really, to be fair? Again, it goes back to this fairness: would the Island revolt?

[15:00]

Would all the country Parishes, the people who turn up to the Rates Assembly say no? I doubt it very much, but I do not know that, and the Constables do not know that because they have not consulted. I am told by the Constable of St. Mary that the Assemblies are very tight in what they can ask their parishioners. But surely you can have a Parish Assembly on the rate, and there is one, it is an annual rate, and it could be added on: "What do you think about this?" Sorry, the Constable wants me to give way.

**The Connétable of St. Mary:**

Sir, this was lodged on 1st November; our Rates Assemblies are in July and August.

**Deputy J.A. Martin:**

The Constable voted in 2015 to pay the Parish rate. Did she think that Father Christmas was going to come along with his magic sack of money and deliver it all around the 11 Parishes? No. There was no consultation. I fully respect the Constables have the right, they are the mother and the father of the House, but they really should come back here and tell me what their parishioners think. We know what our parishioners think; we get it every year at our Rates Assembly: "When are the States going to pay rates?" Our elderly citizens' dinner, we told them we were going to the States and they were going to pay, we would get the money this week, and there was a whole round of applause from 150 people there on Sunday. Probably more people than attend most of the Rates Assemblies, in St. Helier, anyway. But they were happy. I said St. Helier. Sorry, I did not intend to upset all the Constables, I think I have, except my Constable; usually I upset my Constable and I have got a lot more in common with the other Constables. But we are where we are, today is the day. I do not think it is for reference back: if you do not want to pay the rates, do not vote for this. If you want to pay the rates, you vote for this. It is quite simple to me.

**2.5.7 Deputy S.M. Brée:**

The decision by this Assembly for the States to pay rates was, as I understand it, based on the fact that a sustainable funding mechanism would be identified and put in place in order for the States to pay rates. I cannot see that one has been identified and put in place; point 1. Point 2, I think we need to be very careful when we are debating draft laws: it is not just to debate what is in the report but for us to very carefully read what is in the draft legislation. We have heard today from the Solicitor General that at the moment, in his opinion, by agreeing to Article 17 of this, rates will be paid on roads. I am sure that was not the intention. So the question is: the way in which this legislation is drafted, (1) does it meet the aim of the States paying rates, provided it has found a funding mechanism to do so; and (2) is it fit for purpose? I cannot support any piece of legislation that I do not believe to be fit for purpose. I would recommend that all Members read the legislation that we are agreeing to as well as reading the report that accompanies it because the 2 may and can be different. That is why I do not feel I can support this particular Article in this particular draft law because I am not sure, and we have heard from the Solicitor General, that there may be implications in this particular draft legislation, which were not intended. Therefore I think we have

to be very, very careful that we do not merely debate principles and words in reports but look carefully at what is in the draft legislation. Do we believe it will provide what we expect it to?

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

There are some Members of this Assembly who have been campaigning for the States to pay rates for a number of years and some of us included it in ... and I imagine that a majority of those elected in St. Helier would have put it in their manifestos and I for one, and I do not think I am one of the only Senators, committed to do so. That is why the principle has been established. What we have heard from the Constables, who I respect, is, if I may say, new issues arriving at a very late stage, and if I may say, putting our Solicitor General in somewhat of a difficulty because he is not a rates assessor. If we had a rates assessor expert in the Assembly, which I admire the Solicitor General but he is not a rates assessor, he is looking at the law and so I may assist Members by informing Members of my understanding because over the years I have done a lot of work on this whole issue. Deputy Martin, when I sat next to her, I was on the States Parish Working Party when we introduced the difference of domestic and non-domestic rates. It was I that proposed that differential precisely in order to ensure that there was a mechanism to raise a greater amount of money on commercial premises. The issue of attributes has been raised. I need to say to my friendly Constable that roads are not new. Roads have been in existence in Jersey, in both Parish ownership, in public ownership and in private ownership, for a long time. There have been attributes and rates assessments on attributes for roads levied for a number of years. If I think of my own Parish of St. Saviour, I can think of a number of estates which are certainly not Parish roads and certainly not public roads, *grandes routes*, I am pleased there was no definite article, 'La Grande Route', because it was always *grandes routes*, it used to be a Transport and Technical Services designated road. Of course there is an attribution approach to rates. That must be the case. If not then the Rates Assessors in St. Saviour and other Parishes have not been rating their land according to the responsibilities that they set out in the law. Of course there is an attribute assessment for roads. Of course that can be used for the purposes of assessing the States ownership of rates and the payment of rates by States-owned roads in Parishes that are so egregiously affected by the unfairness of having so much States-owned property in their Parishes. A number of Members in this Assembly have spoken about fairness. The fairness of the rating system and the unfair system of raising money in the past that was largely dealt with by the removal of welfare from the Parishes that had a disproportionate amount of welfare payments in their Parishes, namely St. Saviour, St. Clement, and St. Helier was of course solved a number of years ago and I was on that very working party and I am pleased that we dealt with that. I just would respectfully remind the Constables that they came out far better in terms of a deal with that because if they would have had to deal with the wrestling issues that this Assembly has dealt with, which is the cost of the ageing society, and the residential care costs that would have been dealt with, then the Parish Assemblies, each one of them, would be faced with far greater difficulties than they would have done. This Assembly has been fair. Fair to Parishes in dealing with the historic issue. One remaining issue has been the fact that there is, without any question, without any shadow of a doubt, the fact that some Parishes have a great deal of publicly-owned land on which the Parish must provide services and which they get no revenue from. That is most acutely felt in St. Helier but, to some extent, it is felt in St. Saviour. The Connétable of St. Saviour is the mother of her Parish and it is the Parish of St. Saviour that has the vast majority of schools in it. There is not a single penny of rates that the Parish of St. Saviour collects for the burden of those schools being in her Parish. This Article before us gives the opportunity for the Connétable of St. Saviour to rate those schools which she herself has said, as her predecessors have done, as have representatives of St. Saviour, is unfair. That will allow her, according to the calculations that have been made, to raise, I think, in St. Saviour it is approximately £156,000. If the Constable of St. Saviour and the other St. Saviour representatives are saying that they are content with fairness being not applied to

St. Saviour then I would be surprised. In fact, I would be astonished. I would be astonished as a St. Saviour ratepayer, if I may say. As a former St. Helier Deputy that I have attended - not that I am a very good attender of Parish Assemblies in St. Saviour, in St. Helier - but I know the strength of feeling that people in St. Helier feel with the unfairness of the fact that the vast majority of office space, and that is not difficult to deal with. There is clearly, even on an attribution basis, a very clear basis on which ... because an estimate of revenue has been raised of the attribution basis for offices for St. Helier who of course is the home of most States of Jersey accommodation. If my memory serves me correctly the figure for St. Helier is in the order of £600,000. There is unfairness. There is an injustice and it has been an injustice which has been wrestled by this Assembly for years. Right at the last minute on a proposition that has been known to be coming for a long time, and with the greatest of respect for some of the Connétables who have resisted this, and I respect their right, they can vote against it. That is their right. I understand the country Parishes feel that this is too much of a generous situation for those Parishes that have a great deal of States property in their Parishes. I will come to the schools, in a minute; if I may say, I hear the Constable of St. Mary remonstrating behind me. I will hopefully offer her some assistance in a minute. There is an unfairness. It has been going on for a long time and this Assembly has agreed the principle of that. If I may say in relation to schools, my understanding is, is that the States is the occupier so they are going to be the ones that are going to be paying the rates on St. Mary School as occupier. I am not a lawyer and I do not know exactly what the legal arrangement is between the Parish of St. Mary and the States, but I am assuming that the States has been running that school for a significant period of time. I would suggest that it is more than 9 years. In all cases, when it is a normal 9-year lease, there is an assumption that it is the occupier that pays the foncier, so where is the logic in suggesting right at the last minute that somehow those Parishes, which of course I think St. Mary is one, St. Martin; I am not sure who owns the splendid new school. I know he has got his own school ... the new school is owned by the States so that is okay. But his old school is obviously now doing a fantastic community project. Surely, schools are going to be subject to an occupier rate and a foncier rate, which is payable by the States. That has certainly been in the workings of the calculations. If it is not, can I respectfully say that the Minister for Treasury and Resources in summing up confirms, for the avoidance of doubt, that he will put the necessary arrangements in place, is that the States will be the paying the foncier rate, yes, to the Constable of St. Saviour I say. Yes, she is entitled. A Parish is entitled if we vote in favour of this Article to £156,000 worth of revenue for the offsetting of the hassle and of the zero revenue that her parishioners get for having the majority of schools in her Parish.

[15:15]

And St. Helier, who has the vast majority of offices, who gets not a penny of rates on that property will get an appropriate payment for providing services to the States. This Assembly speaks of fairness. This is the end of the road for that fairness. We have debated it many times. There may be some issue of detail that have emerged right at the last minute. I have heard of roads and attributes. Well, I am afraid roads have existed and they must have got an attribution basis so please do not let us vote on the basis that we do not know how to attribute to a rate assessment for an attribution of a road. Also it is within the gift of the Minister for Treasury and Resources in the event of some real unintended consequence. I am thinking also that there could be pipes under roads. I am thinking that there could be drains owned by the Minister for Infrastructure, which until now those Parish rates assessors have been thinking: "Mm, I have not levied a rates assessment on that."

**The Connétable of St. Saviour:**

Can I have a point of order here? He cannot say what the rates assessors are thinking because he has no idea.



**The Deputy Bailiff:**

That cannot be a point of order. It could be point of clarification if you wish to ask a question of the Senator but it cannot be a point of order because I can make absolutely no ruling on it.

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

The problem is I have spoken to quite a lot of rates assessors; that is the problem. Being a Constable's son you do happen to have been almost brought up on the basis of that. I am sorry that the Constable finds my comments so unacceptable that she does not want to hear them. I am sorry. But I am trying to say to the Constable, with the greatest of respect, it is in her Parish's best interests that the States pay rates. It is in the representatives of St. Helier that the States pay rates. It is, to a lesser extent, in the interests of the Deputies of St. Clement that the States pay rates. St. Peter is okay because we have incorporated the airport so they got a little bounty. I think it was quite a big bounty actually. I think that as we have incorporated entities we have dealt with most of the other commercial things which were, in any case, if it was a commercial undertaking, they used to pay rates under an arrangement. This Assembly operates normally on the basis of common sense and goodwill. There is a common sense approach to dealing with the attribute valuation and rateable value of States and Parish land. I am sure that the Minister for Treasury and Resources will be having the opportunity in summing up to say that certainly in year one, if there was to be an issue with a Parish that has been levied with a rateable assessment on some new attribution basis for something that previously was not rated or something that is included. I do not think the school is a thing. I cannot think of anything else. Churches are exempted. I am trying to think of anything else that is a problem. Of course the Minister for Treasury and Resources is able to rebate any of that money back to the Parishes in the event of an unfairness. Those are minor issues which are solvable by goodwill and sensible decision making. You have sensible rate assessors that have been assessing properly rates and property for a number of years. We are going to have a discussion about how to improve that and that is going to come before this Assembly. What would be unfair, and we would be letting down, and I say to Members respectfully, a very significant proportion of the voting population of Jersey of which there are 33,000 residents of St. Helier, I think there are some 15,000 residents of St. Saviour and I cannot remember what the resident population of St. Clement is. We would be letting them down and letting them down to a very great extent. I will say one final thing: there is one other mechanism that Constables have within their gift in order to split the domestic versus non-domestic apportionment. That is the ratio. That ratio is considered annually, it has never changed. I think it has been 45:55 since the beginning, in the event of the quarters now being reassessed based upon the assessment of the States, they are then free to change that ratio. They can change that ratio in order to ensure that their own parishioners are not affected because they can weight it according to the commercial properties, the vast majority of which, as we said earlier, are in St. Helier. So if there is any unfairness in some of the smaller rural Parishes it is by changing that ratio that will solve the problem and that will ensure that those finance houses, because I think it is right that 80 per cent of the commercial quarters in the Island are in St. Helier, and the last calculation that I did, 80 per cent of them were from finance houses. So if there is a need to adjust that ratio then I invite the Constables to consider an adjustment in order to make a fairness of any unintended consequence, which I do not think will happen because I think sense will prevail ... and the Parish will of course take a foncier on St. Mary's School, they have clearly been occupying it, if they are not on a licence. I am not going to ask for legal advice but if it is not a licence it is certainly ... if it sounds and quacks and waddles like a lease, I am not sure the Constable can throw out the Education Department. It sounds like a lease so it sounds as though the problem does not happen. Let us proceed. Let us proceed with goodwill. Let us proceed with the knowledge that the Constables and their assessors do their job properly, and where they have found that there is in fact property that has not been rated they will do so and do so properly. But there will also then be a fair payment of rates to those 3 Parishes that

have for many, many years been so unfairly treated. I urge Members to vote in favour of Article 17. If there are any issues they can be sorted out but we have, with the greatest of respect, lodged this on 1st November. Some of these issues are for the first time being raised on 14th December. We all have an obligation to read legislation when it is published. Of course on 1st November this was not a surprise. It was expected because we had already made the decision that the States should pay rates. If we do not stick to that we shall be not only letting ourselves down by not following through on something but we would be letting particularly the Parishes of St. Helier, St. Clement and St. Saviour down. I urge Members to support Article 17 and perhaps the Minister for Treasury and Resources to give some emolument in his summing up.

**The Deputy Bailiff:**

Before calling upon the next Member to speak; Solicitor General, have you had a chance to reach any conclusions on which you can advise the Assembly?

**The Solicitor General:**

Yes, thank you. I have reflected on this question posed by Senator Ozouf of whether it be possible to defer treatment of any assessment on roads, for example, to the revaluation exercise, which has been introduced pursuant to the resolution of this Assembly this morning. Looking at the legislation I think it is mandatory in its terms. Looking particularly at Article 15 of the current Rates Law, it says: "Each Parish shall levy for each rateable year" and similar language is used throughout Articles 16, 17, 18, and 19. So I think the obligation to levy rates in respect of, for example, roads, I do not think on the face of the legislation it is possible to defer it pursuant to ... I was speculating in my earlier answer just because of the fact that there is a power to levy rates does not mean that it has to be used. But looking at the wording of this legislation it does appear mandatory and it has to be levied. Thinking further about any ways that that might be mitigated, there are regulation-making powers in Article 49 of the Rates Law and Article 49(d) does include a power to make regulations for amending exemptions from the foncier or occupiers' rates, which are the rates which are in issue in respect of roads. So that is a possible solution, that roads could be specified as an additional exemption from foncier or occupiers' rates. Similarly, there is a power to amend a date or period of time in Article 49(1)(j) of the current law. Again that could potentially be used to defer a liability to rates in respect of future years. In relation further to the question that was posed by Senator Ozouf originally: yes, if there was a liability to pay rates in respect of roads, while it seems to arise, yes, on the face of the legislation it is mandatory and it does arise, that is obviously not ruling out in future years that it could be looked at again pursuant to the revaluation exercise under Article 16 of the revised law as approved by the Assembly this morning. Finally, I just mention, because it was a point that was mentioned by Senator Ozouf, he thought that schools might be occupiers under, for example, a lease. I think because of some separate wording that appears in Article 3 of the Education Law, I think certainly Parish schools are effectively owned by the Minister for Education under that law. So there would be a liability to pay the foncier rate rather than an occupier's rate. I do not think I can assist further.

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

When I read the explanatory note of this Draft Finance Law, I find that there only 6 lines dealing with Article 17 and when I read the comments issued by the Council of Ministers I find that they do not add much more to help me understand what on earth we are really dealing with here because for somebody not versed in the finer details of rating procedures this appears to be a very complex piece of legislation, or its ramifications are. Why on earth we were only treated to 6 lines in an explanatory note when it must have been clear to many people better versed than I that there were all these complexities. It seems to me that there has been precious little consultation with those who administer the Rates Law, the Connétables in the Parishes. We have here a significant

amendment to a primary law, which is being introduced in a law which does not permit any reference to Scrutiny. So these provisions on rating cannot be scrutinised. It seems to me that with such a fundamental amendment this should have been brought as an amendment to the Rates Law rather than part of the Finance Law. We are urged to accept the Article by Senator Ozouf on the basis that we can all rest assured that common sense will prevail. Yet there is such fundamental disagreement and misunderstanding within this Chamber. This is not the way to draft legislation to say: "Let us push something through and work it out later by the use of common sense." We should be clear what we are legislating for. We should not have to guess at whether the schools are to be treated as if they are held on a long lease and provisions akin to that. If there is an issue about schools we should know about it. We should know how the schools are to be rated. It is also suggested by Senator Ozouf that at the last resort the Minister for Treasury and Resources has the power to remit any rates that might be paid that perhaps should not be paid but the law requires to be paid, so they can come back. But that is no way of administering a rating system.

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

Would the Deputy give way?

**The Deputy of St. Ouen:**

No, because Senator Ozouf did say there was power in the Minister for Treasury and Resources to remit the rates that were paid. What a way? What a way to ... I mean this is an *Alice in Wonderland* world, it seems to me. Because we have a story of 2 types of roads, which has always been a bit of an oddity in Jersey. Okay, 3 types of roads if you have got the private one. But 2 types of public roads. We have a story here of one type of public road paying one type of rates but is exempt from another type of rate. Then you look at the other type of public road and completely the reverse applies. You have payments going around in circles.

[15:30]

As the Constable of St. Mary alluded to, you end up by eating your tail because you write a cheque to yourself. Surely Members of the public out there, listening to this, are thinking of us and thinking we are a laughing stock. How on earth we are arguing about this. We come to a point where talking about rating public roads and public authorities paying money to each other for roads. Goodness me. **[Aside]** Same attributes, yes, but roads. This is public authorities paying each other. This could have been worked out before. This does not need to come like this with such confusion, and it is unclear precisely what we are legislating for and the ramifications of it. If I think about my poor St. Ouen and the *grandes routes* we have in St. Ouen. St. Ouen is the largest Parish by area but we have got vast areas where there are few houses along those roads. We are a small population to pay for any rates that may be chargeable on those Grand Routes. So we start at St. Ouen's Pond. We go all the way up to L'Étacq. Not many houses on that road. Then we go past L'Étacq, up the hill to Le Landes. Not many houses around. Then all along to Plémont. Plémont Bay, even the little lane down to Plémont Bay is a *grande route*. Then you just do not end at Plémont, you have to come all the way back down through the Parish and you end up back in St. Peter. We have a vast network of *grandes routes*, and a small population to pay. How are the *grandes routes* going to be assessed? Is it by the length of the roads that run through the Parish? If so, poor St. Ouen, will be paying a huge amount for its *grandes routes*. But why can I not know now if roads are to be affected and how much this would amount to? Or if it is proposed, as the Solicitor General has suggested, that you could exempt the roads by regulation. Well, why has not somebody gone to the Constables and said: "Surely, the roads should be exempted" because it is a nonsense to start assessing the roads that are used by every person in this Island and suggesting that they be liable to rate. I am afraid this is a poor piece of legislation that has been drafted, it seems, without adequate consultation, and that leaves us in areas of such complexity that, first of all, all of

this needs to be worked out and then the matter brought back to this Assembly for further consideration. I cannot support it.

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

I just wanted to ask a question of the Solicitor General because I could not say any more than what the Deputy of St. Ouen has just said, to be honest. I am in agreement for the States to pay rates. I believe it was the Constable of St. Helier that suggested that it came from savings in the States to pay for these rates. But to come up with a convoluted piece of legislation, which clearly nobody fully understands because everyone is suggesting something completely different, and the irresponsible remarks made by Senator Ozouf about let us just push the legislation through and hope that we can deal with it later. I am sorry, but I did not come into the States Assembly to play games like that. I want to try to understand exactly what I am being asked as a representative of the public to do. So I would like to ask a question of the Solicitor General. It is in particular to Article 17 where we are being asked to add 2 paragraphs in, and particularly paragraph 3. You can see this on page 27 of the Draft Finance law we are being asked to agree. In it, it states that: "A parochial authority is liable to pay the domestic or non-domestic rate on any part of land owned or occupied by the authority and used exclusively", and I emphasise the "and used exclusively": "either for parochial purposes or by the Minister for Education, as described in Article 17(2)(g)." So by it stating that it says "and exclusively" then if it is a Parish road, because Parish roads are not used exclusively for parochial purposes, does that mean Parish roads would, therefore, be exempt by way of this legislation anyway?

### **The Deputy Bailiff:**

Solicitor? [Laughter] I think that might be your cue.

### **The Solicitor General:**

I would refer back to my previous answer that in respect of Parish roads the Parish pays the Parish rate. But in respect of *grandes routes* the States pays the Parish rate but not the Island rates. So Article 19 is concerned with the Island rate, so the exemption is that a parochial authority is liable to pay the domestic and non-domestic rate on any part of land owned or occupied by the authority - and I assume that means the parochial authority - and used exclusively either for parochial purposes or by the Minister for Education. So I do not think the Island rate should be payable under that exemption, but I admit there are issues arising as to whether the use of a road is used exclusively for parochial purposes. It is arguable it could be used for public purposes as opposed to parochial purposes. So in respect of roads, this is quite a difficult area, it is not straightforward. I am sorry I cannot do better than that.

### **The Deputy Bailiff:**

Have you finished your speech, Deputy of St. John?

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

I would just like to thank the Solicitor General for attempting to answer that question. I am glad I am not the only one that is trying to get my head around it in particular. I would ask the Minister for Treasury and Resources, I really would please ask, that this came back as a separate piece of legislation and I would be happy for it to come back in January or February once we have all been able to discuss this appropriately and make sure the legislation is fit for purpose. I would seriously ask, I am not going to say that I am against the States paying rates, I am not, I supported that in the Strategic Plan. I am purely asking, as a representative, that I am asked to agree a piece of legislation that is fit for purpose. I would ask the Minister for Treasury and Resources to consider that and to bring it back in an appropriate manner.

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

I do wonder whether St. Helier complains about having to be the so-called capital of the Island with all these commuters and they are all such a burden, but have they ever considered what a benefit it is to them because they have got the advantage of all the shops. We country folk have to trail in to shop in St. Helier. The offices provide customers for the shops because most shops are in St. Helier, their core business is the commuter traffic that comes in. But basically, I am sorry, this whole thing starts to resemble a farce. If I understand it right the States pays rates on the roads and Jersey Water, J.E.C. (Jersey Electric Company), J.T. (Jersey Telecom), Jersey Gas pay the occupiers rates on their pipework. But what about the sewage pipes? Do we then end up with the Infrastructure Department paying the occupiers rates while the States are paying the foncier's? I really do not know. Are we going to end up with a toll on Victoria Avenue? It really is farcical. Will you please, Minister, withdraw this and bring it back as a standalone proposition so that we can scrutinise it properly, before it comes to the States so it can be debated properly and understood properly. I am not sure which panel will do the Scrutiny but I am sure we will find out. But really, treat us like adults and bring it back.

### **2.5.12 Deputy S.Y. Mézec:**

I am glad to follow the Senator because I think she quite ably made an example of some of the points that I am going to elaborate on in my comments. I did say in my very, very first election manifesto that I would support the States paying rates on its buildings and, as I have always said, these old habits die hard but, therefore, I must accordingly vote in line with what it was that I promised my electorate and I do so incredibly enthusiastically. Here is why we are having a debate about this really: it is because for hundreds of years in this Island there has been a disparity between the country and town, both economically, culturally and socially. There is an absolutely wonderful book that I urge all States Members to read, it is by John Kelleher and it is called *The Triumph of the Country*. You can get a copy from the Société or borrow it from the library and you will see my own name scribbled in it from when I have borrowed it previously as well. It talks about how for hundreds of years essentially the States has always let down St. Helier, and it has let us down in many ways, largely as a result of the severe underrepresentation of St. Helier in this Assembly. In the 1850s when St. Helier had half of the population of the Island it only had a twelfth of the representation in the States, something that was clearly wrong there. While it has only marginally gotten better since then it is still bad and that is why I and many people in St. Helier do still feel like St. Helier is neglected by the States, by the Government. Senator Ferguson may like to portray us as just a bunch of whingers for that but I think that there are some tangible bits of evidence to back that up.

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

Sorry, sir, will the ...

### **The Deputy Bailiff:**

You can only interrupt if the Deputy is prepared to give way.

### **Deputy S.Y. Mézec:**

I am not. I want to get through with what I have got to say because I am sure there will be other people who want to speak as well. Over those hundreds of years this has manifested itself in ways like the States refusing to allow St. Helier to have its own *conseil municipal* so that it can provide its own infrastructure. The States voted against that over several hundreds of years and that has caused inequity there. The culture in St. Helier, the way we do things, the way we think about things is different and that arises because of the demographic differences there have been. St. Helier has historically been the home of immigrant populations when they have come here, and our

political culture in St. Helier is far more based on the English system because of English merchants coming in, in the 1800s, whereas the country Parishes still have a lot more French connections. That is fine, we can operate independently with our municipal governments if we want to and allow the country Parishes to have their own way of doing things and if we want to be able to do things in St. Helier; that should be democracy that we would be allowed to get on with that. But it must surely be wrong that St. Helier is having to fund services for States buildings which every Islander receives a benefit from and other Parishes not be asked to contribute to that. That to me is manifestly unfair, it is a legacy of the past 200 years where St. Helier has been consistently let down by the States, and now we have a Council of Ministers that wants to address it. That is fantastic and, okay, I may be cynical and I may oppose much of what the Council of Ministers does but they have put their money where their mouth is, they are prepared to say: "Right, we know this is an issue, we know this matters to people in St. Helier." Here is the vote we will have in front of us to definitely decide and make sure that the States will be paying its rates and that parishioners in St. Helier will get the benefit from that. I think that is thoroughly a good thing and I will be supporting it on that basis and hope that other Members do, because this situation of unfairness simply cannot carry on. I ask Members to think what this would instil in the minds of people in St. Helier. I was at the pensioners' Christmas dinner in St. Helier on Sunday and there were 3 thunderous rounds of applause that were given throughout the course of the afternoon. The first was when Sir David Kirch walked into the room, he got a big round of applause, I think thoroughly deservedly so. **[Approbation]** Absolutely, and he deserves a foot stomping here. Let us see if this one gets a food stomping: the second thunderous round of applause was for myself. **[Approbation]** There we are, thank you very much, I do appreciate that. The third one was when the Constable stood up in his address at the end and just informed parishioners about what would be happening over the next few weeks and he said that the States would be debating a proposition which involved the States paying Parish rates and it got a thunderous round of applause because people in St. Helier recognise that there is unfairness here, it is not right for them to have the burden of it and have to pay rates for buildings we are all receiving benefit from, regardless of where we live in the Island.

[15:45]

This proposition may well be imperfect but I tell you what, the situation of the States not paying rates is even more imperfect and we should be doing something to address that, which this proposition does make efforts to. If it needs cleaning up in future, well, we can get our House in order when it comes to it. The principle, I think, is incredibly important and should be adopted. I just think, and I perhaps say this tongue in cheek, but what would happen if people reading in the media about the vote if it does not go the right way this afternoon, you only need 10 to sign a requ, te and hand it to the Constable of St. Helier saying: "Well, if we are not getting the rates why should we provide the service?" Imagine the bins piling up outside Cyril Le Marquand House because we are not getting the payment for delivering on that. I think there would be a very logical argument for voting to support that and I may myself want to support that, not just myself being a usual troublemaker but because there is a good argument for that. That feeling will be legitimate, it will be exacerbated if the States does today what it has done for hundreds of years and ignored the needs of people in St. Helier. We have a Council of Ministers which at least on this one issue is delivering on what it said it was going to deliver. I think that is incredibly important and surely we must be snapping up this opportunity when you can get both Senator Ozouf and myself to stand up and say: "We 100 percent agree with each other on something." That either means we are both incredibly right or incredibly wrong; on this occasion I think it means we are both incredibly right and so I hope States Members will vote to support this.

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

I am delighted to follow Deputy Mézec; and how very sadly incorrect he is. Nobody disputes the States should pay rates, we all agree. Nobody is disputing that point. What we are disputing is that the States pay rates, not that the Parishes pay rates for the States which is what this proposition is, is that we country Parishes mostly are bearing the burden of paying the rates in St. Helier. Now, let me give you just a little bit about fairness. When I became Constable the church wardens came to me and said: “The Parish church needs doing up, go and borrow the money, it will only be £1 million.” In other words, 2 and a half years’ gross rates income would be spent doing up the church. You work that out, that is totally, utterly and completely disproportionate to what St. Helier spent doing up their church. We used to have a balanced system, some Parishes paid more for the church, paid more for the roads. The Parish roads in St. John I am spending £75,000, £80,000 this year on the roads in the Parish. Break that down to per ratepayer and it is astronomically high compared with St. Helier. Some 15 odd years ago when I was still in short trousers this Assembly agreed that there should be an Island-wide rate that would contribute towards welfare and the Constables would no longer be tasked with that job; 45 per cent of our Parish rate goes on paying welfare and most of that is not for our own parishioners, it is for people outside our Parish. Now stand up and tell me that you are for fairness, because it is not fair. When my Parishioners ...

**The Deputy Bailiff:**

Through the Chair please.

**The Connétable of St. John:**

Through the Chair, sorry. When my parishioners come to St. Helier and spend money in the shops it is the customers who are paying the rates because that comes out through the shop. Without customers the shops cannot pay the rates, and just remember that you are very lucky in St. Helier because you have got shops, you have got offices, you have got businesses which are collecting rates which we in the country Parishes do not have. There are 2 issues here which are very, very different. The first issue which has clouded the waters, and we heard the very eloquent Assistant Minister for Digital Affairs - I was going to say Morse Code but it is Digital Affairs, well, is Morse Code by the time it gets to St. John because it is so slow - saying: “We must pay rates, it is right that we pay rates.” That debate has taken place, we are not here debating that, nobody disagrees with that. What we are debating is should the Parishes be paying the rates or should the States be paying the Parish rates. It is 2 very different arguments. Just one point I need to correct with Deputy Martin. She quoted St. Mary and how their rates came down from 1.9 pence to 1 pence. Yes, they did, because in 2005 all properties were reassessed, therefore, the number of quarters went up so that the rate per quarter came down. But the actual gross sum of money paid remained very similar. In St. John the same thing happened, but do not compare rates pre-2005 with post-2005 because at that point everybody’s rates were reassessed, and you cannot compare the 2 dates because they are not like with like because the quarters changed. This concerns me enormously the way this has been brought. We are here to discuss the Finance Law, not the Rates Law. If you want to discuss the Rates Law lodge it separately, do it properly so it can be scrutinised, so it can be properly examined; and consult the Constables. Do not do it in a manner that I cannot repeat in this Assembly and push it through on the nod or in a manner that cannot be scrutinised through the Finance Law instead of doing it in an orderly, proper, above board manner. No wonder the Council of Ministers do not have the public’s respect if this is the way you wish to introduce legislation. I cannot stress my anger, but not just my anger, the anger of my parishioners who I have spoken to, at the way in which this is being done. It is the way it is being done, and I would urge the Minister to stand up and do something principled and say: “I withdraw this” and bring it back when it can be properly debated with the suitable respect to this Assembly. Failing that, I urge Members to reject this because it is probably one of the worst things we have ever been asked to accept. Thank you.

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

It seems to me that Members are making very heavy weather of this. One might even have thought that this was the silly season, and I never thought of Christmastime as being the silly season. If the Members are insistent on wrecking this amendment to the Parish Rates Law, then of course they can, but it seems to me that it is completely unnecessary. The Constable has just reminded us we have all agreed that the States should pay rates on States property. This amendment achieves that end. Where it seems to have gone wrong - and I was not here, unfortunately, when the question was put to the Solicitor General - is that the question has been raised as to whether roads fall within the definition of land within the Rates Law and are liable to assessment. The Solicitor General has said that the treatment of roads under the Parish Rates Law is difficult, not obvious. I am not surprised at this opinion that the Solicitor General has expressed, because never before in all my experience have I heard it suggested that public roads were liable to rate. I challenge any of the Constables to identify any public road that they have ever assessed a rate in their Parishes. It appears there are none. The most important issue is whether anyone wishes to rate public roads and surely the answer to that is no, no one wants to do that. So is not the sensible solution to pass this amendment to the Parish Rates Law, which gives effect to that which we all want to do and to allow the law officers to examine the difficult legal question at leisure? If the result of that detailed examination is to confirm the opinion that the Solicitor General has given us and that roads fall within the definition of land and are liable to rate, then regulations can very easily be brought before this Assembly to amend Article 17 and 18 of the law to exempt roads respectively from foncier and occupier's rate. It seems to me the matter is as simple as that and we ought to allow the amendment to go through.

#### **The Connétable of St. John:**

On a point of clarification, Sir, currently roads are owned either by the States or by Parishes and therefore currently under the law are exempt anyway as either Parish or States-owned. This is introducing a different set of rules.

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

What point of clarification are you seeking from Senator Bailhache?

#### **The Connétable of St. John:**

I was just wishing to clarify that currently ...

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

I am sorry, you have already spoken, Connétable, on that. Deputy Southern.

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

I shall be very brief. It rarely happens that I can speak with such clarity and directness in support of Senator Bailhache, who hit the nail right squarely on the head when he suggested that perhaps we should not be talking about rating the roads, because we have traditionally never done that. It really was something out of *Alice in Wonderland*; suddenly we are talking about rating the roads, which nobody has ever dreamed of doing. It is a simple matter: if the law needs amendment in order that we do not rate the roads, then we simply go ahead and provide that exemption. It just seems to me crazy that we have ended with a discussion about whether or not to rate the roads, which is a non-question. Can we please get on with coming to a conclusion on this? We all support the States paying rates, let us get on with it.

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

Solicitor General, did you wish say something? You put your light on.



**The Solicitor General:**

Yes, simply because I had not mentioned it before, but the issue of rating roads has not previously arisen because of the wording of the exemption in the current Article 17(2)(f), which exempts land from the foncier rate and (f) provides that: "Land owned by any public or parochial authority and used exclusively for public or parochial purposes." That applies to roads, whichever way you look at it. I think that is at least one explanation for why roads are not currently rated under the Rates Law. It is only because Article 17(1) of the current legislation that has been considered removes the words: "public or" from Article 17(2)(f).

[16:00]

In addition, there is similar language in the current version of Article 18(2)(c) that this issue arises in respect of roads. I simply offer that by way of explanation.

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

May I just make a further point of clarification, because there are 3 propositions ...

**The Deputy Bailiff:**

Sorry, I beg your pardon, it is a question to the Solicitor General?

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

It is a legal question. Of course it is, Sir.

**The Deputy Bailiff:**

Very well. If you would like to ask your question.

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

My question to the Solicitor General is that he is quite right in his reading of that Article, but those are roads that are in public and parochial use, which is being removed. There is a third category: we are wrestling with what the attributes and what the likely valuation or quarter assessment for a road could be if that exemption were to be removed. Could the Solicitor General confirm that there is a third category in the Island, which are roads that are neither Parish nor public, for example, Miladi Farm, which are private roads which are publicly accessible and therefore do fall within the current ambit of rates assessors? My information is that the Parish assessors have rated it as a zero assessment ...

**The Deputy Bailiff:**

Senator, you are conveying a great deal of information on what really should just be a question to the Solicitor General.

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

He was asked a question about roads and I am saying can he confirm that there is a third category of roads?

**The Deputy Bailiff:**

Mr. Solicitor, is there a third category of roads, private roads, which may or may not be included within the rating provisions of law?

**The Solicitor General:**

There is a third category of private roads. My knowledge of how they are rated is limited, but I understand that some of them at least can be zero-rated.

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

Just briefly. I see this as almost like an enabling Act to get on and do the job that this Assembly agreed to do some time ago. I have been fascinated, listening to some of the arguments today, and there are some very, very knowledgeable people here who know far more about the rates system than I ever will and I bow to that knowledge. But this is enabling legislation so you can get on and do the job later. Now, I see Constables shaking their heads and I have considerable respect for those Benchers, but we do need to get on and do this. We have agreed to do it - not me, the previous Assembly - and it is the right thing to do, as a number of Members have suggested. We are now getting bogged down in the very detail that should be discussed later and the Act then remedied to be fit for purpose. All the things that we are talking about here, my understanding is they can all be resolved later, perhaps **[Interruption]**

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

No, please, let the Deputy speak without interruption.

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

Another question I have, if I may continue, is, my understanding is that the president of the Comité des Connétables has a standing invitation to sit around the Council of Ministers' table. I am not sure how often that is taken up, but the time that I was around the large table, frequently the Constable of St. Ouen was there, if not every sitting. Perhaps if that happened - maybe it does happen often; I do not know, I am not there - but if has not been happening, perhaps that is why we are where we are today. Maybe there could be more communication between the Council of Ministers and the Comité des Connétables. I was talking to the president earlier and he was saying: "Well, I have tried, but they are not listening." We hear that phrase a lot in politics. Perhaps we do not always hear what we want to hear, but maybe not a lot of listening has been going on either, but the fact is we are where we are today. I have an obligation to my own parishioners in St. Helier, who really would like to see this happen. They are not bothered about the detail, but we should be, and I am not saying we should not be, but my parishioners in my constituency, and having been to the same old folks' Christmas party last week as other Members have spoken about, were very, very much in favour of getting on with this and that St. Helier should not be penalised for all of the costs of running their Parish when everybody in the Island uses it. That is a frequent comment that I hear, particularly from some of our older parishioners; we heard it last weekend. We need to get on with this. This is an open legislation to enable the Comité des Connétables, the Constables to have the conversations we are having now in open House to sort out the detail. The Minister for Treasury and Resources should listen and act. It is a shame it did not happen beforehand, but we are where we are. I think we need to get on with this and do it, as we said we would in an Assembly not so long ago. We will get castigated by the public if we do not make a decision on this. That is unfortunate as well, so I think we do need to make a decision and a positive one and get on with this and sort the rest out later. I do not say that that is perfect, but I think it has been said before by Senator Le Marquand, there is no such thing as a perfect plan and better to get on with something and get it done rather than having it perfect. The imperfections can be sorted out later. I am not saying that is perfect either or ideal, but better to have a plan than a perfect, perfect plan that never gets enacted. We have been discussing this, as has been said, by other Members for quite a long time, so I think we really should be bold, get on with it. Yes, castigate the Council of Ministers perhaps for not bringing this in quite the way they could have done. It could have formed part of a revised rates bill or something, but it has not been. We are where we are. I think we need to get on with it and sort it out and vote positively for it today and sort the rest out later and do it better next time.

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

This is one of the most conflicted debates I think I have ever witnessed. It is going to be interesting to see how this would play out under super constituencies, because we have a really divided town and country position here. That is where I think the role of a Senator can take an impartial view. This is a party political broadcast Island-wide, a mandate. But seriously, I have been a Deputy, and when I say I am enjoying looking at this with an Island-wide mandate, I do not mean that in any frivolous way, other than I feel I can be completely impartial without any loyalty to a Constable or parishioners, because we have to sometimes put those loyalties to one side and this Assembly needs to act in the best interests of the Island. Following on from Senator Bailhache, his speech, where he highlighted the fact that we can of course deal with any nonsense, and of course it would be absolute nonsense for a Parish to have to pay rates and then get them back, and other imperfections, we can sort that out in the fullness of time. But I live in St. Ouen, and I am very happy with our Constable and Deputy, generally get pretty good service out of them, and I hope I pay that back as well from time to time. But I think I spend more time in St. Helier than I do in St. Ouen, and the whole Island utilises St. Helier. It is our capital, the majority of our people live there and it goes without saying that they must be treated fairly. I think it is in the Island's best interests for us to proceed with this amendment, with these regulations, as stated. We can sort out any nonsense later on, which we will do, and act in the Island-wide interest and do what is fair and right.

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

I would just like to warn Members to be careful for what you wish for. I do not think anyone here has a problem with the concept of St. Helier paying rates, but what we do have a problem with is the vehicle which has been designed to achieve that, which in my opinion - and I think most of my fellow Constables agree - is akin to a camel. When I say be careful what you wish for, this morning we have already voted for Article 16. I remember a very good friend of mine, Senator Ozouf, standing up in my Parish Hall ripping up the property tax at the senatorial hustings - only 2 pages of it - but be warned, it slipped back in again this morning by the back door. So be careful what you vote for. We are voting today for a camel. We do not want a camel, we want a properly considered system in which the rates that the States pay to the Parish of St. Helier is collected, but not what is on the table today.

#### **2.5.19 The Deputy of St. Mary:**

I too will be brief. I do not accept the charge that this is a contest between the country Parishes and the town. We are at one. The States should pay rates wherever they are. What is at issue is the way this legislation has been brought in. I share the frustration, if that is the right word, of the Deputy of St. Ouen - exasperation is probably a better word - in listening to his concern as to how we are where we are and the complexity it involves. I also endorse the Deputy of St. John's suggestion that is it not the appropriate course to bring this back to the States early in January, if required, so we can debate an amendment to the Rates Law proper, as opposed to bringing it in within the Budget legislation? That I suggest is the proper course. For that reason, I shall be voting against the proposition.

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

After yesterday, my relationship with the Constables is at an all-time high. I had the privilege and honour of the support of 9 of them yesterday, which is a new Olympic record for a Back-Bencher, I think. My eyes have been opened further to the value of the Constables in this House. I was heard to be singing as I celebrated last night with a small sherry [**Laughter**] in an establishment next door: "On the ninth day of Christmas, my true love sent to me 9 Connétables." But I feel very uncomfortable sitting so close to them here, because I feel their pain and their anger, and particularly of the Constable of St. Saviour and the Constable of St. John, who more often than not do support me. It is a really difficult one. The only thing I would say to them is that the people of

St. Helier are at boiling point too, because all they have had is promises, promises, promises so far over a long period of time and no results. St. Helier has been put on the fourth priority of this Government, something that we have all signed up to, and the rejuvenation of St. Helier - not regeneration, it does not need regenerating, it does not need changing into something else, it just needs rejuvenating - how is that going to occur without resources? It seems to me that this is the way that it is going to start to happen. We have the Future St. Helier group doing excellent work, researching and talking to the people of St. Helier about what they want for the rejuvenation of the town. It is headed up by the Deputy of St. Martin with the Deputy of Trinity and the Deputy of St. Lawrence. All well and good. I would like to have seen a few more Deputies of St. Helier on that group, but never mind, we are where we are and they are doing good work. We cannot continue to wave a carrot in front of the people of St. Helier. They do need to have some results. To be fair, St. Mary, St. Ouen, St. Lawrence have had schemes, expensive schemes, costing more than what we are going to get for St. Helier with these Parish rates possibly, and they are very, very good and they are good for all of us. The Constable of St. Mary is aghast at me and I do not want to upset her. I will give way.

**The Connétable of St. Mary:**

Sorry, Sir, it is just to say that St. Helier has had lots of lovely schemes too, and too right.

**The Deputy Bailiff:**

Please can I remind Members, you can interrupt another Member if that Member agrees to give way for the purposes of clarifying something you have said in your speech or asking for a point of clarification of what the Member has said in his speech, not to make additional supplemental points or answer points being made by the Member. Please carry on.

**Deputy R. Labey:**

Understood, and thank you, Sir. I do take the Constable of St. Mary's point. By the way, she should be commended for weathering the storm with those changes in St. Mary. I go through St. Mary an awful lot, and we are all getting used to and we are beginning to like and, early in the days of those changes, I had to have a conversation in my car with a member of her Honorary Police who was holding a speed gun. Fortunately, he was still in training **[Laughter]** and so I will not go further into that one, just to say that we have all retrained ourselves about how we travel through that Parish or go to that Parish and it is getting better and better. Towns do need management; they do not just survive by themselves. They do need management, they do need careful management, they do need to respond to the economic climate of the time and I have seen in my time in the south-west of England, where, particularly in Cornwall, it has to be said - and I hope they are not listening - but ... where it has gone terribly wrong and once vibrant towns have been neglected and ended up as just a high street of charity shops and bookies.

[16:15]

The people of the surrounding areas have then had to go further out to other towns and have really regretted the demise of these places and it is very, very sad to see. So we are looking to the Minister for Treasury and Resources here to give us a good steer because we do not want to upset our country Constables. I mean, the Constable of St. Martin said that this is irrespective as to whether the Parish of St. Helier gets rates from the States and I would like to know if that is true. But, seriously, we cannot go on anymore promising the people of St. Helier some investment for improvements and in the words of John Lennon, I would like to know from the Minister for Treasury and Resources if indeed we can work it out.

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

My word, this is a bumpy road. I do not know why no one has suggested can we simply not zero rate the roads if they are such a problem. It is not my place to sum up this debate, however I have held back from speaking earlier. Perhaps I should have spoken earlier because when the first red herring arrived, drawn across our paths, I did not think that a majority of Members were going to run after it, which of course is what has happened. Some Members have tried to bring Members back to the point but unfortunately other Members have taken us back to a debate about whether we should pay rates at all. The town versus country argument has come back in on both sides and, I think, quite unhelpfully. But there we go. I am going to, if I may, just go through some of the speeches because clearly I have the scars on my back resulting from having brought this proposition to the States more or less on an annual basis since I was elected, I have to say, 15 years ago today. **[Approbation]** The chairman of the Committee of Constables spoke first and he made one of the few references to what I thought would be a much bigger issue here, which is that Treasury has no idea how they are going to pay this. There has been no linkage with Article 16, I think, as we successfully realised when we had the previous debate and the mechanism for how the States is going to find the additional revenue has not really been dwelt upon. As I said, the chairman mentioned it and I think another speaker also alluded to it. I was sort of prepared to deal with that argument and in a way I am sorry it has not come up very much because it is one that I was looking forward to talking about. Perhaps a Member will speak after me and say there is no money for the States to pay rates and I just remind Members that we have had the debate about States paying rates and I have likened it to a utility bill. We all pay our phone bill, we pay our water bill, we may pay a gas bill, an electricity bill, we also pay a rates bill and why should the States be any different? Previously, I remember a Minister for Treasury and Resources in 2008 - and I alluded to this earlier - stood up and agreed that the States should pay rates and said as long as the ratepayers pay us back. That, of course, went nowhere and that was 8 years ago. That is how long we have been agonising over this matter. The chairman of the Committee of Constables was one of several Members who talked about how Parish rates will be affected by this proposal and, as I think I have already explained, there is no need for that to happen. In fact, one of the most curious things about today's debate - and it may be that Members simply have not read the paperwork - is that most parishioners stand to benefit across the Island. If I could draw Members' attention to page 2 of the Council of Minister's comments, there is a table showing how much approximately the States will pay in rates in each of the Parishes. This money, as several Members have said, is not exactly a windfall but it does mean that parishioners or Rates Assemblies have the choice either of spending that money on improving their services or on lowering their rates. This is why I am so surprised to know that the Constable of St. Saviour is going to go to her Rates Assembly in July 2017 and say: "I have just turned down £150,000 of income that could have come into our coffers to either bring down or rates or to improve the projects we offer." The Constable and the Deputies of St. Brelade ... we have not heard from the Constable or in fact from the Deputy, but the Constable and Deputy of St. Brelade will have to explain to their ratepayers in July of 2017 why, if they vote against this, they have turned down £67,000 of extra, rateable value that could have been spent in their Parish. Even some of the smaller country Parishes, who have spoken so vociferously against this, are going to turn down, in the case of St. Martin £7,000 rateable income, Trinity £7,500, St. Ouen £9,500. Now the argument we have heard from the Constables and some of the Deputies is that: "That is not the problem; the problem is that we as Parishes are going to have to pay rates." So I say to those Constables: "How much are you going to have to pay and will it be more than the States are going to pay in your Parishes?" Well, sadly, we do not know the answer to that question and why do we not know it? Because when the chairman of the Committee of Rates Assessors asked the Parishes for their returns so that he and his colleagues could get an idea of what the pay-out would be, they only got a reply from one Parish and that Parish was St. Helier. If Members look at the draft Budget Statement ... page 8 of the draft Budget Statement and people have been very rude about the Minister for Treasury and Resources and how he has

presented this. If Members look at page 8, it says: "On the basis of equity and fairness, the budget also contains legislative change to enable the Parishes to pay Island-wide rates. This will cost approximately £20,000 for St. Helier and considerably less for other Parishes." So if St. Helier, say, has roughly one-third or two-thirds, who knows, but we are talking about a very small amount of money that will be spread across the other Parishes. St. Helier, we know, will pay the lion's share of that amount of money; in this case it is £20,000. So the amounts the other Parishes are going to have to pay will be very small. Certainly, if you live in St. Saviour, when you find out your representatives voted against £150,000 of extra income at rates assessment time, you will have to take a view about whether that was sensible or not. So I would suggest that purely out of parochial self-interest, the Constables and the Deputies should be supporting the States paying rates because what they pay out as Parishes will be far, far less than what they will gain from the States properties paying rates. I would like to also challenge a couple of other speakers. Some Members seem to feel that this matter has been rushed ... several Members said it had been rushed, and that made me smile because, as I say, it has been debated so often. I have a whole ring-binder of failed attempts to persuade the States to pay rates. Indeed the Constable of St. John was quite angry with the Minister for Treasury and Resources and I thought you were going to interrupt him when you said to Senator Maclean: "Do something principled." I think that is very unfair. What the Minister for Treasury and Resources is doing is implementing the decisions of the States in the Strategic Plan, in the Medium Term Financial Plan and he has to implement them because otherwise there is no money to pay rates unless it is in the Budget and that is why he has put it in the Budget. Members who have said: "Well, let us bring it back in January", they obviously have more appetite for another States rates debate than I do. I am quite fed up with having this debate because it has occupied so much time in my career in the Assembly. But if we come back in January, and it may be a seductive proposal to some Members, those assessments cannot be sent out under the law and the bills cannot be sent out in July so we will lose another year of the States paying rates because of a red herring dragged across the path of this Assembly at the beginning of the debate. That may have to happen, you know; I have done it long enough. I will bring it back, I am quite happy to bring it back, but I do not think it needs to come back. I think we could be moving on to talk about other matters because on principle all Members practically have said they support the States paying rates. They have said that on a number of occasions. Now that the Minister has brought it forward in the Budget so that the money can be allocated to it, our Members are finding reasons not to support it. Clearly, in an ideal world, the issue of roads would have arisen but do not let any Members say this should have gone to Scrutiny. The Strategic Plan went to Scrutiny; it contained the States paying rates. The M.T.F.P. (Medium Term Financial Plan) went to Scrutiny; it contained the proposal. The Budget went to Scrutiny; it contained the proposal. Scrutiny have had ample opportunity to deal with this and, of course, the Constables themselves could have lodged an amendment to separate the States paying rates from the Parishes paying rates but they did not. So they only have themselves to blame for doing so. I submit that we have had the argument often enough. The Minister for Treasury and Resources has, at last - at last - found the money. I am not sure where from but that is his business. He has now agreed to pay rates and at the eleventh hour, Members whose constituents stand to benefit hugely from this are finding reasons to object to it and I find that absolutely extraordinary. At the very least, St. Helier, St. Saviour, St. Brelade, St. Clement, I would add St. John, St. Ouen, they are all going to be better off if the States pay rates. That is why I believe a majority of Members should be supporting the proposition. Of course, as Deputy Labey said, very helpfully, the States have also said St. Helier is a strategic priority. We have a Future St. Helier group; there is not much money now to do these projects such as other Parishes have enjoyed ... that wonderful urban bit in the middle of St. Mary that I still have reservations about but, by not supporting this, we will deprive the capital of the ability to invest further in the town. I think that is a great shame because that extra money is ... it is entirely up to ratepayers, of course, when we get to July, but I am almost certain that most St. Helier ratepayers

would not want a significant decrease in their rates, they would rather spend the money on urban regeneration projects or rejuvenation, as Deputy Labey prefers. So it will seriously affect our ability in the coming year. Further delay is, I submit, completely unnecessary. The working party, convened, I believe, by Senator Frank Walker when he was Chief Minister, found in favour of this back in 2005. In 2008, as I have said, Senator Le Sueur, when he was Chief Minister, brought a proposition to the States, which appeared to offer the States paying rates but was asking to take back the money with the other hand. Now we have a Minister for Treasury and Resources who has effectively fulfilled the requirements of this Assembly's decisions earlier in the year and he has brought a mechanism in the Budget to pay rates as agreed by the States. I think it would be a great shame to put it off further. I, for one, would like to see this money flowing, not only into St. Helier, because it is not just about the town, but into all the Parishes that have States properties and which stand to benefit from this move.

#### **2.5.22 Connétable S.W. Pallett of St. Brelade:**

I was not going to speak today but the Constable of St. Helier has promptly prodded me into saying something. I hope he is not going to regret that but there we go.

[16:30]

He mentions the sum that St. Brelade could benefit from the States paying rates and what I will say is I have got no issue about the States paying rates. What I have got an issue about is the States need to pay it and I do not like the convoluted way that we seem to be getting to that point. Now, he said to me how am I going to explain £67,000 that we are not going to get in St. Brelade. Well, one is ... he made a decent point. I do not know what we are going to have to pay in rates. I think that is something that the Minister for Treasury and Resources should have had all the information on the table so we knew what we were coming here ... about what the sum may have been. Now, would we have had to be part of that? Absolutely we would have done but we should have that information in front of us. An issue that came out this morning, and this is why I think to vote for this or to agree to this is going to be compounding another mistake that we made this morning, is that, in terms of what we are going to do potentially in rebalancing St. Helier is that St. Helier have got a lot of grade A office space, so I accept that and whether we pay enough rates or not is one issue. But what is going to happen is that they are going to rebalance St. Helier, they have got an opportunity to do that, Grade A office space might be rated higher. Retail: some of the other shops based in St. Helier may be rated less. What is going to happen is that ... that is fine, they can rebalance that out in St. Helier. In St. Brelade, I have only got retail space. All that, because we have to be consistent around all the Parishes, will have to drop and who is going to pick up the cost of that? It is going to be the domestic ratepayer is going to have to pick up the difference. So when it comes down to me talking to my ratepayers about why I do not want or why I would refuse £67,000 is because I am not going to support this is because I do not know what we are going to end up paying or what it is going to cost the Parish because I have not got all the information. So that is why I am not going to support this. The roads, I think ... why we headed off in that direction, I do not know and I am not going to get into that argument. It is not for today. This should have been an amendment to the Rates Law. It should not have been dealt with today under this particular piece of legislation. It is just nonsense. There have been some red herrings. I really do not like ... and it just was mentioned then about some of the benefits, apparently, St. Ouen, St. Mary and St. Lawrence have got. I cannot believe any St. Helier Deputy is saying St. Helier is being penalised when you look at the investment St. Helier has had over the years. You know, they get a bulk of the investment into infrastructure into town ... also, the taxpayer over the years, huge areas ... whether you are a fan of reclamation or not, St. Helier has seen the benefit of the reclamation scheme, which has been paid for by taxpayers. All the property on there now is rateable and St. Helier has had the benefits of those rates now over a considerable amount of time.

I do not care what St. Helier do with their rates. It is up to them to decide what they are doing but do not tell me you have been hard done by because you have not been hard done by. A comment made by my Minister, I am afraid I just cannot agree with. To say you sort this nonsense out after. You do not sort the nonsense out after; you sort it out before. You sort it out before you bring it here and we have not done that. So I am sorry; I was not going to speak on this but there are a lot of issues here. There have been a lot of red herrings with this but we should have had a proposal on the table that made sense, that we understood, and we have not done that. So I cannot support it. I really would like to support the Minister for Treasury and Resources over this but I cannot. Sorry, but the States need to pay rates but they need to find it themselves and do not find some, like I say, convoluted way of trying to do it. We need to have a package in front of us that we understand and I am afraid we just do not have it so I just cannot support this.

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

I do stand reluctantly. It is funny how things are said in the States that sort of trigger the need for a response. Many people have said this is not a town and country issue but listening to the debate here this afternoon, I am sorry, but that is what it comes across as. The Constables may be saying: "Oh, we agree with the principles of paying rates but not as long as it affects us." That is part of it. The other thing too is, I am afraid the Constable of St. Brelade really got me going because he was saying how we have had the benefit of the reclamation area. Well, what is on the reclamation area? We have an incinerator, a very big one. We have always had an incinerator in St. Helier. We have been burning or dealing with all the rubbish from all the Parishes. We have a centre that is responsible for green waste. We also have the fuel farm, which is used to generate electricity of the whole of the Island. So, I am sorry, Constable, we have not had all the benefits. We have a lot of the industrial and other facilities that support the whole of the Island. We would appreciate recognition of that and would appreciate receiving some funds towards that. I would also add, the States Strategic Plan is trying to preserve the countryside. We have all voted ... I have voted in the past too to keep the Island as green as possible, to stop building in your Parishes and we are accepting that St. Helier is going to have more and more housing. I know the Minister for the Environment is not here but I know he favours going up. We have had discussions about the new hospital, which benefits all the Island and when we had the discussions about whether it should be on the People's Park, there was a great deal of opposition in St. Helier because it would be taking away one of the few green lands that we have got within the Parish. Although we are being promised, yes, when the site was cleared we would get another park back. I am sorry; look at the Millennium Park, how long that took and how hard fought that was. So, I am sorry, that is why we oppose that. So what I will say is, I would hope that the Constables will support this. I know that they have got major reservations about it but the St. Helier Deputies have supported the country Parishes that tried to prevent over-exploitation of the Parishes so you have got your lovely green fields and so on. So I am sorry, I hate to make some of those comments but they do need to be made. I shall obviously be supporting this proposition because I think it is long overdue that St. Helier should get some assistance with the cost of all the States buildings within St. Helier. Thank you.

### **The Deputy Bailiff:**

Does any other Member wish to speak on Article 17? I call on the Minister to respond.

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

It came to a sudden conclusion; I was expecting it to probably go on a little bit longer although it has already been quite a long debate. I understand the difficulties with this matter and in a sense the divisive nature of it; it is splitting the Assembly, which is never a good position to be in. It is never a good position to be in when the Constables feel so strongly about a particular matter and



are so united on it, as it appears is the case at the moment. I think as the Constable of St. Helier has already said, this matter has been on the agenda, if I can put it that way, for a considerable period of time and even more recently, since the Strategic Plan debate, when the Assembly voted overwhelmingly to ask the Council of Ministers to progress this matter. Since that period there has been - and this has been a point raised by some Members - consultation and there has been some consultation as well, as one would expect, with the Constables. In fact, I went to the country to have an opportunity to meet with Constables, although there were a number who were unavailable to make that meeting. I went to St. Martin and we talked through the issues of this proposal. I also had a further meeting with the Constables arranged here in the States buildings together with officers to do exactly the same. It was fair to say that the Constables, for reasons they - and I will not repeat them - have gone through today were not satisfied or overly satisfied with the direction of travel that was being proposed. But is a very difficult position to reach consensus on such matters and I had in mind that I had to progress the will of the States in terms of bringing this forward and that is why this particular Article is being debated today. There have been, as others have said, some red herrings in this debate. The issue about roads, which has caused the Solicitor General to scratch his head on more than one occasion, is not an easy one, but I think it is probably fair to say that although there are some legal issues around definitions and such like, from the perspective of rateable value, the roads are rated at nil. They are not rated as such. So from a financial perspective, it is not, as I understand it, a direct issue and perhaps not the issue it was made out to be although there may be some matters that need clarification in due course with regard to that particular point. The Constable of St. John made some disparaging comments but he was also raising points about the amounts raised from the Island-wide rate. It is fixed in the Rates Law and asking the Parishes to pay the Island-wide rate does not result in additional revenue for the States. It actually reduces the Island-wide rate payable by everyone else in the Island. The sum of money that has been clearly published as part of these proposals in terms of the cost to the States of paying rates is in the region of £900,000. It is correct to say, and I think one or 2 Members have mentioned this, that there is no firm funding source that has been agreed yet as to how that will be funded. There are some options. The Council of Ministers has indicated that the preferred route is to increase the non-domestic Island-wide rate to meet that cost. That would be the preferred route. There are some other options that are under consideration. The idea is clearly stated in that regard within the Medium Term Financial Plan addition so that will not come as any shock to anyone. But the Council of Ministers also recognise that it would not be fair to increase the revenue raised from the non-domestic Island-wide rates until such time as a re-evaluation mechanism had been agreed. Of course, Members are aware that that was something that was approved under Article 16 earlier on. It is worth perhaps pausing and reflecting on what the States paying the £900,000 of Parish rates means for those that are perhaps the most relevant, and that would be the ratepayers. As the amount that is raised from the Parish rates is fixed by the Parish Assembly, the introduction of a new substantial ratepayer, in other words, the States, in each Parish, effectively means a rate cut for all existing parishioners, including those parishioners in the country Parishes. That is because the States are going to start paying a proportion of their Parish rates for them. We have heard that the States did not agree in the Strategic Plan debate that the Parishes should start paying the Island-wide rate on their property portfolio, and that is perfectly correct. But from a matter of principle and a matter of fairness, should not the Parishes also understand the cost of ownership of their property portfolio in the same way as the States is being asked to do? This inequality of treatment between the States and Parishes appears the right thing to do. The removal of the exemption currently enjoyed by the Parishes will create a liability to Island-wide rates for the Parishes on their property portfolio. Just like the States, the Parishes have of course 2 broad choices as to how they meet the liability. They either find savings elsewhere or they pass the cost, as many have mentioned, on to parishioners through an increase in the Parish rates. That will be a decision, of course, for each Parish to make in the forum of the Parish Assembly. Until all Parish properties,

however, across the Island have been assessed by the rates assessors, no Parish can say that the increase per parishioner caused by requiring the Parishes to pay the Island-wide rate on their properties will be greater than the rates cut enjoyed by parishioners due to the fact that the States start to pay some of their Parish rates for them. On the basis that the States property dwarfs property owned by the Parishes and that the Parishes are known to run highly efficient and lean administrations, the clear expectation is that most ratepayers across the Island will have a lower rate bill at the end of the process. As I said when I first stood, I understand the difficulties of this. I find it difficult that we have a position of discord across sections of the States. I find it uncomfortable that we have that, particularly with the Constables, who I have the highest regard for, but I also have a feeling that it was incumbent upon me and it was incumbent upon the Council of Ministers to bring this proposition in the way that it has been brought. It was also right to bring this to a conclusion and to have a vote on the matter. I know some Members have asked for this to be withdrawn and I can understand why some feel that way. But I do feel, under the obligations that have been laid, it is right that we have a decision and it is right that Members have an opportunity democratically to vote on this. I, therefore, ask Members to support Article 17 and I ask for the appel.

**The Deputy Bailiff:**

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

**POUR: 17**

Senator P.F.C. Ozouf  
 Senator A.J.H. Maclean  
 Senator L.J. Farnham  
 Senator P.M. Bailhache  
 Senator A.K.F. Green  
 Connétable of St. Helier  
 Deputy J.A. Martin (H)  
 Deputy G.P. Southern (H)  
 Deputy J.A. Hilton (H)  
 Deputy of Trinity  
 Deputy M.R. Higgins (H)  
 Deputy S.J. Pinel (C)  
 Deputy R.G. Bryans (H)  
 Deputy of St. Peter  
 Deputy S.Y. Mézec (H)  
 Deputy A.D. Lewis (H)  
 Deputy R. Labey (H)

**CONTRE: 20**

Senator S.C. Ferguson  
 Connétable of St. Clement  
 Connétable of St. Lawrence  
 Connétable of St. Mary  
 Connétable of St. Ouen  
 Connétable of St. Brelade  
 Connétable of St. Martin  
 Connétable of St. Saviour  
 Connétable of Grouville  
 Connétable of St. John  
 Connétable of Trinity  
 Deputy K.C. Lewis (S)  
 Deputy of St. John  
 Deputy J.M. Maçon (S)  
 Deputy of St. Ouen  
 Deputy S.M. Bree (C)  
 Deputy M.J. Norton (B)  
 Deputy T.A. McDonald (S)  
 Deputy of St. Mary  
 Deputy G.J. Truscott (B)

**ABSTAIN: 0**

**The Deputy Bailiff:**

That now brings us to the next Article that is being proposed, I think it was suggested you were going to do 18 to 20 *en bloc*, Minister?

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

Yes, and I am rather hoping this will be less contentious. Articles 18 to 20 increases the rate of stamp duty and land transaction tax in respect of residential property on any consideration in excess of £3 million from 7 per cent to 8 per cent, and introduces a new band in respect of residential

property where the consideration is in excess of £6 million when the charge increases to 9 per cent. I propose Articles 18 to 20.

**The Deputy Bailiff:**

Are Articles 18 to 20 seconded? **[Seconded]** Does any Member wish to speak on Articles 18 to 20? All Members in favour of adopting Articles 18 to 20 in Second Reading kindly show. Those Articles are adopted. We are now at Articles 21 and 22, is it, Senator?

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

Yes, I will take them separately.

**The Deputy Bailiff:**

Sorry to interrupt, perhaps I should also remind Members that Article 22 obviously comes in an amended form which should have been distributed to Members following Deputy Labey's successful amendment.

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

Sir, I was going to take them separately for that reason.

**The Deputy Bailiff:**

I beg your pardon, carry on.

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

If that is okay I will take Article 21, which provides for the interpretation of part 4 of the Finance Law. Part 4 relates to the customs and excise law which contains the impôts rules. I propose Article 21.

**The Deputy Bailiff:**

Is Article 21 seconded? **[Seconded]** Does any Member wish to speak on Article 21? All Members in favour of adopting Article 21 kindly show. Those against? Article 21 is adopted.

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

Article 22 is, as you rightly say, amended to give effect to Deputy Russell Labey's amendment to impôts duties on alcohol applicable from 1st January 2017. After taking into account G.S.T. the increases in duty equate to as follows, and Members should have these details but, for clarity: 22 pence on a litre of spirits, 2 pence on a bottle of wine, and 1 pence on a pint of standard beer or cider. I propose Article 22 as amended.

**The Deputy Bailiff:**

Is Article 22 seconded? **[Seconded]** Does any Member wish to speak on Article 22? Those Members of adopting Article 22 kindly show. Those against? Article 22 is adopted. Article 23 to 27, I believe, now?

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

Articles 23 to 27 will be fine, thank you. Articles 23 to 26 set the remaining impôts duties on tobacco, fuel and vehicle emission duty from 1st January 2017. Article 27 is the citation and outlines when the various Articles within the Finance Law come into force. I, therefore, propose Articles 23 to 27.

**The Deputy Bailiff:**

Are Articles 23 to 27 seconded? **[Seconded]** Does any Member wish to speak on Articles 23 to 27? All Members in favour of adopting those Articles kindly show. Those against? Articles 23 to 27 are adopted. How do you wish to deal with the matter in Third Reading? Do you propose the matter in Third Reading?

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

Yes.

**The Deputy Bailiff:**

Is it seconded in Third Reading? **[Seconded]** Does any Member wish to speak on this law in Third Reading? All Members in favour of adopting the Draft Finance 2017 Budget ... the appel is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

**POUR: 32**

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

**CONTRE: 2**

Deputy M.R. Higgins (H)  
Deputy S.Y. Mézec (H)

**ABSTAIN: 0**

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

Sir, before we move on I know if the Chief Minister were here he would want to offer his thanks to the Minister for Treasury ... sorry, I thought we ...

**3. Draft Finance (2017 Budget) (Jersey) Law 201- (P.113/2016) - Acte Opérateur**

**The Deputy Bailiff:**

In accordance with Standing Order 80A(5) there is an *Acte Opératoire* which will bring the Draft Finance 2017 Budget (Jersey) Law into immediate effect and I ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Act declaring that the Finance (2017 Budget) (Jersey) Law 201- shall have immediately effect. The States, in pursuance of Article 15 of the Public Finances (Jersey) Law 2005 have made the following Act.

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

I move the Act.

**The Deputy Bailiff:**

Is the Act seconded? **[Seconded]** All Members in favour of adopting the *Acte Opératoire* kindly show. Those against? The Act is adopted. Yes, Senator Green?

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

If I may, just before the Senator, I just wanted to take this opportunity to thank first and foremost the Treasury staff who have worked ... **[Approbation]** Members will be aware some are outside but there are many more back at the Treasury and, as I have said, they have worked and put incredible amounts of time into this Budget, and all the rest of the work this year, but specifically in recent times on the Budget. So I would like to thank them. I would like to also thank, if I may, the Chief Minister for his support and other Ministers in bringing these proposals forward to the Assembly. Finally, I would like to thank Members for their support in this debate that we have had over the last couple of days. It has been, as it always is, a very challenging time in some respects, but it has also been very valuable. Even the most difficult part, which was the recent Article that we had a discussion on and, as I said at the time, it was in some respects a little bit divisive but I do feel that it is important that these matters are brought to a conclusion, which is why I was keen that we had a vote, despite the fact it was tempting to withdraw it. I thank Members for that.

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

I know I was a bit premature earlier but I know if the Chief Minister were here he would want to add his thanks to the Minister for Treasury and Resources because these Budgets do not come together in 5 minutes, so thank you to the Minister for Treasury and Resources. **[Approbation]** And my thanks to the Treasurer and the staff, also ministerial colleagues. But I would also like to thank Members that brought amendments because I know as a Back-Bencher bringing an amendment is a lot of hard work and I think the debate has been better for that. Generally it has been a good natured debate, perhaps the last one was a bit difficult, but I think we have a good outcome as a result of that debate and working together. So thank you all.

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

I am sorry to stand again so soon but it was very remiss of me when I was issuing thanks a moment ago, I did not thank my Assistant Minister for all the effort and time he has also put in, which is invaluable. Down, a moment ago, to passing notes at appropriate times, he has been a great sport and I value greatly his wise counsel. Thank you. **[Approbation]**

**The Deputy Bailiff:**

Thank you very much, Minister. Senator Ozouf, do you want to make your statement? Has it been circulated? We will do it after the next piece of legislation if you circulate that now, thank you. The next item is the Draft Taxation (Implementation) (International Tax Compliance) (Country-by-Country Reporting: BEPS), (Jersey) Regulations P.111/2016 lodged by the Minister for External Relations. I ask the Greffier to read the citation.

**Senator P.M. Bailhache:**

I wonder if before the Greffier reads that whether I might be permitted to take the first, because it logically comes before the Implementation Regulations, the Ratification of the Multilateral Competent Authority Agreement, which is P.119.

**4. Ratification of the Multilateral Competent Authority Agreement on the Exchange of Country-By-Country Reports (P.119/2016)**

**The Deputy Bailiff:**

Yes, very well, we will take that first. The item then next before the Assembly is the Ratification of the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports (P.119/2016) lodged by the Minister for External Relations and I ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to ratify the Multilateral Competent Authority Agreement on the Exchange of Country-By-Country Reports, signed at Paris on 21st October 2016 under the aegis of the Organisation for Economic Co-operation and Development (O.E.C.D.).

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

On 16th June this year the Island became an O.E.C.D. Base Erosion and Profit Shifting associate and a member of the B.E.P.S. inclusive framework. The aim of the B.E.P.S. project is to reach a globally fair and modern international tax system and at the end of the October the membership of the inclusive framework stands at 85 countries and territories. All the associates are committed to implementation of the B.E.P.S. package, including its 4 minimum standards. The Multilateral Competent Authority Agreement is the instrument that provides for exchange of information on the activities of multinational companies. The draft regulations to which we shall come in a moment provide for the automatic exchange of information with jurisdictions that have signed this agreement. So on 21st October the Chief Minister signed the agreement in Paris, together with the Chief Ministers of Guernsey and the Isle of Man. It is an important step in maintaining the transparency of which the Island is proud in relation to financial services matters and the agreement is now being presented to the States for ratification, following which it will be published and entered on the official record. The agreement will enter into force with the making of the taxation regulations to which the Assembly will come in a moment, provided that the agreement has been ratified. So I move the proposition and I am happy to answer any questions Members might have.

**The Bailiff:**

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition? All those in favour of adopting the proposition, kindly show. Those against? The proposition is adopted.

**5. Draft Taxation (Implementation) (International Tax Compliance) (Country-by-Country Reporting: BEPS) (Jersey) Regulations 20- (P.111/2016)**

**The Bailiff:**

We now come to the Draft Taxation (Implementation) (International Tax Compliance) (Country-by-Country Reporting: B.E.P.S), (Jersey) Regulations P.111/2016 lodged by the Minister for External Relations. I ask the Greffier to read the citation of the draft.

**The Deputy Greffier of the States:**

The Draft Taxation (Implementation) (International Tax Compliance) (Country-by-Country Reporting: B.E.P.S), (Jersey) Regulations 20-. The States, in pursuance of Article 2 of the Taxation (Implementation) (Jersey) Law 2004, and following the decision of the States taken on the day these Regulations are made to ratify the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports, have made the following Regulations.

**The Bailiff:**

Do you propose the principles, Minister?

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

The Regulations are the next step towards Jersey's commitment to implement the B.E.P.S. project.

[17:00]

Perhaps I could just add in relation to the B.E.P.S. project that it is a project which is designed to prevent tax planning strategies by multinational companies in particular that exploit gaps and mismatches in tax rules so as to shift profits from one jurisdiction to another with a view to paying little or no tax. Members will be aware that there have been notorious examples of some large companies shifting profits to jurisdictions where taxes are very low and, as a result, paying very little tax in the jurisdictions where the business takes place. As a matter of fact, Jersey is home to very few multinational companies engaging in this kind of activity if, indeed, any. But nonetheless it is important that the Island should show itself willing to comply with what is an emerging national/international standard in this respect. I indicated that the Chief Minister signed the agreement in Paris a few months ago and the Regulations are designed to give legal effect to that international agreement. I move the principles of the Regulations.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on the principles? Those in favour of adopting the principles, kindly show. Those against? The principles are adopted. Do you wish to propose the Regulations *en bloc*, Minister?

**Senator P. M. Bailhache:**

If I may, I will propose the Regulations *en bloc*.

**The Bailiff:**

I am sorry, Minister, in the urgency to reach 5.30 p.m. in good time I forgot to ask the Chairman of the Scrutiny Panel, Deputy Brée, do your panel wish to scrutinise?

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

No, Sir, we do not.

**5.2 Senator P. M. Bailhache:**

The Regulations, I hesitate to say they are straightforward, but they give effect to the obligations which will apply to multinational entities, if there are any, which are in Jersey and which will impose requirements for the provision of information to the authority which will then be passed on to the appropriate jurisdictions. I move the Regulations in Second Reading and am happy to answer any questions Members might have.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on the Regulations? Deputy Southern.

**5.2.1 Deputy G.P. Southern:**

I just heard the Minister say there are very few multinationals, if any, in Jersey shifting profits. I wondered where the evidence base for that statement is.

**The Bailiff:**

That should have been a question put in the principles, Deputy, because we are now talking about the detail of the Regulations. Which particular Regulation does it refer to? Does any other Member wish to speak? Senator Ferguson.

**5.2.2 Senator S.C. Ferguson:**

Yes, thank you. In view of our prolonged discussions about taxation earlier today, does this mean that companies which trade here but are either subsidiaries or branches of foreign companies will have to report their profits to the Comptroller of Tax?

**The Bailiff:**

Which Regulation are you referring to, Senator?

**Senator S.C. Ferguson:**

When we talk about country-to-country reports.

**The Bailiff:**

A clarification on Regulation 2. Does any other Member wish to speak? Senator Ozouf.

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

I know that your patience has already been tested by current remarks but as there has been 2 specific questions perhaps it may be of assistance just to say a very, very brief word that the B.E.P.S. initiative will indeed deal with a number of questions that have been raised by Members during the course of the debate and the question raised by Deputy Southern is that at long last there will be rules that will be set that will understand and multilaterally agree what the definition of profit is in an economy. That may lead, in future, to a world in which we do not have to have the kind of approach to tax neutrality which we have because we will effectively have international rules and setting a corporate tax rate that will deal with that. This is a long road ahead, it is right that the Island is signed up to these agreements but the outcome in the longer term will mean for a better and clearer world and certainly a world in which Jersey is stronger.

**The Bailiff:**

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

**5.2.4 Senator P. M. Bailhache:**

In answer to Deputy Southern, I can only say that it was in the information that I have received from the tax authorities and I have taken that at face value and I am not aware personally of any evidence upon which I can rely. It is information which I have been given and which I understand to be accurate. So far as the question from Senator Ferguson is concerned: a Jersey branch or subsidiary will have an obligation if it falls within the meaning set out in Regulation 3 of the Regulations. But if a company is operating in a number of different jurisdictions it will have an obligation to notify the authorities which of those jurisdictions it is intending to impose the obligation upon to make the report in relation to its profits. It is not intended that companies should have obligations in a myriad of different jurisdictions but they should have an obligation to identify a particular jurisdiction and in that jurisdiction there would be an obligation to report the totality of the profits. I maintain the Regulations in the Second Reading.

**The Bailiff:**



All those Members in favour of adopting the Regulations, kindly show. Those against? The Regulations are adopted. Do you propose them in Third Reading?

**Senator P. M. Bailhache:**

I propose them in Third Reading.

**The Bailiff:**

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

## **6. Jersey Police Complaints Authority: appointment of members (P118/2016)**

**The Bailiff:**

We now come to the Jersey Police Complaints Authority: appointment of members, P118, lodged by the Minister for Home Affairs. I ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion in accordance with Article 2 of, and the Schedule to, the Police (Complaints and Discipline) (Jersey) Law 1999, to appoint the following persons as members of the Jersey Police Complaints Authority for a period of 3 years, commencing on 1st January 2017: Mrs. Rachel Catchpole; Mr. Matthew Swan.

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

Before I formally recommend to the Assembly the appointment to the J.P.C.A. (Jersey Police Complaints Authority) I would like to correct a slight oversight in the proposition which is before Members. I think it is important to inform the Assembly before we vote on the proposition that one of the 4 J.P.C.A. members listed as having been appointed on 10th March 2015 for 3 years has since resigned from the Authority. As a consequence the proposition should state that following the appointment of Howard Cooper as chairman with effect from 1st January, this would leave 5 members of the Authority still in office. This is an unintentional administrative oversight by my department and I hope that Members will accept our apologies for the error. I hope Members will agree, however, that this does not substantially alter the purpose of the proposition which is to propose 2 new members, Mrs. Rachel Catchpole and Mr. Matthew Swan to the Jersey Police Complaints Authority effective from 1st January. The appointment of these 2 new members will ensure that J.P.C.A. remains compliant with the Police Complaints and Discipline (Jersey) Law 1999 which requires that the Authority consists of not less than 6 or more than 8 members. The recruitment process which led to Mrs. Catchpole and Mr. Swan being recommended for appointment was undertaken in parallel with the recruitment for a new chairman. These recommended appointments have therefore been approved by the Jersey Appointments Commission. The proposition before Members includes short biographies of the candidates, both of whom I believe are well qualified for the roles. I very much hope that the Assembly will support the appointments and I ask Members to vote in favour of the proposition.

**The Bailiff:**

Is the proposition seconded? [**Seconded**] Does any Member wish to speak? Those Members in favour of adopting the proposition, kindly show. Those against? The proposition is adopted. Senator Ozouf, there is a statement you want to make.

## **STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

### **7. The Assistant Chief Minister - statement regarding television licences and the BBC**

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

I have a very brief statement and I hope that Members will forgive the brevity of it and the fact that I cannot be more complete on it. But I promised Members that I would get back to them before the end of the year with an update on television licences and the relationship with the BBC. So I can inform the Assembly that officers this week have successfully completed negotiations with the BBC with what I am able to say is a positive outcome. Officers are in contact with the BBC to arrange the final sign-off with the Deputy Director General who is in charge of all financial matters for the BBC before the end of the week and as soon as this sign-off has been received I will be writing to Members, while not when the States are sitting, informing them of exactly the terms of the agreement. I am sorry that I cannot be more specific but I hope that from this short statement Members are able to read into this what they will and to not be too hard with me on the questions which I am not able to answer but of course stand ready to answer any questions.

#### **The Bailiff:**

Are there any questions for the Minister? Senator Farnham.

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

I would like to start by congratulating Senator Ozouf and thanking him and his officers for this very good work. I am sure he has not forgotten to mention Deputy Norton who has been instrumental in this as well. Does he not agree?

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

That does give me an opportunity to in fact thank the officers and to say I agree with Senator Farnham that, yes, officers have worked hard and I do take this opportunity of thanking Deputy Norton who has been extremely helpful with officials in bringing this matter to a conclusion. I am looking forward to emailing Members just as soon as I can with the outcome. Thank you.

## **ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

### **8. The Connétable of St. Clement (Chairman, Privileges and Procedures Committee):**

The proposal for the arrangement of public business is as per the Consolidated Order Paper and I would suggest that the sitting on 17th January is likely to take 2 days.

## **CHRISTMAS GREETINGS**

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

Sir, you have asked me to rise in the absence of the father of the House, Senator Routier, who is with 2 other Members of the Assembly attending a Commonwealth Parliamentary Conference in London where I saw him and I know that he would normally wish to be addressing and offering on behalf of the senatorial benches expressions of seasonal goodwill. There is, in fact, a Senator who has served longer than me in this Assembly and that is Senator Bailhache who in fact joined this Assembly in 1972, but apparently in the pecking order because of the way that the pecking order goes, you call me, Sir.

#### **The Bailiff:**

He is a very young Senator.

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

He is a very young Senator, yes [**Laughter**] but he has been here since 1972 and I just wanted to take that opportunity of saying that. Sir, it does fall to me, as the second, technically, most senior

Senator, to offer the Assembly and our colleagues and other people, on behalf of the senatorial benches, seasonal goodwill. We have, of course, welcomed back as Senator, Senator Ferguson to the senatorial benches, and it seems almost as though the period of time that she was not here did not exist, because she has made her mark, as she does, and we of course wish the departing Senator our good wishes as well. **[Approbation]** I know that I can speak with confidence on behalf of all my senatorial colleagues when I say that it is an honour and has been an honour to serve this Assembly and this great Island over the last year.

[17:15]

It has been a year in which there has been an incredibly changing world around us; a world in which Jersey, however, continues, as we have demonstrated in this debate today, to be a bastion of stability and certainty. It was on 14th October 1066 that the then Duke of Normandy invaded England. The people across the water apparently call it “The Battle of Hastings.” The Danish Ambassador, who has visited Jersey, tells me that he calls it “The First Viking-Danish Civil War.” I know, Sir, this Assembly, and you particularly, like to call it “The Norman-Jersey Invasion of England” and also I have been known to say also that we stayed. As we said farewell to the modern day representative of the Duke of Normandy, His Excellency and Lady McColl, and I am not able to say Christmas Greetings to him, and while his service to the Island has been acknowledged I do, on behalf of Senators, wish him and Lady McColl, our thanks and good wishes in the seasonal way. Their time in Jersey was indeed a golden period, and when he addressed the Assembly in the last sitting he spoke of course with great wisdom and he complimented a number of people in his address. He spoke of service and I spoke of service in the joy of serving as a Senator and serving our Island and this Assembly. In the remarks of your Deputy Bailiff when he took the oath of office, he recalled also the word “service” when he recalled the words of Speaker Weatherill and the fact that Speaker Weatherill said that he was the servant of this Assembly. We know that both you and the Deputy Bailiff take your responsibilities in serving us in such an exemplary way, and I will come back to you in a moment. I do thank a number of people for the service that they give. There is a word, so-called “civil servants”, and it is not generally a word that I like to use, as I find it somewhat pejorative. The Senators take this opportunity of thanking, however, the people whom I normally refer to as “officials” or “public sector workers”, the hundreds of public sector workers, for the work that they do on the senatorial benches and the other benches on this Assembly’s behalf, to serve the people of Jersey. It is not easy to be a civil servant, but we take this opportunity of recognising the service and dedication of so many, of hundreds of our staff, and I hope Members will join us in thanking every single member of the civil service **[Approbation]** particularly in the Christmas period. A technical problem has just meant that my iPad has given up. There may be just a short delay while my iPad fires up. There were a couple of other things. That is the problem of an iPad when you run out of power. Sometimes you run out of steam. **[Laughter]** I was going to go on to say, and I know that it will come back in a second ... of course this is the first time that a Christmas greeting is given when people have an opportunity of not only hearing the remarks of those that are privileged and have the honour to give the Christmas greeting, but also to see us in the webcasting. Indeed, we hope that the Chief Minister, who is not here today, is not watching or listening, because he is ill, but we do, on behalf of the senatorial benches, thank the Chief Minister for the support that he has given the Senators and this Assembly and the Island, for the hard work and service that he gives this Island. I know how much work he does. **[Approbation]** We have also welcomed in the last year, of course, a new Greffier, and the Senators have been impressed at the way that the new Greffier has assumed the position of Greffier and served us in such an exemplary way. It is almost as though he has been here for more than the few months that he has been, or the year he has been. We take this opportunity of thanking the new Greffier for being so quick to adapt into the Jersey way, and we take this opportunity of thanking the Deputy Greffier, particularly for no doubt the enormous support that she has given him in

assuming his position, and also the Assistant Greffier and the Greffe staff for the huge amount of support that they give the Senators and all Members of this Assembly, for what they do. **[Approbation]** This is apparently the last opportunity that a Senator will have to address the Dean, because the news of his departure was announced this morning. We take this opportunity of thanking the Dean for his service. There will be, of course, other times, but in this Christmas period, of which he is a person closely associated with the principles of Christmas, we wish him our very best wishes. We also thank him on behalf of the Assembly for the perhaps more informal role that is not known, of that as being pastor of this Assembly. He gives many Members who have difficulties, many Members who have had a bad day ... he is always there to offer a comforting word, and a helpful word, and an encouraging word. We do really thank the Dean for that additional, informal role that he plays. **[Approbation]** It is much appreciated. This is the first time that I cannot look up and see the *Jersey Evening Post* in their window because, of course, their window has been requisitioned by the camera operators who are operating that camera facility, but we do recognise and thank, as is traditional, the members of the media for the interest that they take in the proceedings of this Assembly. Perhaps they are sitting in front of their computer screens at Five Oaks, instead of being up in that box up there. But we know that there is another media representative sitting above the senatorial benches who, of course, has been taking a very close interest in Island affairs and this Assembly's deliberations, and we like to complain about the media, but we recognise the important role that they have in holding us to account and the importance of reporting the activities of this Assembly, and we thank the media for what they do, even though sometimes we criticise them. But we thank them warmly. **[Approbation]** This last year has seen the arrival and departure of a number of distinguished guests and visitors to this jurisdiction, and each of those has, without doubt, been an enormous pleasure for the Senators and other Members of this Assembly in the conversations that we have had. We recognise that as the dawn of 2016 ends, as a senatorial bench, that we hope that the Island is now enjoying, as a result of that, an improved international reputation. The Senators have enjoyed the Youth Assembly, organised so diligently by the Deputy Greffier in March, and how important that Youth Assembly is for our young people. Senators have enjoyed serving in a number of capacities on the C.P.A. (Commonwealth Parliamentary Association) and of course enjoyed greatly hosting the British Islands and Mediterranean Region Conference in May. We have had, at the senatorial benches, a difficult and sometimes fractious and sometimes challenging year, in persuading some of our colleagues in debates. There is, however, one thing that distinguishes this Assembly perhaps from other Parliaments. There will be, as we have seen today, some arguments, but there is one thing the cameras do not show, and that is the comradeship that is existing between the Members of this Assembly outside, in the coffee room and in the places that the cameras do not see. The Senators thank, and warmly thank, all our colleagues for the friendship that they show each other and we show each other in good times and bad times. We hope, certainly as far as the Constables are concerned, that nobody that made any remarks in the last debate is going to be barred from entry in any of our beloved Parishes, but we thank the Constables for their service to their communities and also the service that their municipalities give to the Island, which of course is a distinguishing feature of Jersey. To our colleagues, the Deputies, we extend our fondest good wishes, despite the fact that one of them has apparently expressed the desire to be abolished in terms of her name. We do not mind that; we do not really mind who is called whom, but we certainly recognise the work that the Deputies do in terms of representing constituents. That is another work that the Deputies do which is often unseen. We know as Senators, and those of us that have served as Senators, just how hard Deputies work in serving their individual constituents and how much that means. In terms of comradeship, we know that one Deputy has shown incredible courage against the battle of a very serious illness and that just shows the fortitude of that individual, and I know the affection in which Deputy Rondel is held in this Assembly and, while temporarily ill today, it has been so great to see him back and on his feet and taking part in this Assembly. **[Approbation]** While we also

respect the privacy of family life, there is of course another member of the Deputy benches who is definitely in our positive thoughts over this Christmas period. So, to you, Sir, Bailiff, and Mrs. Bailhache, we offer our Christmas greetings and our thanks for your service to this Assembly, and all you do for us, and also for the Deputy Bailiff for the way he has conducted himself in presiding over this Assembly. We thank Her Majesty's Attorney General and Her Majesty's Solicitor General for the endless advice, sometimes at short notice and always given as speedily as possible without fear or favour of any rank, standing of Minister, Back-Bencher, Scrutiny Panel, for the advice that they give. We know that they go beyond the call of duty helping us in coming to good decisions. We thank the Viscount and Deputy Viscount for their presence here and we also thank the ushers for their endless ability to serve us in passing notes and offering some pretty good advice and some pretty frank talking about what exactly they think about certain issues. **[Approbation]** That, of course, always remains entirely confidential. On behalf of the Senators, we see the dawn of an interesting and difficult 2016, but the senatorial benches look forward to joining back into the Assembly in 2017 and dealing with the challenges ahead. I say that it is a privilege to serve this Assembly and all Senators will spend, hopefully, a restful period of time and come back refreshed in terms of having even more energy to deal with the challenges in 2017 and beyond, and I thank everybody for listening to these remarks. **[Approbation]**

### **The Connétable of St. Helier:**

I had 2 speeches. **[Laughter]** I am not sure which one to use. I must say, it is very hard, going second. The sooner we get rid of the Senators the better, I think, because Senator Ozouf has said all that needs to be said. However, I am inclined to avoid repetition, as is required in Standing Orders. On behalf of my fellow Connétales, I would like to extend our Christmas greetings to you, Sir, and to all Members of this House. It has been another busy year for the States, with the usual debates about T.V. (television) licences, the role of the Bailiff, and the States paying rates. But we have at least been spared a no confidence vote in the Council of Ministers and we have also been spared a debate about Sunday trading and we have been spared that usual annual proposition attempting to oust the Constables. At least we have so far, but I did not quite have time after the last vote to get it written. **[Laughter]** A highlight for the Constables was the 90th celebrations of Her Majesty the Queen, and these were done, as you would expect, differently in every Parish. In St. Helier we celebrated with bunting showing Her Majesty at 3 stages in her career, which was hanging in the town for much of the summer, rattling very noisily, much to the distress of some people who use town, but at least it made the point that all of us in the Island are very grateful to Her Majesty for her headship of the Commonwealth. In a related point, and it has been mentioned by Senator Ozouf, we of course were very blessed by the presence of His Excellency the Lieutenant Governor. In St. Helier we enjoyed the last of the 12 Governor's Walks, which were run so capably by Frank Falle and enabled us to show His Excellency and Lady McColl around parts of St. Helier they might not otherwise have reached. Of course, their early departure means we cannot give them Christmas wishes, but I know that Members do wish them very well in their home in England. As the Senator has mentioned, we have web streaming in the States. He did not mention, of course, the obvious effect this has had on us.

[17:30]

As far as the madam Constables go, we have seen a sudden blaze of coloured frocks, which has been so good to see, and the men are more limited and restrained in their reaction to web streaming, but have at least started taking more care of their ties. **[Laughter]** So, as has been mentioned, we say goodbye to the Dean in February, and this will be our last chance to include him in our Christmas speech, and also Mrs. Key, and we are grateful to them. He is also, of course, the Rector of St. Helier, but he gives a great deal of help right across the Parishes to all of the rectors of the 12 Parishes. While we are speaking about the churches, let us also extend our Christmas wishes to our

leaders of all faiths in the Island who provide such a great deal of service to us, whether it is the Catholic community, the Methodist community, the Muslim community, and so on. The voluntary groups have been referred to as well, and I think even more since Sir John's parting speech, and we are very grateful once again to them and all the work they do, particularly from the point of view of the Constables, the enormous work carried out by the Honorary Police in the Island **[Approbation]** not only in their very visible role in making many events possible throughout the year, but in that work they do to ensure that our unique system of justice is applied fairly and consistently, with many people who would otherwise have criminal records but are spared that by a few choice words from a Connétable at a Parish Hall Inquiry. Finally, we do thank you for the manner in which you have presided over the House. Your door is always open and you are always ready to offer words of advice and guidance when these are required, and even occasionally when they are not. **[Laughter]** We also thank the Attorney General and the Solicitor General, your families, Mrs. Bailhache, and the families of the Crown Officers, the Dean and Mrs. Key, the Deputy Bailiff, the Senators on my right and the Deputies on my left, the Viscount and their staff, the ushers, including the one who retired this year after many years of service, giving his place to our new usher; he must be wondering what on earth he has taken on. **[Laughter]** To Jan, our tea lady, the press, and the many other people associated with the efficient running of this Assembly. We wish you, Sir, and everyone, a truly peaceful and enjoyable Christmas, and best wishes for 2017. **[Approbation]**

**Deputy J.A. Martin:**

And going third is never a good place to be, especially when, as the Constable has just said, if this was Standing Orders, I would be done for repetition, because there is only so much that the Deputies benches can add to the excellent comments from Senator Ozouf and the Constable of St. Helier. I did think I was going to give out a few gongs, one for the longest speech, but there were too many contenders. The other one was going to be for the speech that had the least relevance to the proposition that we were debating, and that one definitely had the most contenders but sadly one of them was myself, so I thought I had really better not go there, when you start looking at Hansard. **[Laughter]** I did want to give one out, and my friend was over for this particular sitting, and it was our sitting on Liberation Day, and she was up there. She and I were absolutely moved by the speech of the Constable of St. Saviour, it was truly reminiscent of what it was really like, and it really came across in that way. **[Approbation]** I look up at Senator Ozouf, and I just want to clear one little thing up, because we do have the cameras in now. Many months before we had the cameras in, Senator Ozouf was giving us one of his lovely speeches and he told us he had been ... and I thought, Sir, he said he had been to the biggest "Trekking" conference in the United States, and I made the Trekkie welcome sign to him across the Chamber. He said, "Deputy Martin is making hand gestures to me." We did not have T.V. then so I really thought we would clear this up, and that is the international sign of Star Trek, and I say to you, Senator, it did go over your head, but I also mix my sci-fi up and say: "May the Force be with you." I was not here last year because the middle child decided he was never coming back to Jersey and I was to meet him halfway around the world, and when I met him, he told me he would be back in January. I still had a nice time. I could not remark on my first year on being on the Jersey Overseas Aid Commission and how it absolutely opened up my eyes to what the money does, what the generous people of Jersey do, and how much more work there is out there: the Syrian crisis, the millions of children who do not have clean water, and these are not the adverts you trot out; these are real stories and they really, really opened my eyes. It is something to think about. In Jersey we talk about ... and it is all relative poverty; I know it is not fair for everybody, but being on this committee, as I say, has just put some other things in total perspective. I would also say, like Senator Ozouf and the Constable, we are a mixed bunch. We are from all different political persuasions, but I will say, and I include the majority if not all the people in here, I can have an argument in here now, disagree today with the Constable of St. John, and other days agree with the Constable of St. John, but we

can also find ourselves not just in the coffee room, in one of the nice licensed establishments across the road, and thank you for many of the Constables, we do not have to pay any more for, or not too much more, for our drink, that we can then have a serious conversation as to why we did not agree. **[Laughter]** It is never, never, never held personally. So, on behalf of all the Deputies, I would like to wish a sincere Christmas regards to all the Senators - I think I need my glasses now - the Constables, to you, Sir, and Mrs. Bailhache, the Deputy Bailiff, the Attorney General and Her Majesty's Solicitor General, the Dean and Mrs. Key, the Viscount, the Deputy Viscount, the Greffiers and all the States Greffe staff who are working in the clerk's offices for Scrutiny. **[Approbation]** Also those in the publications and bookshop who support this Assembly immensely, the ushers: Stewart, Paul, Dean, Marios and of course John, who left earlier this year, Jan, our tea lady, and all the media. I know you would all want me to also pass on to everybody living in Jersey all the best wishes for Christmas and a fantastic New Year. Thank you, Sir. **[Approbation]**

### **The Dean of Jersey:**

On behalf of those who sit in this Chamber by virtue of Her Majesty's appointment, it falls to me for the last time to wish everybody else a very happy Christmas. I want to thank Members for finishing this evening, because tomorrow is the second day of the 2-day appointment process for a new Rector of St. John and tomorrow morning is the preach-off in the church in St. Helier, and so I will be listening to 2 people speak, who will be speaking on exactly the same passage, so there will be some repetition, which will make me feel at home **[Laughter]** but we have limitations as to the number of minutes from which we can speak, which may be something we might consider. It is always a joy to spend another year in this wonderful Assembly. Many people around the world, when the television cameras are in, you see Members of the Government or Opposition, as maybe, huddling up behind the poor, lone speaker who appears to be the only person interested enough to be there, and we rightly sit and listen and we rightly sit and listen to each other. I am so pleased that all those who have spoken before me, I have to say to her through you, Sir, that 20 years of teaching, preaching, in Oxford, never led me to say anything to any of my students that would remotely have prepared them for having to follow Deputy Martin in speaking, and that is just such a joy. For her to have spoken about being able to agree afterwards, because I thought we might have just a moment of culture, so I turned up my iPad to the Loony Tunes Warner Brothers website and you may remember the Loony Tunes of Ralph Wolf and Sam Sheepdog, who clocked on, religiously, at the start of their shift, as friends, to spend the entire day bashing 7 bells out of each other, and then - or whatever is the parliamentary equivalent - and then clocking off and returning home as best friends. It seems to me we have seen that so much, in the nicest possible way, here. I am so pleased we have paid tribute to the ushers, because from where I sit it is almost impossible to see an usher **[Laughter]** but Members kindly make signals to him, that the Dean has a note, and they very kindly come and tell me some other Member wants to speak to me. One day, just a few months ago, I had one: "The Governor is waiting for you downstairs, Sir" because I had missed his eyes trying to catch my attention, and I was about to be late for our regular Tuesday morning coffee break. So, when Sir John left, I did not just lose a Governor and a friend, I lost a coffee partner, but also a competitor. You may not have known, but some of us have a little competition in the appointed Members as to socks we wear on States Days. We try to be slightly statement-like. Yesterday it was pink and black hoops; today it is London buses; but something just to lift the thought. I am glad, Sir, that with you and your Deputy Bailiff, I may have lost my socks competitor, but those who like sushi for lunch very much remain. This is a good moment to thank all Members of this Assembly for their support and understanding and welcome, and to wish all those with whom I so gratefully value my membership of this Assembly, a very happy Christmas, to you and to your families, your wives, your husbands, your partners, your friends. To thank you, Sir, personally, for your support, without which my job and ministry would be quite impossible. It

just remains for me to wish you not simply the happiest Christmas you can have, but also the blessings and peace of the Christ Child whose birth we celebrate. **[Approbation]**

### **The Bailiff:**

For those of you who thought it was hard going second, third or fourth, I can assure you that going fifth is much more difficult. **[Laughter]** I am very pleased to be back in the southern Channel Islands. I have had the opportunity of contributing to the law of Guernsey the last 3 days, where I have been sitting in the Court of Appeal, and it is a real pleasure to be back. It has been a pleasure to notice for the first time that Senator Ozouf has not only run out of power himself but caused his Christmas greetings to run out of power. **[Laughter]** In all events, Senator, Connétable of St. Helier, Deputy Martin, the Dean, I would like to thank you most warmly and sincerely for your kind greetings that you have given to me and to my wife, and to the Deputy Bailiff. I very much appreciate them. Usually, at this time of year, I give a report about how hard you have all worked, and I am sure you would like me to do the same again. The Assembly met for 34 days during the year: 36 laws and 38 sets of regulations. There have been questions about some of the regulations which come in at the wrong time, as we have heard today, but we have also dealt with 20 Private Members Propositions. There were more written questions in 2016 than in 2015, and 50 more oral questions.

[17:45]

Of course, it is impossible to choose any of the particular debates, but I particularly have enjoyed the Discrimination Law 2013 coming in to include protection against discrimination on the grounds of age, because as the years go by, I find this to be increasingly meaningful. Of course, we have had 2 very important debates in September when the Mental Health (Jersey) Law was adopted, and the Capacity and Self-determination (Jersey) Law also adopted. In November, the Ministry of Health had to work very hard on the new hospital, and that of course is going to be a major capital project for the Island, and the Minister for the Environment has brought into effect measures to protect the bass, which I have to say was never at much risk as far as I was concerned, because I last caught one about 40 years ago. But many important debates and important legislative items, and the increased holding of Ministers to account with oral questions. Now, as has been mentioned, we had an unexpected by-election in September following the resignation of Senator Cameron, and as again mentioned, a pleasure to welcome Senator Ferguson back to the Chamber. It is an especially warm welcome as she contributed not less than 3 times to the Christmas Charity Appeal at her first meeting in September, when her iPad disrupted the proceedings on 3 occasions. **[Laughter]** I am advised by the Greffe that the second meeting in September, at which the Medium Term Financial Plan was debated, was a most lucrative meeting for the Christmas Appeal, coinciding as it did with the inauguration of the web streaming of this Assembly, and Members frequently forgot to turn off their iPads or put them to mute so that they could watch the performances directly, although why it was impossible to watch the performances from in here, I am not quite so sure. But £80 was collected from that meeting alone, so your generosity has been much appreciated. £240 in all has been raised during the year, and in addition to that, very kindly donated by the Connétable of St. Saviour earlier this week. This will be paid on your behalf to the Christmas Appeal. The year has seen a number of internationally significant decisions being taken. Brexit, obviously, is one of them. But it does emphasise why the Assembly is absolutely right to be not only inward looking, considering what goes on in the Island, but also outward looking, and it emphasises how important it is that we do have the visiting foreign dignitaries which Senator Ozouf has mentioned. We have had the French, Swiss, Estonian and Israeli Ambassadors, and the High Commissioner from South Africa this year, as well as the President of Normandy, Mr Hervé Morin, and the President of La Manche, Senator Philippe Bas. Looking outwards is really important in any small community, and Members have attended the C.P.A. meetings, the Deputy Bailiff with the



new Greffier attended the Commonwealth Speakers and Presiding Officers meeting in Malaysia, and I was able to attend the Commonwealth Magistrates' and Judges' Association Meeting in Guyana. So, although we are a small jurisdiction, we do try to play our proper or, from the larger jurisdictions' perspective, maybe too noisy a part in the outside world. Of course, all these things do help to foster mutual understanding. The presiding officer of the Assembly has to rely very heavily on the clerks to that Assembly, and we are very, very fortunate to have the strong and hardworking team, ably led by our new Greffier, who came up to speed with his new role extremely quickly, and has proposed a number of innovations and efficiencies, not only into the operation of the States Greffe, but also into the Assembly. I was very pleased, Senator, that you mentioned the Jersey Way, which some of you may remember I took up when I was sworn in last year, because it is an expression that is sometimes misunderstood, and when I say that to me it means doing things with integrity, and with competence, and with fairness, and with compassion, that should sum up, and in my belief does sum up, exactly the way in this Assembly we try to tackle the various problems that we face. I thank Members for the approach which almost invariably is taken in that respect. Thanking the Greffe and the Greffe staff; they act extremely competently and I know they will have appreciated the recognition which Members have given to them today. Of course, I am also very pleased to recognise the Viscount and her staff, and those who serve outside, and of course the ushers, 3 of whom are here now. It has been mentioned that we do not have the Governor here personally to wish a happy Christmas, but General Sir John McColl and Lady McColl were very much loved by the people of Jersey. They were given a magnificent send-off, and I know they found that to be extremely moving. Just taking up the point of the Battle of Hastings, I have to say that, as an Englishman, he found my description of Jersey's conquest of England slightly irritating. **[Laughter]** But, you know, for all his abilities, he found it was unarguable. It has been an eventful year and it is time now for us all to take some well-earned rest. No matter what your personal beliefs are as to the significance of this time of year, the rest is important. I would like to wish you all, on behalf of the Deputy Bailiff, the Attorney General, Solicitor General, Greffier, Viscount, the Chief Usher, all members of our teams, to wish you all and wish your families a very peaceful and relaxing, refreshing Christmas break, and thank you for your good wishes. **[Approbation]**

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

I propose the adjournment, Sir.

**The Deputy Bailiff:**

The adjournment is proposed. But now I have been caught out, since it is obvious I have torn up the agenda from the last occasion. **[Laughter]** What date is it? The States now stand adjourned until 17th January 2017.

**ADJOURNMENT**

[17:52]