

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 19th JULY 2017

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[9:30]

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

## **COMMUNICATIONS BY THE PRESIDING OFFICER**

### **Acting Dean of Jersey - Thanks**

#### **The Bailiff:**

I am not sure whether we are going to finish the list today, but just in case we do, I wanted to say a few words. Some 6 months ago, the former Dean retired and we have had since then the Reverend Paul Brooks as the Acting Dean, sitting in the States. **[Approbation]** It has been a pleasure to have him here. I would like to thank him for his contributions, not just of course for reading prayers, but on the few occasions that he has spoken. Also I would like to thank him generally for his work as Acting Dean on Liberation Day and the other major events that have taken place where he has filled in so completely that we have really not even noticed that we did not have the Dean. It was absolutely excellent. Thank you very much on behalf of us all. I hope he has enjoyed filling in this particular job and although I am very much looking forward to the arrival of the new Dean, I just note that, in some ways, it is a pity that the Reverend Brooks did not put his own name forward for being Dean, because I am sure he would have stood a very good chance of it. Thank you very much. **[Approbation]**

## **PUBLIC BUSINESS – resumption**

### **1. Draft Drainage (Jersey) Law 2005 (Appointed Day) Act 201- (P.38/2017) - resumption**

#### **The Bailiff:**

We now resume debate on P.38, the Draft Drainage (Jersey) Law 2005 (Appointed Day) Act 201- and I call on Deputy Norton.

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

Sir, before Deputy Norton speaks, may I just advise Members that I have asked that a copy of the *Economic Contribution of Tourism* be placed in their pigeon holes. It is an important document that they might find helpful during this debate.

#### **The Bailiff:**

Is that a speech?

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

No, Sir.

#### **The Bailiff:**

I will think about that. Deputy Norton?

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

It is a pleasure to follow my Minister. With regard to a waste charge, I do not disagree with there being a waste charge. I think I am not alone in that. It is, after all, about fairness. Householders pay tax. They are paying tax for the treatment, among other things, of waste, liquid waste. That liquid waste comes from homes and from businesses. Businesses, with regard to income tax, do not pay tax. Some of their businesses have directors and shareholders, who will draw profits and, of course, will pay tax on that. That is their personal income tax. Some of these businesses have shareholders who are not even local, so one is suspecting they do not pay their tax locally.

However, the hospitality industry in general and I am delighted that so many of them have joined us in the Assembly, in our gallery, today and have taken some time off to do so [Approbation] from what is, I am glad to say, a very busy season. The hospitality sector, in general, agree that a waste charge is something that must be paid for. They have contacted myself and other States Members to agree. They do not disagree with a waste charge. What they disagree with, possibly, are some of the figures and the timescale of it coming in. They, in the industry, would wish to sit down with the Minister and delve further into those figures and find a compromise that, while not all will be comfortable with, at least they will be able to provide figures that are, in their words, more accurate. I ask: is the Minister satisfied with the engagement of the industry so far? Hoteliers must, of course, use water, as do the restaurants within and the restaurants outside of hotels. They have little in the way of a definitive control on limiting the use of water by the holiday makers, unless they start putting timers on bathrooms, it is going to be a little bit difficult. We have probably been to places where there are water shortages and there are notices about being sensitive to the water that you use. I know that hoteliers use those signs here as well, but it is very difficult for them to control how much water waste they will have. The hospitality industry will be impacted far greater than many of the other businesses when it comes to waste charge. I am sure the Minister would prefer to be at one with the industry and that, although reluctant, they would be in agreement to a waste charge and that it is indeed inevitable, but should be fair. I have asked the Minister for Infrastructure to assist the hospitality industry; to search for some wiggle room; to look if there is a better deal to be done. Could the Minister extend the period before it becomes effective? Could the Minister consult further with the industry? Could the Minister help businesses? As the Assistant Minister for Economic Development, Tourism - with a big capital T - Sport and Culture, economic development is one of the 4 pillars which the Council of Ministers stood up at the beginning of this term of office and said that it would support. Tourism has grown greatly during that time. I would ask the Minister for Infrastructure and I would ask the Minister for Treasury and Resources and all other members of the Council of Ministers to search and see if they can assist, wherever they possibly can, to make the inevitability of a waste charge more comfortable than it currently looks in the proposition.

[9:45]

### **1.1.1 Connétable S.A. Le Sueur-Rennard of St. Saviour:**

I would like, first of all, to say I am on the Scrutiny Panel, but I have met with a lot of these good folks upstairs. I loved the little pieces of paper which we had from the primary school for drawing and colouring. It says here that the hotel's income is zero, but that is not their choice. That is the law. If we want them to pay income tax, we then have to change the law. What everybody is failing to realise is that they do pay tax, because whatever they buy into the hotel has G.S.T. (Goods and Services Tax) on it, so they buy that. I am not a hotelier and I am one of those who are going to be hit with this, because my dairy farm is on mains water. I am a little bit disgruntled about that, for the simple reason I cannot alter the way the units are washed and the way the vault tank is washed, because X amount of water has to go through everything to make it hygienically correct. That water then goes into my slurry pit, but I am going to be charged, unless I can come to some sort of arrangement - we never know - for the water that is going down the drains, which do not exist on my farm, because it is going into the slurry pit. Everything I buy has G.S.T. on it. All the work that is done on the farm, the contractors charge me G.S.T., so I pay a tax on that. The hoteliers are exactly the same. How many rolls of toilet paper, how much food comes through, the laundry units that they use, has all got G.S.T. on it. The fact that they are being ... not just picked out, or victimised, for not paying income tax is wrong, because it is our fault here, in this House, that they do not pay income tax. It is up to us to change the law and to charge them. Among all the people we have spoken to - a lot of them, as the Deputy has just said, are not too bothered about having to pay - but whatever is happening next year has already been agreed and the brochures

have gone out with those prices on. I think we should have given them a little more warning. Like myself, the milk that I send to the dairy is governed by the price the dairy gives me. I cannot haggle. It is that or nothing. That comes again, a little bit below the belt, because the foodstuffs go up, the work that the men do for me goes up and I have to absorb that charge. I do not see why we should penalise people, who are trying to make this Island work. I have said many times in the meetings we have had that have been open, I am against this. I am still against it. I know you guys do want to pay, so I wish you luck and I wish us luck. If you want them to pay tax, change the law, but do not keep picking on them.

**Deputy M. Tadier:**

May I raise a matter with the Chair? There is a rumour going around and I think it is more than a rumour, because it has been confirmed to me on good authority that the Minister is offering to delay the introduction for another 6 months. It would be helpful to know whether this is an official position early on in today's proceedings before any other Members give their speeches, because it may be material as to how we proceed and which decision is ultimately made. I guess I am asking if we could hear from the Minister, with your direction.

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

Would you like me to help with this?

**The Bailiff:**

Do you wish to speak or ...?

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

I do not wish to give a speech at this stage, but I am happy to help with this matter, if that be of assistance to Members.

**The Bailiff:**

If you could clarify that would be helpful, Minister for Treasury and Resources. The Council of Ministers speak with one voice, I take it, on this, so I not mind whether you help, or the Minister helps. As it is in answer to the Deputy's question, perhaps, Minister, you would like to deal with it?

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

Yes. Overnight the Council of Ministers have been listening. We have agreed and we were going to be announcing shortly, via the speech of the Minister for Treasury and Resources, that we do wish to proceed with the Appointed Day Act and we do wish to proceed with the bringing in the Order this year, but instead of that Order becoming effective on 31st March 2018, we are proposing that it will become effective on 1st January 2019, giving a further 9 months to the industry. **[Approbation]** Not only that, we are keeping by our promise that the first year will still carry a 50 per cent discount and so, in 2019, non-households will be charged at a 50 per cent rate and on 1st January 2020, the full rate will come in. I hope that provides clarification to Members.

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

May we ask any questions?

**The Bailiff:**

No, I am afraid you cannot, Deputy. Minister, could you just clarify the extent to which that is binding on your successor, as Minister, following the election next year?

**Deputy E.J. Noel:**

That is why I want to bring the Order in this year, so the Order will be in place and it will be specified in the Order.

**The Bailiff:**

Thank you.

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

May I ask a point of order? This has obviously come as a complete surprise to myself, I had not heard the rumour. I know that a lot of people have contacted me and I would like to know their opinion on it. Is there any possibility that we could move to the next item of business now and resume this item of business later in the agenda, for allow time for reflection?

**The Bailiff:**

Normally, Connétable, as you are aware, there would need to be more speakers before there is a proposition to move to the next item, but in the unusual circumstances of this case - where the proposer has introduced some new information in the course of the debate - it seems to me to be not unreasonable to allow you to move the proposition.

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

Also could I suggest that consideration be given to a reference back, if that makes comments easier.

**The Bailiff:**

We cannot do both.

**Deputy A.D. Lewis:**

I know you cannot do both, Sir, but I was wondering what the merits on one, or other, would be.

**The Bailiff:**

There is, I think, a proposition, if seconded, that we move to the next item. Is that seconded?  
[Seconded]

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

Can we be clear of what the Constable of St. Mary is proposing? I thought she said move this to the bottom of this list, not move to the next item. That is 2 different propositions. I would just like to be clear: are we moving proposition to move on to the next item then this will be pushed back to September/October.

**The Bailiff:**

Thank you, Deputy. I understood it to be moving to the next item. In which case, it would go back to a date to be fixed in the autumn.

**The Connétable of St. Mary:**

Sorry, Sir, perhaps I did not say it loudly enough. My question was: could we move to the next item, but this item be re-opened, re-moved, later in this sitting?

**The Bailiff:**

No.

**The Connétable of St. Mary:**

Okay.

**The Bailiff:**



Do you still wish to move your proposition?

**The Connétable of St. Mary:**

No, Sir.

**The Bailiff:**

You do not wish to move it? All right.

**Deputy J.A. Martin:**

Well, can I move a proposition that we move on to the next item? As you are going to allow it from the Constable of St. Mary, it must be the same under the Standing Orders. Thank you.

**The Bailiff:**

I am sorry, I did not hear that.

**Deputy J.A. Martin:**

You said normally under circumstances you would not allow it, because there have not been 10 speeches. But due to the new information you are allowing a move on to the next item proposed; you thought - sorry, Sir, I heard the Constable correctly - to the next item.

**The Bailiff:**

Yes.

**Deputy J.A. Martin:**

As she did not propose it, I would like to propose that now: we move on to the next item. It must be the same new information, so I maintain that proposition.

**The Bailiff:**

Yes, Deputy, it is the same, whoever brings that proposition.

**Deputy A.D. Lewis:**

Can I just be clear, as there are a lot of spectators in the gallery, that “move on to the next item” means that this will fall off the agenda for today and be re-debated, if necessary, in the autumn? Is that correct?

**The Bailiff:**

Well re-debated when it is brought back, yes, which presumably will be in the autumn.

**Deputy A.D. Lewis:**

So, it will be in the autumn?

**The Bailiff:**

Yes. Is the proposition seconded? **[Seconded]** Very well, do ...

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

Can I ask that the défaut be raised on Senator Ozouf?

**The Bailiff:**

The défaut is proposed to be raised on Senator Ozouf. The défaut is raised. Deputy Martin, do you now wish to speak in support of your proposition to move to the next item?

**Deputy J.A. Martin:**

I have not got this ... well I have got the Standing Orders but there is no debate, not by ...

**The Bailiff:**

There is no debate, this is true, but I think you are entitled to say something just if you wish.

**Deputy J.A. Martin:**

Well, when I was going to speak - and prior to the Minister speaking - I was very, very concerned and I was going to do a reference back under Article 83(1)(b) which is because the Minister has given us ambiguous and inconsistent information in his very, very quick reply that has been turned around, which is an insult to Scrutiny and it is an insult to me. If that is not ambiguous and inconsistent that they turned around in 24 hours, my problem was I did not really know enough about the subject, but a reference back is a reference back. But now the Constable gave me a very good idea and you agreed it, to move on to the next item. Hopefully, over the summer, this will get the Minister talking to the industry, like Scrutiny did. Scrutiny went out and consulted and, as I say, the report came back - a very long, 137-page, report - and it was replied to. Just the first bit: did you all know that D.f.I. (Department for Infrastructure) was going to become a trading company in 2020? Have you approved this? This is the first answer that they put in their reply.

**The Bailiff:**

This is just a question of moving to the next item. **[Laughter]**

**Deputy J.A. Martin:**

Well you gave me an opportunity to speak so I ... **[Laughter]** sorry, I am always shouting in the Deputy of St. Martin's ear. So, yes, I maintain it. I really think we need to go back. The Minister has just told us he is in no hurry, why would we push it through today on really bad information? I maintain to move on, thank you.

**The Bailiff:**

Very well, thank you. It is proposed and seconded.

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

May I make a declaration of interest? Because a number of Members made declarations of interest which were tangential, of which I have a tangential, theoretical, declaration of interest, which I wish to make.

**The Bailiff:**

Well, what is the interest?

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

The interest is in a commercial property, which I am the landlord on, but in theory if charges could do, rent could come down.

**The Bailiff:**

All right, thank you. Very well, do you call for the *appel*? The *appel* is called for. I invite Members to return to their seats. The vote is on whether to move to the next item under Standing Order 85 and I ask the Greffier to open the voting.

<b>POUR: 31</b>		<b>CONTRE: 15</b>		<b>ABSTAIN: 0</b>
Senator L.J. Farnham		Senator P.F. Routier		
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Connétable of St. Helier		Senator A.J.H. Maclean		
Connétable of St. Clement		Senator I.J. Gorst		

Connétable of St. Lawrence		Senator P.M. Bailhache		
Connétable of St. Mary		Senator A.K.F. Green		
Connétable of St. Ouen		Connétable of St. Peter		
Connétable of St. Martin		Deputy of Trinity		
Connétable of St. Saviour		Deputy E.J. Noel (L)		
Connétable of Grouville		Deputy S.J. Pinel (C)		
Connétable of St. John		Deputy of St. Martin		
Connétable of Trinity		Deputy R.G. Bryans (H)		
Deputy J.A. Martin (H)		Deputy of St. Peter		
Deputy G.P. Southern (H)		Deputy R.J. Rondel (H)		
Deputy of Grouville		Deputy S.M. Wickenden (H)		
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy L.M.C. Doublet (S)				
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)				
Deputy P.D. McLinton (S)				

## **2. Draft Income Support (Amendment No. 16) (Jersey) Regulations 201- (P.45/2017)**

### **The Bailiff:**

For the benefit of those in the gallery, that means that Act is not going to be adopted today. All right, can we get back, please, to usual conduct of States business? Thank you very much. The Minister for Social Security, I understand you have a funeral that you would like to attend. I am wondering whether it would be convenient to deal with the Income Support (Amendment No. 16) Regulations at this stage. Would you wish to do that? Then we will take that out of order and I will ask the Greffier to read the proposition, citation of the draft.

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

Draft Income Support (Amendment No. 16) (Jersey) Regulations 201-. The States, in pursuance of Articles 5 and 18 of the Income Support (Jersey) Law 2007, have made the following Regulations.

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

Thank you for being so accommodating. Two years ago we agreed the Medium Term Financial Plan for 2016 to 2019. The plan sets out how we will make progress towards our strategic objectives, including investing in our health and education services, while keeping our public finances on track. However, it has also meant we needed to make difficult decisions about where we can save money, where we should re-prioritise services and where we should make charges for the services we provide. My most difficult decision, as the Minister for Social Security, has been to decide how we could limit the income support budget to contribute to the savings needed, so that we could afford these important investments. This meant, among other things, limited increases to

the income support component in 2015 and 2016. The decisions I took in 2015 were fully supported by the States and I am very pleased to report that we are on track to fully meet the target set by the States at that time. Within these targets, the Medium Term Financial Plan includes money to increase income support rates in October 2017 and again in 2018. This year, I am proposing to increase income support rates in 2 separate ways. First, I am proposing to increase every income support component by 2.9 per cent, in line with the increase in the cost of living over the last year. There are components payable to each adult and each child in an income support household. A separate component is also provided to each household. Additional components are provided for accommodation, childcare and various health-related costs. All of these will be increased by 2.9 per cent. For example, the adult component will rise from £92.12 a week to £94.85.

[10:00]

The Regulations, which are the subject of today's debate, cover this first part of my proposal. Second, I will be strengthening the financial incentives for households to provide their own income, by increasing the allowance for income from 23 per cent to 25 per cent, the highest level ever. This means a household will keep £2.50 for every £10 of wages, or pension, income on top of their income support benefit. Together, these proposals will help all households claiming income support and strengthen their incentives to move forward towards financial independence. The Medium Term Financial Plan provides for a further increase in income support rates next year. The details of this increase will be considered in 2018. With your support for my proposal and these Regulations, I will make the change to strengthen the financial incentives in income support by Ministerial Order during the summer. I am pleased to propose these Regulations. Thank you.

**The Bailiff:**

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

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

While I, of course, welcome an increase in benefit levels to the betterment of the ability of the poorest in our society to make ends meet, I have to set this in context. The fact is that while describing this as an increase of 2.9 per cent, in reality - given the fact that these benefits by and large have not been increased for the past 7 years - in many cases, this amounts to a reduction by something like 12 per cent of people's disposable income. Let us make no mistake about this. With this rise, nonetheless, the worst off in our society will be worse off. That is the reality. I have to say that there is some major research and some major changes that have to be considered if we are going to even allow our benefit level to be the equivalent to what it was when it initiated back in 2008/2009. We have seen very few rises in the income level of these people. It is about time we did something. There is a major piece of work that needs doing on top of this tweaking as it is.

**The Bailiff:**

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

**2.1.2 Deputy S.J. Pinel:**

I thank the Deputy for his comments, which were not unexpected, but this is a good-news story. Social Security has done what it promised to do and, according to the Medium Term Financial Plan, raising the income support levels in line with R.P.I. (Retail Price Index) for 2018. We will look at it again, but we will raise it again in 2019. Can I please propose the Regulations?

**The Bailiff:**

Well we probably ought to vote on the principles, I think, Minister.

**Deputy S.J. Pinel:**

Do we? Oh, right.

**The Bailiff:**

Those Members in favour of adopting the principles, kindly show?

**Deputy M. Tadier:**

Could we have the vote, please?

**The Bailiff:**

The *appel* is called for. I invite Members to return to their seats. The vote is on whether to adopt the principles of P.45. I ask the Greffier to open the voting.

<b>POUR: 38</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier		
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. Helier		
Connétable of St. Peter		
Connétable of St. Lawrence		
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 G.P. Southern (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
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 L.M.C. Doublet (S)		
Deputy S.M. Wickenden (H)		
Deputy S.M. Bree (C)		
Deputy M.J. Norton (B)		
Deputy T.A. McDonald (S)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy P.D. McLinton (S)		

**The Bailiff:**

Deputy Southern, your panel does not wish to scrutinise these Regulations?

**Deputy G.P. Southern (Vice Chairman, Health and Social Security Scrutiny Panel):**

No, indeed, we have not got that much time.

**The Bailiff:**

Very well, do you now wish to propose the Regulations *en bloc*?

**2.2 Deputy S.J. Pinel:**

Yes, please, Sir.

**The Bailiff:**

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

**2.2.1 Deputy G.P. Southern:**

Yes, and I speak again just to raise one particular issue, which I believe our Scrutiny Panel will sooner, or later, be bringing back to this House and that is the benefits for single parents, which not only have been subject to a lack of inflation increases during the whole 7 years, but, in fact, have been cut, deliberately, on no grounds whatsoever by eventually up to £40 a week, which means that people, single parents, out there are finding it increasingly difficult to make ends meet, to put food on the table, to heat their homes, as we sit here. That is something that definitely needs addressing as a matter of some urgency.

**The Bailiff:**

Does any other Member wish to speak? Minister, do you wish to reply?

**2.2.2 Deputy S.J. Pinel:**

I am well aware of the Deputy's concern on this matter, but the States of Assembly agreed that the targeted savings that we made last year, or 2015, were appropriate. I call on the Regulations to be adopted, please.

**The Bailiff:**

All those in favour of adopting the Regulations, kindly show.

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

The *appel*, please.

**The Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the Draft Income Support (Amendment No. 16) (Jersey) Regulations. I ask the Greffier to open the voting.

<b>POUR: 36</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator L.J. Farnham				
Senator A.K.F. Green				
Senator S.C. Ferguson				

Connétable of St. Helier				
Connétable of St. Peter				
Connétable of St. Lawrence				
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 G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy M. Tadier (B)				
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 L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

**The Bailiff:**

Do you wish to move the Regulations in Third Reading, Minister?

**Deputy S.J. Pinel:**

Yes, please, Sir.

**The Bailiff:**

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

**3. Counter-Terrorism and Security Act 2015: extension to Jersey by Order in Council (P.42/2017)**

**The Bailiff:**

We now return higher up the Order Paper to the Counter-Terrorism and Security Act 2015: extension to Jersey by Order in Council P.42/2017, lodged by the Chief Minister. Deputy Chief Minister, do you ... the Chief Minister is not here.

**Deputy K.L. Moore of St. Peter:**

I will be taking this.

**The Bailiff:**

All right, the Deputy of St. Peter, you are the *rapporteur*, are you? Very well, thank you. Would you like to ... just a moment. I am sorry, I am ahead of myself, I shall ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion to agree, pursuant to Article 31(1)(b)(i) of the States of Jersey Law 2005, that a request be made to Her Majesty in Council for the making of an Order in Council, that would extend to Jersey, with appropriate modifications and adaptations, the provisions of (a) part 1 and part 4 of the Counter-Terrorism and Security Act 2015; and (b) Schedules 1, 2, 3, 4 and 5 to the said Act dependent on those parts, as summarised in the attached report.

**3.1 The Deputy of St. Peter (The Minister for Home Affairs - rapporteur):**

Although our Order Paper is now slightly shorter than anticipated, I shall try to keep these comments brief, as we do still have a lot of business to get through today. Of course, I would be more than happy to address any particular part of the Draft Order in Council in my summing-up speech at the end of the debate. The purpose of this proposition is to request that the States Assembly approve parts 1 and 4 of the Counter-Terrorism and Security Act 2015, to be extended to Jersey by an Order in Council. Schedules 1 to 5, which are related to parts 1 and 4, would also be extended. This is the first of 2 propositions before the Assembly today which, if approved, will bring Jersey's counter-terrorism legislation into line with recent developments elsewhere in the Common Travel Area. The Counter-Terrorism and Security Act 2015 made various changes to U.K. (United Kingdom) legislation, in order to attempt to reduce the terrorism threat to the country. This included legislation to stop people travelling overseas to fight for terrorist organisations, or to engage in terrorism-related activity and then return to the U.K. The Act also aimed to help to deal with those, already in the U.K., who pose a risk to the public. For Jersey, the relevant provisions of the Act are Parts 1 and 4. Part 1 brings forward measures on temporary restrictions on travel and makes provisions for the seizure and temporary retention of travel documents where a person is suspected of intending to leave Jersey in connection with terrorism-related activity. It provides for the relevant search-and-seizure powers and creates temporary exclusion orders, to disrupt and control the return to Jersey of a British citizen reasonably suspected of being involved in terrorist activity abroad. Part 4 enables the Minister for Home Affairs, by Order, to introduce authority to carry schemes. These schemes require a carrier to seek authority from the Minister to carry persons, who fall within the scope of a scheme, on aircrafts, or ships, which are arriving, or expected to arrive, in Jersey, or are leaving, or expected to leave, Jersey. The purpose of this scheme is to prevent certain individuals from travelling to, or from, the Island when that is necessary in the public interest. The Government of Jersey has communicated its wish to extend these parts by Order in Council with the relevant U.K. departments. The Draft Order in Council, as agreed by Jersey and U.K. legal advisers, is included as Annex A to this proposition. The provisions included in this Draft Order in Council have been in place elsewhere in the Common Travel Area for around 2 years. In giving its consent that this Order in Council be made, the Assembly would ensure the Island's counter-terrorism measures, where necessary, are equally as robust as those elsewhere in the British Isles. I hope Members will agree, therefore, that these are important legislative changes for the Island to make and I ask for their support.

**The Bailiff:**



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

**Deputy M.J. Norton:**

If I may, before we begin with the rest of the proceedings. I have a funeral to attend this lunchtime, in fact, before 12.00 p.m. and I just wish to make Members aware of the fact that I will be leaving the Assembly, should we be still sitting at that time, around about 11.30 a.m. I thought it was best I let them know.

#### **4. Draft Counter-Terrorism and Security (Miscellaneous Amendments) (Jersey) Law 201-(P.47/2017)**

**The Greffier of the States (in the Chair):**

Let us move on. The next item is the Draft Counter-Terrorism and Security (Miscellaneous Amendments) (Jersey) Law 201-, if I can ask the Greffier to read the citation.

**The Assistant Greffier of the States:**

Draft Counter-Terrorism and Security (Miscellaneous Amendments) (Jersey) Law 201-. A Law to amend further the Terrorism (Jersey) Law 2002, the Regulation of Investigatory Powers (Jersey) Law 2005, and the Postal Services (Jersey) Law 2004. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

##### **4.1 The Deputy of St. Peter (The Minister for Home Affairs):**

As Members will have noted, the proposition is linked to P.42/2017 for which I am grateful for the support of the Assembly. As I explained during that speech, P.42/2017 was the first part of ensuring that Jersey's counter-terrorism legislation is equivalent to that as provided in the Counter-Terrorism and Security Act 2015. The next requirement is to amend the relevant Jersey laws, to ensure compliance with the 2015 Act and also to implement 2 of the recommendations made in the recent MONEYVAL report and to make some small consequential and drafting amendments to our legislation. Accordingly, this proposition would amend the Terrorism (Jersey) Law 2002, the Regulation of Investigatory Powers (Jersey) Law 2005 and the Postal Services (Jersey) Law 2004. The result of this proposition being agreed by the Assembly would be that Jersey's counter-terrorism legislation would adhere to the same standards as its equivalents in the U.K. in those respects where the U.K. legislation is relevant to Jersey and we would have implemented some of the important recommendations made in the MONEYVAL report. The first purpose of the amendments is to update Jersey's legislation relating to port and border controls and the power to examine goods. This intention is to make express provisions in the Terrorism Law for the locations in which certain items can be examined. The effect of this change would be that the power to examine goods could be used at the point where they are being held by air and sea cargo agents, pending departure. A new provision would also be made, expressly limiting the locations in which the power to examine goods could be exercised to ports, air and sea cargo agents' premises and any place designated by the Minister for Home Affairs. This would ensure that a location can be designated, if the Minister believes it necessary, in order for officers to be able to exercise their functions under the law. In the interests of openness and transparency, a list of designated premises would need to be made publicly available.

[10:15]

In addition to amending the 2002 Terrorism Law, consequential amendments would be required to the Regulation of Investigatory Powers and Postal Services Laws. The Regulation of Investigatory

Powers Law would also be amended, to ensure the protection afforded to postal communications did not restrict the use of examination powers in respect of them. It would be made clear that there would be lawful authority for the examination of postal packets by officers, if this is carried out in accordance with powers granted under the Terrorism Law. A consequential amendment is made to the Postal Services Law, to ensure that similar lawful authority, for the examination of postal packets, is granted under the law. The Terrorism Law would be further amended to make it an offence for an insurer to knowingly make a payment, under an insurance contract, in respect of money or property transferred in response to a terrorist demand. The offence would also be committed if the insurer had reasonable cause to suspect that the money or property was being transferred in response to a terrorist demand. The definition of “insurance contract” is included in the Law, as are the penalties for committing the offence. The Jersey Courts would be permitted to order the forfeiture of the amount paid under an insurance contract. The Regulation of Investigatory Powers Act would also be amended to add temporary exclusion order proceedings to the list of proceedings in which evidence, disclosing the contents of intercepted communications, can be given and examined. Temporary exclusion order proceedings are defined under the Counter-Terrorism and Security Act 2015, as will be extended to Jersey by Order in Council. The changes I have covered, so far, would mirror those made in U.K. legislation. In addition, there are some further amendments to the Terrorism Law, included in this proposition, which are not directly linked to the extension of the relevant parts of the Counter-Terrorism and Security Act. These, instead, have come about following recommendations contained in the most recent MONEYVAL report. The first amendment, in this regard, relates to the definition of a terrorist entity. In addition to the current definition, contained in the 2002 Law, any prescribed organisation would also be included. This would address MONEYVAL concerns that prosecutors would have to satisfy an additional burden of proving an entity was a terrorist entity, even when that entity was already prescribed. The second amendment, being proposed as a result of recommendations from MONEYVAL, relates to the financing of foreign terrorist fighters. MONEYVAL recommended that it be put beyond doubt that terrorist-financing offences included financing the travel of any individual, who travels to a state other than their state of residence, or nationality, for the purpose of perpetrating, planning, preparing or participating in terrorist acts. The providing, or receiving, of terrorist training would also be included in the offence. The enacting of these amendments would improve Jersey’s congruence with international standards of counter-terrorism legislation and would also fulfil some of the recommendations made in the MONEYVAL report. Both are relevant to ensuring the Island’s commitment to maintaining international standards in this key area that they are upheld and, therefore, I ask for Members’ support.

**The Greffier of the States (in the Chair):**

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? If no one wishes to speak on the principles, those Members who are in favour of adopting the principles, kindly show. The *appel* has been called for. Members are invited to return to their seats. I ask the Greffier to open the voting.

<b>POUR: 31</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Clement				
Connétable of St. Lawrence				
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 of Grouville				
Deputy J.A. Hilton (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
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 L.M.C. Doublet (S)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

**The Greffier of the States (in the Chair):**

Deputy Doublet, does your panel wish to scrutinise this draft Law?

**Deputy L.M.C. Doublet of St. Saviour (Chairman, Education and Home Affairs Scrutiny Panel):**

No, Sir.

**The Greffier of the States (in the Chair):**

Minister, how do you propose to deal with the Articles?

**The Deputy of St. Peter:**

*En bloc*, please.

**The Greffier of the States (in the Chair):**

Are the Articles seconded? **[Seconded]** Does any Member wish to speak on the Articles? In which case, those Members who are in favour of adopting the Articles, kindly show. The *appel* has been called for. I ask Members to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 32</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
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 G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

**The Greffier of the States (in the Chair):**

Minister, do you wish to propose the Articles in Third Reading?

**The Deputy of St. Peter:**

I do, Sir. Thank you.

**The Greffier of the States (in the Chair):**

Does any Member wish to speak in Third Reading? If not, those Members who are in favour of adopting ... the *appel* has been called for on Third Reading. Members are invited to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 37</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
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 G.P. Southern (H)				

Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy 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 L.M.C. Doublet (S)				
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)				
Deputy P.D. McLinton (S)				

## STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

### 5. The Chief Minister will make a statement regarding the new States Assembly Diversity Forum

#### The Greffier of the States (in the Chair):

This is probably a good moment to take an official statement, which has just been circulated to Members, from the Chief Minister.

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

Last week, Deputy Doublet and I announced the establishment of a new States Assembly Diversity Forum. I have been reflecting, for some time, on how we might encourage greater diversity in this Assembly and I am sure many Members have been doing the same. This Assembly makes the laws that govern the daily lives of Islanders and to do this properly it is important that we reflect the varied experiences of our community. I, therefore, thank Deputy Doublet for approaching me and helping to establish this new forum. I would also like to thank Deputy Mézec, Deputy Pryke and Deputy Bryans for joining. Only 12 of the 49 Members of this Assembly are women and none of us are from our significant Portuguese, or Polish, communities. We have recently launched a disability strategy, promoting greater inclusion and I think it is important that this Assembly also seeks to be as inclusive as it can be in its membership. Of course, this ultimately relies on people putting themselves forward for election. It is an honour and a privilege to serve in this Assembly but, equally, the decision to stand is a daunting one and for many members of our community it will not even cross their mind. I hope this new forum will begin to help change this position. In the meantime, any other Member, who wishes to join us, is welcome to do so. Thank you.

#### The Greffier of the States (in the Chair):

There is now an opportunity for 15 minutes of questions.

#### 5.1.1 Deputy L.M.C. Doublet:

Can I just thank the Chief Minister for agreeing to set up the Diversity Forum with me and for those who have already joined us? I hope other Members may come forward. Equality and diversity is

not just a woman's issue and it is not just about gender. The approach being taken in Westminster, as recommended within The Good Parliament report, which has inspired the group we have set up, is one of men and women working side by side on both women's issues and men's issues and also issues around race, religion, social background, age and disability. Does the Chief Minister agree that this work is for every Member of the States Assembly to have ownership of and to take an active part in, as an organisation, regardless of our political views? Does he also agree that in the run-up to an election, all Members could consider their own journey into politics and perhaps what help and advice they received and in turn think about how we can be gatekeepers for those from the groups mentioned and reach out to individuals and assist them in engaging with our political system, whether that be voting, or standing for election? Finally, does he agree that the message that the States Assembly want to send out to all sectors of Jersey society is: you are welcome here and you are needed here?

**The Greffier of the States (in the Chair):**

That is 3 questions; I have been very generous. **[Laughter]** I am, perhaps, not going to be so generous to everybody on the number of questions.

**Senator I.J. Gorst:**

Yes; my answer to all 3 is: yes. The Deputy makes a very good point about gatekeepers to this Assembly, about each of us playing our part in encouraging anyone across our community, who is interested in the future of Jersey, who is interested in the political process, considering whether, or not, they wish to put themselves forward for election. As I said, it can be daunting, but it can also be extremely rewarding. If we, as gatekeepers, because that is what we are, encourage people, help them understand what the job entails, because there are many differing jobs in this Assembly, all of them different, requiring different skills and abilities and requiring different time commitments, then I think we have a very important part to play in that regard.

**5.1.2 Deputy M.J. Norton:**

Congratulations to both the Chief Minister and Deputy Doublet for this important initiative. Just 2 questions, if I may? One is concerning the Commonwealth Parliamentary Association's benchmarking. Can I assume that the Chief Minister, Deputy Doublet and others on the panel will be taking note of the benchmarking of the C.P.A. (Commonwealth Parliamentary Association) which has done some important work in diversity? Also, I wonder if the Diversity Panel would be able to co-opt members from outside of the States, in order that those, who are represented within the Polish and Portuguese community, can be part of that panel as well.

**Senator I.J. Gorst:**

Thank you for that question from the Deputy. I have not seen that benchmarking, but it seems absolutely reasonable, as we are members, this Parliament, of the C.P.A. to take note of it and consider where we fit in that benchmarking and seek, if we fall below it, to improve. With regard to co-opting members, that is a very good idea. I understand, only this morning, that there are members already connected with this Assembly, via members, who have experience of such diversity forums elsewhere in our community, they would be welcome to take part. We are already engaging with Caritas who, Members will know, are supporting community champions right across our community and we wish to engage with them, as well, in this process in the future.

**5.1.3 Deputy M. Tadier:**

The Minister makes overtures about wanting a diverse Assembly, but we know that talk is cheap. Would the Chief Minister like to explain with the very first proposition that was lodged this year, P.1/2017, which asked for non-British members of our community to be included in this Assembly, he voted against, and not one single Member of his Council of Ministers, including 2 - Deputy

Pryke and Deputy Bryans - who he is putting on this Diversity Panel, decided that it is okay to have English people being elected to this Assembly, but Polish and Portuguese is one step too far for this Chief Minister.

**The Greffier of the States (in the Chair):**

Was there a question lurking at the end there?

**Deputy M. Tadier:**

Yes, the question is why did he vote against?

**Senator I.J. Gorst:**

The Deputy will recall, if he looks at Hansard, exactly why I voted against, because I was quite clear when I spoke during that debate. Encouraging members, from right across our community to stand for election, they do so under the current rules and I am satisfied with that rule about British citizenship. We saw, at the last election, members across our community, who had dual nationality. There is a perfectly legitimate approach, because what it shows is an absolute commitment to our community and to taking part in our community. We will not agree on every given issue. I think the Deputy is wrong on this particular issue. I think it is important that members of our community become British citizens, or have dual nationality. The Deputy disagrees; this is political dialogue and discussion at its best.

**Deputy M. Tadier:**

May I have a supplementary?

**The Greffier of the States (in the Chair):**

No, because there are many other Members who wish to ask questions.

**5.1.4 Deputy J.M. Maçon of St. Saviour:**

I like to think in my time, along with Deputy Vallois and Deputy Tadier, certainly, our involvement has inspired a lot of youth participation in standing for the States. We did, last time, try to set up a youth forum to encourage more young people to take part in politics and certainly, on my part, as candidates. But my question about the Diversity Forum is: why is it just concentrating on things which are visible? Why are things such as L.G.B.T. (Lesbian, Gay, Bisexual and Transgender) not included? Also, we know that we are going to do a lot of work on mental health issues; why is something along the lines of somebody, who has suffered from mental health issues, not included in that? Because, again, that type of work is going to need representation in this Assembly with stuff that is going on, so why is it just concentrating on the visible aspects of diversity and not the ones which cannot be seen?

**Senator I.J. Gorst:**

We have got to start somewhere, basically. We have had this discussion, we slightly broadened it out so that, hopefully, everyone feels that they can come forward and we are happy to make contact with every section of our community. But we wanted to start somewhere where progress is already being made and encourage the speed of that progress. But, of course, there are other people and organisations in our community making really good progress, particularly on the L.G.B.T. area. Perhaps, mental health is a bit more of a challenge for us and we need to take that away and think how we can engage more with that community as well.

**5.1.5 Senator S.C. Ferguson:**

Yes, I was glad to hear that the Chief Minister supports people standing for the States having, I think the phrase is “skin in the game” or to take up the relevant nationality.

[10:30]

However, I have noticed, in the press, that where people have dual nationality, certain Commonwealth countries are saying: “You have got to take one or the other. You cannot carry on pretending you have got 2 nationalities and using the other one when it is convenient.” Will the Chief Minister, in fact, make a stand on this and say: “Either you have local nationality, if you want to stand for the National Assembly of Jersey; if you want to keep your dual nationality then, perhaps, you need to think again”? Will he not observe that?

**Senator I.J. Gorst:**

I do think it is important that members, or individuals, in our community, standing for election to this Assembly - for all the reasons I said during the debate that Deputy Tadier raised earlier - have British citizenship. I cannot go as far as Senator Ferguson wants me to go, because I do not accept that premise. I think that a connection to where one has come from - a connection to one's history, a connection to one's past and culture - is important, while also being connected and wanting to positively influence the community where one sees one has a future. I think where that works well together it is for the benefit of everybody in our community. Therefore, I would encourage dual nationality in that regard, because I think it brings greater depth, greater contribution and a greater acknowledgment of our connectedness with the rest of the world.

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

The Chief Minister has just said that we have got to start somewhere and, of course, one applauds any initiative that is going to assist with diversity. But, it is completely within the Chief Minister's gift to already have started and starting with this initiative is the wrong way around. What would have been more sensible, in his term of office, would have been to start trying to achieve diversity in all those boards and committees, government committees, quangos, arms-length ... what does it say about Jersey? That the same senior, white, gentleman is chairman of both Andium Homes and Digital Jersey. It is embarrassing to bring this up all the time. I know the gentleman very well, I know his family personally. I mean nothing against him; in fact, I do not think he should have been put in that position. But what does it say about our recruitment process? The last time I asked questions about this to Senator Routier he said: “Well, it is difficult, you know? We can only choose candidates that put themselves forward.” It is no good just shoving an advertisement in the *J.E.P. (Jersey Evening Post)* and waiting for people to come along;, you have got to go out there, you have got to explain to people first of all what the job entails on these boards. You have got to go out and be proactive in seeking them to come to you. So ...

**The Greffier of the States (in the Chair):**

Deputy, is there a question?

**Deputy R. Labey:**

There is somewhere. Let us try and ... **[Laughter]**

**The Greffier of the States (in the Chair):**

Can you search it out, because we have got 5 minutes left?

**Deputy R. Labey:**

Let us try and find one. So why has the Chief Minister not done what the Appointments Commission have been asking him to do for at least 2 years and increase diversity in those committees in which it is his gift to appoint Members?

**Senator I.J. Gorst:**



I thank the Deputy for his question, which is obviously moving away from the current work of the forum but, as I said with Deputy Doublet at the end of last week, the forum is going to start here. The forum then has - we have been challenged potentially, whoever is returned to this Assembly - a broader piece of work to do. That will be, I have got no doubt, supporting the Appointments Commission, which is a very diverse body of individuals - I am sure that the Deputy would congratulate the Appointments Commission on their diversity - and work with them to broaden out applications from a cross-section of our community into the future. But Senator Routier was right: currently there is a small number of people coming forward for these positions. Sometimes, when we try and tap people on the shoulder, as it were - and we have to recognise that is what we will be doing, going out and seeking expressions of interests, encouraging people to apply - they turn around and say to us: "I really do not want to put my head above the parapet and be criticised in the media and in this Assembly." **[Approbation]** So, I accept the premise of what the Deputy is suggesting we should do going forward, but we must do it carefully and we must do it in a way that is not critical of those people, who currently have the courage to put their names forward.

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

The Minister really cannot get away with distinguishing between his words and his actions, surely? He seems to imply that you have to be British to show commitment. Those were his words. The reality is that his own voting record on this particular issue would suggest otherwise. What he should do is commit himself by actions and not just words, as indeed ...

#### **The Greffier of the States (in the Chair):**

Is there a question, Deputy? Because we have limited time for questions to statements, it is not counter-statement time.

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

I am coming to it.

#### **The Greffier of the States (in the Chair):**

Well, can you come quickly?

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

I am coming to it. Will he not join Reform Jersey in setting the way forward, who had 5 candidates, female candidates, one of whom was of Portuguese origin, at the last elections and 3 male candidates? Set the example, encourage that performance, will he not?

#### **Senator I.J. Gorst:**

Is the Deputy asking me to encourage Reform Jersey? Of course I have great pleasure in encouraging them. **[Interruption]** This is not about a political position, this is about each one of us, who are gatekeepers to those friends, family, acquaintances that we know across our community. Even when someone has a different political position from us, encouraging them, if they are interested, helping them understand that the obstacles and hurdles that they currently think they might have can be overcome with appropriate support and understanding of what the job of serving this community in this place entails, not encouraging them to join one particular faction or another.

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

How is this group going to work with the independent Employment Forum, which is already looking at the rights of a family: maternity rights, paternity rights, adoption rights and is bringing their proposals forward in December 2017? How are they going to be working with Community Relations Trust, who are already putting on workshops to encourage a diverse range of people into

the States? How are they going to work with Liberate and the Youth Assembly, who are already encouraging the youth of the Island? Can he assure us that there is not going to be a duplication of the valuable work that these organisations are doing?

**The Greffier of the States (in the Chair):**

Time for a brief answer, Chief Minister.

**Senator I.J. Gorst:**

Well, that is disappointing, because there are lots of good things to go out there in that particular question, so let me start by Community Relations Trust. The Deputy will know that Deputy Doublet is the States-appointed Member on that Trust, so that work has already started in a co-ordinated way. It is a good question about the Employment Forum, but let us acknowledge, right now, that for States Members, none of those provisions are available right now. I think that working with P.P.C. (Privileges and Procedures Committee) we can, between now and the next election, put in place policies to provide that provision around maternity, paternity, adoption leave as well, because what we are trying to do is encourage people to stand for this Assembly. So, whatever is out in the community, we should be considering how we can deliver that here for members who are thinking of standing in this Assembly and that is where our priority over the next few months and weeks should be. I think I addressed some of the other issues about the Youth Assembly and Liberate in answer to Deputy Maçon.

**The Deputy of Grouville:**

Could I ask a supplementary?

**The Greffier of the States (in the Chair):**

That brings the period of questions to an end. Deputy Tadier?

**Deputy M. Tadier:**

Am I able to propose under Standing Orders that we extend the period of questioning on this matter, given that there are still questioners and questions to be asked on the last ...

**The Greffier of the States (in the Chair):**

That is a decision for the Assembly. It is possible to extend the period by 15 minutes if the Assembly agrees to that. Will Members kindly show if they are in favour of that proposition? Those against?

**Deputy M. Tadier:**

Could I ask for the *appel*? It is an important issue. We talk about diversity ...

**The Greffier of the States (in the Chair):**

We do not need speeches on whether, or not, to do it. I think we can have the *appel* on whether or not to do it. The *appel* has been called for on whether to extend the period of questions by 15 minutes. I will give Members an opportunity to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 23</b>		<b>CONTRE: 7</b>		<b>ABSTAIN: 0</b>
Senator S.C. Ferguson		Senator P.F. Routier		
Connétable of St. Martin		Senator P.M. Bailhache		
Connétable of St. Saviour		Senator A.K.F. Green		
Connétable of Grouville		Connétable of St. Peter		
Connétable of St. John		Deputy R.G. Bryans (H)		
Deputy G.P. Southern (H)		Deputy A.D. Lewis (H)		

Deputy of Grouville		Deputy G.J. Truscott (B)		
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy P.D. McLinton (S)				

**The Greffier of the States (in the Chair):**

In which case I will take the Deputy of Grouville first.

**5.1.9 The Deputy of Grouville:**

So, a supplementary to mine. Is the Chief Minister suggesting that employment rights and family rights could be available in this Assembly before employers are required to bring them in?

**Senator I.J. Gorst:**

Legal entitlement out in the community currently exists. We may wish to see it improved and that is the work that the Employment Forum is doing and I support that work, because they ought to be improved. Right now, today, no rights, or no such rights, exist for Members of this Assembly. It is wrong that Members of this Assembly have to approach other Members and ask - come humbly begging - that this Assembly considers their position graciously and kindly. It is not right. They should know where they are before they come to this Assembly and what rights are available to them. That is what we should be prioritising in this particular piece of work.

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

In St. John we have a lady as a Deputy, we have a male as a Constable and we are, therefore, 50/50 as regards male/female ratio. Will the Chief Minister agree with me that, once again, St. John is a leading light and a leading Parish? **[Laughter]**

**The Greffier of the States (in the Chair):**

It is a rhetorical question, Chief Minister.

**Senator I.J. Gorst:**

Of course, we all know that St. John is a leading Parish in many respects, not least, of course, the beauty of its coastline. I was not aware that it led in this regard, but I congratulate the Constable in that regard. However, I think it shares equal first place with a number of other memorable Parishes. As I look around the Assembly I see the Constable is sat directly next to another likewise Parish. Following around, we also have good mixed representation in St. Lawrence. We also have in Trinity ...

**The Greffier of the States (in the Chair):**

I think that is enough, Chief Minister. We can work it out for ourselves, so perhaps we could ...

**Senator I.J. Gorst:**

You have given me an extra 15 minutes [Laughter] I am making the most of it.

**The Greffier of the States (in the Chair):**

The Assembly has an extra 15 minutes, not you, necessarily.

**5.1.11 Deputy M. Tadier:**

I think that the Chief Minister's general view about diversity and where it applies and where it does not is relevant, if he is to be taken seriously. So, does the idea that in order to show commitment to our community that you need to be British, does that extend to the Police Service, for example, and the Honorary Police?

**Senator I.J. Gorst:**

I am not equipped with that detail today. I suspect it may do, or it may not do.

**5.1.12 Deputy M. Tadier:**

So, as an opinion, does he think it should apply to those areas? It does not, incidentally, but does the Chief Minister think it should apply to all those other institutions, or is the States Assembly something separate that can only be accessed by the Great British public?

**Senator I.J. Gorst:**

Is the Deputy wishing to take over my particular role in this regard? I am not precious about it. If he wants to do that, I hold the views that I do about the importance of Members of this Assembly and people putting themselves forward for this Assembly being British citizens. That does not stop them from maintaining dual citizenship; that is something that I absolutely support.

**5.1.13 Deputy P.D. McLinton of St. Saviour:**

Would the Chief Minister agree that this Assembly is representative of a past time, mostly male, mostly white and deeply unrepresentative of the here and now? So, therefore, looking over our shoulders at the past is pretty pointless; you have got to deal with the here and the now and how we move into the future.

[10:45]

So, therefore, using this wonderful opportunity as a reason to beat anybody up is completely beyond me and, I am sure it might be - the Chief Minister will confirm - beyond him. I think this is an excellent idea and I think it is a way of making this Assembly far more representative of the people that it purports to represent.

**The Greffier of the States (in the Chair):**

Do you have a question about it?

**Deputy P.D. McLinton:**

Does the Chief Minister agree with my point of view?

**Senator I.J. Gorst:**

I am always encouraged by Deputy McLinton's interventions because he, to me, embodies what we should be about in this Assembly and that is about making a better future for our community and not allowing political differences. Yes, rightly having debate and then agreeing to disagree but then move forward positively, together. I take no credit for this forum. All the credit is due to Deputy

Doublet, who approached me, because she has a very deep understanding, as I know other Members do, of these issues and she has looked at The Good Parliament report. She is working with your own officers, I think invited an individual over to speak, and she recognised that this is not just a female issue, but it is important that we work in partnership, even when we disagree about other areas, to encourage diversity in this Assembly. She is the one that should be praised.

**5.1.14 Senator P.F. Routier:**

It is a very rare occasion that I am able to ask the Chief Minister a question, or any Minister, so thank you for allowing that. You will be aware that the disability strategy has recently been launched and within that it affects, not only people with various disabilities, but physical disabilities. Gaining access into this Assembly, to be a full Member of this Assembly, is something I would like your view on whether you think the access needs to be improved, or not.

**Senator I.J. Gorst:**

I congratulate the Senator on his work in bringing forward the disability strategy in the name of the Council of Ministers. I think it is an excellent piece of work, as I have said in the past. If my view is correct and I know that Senator Routier, Senator Green and the Deputy of St. Peter engaged with various disability organisations and spent a day trying to understand, through a little bit of practical experience, what it meant. Senator Routier, I think, was, for that day, a wheelchair user and he came into this Assembly. The Usher will correct me, because he can see, but I think it is a very difficult building to access. It is quite a long, torturous route and even when one gets through that door, having taken at least a couple of lifts, if not more, to avoid steps, one will see that here we are, there are steps down here, there are probably 3 or 4 different seats that people, who are using wheelchairs, can access. It is not good enough. It has got to improve but at the same time we have got to respect the historical nature of this building.

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

Under the heading of “Diversity”, one of the bullet points, that was circulated by email, concerned rights of leave and it is absolutely right that we look at that issue about Members’ rights to be absent from the Chamber. But, in that, would the Chief Minister agree that that is a much broader issue, an issue which needs addressing for all sorts of other reasons, as well? Would he also agree, in addressing Members’ rights to be absent would the Panel also consider the rights of constituents to be represented in this Chamber?

**Senator I.J. Gorst:**

I am not quite sure of the issue that the Deputy is seeking me to address. He is right about a right of absence on this Assembly and putting them on a policy footing, so that people know where they are, particularly around family-friendly policies, but, also, some Members have to be away for close family issues. I do not think it is right that Members have to stand up and say they are leaving because of the death of a close family member, or a serious illness of a close family member. It should be in policy and it should be accessible, in a very straightforward way, thus protecting the family life and the privacy of the Member as well.

**5.1.16 Deputy G.P. Southern:**

Is it not the Chief Minister’s position that he wishes to improve equality and opportunity for all nationalities standing in this Chamber, except that foreigners will be required to find £1,000 plus to take the British nationality test? Is that not the case?

**Senator I.J. Gorst:**

In your absence, I have been asked this same question probably 3, or 4, different times and I refer the Member to my previous answers and I perhaps re-point at the question that Deputy McLinton raised.

**Deputy G.P. Southern:**

That is no answer at all. Will the Chief Minister please address my question: is it not the case? His position says that foreign nationals have another hurdle of £1,000 beyond anybody else.

**The Bailiff:**

Chief Minister, have you got anything to add?

**Senator I.J. Gorst:**

If that is the cost of seeking and attaining British citizenship, then the Deputy is quite right. But I still stand by my position, one that I acknowledge and accept, he disagrees with.

**5.1.17 Senator S.C. Ferguson:**

I can support the comments about the difficulty about getting into this Assembly: when I had a broken leg, it was not easy. Will the Chief Minister persist in his support of dual nationality, given that no man, or woman, can serve 2 masters?

**Senator I.J. Gorst:**

I have been asked this question previously. I seem to be enjoying similar questions in the second lot of 15 minutes to the ones I enjoyed in the first section of 15 minutes. I do not accept Senator Ferguson's premise that members of our community should have only one nationality, for the reasons that I gave earlier.

**5.1.18 The Deputy of Grouville:**

Why does the Chief Minister not be really brave here, as the President of Rwanda did, and make it an obligation - well, he put it as "responsibility", not an obligation - to have 30 per cent of women on boards and 30 per cent of women in Parliament and, in fact, they have achieved 64 per cent of women in their Parliament?

**Senator I.J. Gorst:**

The Deputy asks a very good question. When I was recently in Rwanda, I was challenged about the very same issue, by one of the President's Ministers. There is a big difference, which I know the Deputy understands and acknowledges. President Kagame is a President and enjoys all the powers that one would expect in a presidential system and in Rwanda they have a party system, as well. We do not, I do not as Chief Minister, have those powers. Deputy Doublet and I were asked whether we had a target of female participation, or minority participation, in this Assembly. We said not, but we do want to improve where we are today.

**5.1.19 Deputy M. Tadier:**

Does the Chief Minister think that all areas of responsibility in this Assembly should be open to greater diversity, including the President of this Assembly?

**Senator I.J. Gorst:**

If I recall correctly, when recruiting to the judiciary, applications are sought and encouraged from all ethnic minorities.

**5.1.20 Deputy M. Tadier:**

Sorry, I was talking about the President of the Assembly, not the judiciary. Does he think that it is important that we have diverse potential for the person, who chairs this Assembly, to be a non-advocate, for example, an elected Member, a female, or whatever it might entail?

**Senator I.J. Gorst:**

The Deputy knows that, currently, I think it is the States of Jersey Law, says that the Bailiff will preside in this Assembly and, therefore, the point that I made about seeking applicants for the role of Bailiff stands, I think.

**5.1.21 Senator P.M. Bailhache:**

Would the Chief Minister agree that if Deputy Southern, or Deputy Tadier, were to go and reside permanently in France, Germany, Italy, or any other country of the European Union and I am not, necessarily, encouraging them to do that **[Laughter]** that they would be unable to stand for election to the Parliament of that country, unless they became a citizen of the country in question?

**Senator I.J. Gorst:**

Perhaps I would encourage them more than the Senator, **[Laughter]** but the point that he makes is very well made.

**The Bailiff:**

Very well. Time has now expired. Apologies to Deputy Labey.

## **PUBLIC BUSINESS - resumption**

### **6. States of Jersey Police Non-Contributory Pension Scheme: payment of widows' pensions (P.44/2017)**

**The Bailiff:**

We now return to the agenda. The next item on the agenda is the States of Jersey Police Non-Contributory Pension Scheme: Payment of Widows' Pensions, lodged by the States Employment Board. I would ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion that, in respect of police officers who, after 31st December 1967, remained members of the Police Non-Contributory Pension Scheme, the Chief Minister should be able to award a pension to widows of such police officers, taking into account the practice existing in regard to the award of such pensions as of that date, and that payment of such pensions shall be made out of the Consolidated Fund.

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

Sir, I would like to ask Senator Green to act as rapporteur, please.

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

As was stated, P.44/2017 relates to the old Police Non-Contributory Pension Scheme, which closed in 1968, following the introduction of the Public Employees' Contributory Retirement Scheme, known as P.E.C.R.S. At that time, 11 police officers elected to remain in the old pension scheme, the old police pension scheme. While the new - the then new - P.E.C.R.S. scheme permitted a pension to be paid to surviving spouses, of a deceased member, the old police scheme contained no provision. The former Defence Committee had, however, reserved the right to award widows' pensions and in practice had done so as a matter of moral, rather than a legal, obligation in the majority of cases. That role was later assumed by the Establishment Committee. Recently, the

States Treasurer's Dedicated Pension Unit has received an application by a widow of an ex-police officer, who remained in the non-contributory scheme. It was suggested that the Minister for Home Affairs might exercise a discretionary function of the former Defence Committee, in granting, or reviewing whether to grant, a widow's pension. As I explained previously, there is no statutory entitlement under the scheme. However, there is an expectation in respect of those remaining in the scheme, that a grant of a widow's pension would be considered. There was also an assumption that officers, and widows, concerned had a legitimate expectation that such consideration would be given by whoever was legally capable of making the decision. This is now held to be the Chief Minister, and the States Employment Board, at its meeting in April this year, concluded that the Assembly should be asked to award the powers previously exercised by the Defence Committee in respect of determining widows' pensions for the Police Non-Contributory Pension Scheme to the Chief Minister.

**The Bailiff:**

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

**6.1.1 Deputy J.A. Martin:**

I think this is a very sensible idea. I just have a couple of questions and maybe it is because of the age of the legislation, I think it started in January 1998; the proposition, although the Minister did say "surviving spouses", talks about widows and widowers and then it says, in the third paragraph on page 4, it was different provisions for men, women, widows and widowers, so my question is, obviously I presume this would be, and I do not know if there were any W.P.C.s (Women Police Constables) in 1968, I presume there were, but maybe not, if it would apply.

[11:00]

Then my second question, and this is from memory, but I know there was a big case in the U.K. and I have got a feeling it was a police officer's surviving partner, who had just won the case, who had been together for 30 years, but they were not married. I just wonder where we were on that legislation, because it is a big thing and I just want to know that we are keeping up-to-date.

**The Bailiff:**

Does any other Member wish to speak? Then I call on the ~~Senator's~~ Senator to reply.

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

I cannot directly answer fully the question of the Deputy, but I think I can put her mind at rest, because we know that there are only 6 former officers' widows that would be eligible for this now. Therefore, I move the proposition.

**The Bailiff:**

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

**7. Draft Waste Management (Amendment No. 2) (Jersey) Regulations 201- (P.46/2017)**

**The Bailiff:**

We now come to P.46/2017, the Draft Waste Management (Amendment No. 2) (Jersey) Regulations 201- lodged by the Minister for the Environment. I will ask the Greffier to read the citation for the draft.

**The Deputy Greffier of the States:**



The States, in pursuance of Articles 107, 108 and 110 of the Waste Management (Jersey) Law 2005 and Article 2(2) of the European Union Legislation (Implementation) (Jersey) Law 2014, have made the following Regulations.

### **7.1 The Deputy of St. Martin (The Minister for the Environment):**

The Waste Management (Jersey) Law 2005, is the overarching law that makes provision for the regulation of waste management activities, both within the Island and beyond the Island, in terms of the movement of waste. The draft Regulations amend the Law in 2 respects. First, they amend the definition of a waste recovery operation, to define an energy efficient incinerator as a recovery operation. To lend some context, it is important to understand that our current law does not currently accord with European best practice definitions and it is this that I seek to address in these draft Regulations. The current law distinguishes between types of waste management operations as either disposal, or recovery, and an incinerator would be defined, currently, as a disposal operation. The European definition of the E.C. (European Commission) Waste Framework Directive allows an incinerator to be defined as a recovery operation, where the energy efficiency is equal to, or exceeds, a specific threshold of 65 per cent, using a specific calculation. The draft Regulations will amend the R.1 definition in the Law to match the definition and the energy efficiency calculation in that E.C. directive. This allows waste incineration activities in Jersey, for example the Energy from Waste plant at La Collette, operated by the Department for Infrastructure, to be defined as a recovery operation, an activity R.1, but - and I stress this again - where that operation would meet, or exceed, the energy efficiency threshold. It is up to my colleagues in the Department for Infrastructure to provide evidence of the energy efficiency, in order to benefit from this definition. My department is in discussion with Infrastructure in this regard and, should the new qualification be reached, then the Energy from Waste plant at La Collette could be compared on an equal footing with similar plants in the U.K. and Europe. For clarity and to quell any rumours, or misinformation, this change proposed today will not allow waste to be imported from other jurisdictions. This Assembly has already agreed, back in 2010, following Deputy Wimberley's proposition, P.17/2010, that the importation of waste from other jurisdictions should not proceed, unless the principle of waste importation has been brought back to this Assembly and approved. Today's proposed changes will only enable the importation of waste if (1) the Department for Infrastructure shows that it is recovery, by doing the maths to prove that the plant at La Collette is energy efficient and that any importation has been approved by the States Assembly. It is important to understand that if Jersey's waste plant is not capable of being defined as a recovery operation, it can only be defined as a disposal activity. The Law currently requires that I must object to the movement for the import for disposal and if I consider the waste can be disposed of within the country of despatch in an environmentally friendly, sound manner. Waste strategies for different jurisdictions generally want to show that their waste management solution is moving further up the waste hierarchy, where recovery activities are preferable to disposal activities. In Europe, waste is allowed to be moved between jurisdictions, for waste recovery activities, such as energy efficient incineration, but not for disposal. As mentioned earlier, there is a second part to this amendment to these draft Regulations and this is purely an administrative change, required to amend an ambiguity in the Law, as initially amended by earlier Regulations. This related to the evidence that could be provided to show that land was being used lawfully for waste management activity. The draft Regulations clarify the evidence of such lawful use is either the continuous use of land beginning prior to 1st April 1965, or where evidence that planning permission has been granted and implemented. The draft Regulations also clarify that the provisions apply to corporate entities, as well as individual persons. I propose the principle.

### **The Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak? All Members in favour of adopting the principles? The *appel* is called for. The motion is on whether to adopt the principles of the Draft Waste Management (Amendment No. 2) (Jersey) Regulations. If I have not done so already, I will ask Members to return to their seats and ask the Greffier to open the voting.

<b>POUR: 33</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator P.F.C. Ozouf		Deputy M. Tadier (B)		
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

**The Bailiff:**

Now, Deputy of St. Mary, does your panel wish to scrutinise these Regulations? No. Do you move that the Regulation is *en bloc*, Minister?

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

Yes, please, Sir.

**The Bailiff:**

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

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

I should, perhaps, have made my request in the first part of this debate, but I would just like assurance from the Minister that he will, with his officers, provide the master plan for La Collette and, particularly, its waste treatment proposals for the future, that the Parish of St. Helier has been asking for, for some time. The States has also never debated a mineral strategy that was supposed to have been debated in respect of La Collette and while the relevance of this to the legislation is perhaps stretching it, I think it is the right time to say that we really would, I think as an Island, like to know more about the future of La Collette, both in terms of waste treatment and a mineral strategy and, perhaps, he could put this on his list of things to do and bring it forward in due course.

**The Bailiff:**

The Connétable is more than stretching it. It is not relevant to the Regulations. Does any Member wish to speak on the Regulations? Minister, I take it you will not want to reply to something which is not relevant. Those Members in favour of adopting the Regulations kindly show. The *appel* is called for. I will ask Members to return to their seats. The vote is on whether to adopt Regulations 1, 2, 3, 4, 5 and 6 of these Regulations and I will ask the Greffier to open the voting.

<b>POUR: 33</b>	<b>CONTRE: 1</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier	Deputy M. Tadier (B)	
Senator P.F.C. Ozouf		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Senator A.K.F. Green		
Senator S.C. Ferguson		
Connétable of St. Helier		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Connétable of St. Saviour		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy K.C. Lewis (S)		
Deputy E.J. Noel (L)		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy S.Y. Mézec (H)		
Deputy A.D. Lewis (H)		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy S.M. Bree (C)		
Deputy T.A. McDonald (S)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		

**The Bailiff:**

Do you move the Regulations in Third Reading, Minister?

**The Deputy of St. Martin:**

I do, Sir.

**The Bailiff:**

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

## **8. Jersey Ethical Care Charter (P.48/2017): third amendment**

**The Bailiff:**

We now come to P.48/2017, the Jersey Ethical Care Charter, and there is one amendment, the third amendment, by Deputy Southern and unless Members object I will ask it to be read as amended. Greffier?

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion – (a) to agree, in principle, that the Island should adopt a Jersey Ethical Care Charter (“the Charter”), (b) to request the Minister for Health and Social Services under Article 39 of the Regulation of Care (Jersey) Law 2014, to consult with the Jersey Care Commission and with users and providers of care services on (i) the terms of the Charter, which will include consideration of the following matters – (a) The starting point for arranging care will be client need, and not minutes or tasks. Workers will have the freedom to provide appropriate care, and will be given time to talk to their clients. (b) The time allocated to visits will match the needs of the clients. In general, 15-minute visits will not be used, as they undermine the dignity of the clients. (c) Homecare workers will be paid for their travel time, their travel costs, and other necessary expenses, such as mobile phones. (d) Visits will be scheduled, so that homecare workers are not forced to rush their time with clients, or leave their clients early to get to the next one on time. (e) All homecare workers will be covered by an occupational sick pay scheme to ensure that staff do not feel pressurised to work when they are ill, in order to protect the welfare of their vulnerable clients. (f) Clients will be allocated the same homecare worker(s) wherever possible. (g) Zero-hour contracts should not be routinely used in place of permanent contracts. Holiday pay will not be “rolled up” in hourly rates. (h) Providers will have a clear and accountable procedure for following-up staff concerns about their clients’ well-being. (i) All homecare workers will be regularly trained to the necessary standard to provide a good service (at no cost to themselves, and in work time). (j) Homecare workers will be given the opportunity to regularly meet co-workers to share best practice and limit their isolation. (k) All homecare workers will be paid at least the Jersey Living Wage (if and when the Jersey Living Wage is adopted by the States). (l) Any other elements that come out of the consultation referred to above; and (ii) whether all providers of domiciliary care should be required to sign up to the Charter;” (c) To request the Minister for Health and Social Services to lodge a proposition with the States, by 31st December 2017, to establish a Jersey Care Charter that reflects the outcome of his consultation under paragraph (b).

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

It gives me great pride and pleasure to be bringing this Ethical Charter for care workers to this States, after the tremendous fuss that we have had during the past year over changes to care workers’ terms and conditions in Jersey family care. It has taken some thrashing out, I must say. It has taken 2 quick meetings to make sure that I and the Minister for Health and Social Services

agree on a way forward and will support, I hope, this particular version of the Charter. The key words are in there and some people might be surprised how readily I accepted them, but if they worked with me in Scrutiny they will know that I can always find a form of words to agree on, to make sure that we stick together. So I agreed, I accepted, that this was, first of all in principle, that we should adopt a Charter, that the instruction to the Minister, or the request to the Minister - we never instruct Ministers - the request was to consult with the Jersey Care Commission and with the users and providers of care on that Charter, and that that Charter, that consultation, would include consideration of the 12 points that I have outlined as possible issues in this particular area. That consideration must be given as to whether all providers of domiciliary care should be required to sign up to the Charter, as a separate issue, and to request the Minister for Health and Social Services to lodge a proposition - and this was the Minister's option, because I had originally asked for a report and he said: "No, it is much better if it is a proposition" - that he kept to my deadline of 31st December 2017 and not sometime in the year to come, because I think this needs deciding, as soon as we can, to establish the Jersey Care Charter that reflects the outcome of the consultation. So, Members will note that this is an in principle decision. It is subject to consultation. The consultation period is fairly sharp. It is 5, or 6, weeks that we have got to consult, but that makes it more efficient, I think, and certainly that 5 weeks was the consultation period that was used on the original Care Commission establishment, *et cetera*.

[11:15]

So, the Minister and I have agreed and I hope the States will agree that this is the way forward. If Members will just bear with me briefly, I will just highlight some of those issues. Most of these issues are statements of the obvious. Talk to anybody about what terms and conditions should apply to care workers and they will come up, common sensibly, with this sort of list, but some of the issues where we might see some debate and this will return to the House by the end of the year when we can make hard and fast decisions on what the Care Charter should contain, so, for example, homecare workers will be paid for their travel time and travel costs. Talk to anybody out there and they say that makes common sense. If you have got a job in somebody's home, of course you get paid to get there and back, otherwise you end up with chaos. All homecare workers will be covered by an occupational sick pay scheme, in order that they do not force themselves to go into their clients and risk infecting them. Makes sense to me. It might be difficult to find a sick pay scheme that all can sign up to, but, nonetheless, let us make a start on it. "Zero hour contracts should not be routinely used in place of permanent contracts." Now, notice: not a ban, just not routine use of them. There will be cases where zero hours will be appropriate, but that is for discussion and consideration. All homecare workers will be regularly trained to the necessary standard at no cost to themselves and in work time. Members might be surprised to find there are some employers who say: "You can be trained, but in your own time and at your own cost." That would seem strange to most people; nonetheless that is up for discussion. Then a final - perhaps, controversial one, but we will see - some way into the future: "All homecare workers will be paid at least the Jersey Living Wage (if and when the Jersey Living Wage is adopted by the States)." That would seem a commonsense catchall somewhere towards the end of the Care Charter. So, I am proud, I am pleased to be able to present this Ethical Care Charter, as an in-principle proposition for the States. I hope to adopt and I will take questions.

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

I just thought it might help Members if I confirmed that I also think this is a good idea. I gave my commitment, in the previous debate, to the Ethical Care Charter and I would like to thank Deputy Southern and Deputy Mézec for coming to my office and working through something that we can all sign up to. It is an in principle debate. There is a need for consultation and then we will come back with an Ethical Care Charter.

**Deputy M. Tadier:**

Can I interrupt, sorry, as a point of order? I do not think the proposition has been seconded yet.

**The Bailiff:**

Thank you, Deputy. Is it seconded? **[Seconded]**

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

I suppose it could have been argued, Sir, that as I was supporting it I could have been seconding it as well.

**The Bailiff:**

You could have been, and you can start again, as you were not speaking to the proposition, if you like.

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

I do not think I want to start again. I just want to make it clear to Members that we are supporting this. It is a very tight timetable. We are bound to bring back an Ethical Care Charter and I just urge the Assembly to support this, so that we can get on with the consultation.

**8.1.2 Deputy S.Y. Mézec of St. Helier:**

I will speak very briefly and to also thank the Minister for the meeting that we had where we had to discuss this and find what we mutually thought was the most appropriate way forward, which I think we have managed to do. Just to say that some of the things that will be investigated in this consultation, I think, will be quite exciting, to see what conclusions they will reach and what positive way forward we will, hopefully, be able to find at the end of it, and I think this is an opportunity for the Assembly to start some work that will, hopefully, lead to progress and something that will also improve the working terms and conditions for the people working in this profession and by extension, therefore, the people who receive care, because the quality of care that they depend on will also be impacted by the terms and conditions that those people in the profession have. So, I think this is a really good opportunity to start the ball rolling and to get some progress and I hope Members will support it.

**8.1.3 Deputy M. Tadier:**

It is quite clear that this has been a live issue for quite a long time and it is an issue that obviously Deputy Southern and also Deputy Mézec have really led on and it is something which we have had to be asking questions quite a lot about in this Assembly. Members will know that it has been a theme for most of the year. There has been an element of ping-pong, I think it is fair to say, between us asking questions to the Minister and not always getting the responses and it goes to show that often in this Assembly it is not until you lodge a proposition - that there is something tangible on the table - that you get taken seriously. I do think it is a good example, we talk about consensus and working together and this is an example where, I think, we and Deputy Southern and the Minister have sat around a table and thrashed out an acceptable wording. It is also important to relate this back to the individuals for whom this will have a real effect on their lives and on their work, which is first and foremost the clients and those who are being cared for in our community and, of course, the workers. I was pleased to be able to meet some of those workers during the course of this. There was a small protest, at one point, in the Royal Square and what is important to remember is that these individuals are not, by any means, militant by nature and I think for them to have come out on the street and to be in contact over an issue, which they felt clearly very concerned about, is quite significant. It is not something that these people would do at the drop of a hat. These are, by and large, individuals who work hard, they do their work often quietly and it is

absolutely right that we, not just as an Assembly but as a society, as a community, value the work that they do. So when we look at the various proposals, the letters here that are being put forward, something like (k) for example, that all home workers will be paid at least the Jersey Living Wage, if and when that comes in, that should not be at all anything that is perceived as radical. It would be an absolute travesty that those, who do this so vital work in our community, do not even earn enough to pay their living costs. That is what we are talking about here. This is about putting a very minimal safety net in for those individuals, so that they can have the dignity to be able to do their work, with the right terms and conditions, whether it is to do with being paid for travel time, which is an integral part of their job, use of phones, *et cetera*. I think it is just about asking what we would like to apply to those, if we were in that situation, or if we had friends and family in that situation as well. It is also worth putting on record, I think, at this point that the job is so difficult, not just on a physical level. This is a job that is often done by women, it has to be said. It is very physical in the sense that it requires an element of lifting, a lot of running around, but it is also emotionally draining to be going between clients, who are often very sick, some towards the latter part of their lives, and we cannot always appreciate, unless we are members of the family, or close to those individuals, the impact that it can have on them, both physically and emotionally. So, I think that this is something we should all be getting behind. It has been said before, often some of the jobs that few people want to do, or the least glamorous jobs in our society, the most important ones, are often the ones which are not valued, certainly not in remuneration terms. I think if we can do something small, but significant, to get this back on the right track then that has to be a good thing.

**The Bailiff:**

Does any other Member wish to speak? I call on Deputy Southern to reply.

**8.1.4 Deputy G.P. Southern:**

I thank all those who have contributed, especially Senator Green, for agreeing this form of words and I look forward to 2 things: (1) a good consultation process, which involves all the stakeholders around this issue and, (2) I look forward to seeing a proposition, come January next year, which has some meat on it and which, I hope, we can agree as a way forward. Deputy Mézec described this as an “exciting” way forward. I agree with him. I maintain the proposition.

**The Bailiff:**

The *appel* is called for and I invite Members to return to their seats. The vote is on whether to adopt the Jersey Ethical Care Charter proposition and I ask the Greffier to open the voting.

<b>POUR: 28</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
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 G.P. Southern (H)				
Deputy J.A. Hilton (H)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy J.M. Maçon (S)				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

## **9. Draft Amendment (No. 32) of the Standing Orders of the States of Jersey (P.50/2017)**

### **The Bailiff:**

We now come to P.50/2017, the Draft Amendment (No. 32) of the Standing Orders of the States of Jersey lodged by the Privileges and Procedures Committee and I will ask the Greffier to read the citation.

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

Draft Amendment (No. 32) of the Standing Orders of the States of Jersey. The States, in pursuance of Article 48 of the States of Jersey Law 2005, have made the following amendments to the Standing Orders of the States of Jersey.

### **9.1 Connétable L. Norman of St. Clement (Chairman, Privileges and Procedures Committee):**

This proposition, if adopted, will amend Standing Orders in 3 areas and I hope Members will agree in positive ways. The first is to deal with votes of no confidence and votes of censure. By convention, and by tradition, normally such votes are taken within 2 weeks of them being lodged and as first item of business; however, there is no Standing Order to this effect, so, in theory, such votes could be delayed for several months. My Committee feel that that is not appropriate and not fair to the subject of such a vote of confidence, or vote of censure and, therefore, this amendment to the Standing Orders would ensure that such propositions are brought and voted upon within 2 weeks after they have been lodged. The second part is to do with declarations of interest. There appears to be an error in Standing Orders. We know that we have to declare an interest on the subject matter of a proposition in which we, or our spouses, or civil partners, or cohabite, have an interest and also when we are asking oral questions, but Standing Orders are silent on this matter as far as written questions are concerned. If someone wishes to bring a written question and they have an interest in the matter, they would have to declare it also. Finally, the Committee have noted, with interest, that since the Medium Term Financial Plan and the introduction of the cameras, there has been a little increase in the number of visual aids, shall we say, that Members have brought into the Assembly to emphasise their points. Again, Standing Orders have been silent in this area, so the proposition here is to confirm that visual aids may be used during debates, but they should at all times not be offensive, or objectionable. They should not contain obvious advertising material, or obstruct the process of the States. I make this proposition.

### **The Bailiff:**

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



### **9.1.1 Deputy J.M. Maçon:**

I just want to raise a concern about the term “offensive material”. That is a very subjective matter. For example, we know Deputy Hilton, before in this Assembly, has spoken about her objection to Chinese practices in cooking dogs and using those types of festivals. Now, if she had a picture raising that type of matter - obviously I am speaking hypothetically here - many Members might find that extremely objectionable, but it is really important, in order to make the point, to use that type of material. So, I wonder, perhaps, how would we proceed in that matter? Who makes those types of decisions? Some of these things might be very subjective, but might be very important when a States Member wants to make a point during a debate. So, I wait for the Chairman to reply on that one, because I am not convinced that we should be doing that just yet.

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

I have a question to the Chair. I understand why the listing of a vote of no confidence, or censure, should be normally the first item on the agenda for the next meeting. This, obviously, will list it as an item at the next sitting, after the 2-week period. I guess the question is, and I am sure that the Committee will have been through this on deliberations, of course it is possible to submit a proposition, let us say, 12 days before the next sitting, at which point it would be on the table for that period of time, but it would not go on to that sitting and it seems desirable, in that case, and let us presume that has not been done in any maleficent way, if that is the word, but purely just due to timing, it would seem that there needs to be an option to be able to take it at that next sitting.

[11:30]

Presumably, the ability for the States to shorten the lodging period with the agreement - or not necessarily even with the agreement - of the lodger, should be seen as a sensible way forward. I just wonder whether the wording, as it is, still gives the ability of the lodger of the proposition to delay it, so it could be listed as the first item on that paper - as any proposition could - but then people do ask to delay propositions, for whatever reason. It might also be the case that both the subject of the no confidence vote and the mover of the proposition, for whatever reason, might wish there to be a delay, so could he just confirm that although that may be unlikely it is possible in certain circumstances that may happen and presumably there is nothing proscribing that in what is being proposed? I am glad to hear that consideration is being given to using visual aids in the Assembly. It seems to be consistent with the fact that we are moving into the audiovisual age in the sense that we have got video cameras. For example, I would think it would be entirely sensible to have 2 big screens here. I know this is something that has been mentioned before, with pertinent information, one of which could be a clock that I could see and other Members, who cannot see that clock. It might be very useful to know who is speaking, so that people in the gallery, who are not so *au fait* with our Assembly know exactly who is speaking, perhaps what their job is and in which capacity they are speaking; as well as any Member who might wish to give a presentation, rather than circulating these kinds of bits, which are fine, but we are in the 21st century now and we do have to be mindful of ink and paper, not just for cost bases but for the environmental impact. It would seem entirely sensible that we could have screens for that purpose, not that we want to be subjected to death by PowerPoint, of course, but if it speeds up the process that seems to be a good thing. I would like to know more about Standing Order 109A(5), where it is talking about brands. I think we need some clarity on that. I think I know what the aim of that is. It is to stop product placement and it is to stop, perhaps, an unscrupulous Member, none of which would be here, but possibly in a future Assembly there may be unscrupulous Members, who will try to advertise for a company and that would not be desirable. It seems quite right that if the brand, or the logo, has a direct relevance to the debate, for example it may well be that the Minister for Economic Development, Tourism, Sport and Culture wants to show some material on behalf of Visit Jersey, and we would have the flying banana, or whatever it is called, that would be the logo and that

seems entirely relevant to the debate. Similarly, the Government of Jersey might have their logo distributed, or put up on a screen if they are giving a presentation on behalf of the Government of Jersey and a political party, similarly, would be quite within their rights to put their own logo up on a screen, or wear a badge, because that is directly related to their work. I would not want to think that the wording is so proscriptive - and by no means are we suggesting that a Reform Jersey banner would be put up here, although we might try that if we were allowed, because it would be good advertising for the party, but then obviously that privilege would have to be extended to the rest of them - but I think as long as it is being used sensibly I would not want to see the word "branding" being used too proscriptively, in order to stifle what is legitimate political differentiation.

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

I welcome the changes to Standing Orders. Indeed, it is pleasing that P.P.C. are now making amendments in the fact that the cameras are working so well and they have, effectively, changed the dynamics of the Assembly in a positive sense. I want to ask the Chairman why he has not included, in these amendments, arrangements to extend Standing Orders to not only require the televising, or the streaming, of these sittings, but also, for example, Scrutiny Panel hearings. Perhaps he could just say whether, or not, he would bring forward an amendment to deal with that, certainly ministerial quarterly hearings, and that is my only question.

### **The Bailiff:**

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

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

As far as votes of confidence, or censure, are concerned, Standing Orders presently require, or as amended, they would be the first item of business at the next sitting of the States, after they have been lodged for 2 weeks. That is a normal situation. However, the States do have the ability to change that. If one recalls, the last proposition of no confidence, that was brought by the Constable of St. John against the States Employment Board, was brought forward after 10, or 11, days, I think, because it was late in lodging and the States agreed that it could be brought forward and it was in the best interests of the Island so to do, and that will not change. Equally, if the States decide that there is some reason why it should be delayed longer than the 2-week period, then the States have the ability to do that also. The States are always masters of their own destiny, but what we are saying is that it would normally be dealt with under Standing Orders as the first item on the agenda at the first possible sitting. As far as visual aids are concerned, what the Standing Orders do is to allow visual aids to be used and I think it is worth reading for Members that the Standing Order is not proscriptive. It allows the Presiding Officer to permit visual aids to be used, but the Presiding Officer, who will have to use some subjective judgment from time-to-time, as he, or she, has to do in any event when talking about unparliamentary language, or other things in Standing Orders; a judgment has to be made by somebody and, clearly, that has to be the Presiding Officer. He, or she, will not permit something which is offensive, objectionable, or unparliamentary, either in itself, or by implication and having regard to the use of the item may trivialise proceedings of the States, or bring proceedings into disrepute, the item visually displays the name of a manufacturer, or brand, clearly as Deputy Tadier was suggesting a Member trying to advertise a product, a book, or whatever and the item does not distract the proceedings of the States. I think it is fairly clear but, of course, Deputy Maçon was absolutely right that the Presiding Officer will have to use judgment as he, or she, has to do with various other things, so it is not really prescriptive. As to the filming of Scrutiny Panels and hearings, that is something which has been under discussion, we have had discussions with the Chairmen's Committee previously and those discussions will continue and, hopefully, the Chairmen's Committee would like that to happen in due course and we would

support that. Part of our role is improving engagement with the public and we think that would be one way of doing it and we hope the Chairmen's Committee will support that in due course. I maintain the proposition.

**The Bailiff:**

Unless any Member wishes otherwise we will vote on all the Standing Orders together.

**Deputy M. Tadier:**

Could I ask for 5 to be taken separately, please?

**The Bailiff:**

Very well. Then the first vote is on Standing Orders 1 to 4 and 6, which we will take at the same time. I would ask Members to return to their seats. I will ask the Greffier to open the voting.

<b>POUR: 31</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Senator A.K.F. Green				
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. 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 M. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

**The Bailiff:**

We now deal with Standing Order 5. I will ask the Greffier to reset and to open the voting.

<b>POUR: 28</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf		Deputy M. Tadier (B)		

Senator A.J.H. Maclean		Deputy S.Y. Mézec (H)		
Senator I.J. Gorst				
Senator P.M. Bailhache				
Senator A.K.F. Green				
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. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy J.A. Hilton (H)				
Deputy J.M. Maçon (S)				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

## **10. Draft Armed Forces (Offences and Jurisdiction) (Jersey) Law 201- (P.51/2017)**

### **The Bailiff:**

We now come to P.51/2017, the Draft Armed Forces (Offences and Jurisdiction) (Jersey) Law, lodged by the Minister for Home Affairs and I ask the Greffier to read the citation of the draft.

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

Draft Armed Forces (Offences and Jurisdiction) (Jersey) Law 201-. A Law to provide for the jurisdiction of the police, courts and other authorities of British and other armed forces, or the members of those forces in Jersey to empower civilian police to arrest and detain members of the British armed forces in connection with that jurisdiction, to create offences relating to those forces, to make provision for members of those forces in relation to civilian police and courts and for connective purposes the States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

May I ask the Constable of St. Lawrence to act as rapporteur?

### **The Bailiff:**

Indeed, Assistant Minister.

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

This draft Law makes provision for the treatment, under Jersey Law, of the British armed forces when they are in Jersey. In particular, the draft Law provides for the operation, in Jersey, of the system of discipline and justice under the U.K. Armed Forces Act of 2006. The draft also allows for the operation in Jersey of equivalent systems of discipline and justice for the armed forces of other countries when they are here. This accords with the provision made for those forces when visiting the United Kingdom by the U.K. Visiting Forces Act of 1952. The draft Law establishes appropriate powers for the Jersey Police and courts in relation to deserters and others from the British armed forces. It creates civilian offences, in relation to the British armed forces and protects the pay and equipment of those forces from action in Jersey courts. Finally, the draft allows the States Assembly, by Regulations, to amend legislation to allow the use of vehicles and roads by the armed forces. If this draft Law is passed, Regulations will be developed in the coming months to address this. In several respects this law is well overdue in Jersey. The U.K. Armed Forces Act of 2006 provides for a system of discipline and justice that applies as a matter of U.K. law to the British armed forces, wherever they are in the world. The 2006 Act, which does not extend automatically to Jersey, repealed 3 separate Acts for the Army, Air Force and Navy. These 3 Acts have always applied directly to the Channel Islands. This draft Law, therefore, ensures that, as a matter of Jersey law, the system of discipline and justice in the 2006 Act can now also operate in Jersey. This is achieved by allowing service courts, service police forces and other service authorities to exercise in Jersey the powers that they have under U.K. forces law over people who are, or have been, service persons. Accordingly, this negates the need for the 2006 U.K. Act, or any parts from that Act, to be extended to Jersey by Order in Council. In addition to providing for the system of discipline and justice in the 2006 U.K. Act to be applicable in Jersey, there remained a requirement to legislate, on similar lines, to make provision with respect to the naval, military and air forces of other countries when visiting Jersey. In the U.K., this is covered by the Visiting Forces Act 1952, which allows visiting forces to exercise powers over their members and provides for the apprehension and disposal of deserters, or absentees without leave in the U.K. from forces of any such countries. The Act has never applied in, or been extended to the Channel Islands, and this draft Law would establish in Jersey legislation the relevant provisions of the 1952 Act. Consequentially, the courts, police forces and other authorities that are covered by the Visiting Forces Act 1952 would be able to exercise their powers in Jersey as well. It is important to mention that the powers are only exercisable if the force has been invited by one of the British armed forces and has the authorisation of the Minister for Home Affairs. In considering whether to grant this authorisation, the Minister must be satisfied that the visiting forces will not act incompatibly with any human rights. The draft Law covers matters including double jeopardy, thus ensuring that a person cannot be tried for the same offence in a Jersey court and under forces law.

[11:45]

Where a person is suspected of an act that constitutes both a civilian and a forces offence, the Attorney General will decide if it is more appropriate for the person to be dealt with for the civilian offence, or not. A further key aspect of the proposed law is the creation of civilian offences in relation to the British armed forces. These offences include, for example, intentionally causing a service person to be absent without leave, or assisting a service person to commit the offences of desertion, malingering, or being absent without leave. It is important to be clear that the civilian offences created and the other provisions made in relation to the civilian police, courts and prison, in parts 3 and 4 of the Law, only apply to the British armed forces and not to visiting forces. As I alluded to earlier, this project has been ongoing for a number of years, although I am pleased to say that it has been given renewed focus in the past couple of years by my department, the Law Officers' Department and the Law Draftsman's Office and it has now been brought to a conclusion. During this time, I can confirm that consultation has taken place with the magistrate and the police and drafts of the Law have also been shared with the Lieutenant Governor's Office, the Jersey Field

Squadron and colleagues in both the Guernsey and U.K. Governments. Members will be aware that we do often have members of the British armed forces and those from other countries present in Jersey for a number of reasons and events. This is without mentioning our own Field Squadron who are, of course, a constant presence on the Island. It is important, therefore, that we have the appropriate legislative framework in place so that, if necessary, matters can be dealt with properly, efficiently and lawfully. I would be happy to answer, of course, any questions that Members might have and I move the principles of the draft law.

**The Bailiff:**

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

**10.1.1 Deputy M. Tadier:**

It is just a general question about the proportionality of what is being put through today in the sense that could the rapporteur clarify whether there have been any issues with this not being in place up until now; have there been any problems, which would have been avoided, or could have been assisted, by having this law in place up until this point.

**The Bailiff:**

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

**10.1.2 The Connétable of St. Lawrence:**

I am pleased to confirm to Members that there has not been an incident which has led to this legislation being brought forward. This is a matter of which we have been aware for a number of years, as I mentioned earlier, and I am pleased that it is now being addressed. It should be mentioned that without this legislation an incident could occur, of course, in the future for which we have no appropriate legislation to deal with that.

**The Bailiff:**

All Members in favour of adopting the principles, kindly show. Those against? The principles are adopted. Deputy Maçon, do you wish to ....

**Deputy J.M. Maçon (Vice-Chairman, Education and Home Affairs Scrutiny Panel):**

No, thank you.

**The Bailiff:**

Assistant Minister, how do you wish to propose the Articles?

**The Connétable of St. Lawrence:**

*En bloc*, but, of course, I am happy to speak separately to each Article if necessary.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on the Articles? Those in favour of adopting them, kindly show. Those against. The Articles are adopted. Do you propose the law bill in Third Reading, Assistant Minister?

**10.2 The Connétable of St. Lawrence:**

I do. I would just like to say a few words in Third Reading, please. Those few words are merely to thank Members and Deputy Tadier for his contribution and to thank the Assistant Law Draftsman for the time and effort that he has put into this piece of legislation. I extend my thanks also to the relevant individuals in the Law Officers' Department, the States of Jersey Police, the magistrate

and my own department, of course, for Community and Constitutional Affairs. I move the amendment in Third Reading and ask for the *appel*, please.

**The Bailiff:**

The Bill is seconded in Third Reading. **[Seconded]** The Bill is moved for in Third Reading. I ask Members to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 29</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy M. Tadier (B)		
Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
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 of Grouville				
Deputy J.A. Hilton (H)				
Deputy K.C. Lewis (S)				
Deputy J.M. Maçon (S)				
Deputy of St. Peter				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

**11. Draft Criminal Procedure (Bail) (Jersey) Law 201- (P.52/2017)**

**The Bailiff:**

The next item of business is P.52/2017, the Draft Criminal Procedure (Bail) (Jersey) Law. As these are matters which affect the courts on a daily basis I shall withdraw for this item.

**The Greffier of the States (in the Chair):**

Draft Criminal Procedure (Bail) (Jersey) Law. I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Criminal Procedure (Bail) (Jersey) Law 201-. A Law to make provision for, or in connection with, the granting of bail by a court in criminal proceedings, to amend the Police Procedures and Criminal Evidence (Jersey) Law 2003 in relation to police bail and detention and for connected

purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

### **11.1 The Deputy of St. Peter (The Minister for Home Affairs):**

This Law will enhance and protect the rights of suspects and defendants in criminal proceedings. Importantly, it will help to protect victims or witnesses throughout the criminal process. The criminal justice system may affect anybody at some point in their lives, whether as a person suspected of committing an offence, or as a victim, or as a witness to a crime, or perhaps a member of a jury. The law in Jersey has not kept pace with modern criminal justice practices. Some of our laws in this area are based on statutes from as early as 1835. These laws were written for a different era of criminal justice. It is essential that the provision of criminal justice services is underpinned with a modern and clear legal framework, a framework that safeguards the rights of suspects and defendants, a framework that also provides assurance to the public that where there are risks to the public, or to the individual themselves, both will be protected from harm; in short, a modern framework. The new legislation governing bail is the first phase of a programme of laws that will modernise the criminal justice system in Jersey. The objective of this Law is to introduce modern statute that is fit for purpose for the 21st century. The new Law has been comprehensively researched and reviewed to reflect current practice. It will ensure that the safeguards that exist elsewhere will be available here in Jersey. Bail legislation has been in place in England since 1976 and in Guernsey since 2003. It is commonplace in other jurisdictions. By enabling appropriate bail conditions to be applied and ensuring that those conditions can be enforced, the draft Law will help to protect victims and witnesses. A defendant can be released from the custody of the court, or the police on unconditional bail, on their word, or promise, to return at a scheduled time and place. A defendant can also be released from custody of the court on conditional bail. The purpose of imposing conditions can be to ensure that an individual will return to protect the community from harm, or to reduce the likelihood of reoffending while on bail. The Law sets out the duties of a court to consider the grant of bail at each court appearance. There is a presumption in favour of bail, but there is a set of exceptions to enable a court to refuse bail in certain circumstances where there are substantial grounds for believing that a person would fail to surrender to the custody of the court, commit further offences while on bail, or interfere with witnesses, or otherwise obstruct the course of justice. The new Law also contains comprehensive and clear provisions for appeal to the Royal Court where a party may consider that the magistrate's decision to grant, or refuse, bail is unreasonable in all circumstances. Enforcement powers are included in the new Law. They will enable police officers to arrest a defendant, who is subject to bail conditions, without an order of the court in circumstances where there is a breach, or an anticipated breach of those conditions. The new Law makes provision for offences and penalties for failing to answer to bail or breaching bail conditions. The new Law also amends the Police and Criminal Evidence (Jersey) Law 2003, which will provide the police, both States and Honorary, with powers to impose conditions on pre-charge bail. It places a time limit on the length of pre-charge bail and also amends the time limits on pre-charge police detention and provides for warrants of further detention. These amendments provide the means to protect victims and witnesses in cases where further investigation is required to bring forward evidence of offences before a criminal charge can be considered. The amendments also provide a safeguard for suspects, who have been arrested but not charged and that they can only be kept on bail for a specified time. This enables a suspect to remain at liberty while investigation is ongoing. The amendments provide a safeguard for people who have been arrested and held in police custody. A time limit will be in place on the length of time that a person can be held in custody with a number of safeguards. In all cases, notice is given to a person. The draft Law has been subject to consultation with the Criminal Justice Systems Board, the Criminal Justice Working Group, the States of Jersey Police and the Law Officers' Department. Engagement events have been held with the Law Society. I am, as ever, grateful to



the Education and Home Affairs Scrutiny Panel for their involvement when the draft Law was prepared for lodging with the Assembly. I hope that Members will welcome the fact that this draft Law sets out clear statutory procedures in relation to the grant of bail where currently few exist. They represent an important development in our criminal justice legislation. I would be more than happy to take questions from Members at this stage and move the principles.

**The Greffier of the States (in the Chair):**

Are the principles seconded? [**Seconded**]

**The Connétable of St. John:**

Just a point of clarity first. The Minister said she had consulted with various organisations. Has she consulted with the Comité des Connétables and the Comité des Chefs? Just if that could be clarified.

**The Greffier of the States (in the Chair):**

It is a clarification, Minister.

**The Deputy of St. Peter:**

I do believe that the Comité des Chefs have been consulted with, I am just checking. It was a thought going through my own mind.

**The Greffier of the States (in the Chair):**

Do you wish to speak at this point, Constable?

**The Connétable of St. John:**

I await the answer then I will wish to speak, yes.

**11.1.1 Deputy J.M. Maçon:**

Just on behalf of the Scrutiny Panel, Members would have seen our comments and that we are supportive of this change. As the Minister has said, this is very much catching up with some of the practice which is going on and again it is just to demonstrate how well the Scrutiny Panel and the Minister can work together and what a difference it makes when a Minister previously has served on a Scrutiny Panel. The members of the panel are supportive of this legislation.

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

Just a point of detail. I note that Article 4 under heading: 'References to period of 48 hours' that provides that in determining when a period of 48 hours expires, there shall be disregarded Christmas Day, Good Friday and any Sunday. Perhaps the Minister could clarify whether other days, such as Liberation Day, public holidays should not also be included.

**The Greffier of the States (in the Chair):**

You have made the point. This is a debate on the principles, but we will, obviously, get the opportunity to go through the Articles subsequently, but the Minister will have heard that, I am sure.

**11.1.3 Deputy M. Tadier:**

Similarly, I do not know if I am risking the same error, but the question is to do with bail time limits. It says that that proposed time limit is 6 months for a person granted bail, so that the police can conduct an investigation. What is the current situation; is there a time limit and, if so, what is it?

**11.1.4 The Connétable of St. John:**

I am fully supportive of this and I think it is good legislation on the whole and it is putting down legislation what has been missing in the past - I know that is bad English but it is how I spoke. My concern is that the States of Jersey Police will be able to set bail, whereas, at the present moment, it is only Centeniers who can do so. This is an erosion of their powers, it is the thin end of the wedge and I am very concerned as to where this might lead. There is a very good system in place, at the moment, in that it almost acts as a safeguard, in that the States Police need to give a case to a Centenier as to whether bail is appropriate and it is an extra safeguard, as opposed to being judge and jury and saying: "You are going to have to have bail straight away."

[12:00]

This safeguard, I think, is a unique - well I know it is unique - and it is a very important part of Jersey's way of doing business and I do not wish to see it eroded. Unfortunately, I cannot support it, despite the fact I really want to, because of that one sentence allowing the States Police to set bail and conditions. If that is removed, then I would be only too delighted to trumpet the wonderful work that the Minister has proposed.

**The Greffier of the States (in the Chair):**

Does any other Member wish to speak on the principles? If no other Member wishes to speak, I call on the Minister.

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

I thank those who have contributed and asked very valid questions, which I shall attempt to go through. The scrutiny, with the Comité des Chefs, has particularly taken place with a particular Centenier, who sits on the Criminal Justice Working Group, so there has been oversight from the Comité des Chefs and also from the Attorney General, himself, throughout this process. In relation to Deputy Tadier's question regarding bail limits: at the moment there are none, so this will be a significant step forward in offering a limit. The Constable of St. John rightly asked whether this was an erosion of the powers of Centeniers and I understand the sensitivity around that, I really do, and he is absolutely right to ask the question. I am, however, also equally aware of the great pressure that there is on the Centeniers of today, I know particularly in St. Peter with the activity at the airport, in particular, there is a great pressure on those Centeniers to be at the court and to conduct their duties, which, of course, they do with great pleasure and great efficiency and professionalism but I think if they ... what I have to make clear is that, in this instance, the opportunity to bail an individual will be offered at the point of arrest, before a charge is made, so the defendant in this situation. I think it is practical for the police to have that ability to bail a person at the point of arrest, rather than charge and it would, perhaps, be unwieldy to involve the Centeniers and ask them to attend the Police Headquarters at that point. So, it is merely a point of practicality and I hope that the Constables will be reassured by that and also by the involvement of the Comité des Chefs in the consultation. I ask for Members' support on the principles.

**Deputy M. Tadier:**

I ask for clarification.

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

A point of clarification.

**The Greffier of the States (in the Chair):**

Deputy Tadier first.

**Deputy M. Tadier:**

The Minister talks about the fact that the police will be able to bail them before charging, but after arrest. What is the current time limit that the police can hold somebody, who has been arrested, without charging them? It is germane in the sense that, of course, depending what the time limit is, that they would be free to leave after that, anyway, without bail.

**The Deputy of St. Peter:**

At the moment I believe it is between 24 and 48 hours that a person can be held in police custody, once they have been arrested. There are absolutely rightful reasons for those limits to be in place, but the point is that if there is a need to investigate, a person can be released from police custody on bail while that investigation takes place, for a time limited period, which would be known to the defendant and they would be required to return to the police station for further completion. The reason that this is necessary is because it then provides, rather than bringing a person or keeping a person in custody or perhaps asking the courts to enable them to stay in custody, if there were concerns about absconion, or any of the other reasons that I have expressed in my speech that would be relevant, then it offers a protection to the community and also, perhaps, victims of crime.

**Deputy M. Tadier:**

May I ask for further clarification because the Minister seems to have portrayed this as extending the rights and safeguards for the individual potential offender, but, in fact, it goes from a point where after 48 hours if you have not been charged you are then a free person and you may leave, you do not need bail, or the alternative is that you can be bailed for a 6-month period while you are still effectively under arrest. Is that the difference?

**The Deputy of St. Peter:**

I imagine you could look at it in that perspective, from a purist view, but I think of it more as a subject that is widely enacted in other jurisdictions around the western world and also one that is there to protect victims of crime and the general community.

**Deputy K.C. Lewis:**

It is just a point of clarification. I believe the Minister said, regarding clarification, regarding Centeniers. Did the Minister consult with a Centenier, or all Centeniers, namely the Chefs de Police?

**The Deputy of St. Peter:**

I believe that it is normal practice, when a member of a group takes part in a working group, that they share the information and the learning. The same has happened with the Law Society on this matter: that a member of the Law Society has taken part in the working group and, therefore, has been expected to consult with and share the information with their colleagues.

**Deputy K.C. Lewis:**

So that was a one, then?

**The Greffier of the States (in the Chair):**

I think the Minister has answered the question.

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

To assist with the question asked by the Constable of St. John. As the Minister has indicated, this law introduces, for the first time, pre-charge bail and the position at the moment without pre-charge bail is that someone must either be released, without any bail conditions, or charged straight away and sometimes there can be a rush to charge and the court sometimes is under pressure to remand someone in custody. This enables the Honorary Police, or the States Police, to impose pre-charge

bail to allow matters to proceed to a full investigation, more time to consider charge and, of course, with the knowledge that the potential defendant is subject to conditions in the community, particularly helpful in domestic violence cases. There is no erosion of the Centeniers' powers to charge and no overall erosion of the Honorary Police in the criminal justice process. I say that, having discussed this matter with the Honorary Police.

**The Greffier of the States (in the Chair):**

Deputy Doublet, do you still wish to make a point of clarification, or ask a point of clarification?

**Deputy L.M.C. Doublet:**

It is not a point of clarification. Has the Minister not finished her speech?

**The Greffier of the States (in the Chair):**

The speech is finished, I think.

**Deputy L.M.C. Doublet:**

I would like to speak, if I may.

**The Greffier of the States (in the Chair):**

You have missed your chance, I am afraid, the debate has ended.

**Deputy L.M.C. Doublet:**

Oh, have I?

**The Greffier of the States (in the Chair):**

Yes. The Minister winds up debates in the Assembly. Do you wish to ...

**The Deputy of St. Peter:**

I will move the principles and ask for the *appel*, please.

**The Greffier of the States (in the Chair):**

The *appel* has been called for. Members are invited to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 30</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 2</b>
Senator P.F. Routier		Connétable of St. Saviour		Connétable of St. Mary
Senator P.F.C. Ozouf		Connétable of St. John		Deputy J.A.N. Le Fondré (L)
Senator A.J.H. Maclean		Deputy K.C. Lewis (S)		
Senator I.J. Gorst		Deputy M. Tadier (B)		
Senator L.J. Farnham				
Senator A.K.F. Green				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Martin				
Connétable of Grouville				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy E.J. Noel (L)				
Deputy M.R. Higgins (H)				

Deputy J.M. Maçon (S)				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy A.D. Lewis (H)				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

**The Greffier of the States (in the Chair):**

Deputy Doublet, does your panel wish to scrutinise this matter?

**Deputy L.M.C. Doublet (Chairman, Education and Home Affairs Scrutiny Panel):**

We have done some work, we do not wish to further scrutinise this proposition.

**The Greffier of the States (in the Chair):**

Very well. Minister, how do you wish to deal with the Articles?

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

*En bloc*, please.

**The Greffier of the States (in the Chair):**

Are the Articles seconded? **[Seconded]**

**11.2.1 Deputy M. Tadier:**

I just want to follow up. My particular concern is that, as I said during the point of clarification, I think there is a balance to be had here and I work from the principle that justice delayed is justice denied. It seems to me that there is a period of 48 hours, quite rightly, when you take someone's liberty away by arresting them and then you have that window, under normal circumstances, to charge that person. That is because, as the human rights considerations say - that had been taken into consideration, or that are activated - that taking away somebody's liberty, especially before they have been charged, let alone found guilty of any offence, is a very serious matter. My concern is that it is not just a technical point, or something that one could say as a purist, but we are giving the ability for somebody, who has not yet been charged, to be detained, not detained but to be having that hanging over their head for a 6-month period. So, the actual period between arresting and charging is being extended, effectively, from 48 hours to 6 months; that is going from a 2-day period to something like a 185-day period, 182 days, which is a significant change and that has not really been flagged up in the main debate. I do also think that the Constable of St. John's point is correct that whoever is doing the charging at the moment, I understood that it is the magistrate who would do the bailing under current provisions and we are giving more power to the police to do that. So, the police for the first time would be able to set pre-charge bail. That means they are the ones doing the investigation, they are the ones who might want, legitimately, to have more of a window for investigation and, of course, they would, it is understandable that they would want to have a much bigger period to charge somebody. But the point, I think, we should always err to the side of caution that you are innocent until proven guilty and even the mere arresting of an individual should only really be done when the evidence is already there and that is why, I think,

there is that small window of opportunity between arresting somebody, interviewing them, finishing off the gathering of evidence then charging them. I am very concerned by this development that is portrayed as being liberal, if you like, but is completely opposite where it gives the ability for somebody to be arrested, but not charged for a 6-month period of time. That should send alarm bells ringing in all of our ears, irrespective of where we finally make the judgment call on the overall legislation. So I would ... I am having difficulty to isolate the exact Article and I am sure you, or the Minister, could pick it out but I would like that particular Article to be taken separately.

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

I think, perhaps, a point is being missed here. When bail is made, you are making an arrest on a person's personal property and you are, therefore, limiting that person to remain on the Island, which is fine, that I do not oppose. But, when you are doing so as a police officer and the arresting officer, then that is wrong. It should be done by a separate organisation. I believe, in Scotland, it is done by the Procurator Fiscal - but I am not absolutely certain on that - and certainly this is something I believe should be a separate person to the same organisation that is arresting the individual, because it is an arrest on a person's personal property.

#### **11.2.3 Senator I.J. Gorst:**

I just wanted to respond to Deputy Tadier and his concern, which I do understand, but I would also perhaps draw his and Members' attention to reporting recently of a regional prosecutor in the United Kingdom, who was concerned that the police, in his particular region, were rushing to charge, without having the time to undertake appropriate investigations. Therefore, it is appropriate that proper investigations are undertaken. There can be a need to arrest and longer time than just the 12 to 48 hours in which to bring a charge. It is those investigations which, carried out well, can lead to improved prosecution decisions, because evidence has been presented, it has been presented appropriately, the weaknesses of the case are also appropriately presented and looked at, as well as the strengths. There is a possibility and this regional prosecutor was highlighting a growing issue in his area, where the rush to charge was leading, ultimately, to individuals, who should have been facing prosecution, because of those technicalities, getting off and not facing appropriate prosecution, because evidence had not been properly investigated and brought forward. So, I do not think we should be alarmed in the way that Deputy Tadier is suggesting we should be. What this is, is improving our current processes.

[12:15]

#### **The Greffier of the States (in the Chair):**

Subject to the Minister, or the Attorney General, I think it is Article 22 and Schedule 2 which deal with police bail. The Minister nods vigorously in my direction, so they will be the ones to pick out for a separate decision later.

#### **11.2.4 Deputy L.M.C. Doublet:**

I want to thank the Minister and the Assistant Minister and their department for briefing the panel on this particular proposition. Deputy Tadier raises a good question. We did examine this area within our comments - we had similar concerns - and we have accepted the proposition, on the condition that the Home Affairs Department is monitoring the implementation of the 6-month pre-charge bail time limit after the implementation and I will be making a note with the officer to ensure that that is monitored by the department and that we are holding the Minister to account on that. We were given some reassurance that the 6-month time limit is not a target, that is the absolute maximum and that the policy would be the minimum amount of time possible. But I do

acknowledge that those concerns are there and I can only reassure the Deputy that the panel will be monitoring the implementation in that regard.

**The Greffier of the States (in the Chair):**

Does any other Member wish to speak on the Articles? If not, I call on the Minister.

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

I am grateful to those who have raised these points. I think Deputy Tadier's point is really a fundamental one and one that displays the real need for this new Law to be in place, because it will really enhance the application of criminal justice. I will not reiterate the points made by the Attorney General, or the Chief Minister, because they have been far more eloquent and thorough than I could be, but it is really for the reasons outlined by the Attorney General so well, that it is of importance that this opportunity to bail upon arrest and prior to charge is available. I would like to, however, reassure Members that there is a right to appeal and that request must be determined within 96 hours and the Magistrate would have the power to remove any condition of bail, or impose different conditions if it was deemed that the request for appeal should be accepted by the Magistrate. So, I hope that comforts Members that there is a good check and balance. I shall leave it there and I ask, perhaps, that we deal with Articles 1 to 18 first, so that we can deal with this matter separately.

**The Greffier of the States (in the Chair):**

Before we come to a decision on these matters, the Attorney General wishes to intervene.

**The Attorney General:**

I just want to clarify that pre-charge bail is regarded as being in the interests of suspects, victims and the society at large in all jurisdictions that have it. It is essential, for example, in complex fraud and financial crime cases, where investigations take a long time. I have mentioned domestic violence cases already. As the Minister said moments ago, any person who is granted pre-charge bail, if they are not content with the conditions, has, in effect, an immediate entitlement to go to the court and have those conditions removed, or reassessed. In any event, after 6 months the case must be brought to court for the court to either end the conditions, or extend the conditions and institute a period of regular review. In relation to the conditions that are imposed prior to charge, they will be imposed either by a Centenier who, as the Constable of St. John has reminded us, is independent, or an officer of the force. But, in practice, it is my firm belief and I will get this confirmed if need be, that the officer who will impose the pre-charge bail conditions will be, as in England and Wales, a custody officer, who is not involved, in any way, in the investigation of the offence, and he or she will need to assess whether, or not, the criteria are met for the imposition of pre-charge bail.

**Deputy M. Tadier:**

I have got a question for the Attorney General, if I may.

**The Greffier of the States (in the Chair):**

Yes.

**Deputy M. Tadier:**

If pre-charge bail is not granted, does it remain the case that even if the force wish to investigate they would not be able to hold the individual for more than 48 hours without charging?

**The Attorney General:**

Yes, the custody time limits set out in the Law apply in all circumstances.

**Deputy M. Tadier:**

So, is there a risk that pre-charge bail would be granted, not because that individual is necessarily a fit person to be released back into the community, but because simply the police wish to buy more time to investigate?

**The Attorney General:**

No, bail conditions, pre-charge, can only be imposed if the circumstances set out in Schedule 2, Article 4, the new Article 34 are met. In other circumstances they simply cannot be imposed, there must be a reason for the imposition of pre-charge bail conditions which, as I have said, can be reviewed by the court almost immediately.

**The Greffier of the States (in the Chair):**

Deputy, do you still wish to have a separate vote on Article 22 and Schedule 2? Minister, you asked to take 1 to 18 separately, what are your plans for 19 to 21 then?

**The Deputy of St. Peter:**

I would ask that they were taken separately, because it is just a matter of grouping them in topics, really. So I would suggest that Articles 19 to 24 were taken as one.

**The Greffier of the States (in the Chair):**

No, we cannot do that because we started off taking them all *en bloc*, so the opportunity to split them up for separate debate has gone, so we are now up to the point of what the Assembly will vote on. We have got one proposal for a separate vote, so I think the Assembly wanted to move on to decide Articles 1 to 21. Those Members who are in favour of Articles 1 to 21 kindly show. Those against? Those have been adopted. We now come to Article ... I should have said that would include Schedule 1, by the way. Article 22 and Schedule 2, which go together. Deputy Tadier, you wish to have the *appel*?

**Deputy M. Tadier:**

Yes please.

**The Greffier of the States (in the Chair):**

The *appel* has been called for on Article 22 and Schedule 2. Members are invited to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 33</b>		<b>CONTRE: 9</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator S.C. Ferguson		
Senator P.F.C. Ozouf		Connétable of St. Saviour		
Senator A.J.H. Maclean		Connétable of St. John		
Senator I.J. Gorst		Deputy K.C. Lewis (S)		
Senator L.J. Farnham		Deputy M. Tadier (B)		
Senator P.M. Bailhache		Deputy M.R. Higgins (H)		
Senator A.K.F. Green		Deputy S.Y. Mézec (H)		
Connétable of St. Helier		Deputy R. Labey (H)		
Connétable of St. Clement		Deputy T.A. McDonald (S)		
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				
Connétable of Trinity				
Deputy J.A. Martin (H)				



Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy E.J. Noel (L)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy A.D. Lewis (H)				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

**The Greffier of the States (in the Chair):**

That leaves Articles 23 and 24 and Schedule 3. Those Members who are in favour of those remaining provisions please show. Those against? Those Articles are adopted. Minister, do you wish to propose the matter in Third Reading?

**The Deputy of St. Peter:**

Yes, please.

**The Greffier of the States (in the Chair):**

Does any Member wish to speak on Third Reading? In which case those Members who are in favour of adopting the law in Third Reading kindly show. Those against?

**The Greffier of the States (in the Chair):**

The *appel* has just about been called for. Members have been invited to return to their seats. I ask the Greffier to open the voting.

<b>POUR: 37</b>		<b>CONTRE: 5</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator S.C. Ferguson		
Senator P.F.C. Ozouf		Connétable of St. Saviour		
Senator A.J.H. Maclean		Connétable of St. John		
Senator I.J. Gorst		Deputy K.C. Lewis (S)		
Senator L.J. Farnham		Deputy M.R. Higgins (H)		
Senator P.M. Bailhache				
Senator A.K.F. Green				
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. Martin				
Connétable of Grouville				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				

Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

**The Greffier of the States (in the Chair):**

Why, sorry? **[Laughter]** The debate has finished, Minister.

**The Deputy of St. Peter:**

I appreciate that. I did not take the opportunity to thank ...

**The Greffier of the States (in the Chair):**

I am afraid you did not take the opportunity, so we have to move on.

**The Deputy of St. Peter:**

Okay. Well, I would just like to thank the ...

**The Greffier of the States (in the Chair):**

That is one of the reasons we have a Third Reading opportunity, sorry.

**12. Draft Control of Housing and Work (Amendment of Law - Annual Charges) (Jersey) Regulations 201- (P.53/2017)**

**The Greffier of the States (in the Chair):**

We now move on to the Draft Control of Housing and Work (Amendment of Law - Annual Charges) (Jersey) Regulations and I ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Control of Housing and Work (Amendment of Law - Annual Charges) (Jersey) Regulations 201-. The States, in pursuance of Articles 31(6) and 44 of the Control of Housing and Work (Jersey) Law 2012, have made the following Regulations.

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

I would like to ask Senator Routier to act as rapporteur.

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

The purpose of these Regulations is to enable fees to be introduced to help fund an increase in migration controls and also increase the investment in skills development. It is proposed to have a fee, which will ensure that employers who have, or want, registered permissions that they really consider the need to have newly arrived staff within their business, i.e. that is staff with under 5 years' residency. Another element is to raise funds to cover the cost of skills training for entitled staff and to boost our compliance capability. The costs of controlling migration should not fall on the taxpayer and the cost should fall on the businesses that employ migrant workers and the migrant workers, themselves. These costs need not be high, as we believe what we are proposing is appropriate. These Regulations will enable an Order to be made, so that the Population Office can charge £50 per registered permission, per year. What I am going to say is obvious, however, I will say it, because some businesses do not appear to appreciate that they can employ local entitled staff without requiring permission and now without incurring a charge. So, for those businesses that do employ less registered workers, which is most small businesses, the costs will be a lot lower than those who have high numbers of migrants. Many of the very best businesses, often competing in the same sectors, usually pay more in wages and have more flexible working conditions, so they are better able to attract local staff and to keep their staff. They will have to pay nothing, or virtually nothing, because they employ no, or predominantly very few, registered staff. If a business wishes to avoid this charge they can. They can give up their spare permissions, or they can reduce their permissions and put more effort into employing entitled staff. We are ensuring that the charge does not fall on seasonal workers, as we want to ensure the impact on hospitality and agriculture is minimised. So, we are hoping to achieve this by only charging businesses for permissions that they have on 1st November. This charge is wholly consistent with our migration policies: supporting local employment and improving the skills of our local workforce. This is why we will invest the proceeds not just in migration controls, but in extra investment in skills, giving a boost to the forthcoming skills strategy. In the second part of these Regulations we are proposing a fee for employment agencies of £500. These agencies do have permissions to place registered staff and our economy clearly needs that flexibility, but the ability to use migrant workers should not come free. There should be a clear premium on obtaining a registered worker from an employment agency. As Members are aware, there is a real challenge for all of us to get to grips with if we are going to make inroads into reducing the need for migrant workers. Island businesses, understandably, need staff and even with the current levels of migration we need to do more. Every week we are faced with businesses, who say they cannot recruit locally, who may have to close if we refuse their requests. What this proposition does is to ensure that these permissions, where granted, are not free. Other jurisdictions do have similar fees and we do not see it as being anti-competitive, compared to our nearest neighbours. Members are aware that, over recent months, there has been a lot of work taking place, removing permissions and refusing permissions and the evidence can be seen in the proposition of the ones which have been refused. This has not been easy and Members will have seen some of the reactions from some businesses. I want to assure Members that we have been and we are working to the principles set out in the published guidelines which highlights the focus on social and economic value to our Island. If I may just thank my fellow members of the Housing and Work Advisory Panel, who have a tough job of helping to decide on the permissions.

[12:30]

These Regulations put in place another tool, which will help in the work of the Population Office by making employers think about the need for registered permissions, by providing resource for additional compliance and funds for new skills training for entitled staff. I ask Members to support the Regulations.

**The Bailiff:**

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

**12.1.1 Deputy G.P. Southern:**

It is always enjoyable to hear the bright words that describe a particular policy of this failing Council of Ministers. It is a pity that the system does not work and that no tweaks of the system are going to improve things. The fact is that, at present, we have no control, apparently, or very little control, over our net migration figures. We are talking about 1,100 net migration, of whom 900 were registered, i.e. mostly low-skilled, low tax return jobs, only 200 of which were licensed, i.e. most likely higher end earners and therefore tax contributors. It does not matter whether we fiddle with the charges to try and alter things. The fact is that we are still letting in, underneath all these Regulations, every 5 years, a cohort of people get their 5-year qualifications and become part of our society, resident here. Until we tackle that, we are not going to get control over our net migration policy, even if we had one, which we currently do not. So, while I look forward to a complete revision of the system that might work from this Council of Ministers, I do not particularly hold my breath while I wait, because I am likely to run out of oxygen. The fact is: the system that we have is not working, manifestly not working. The figures we are producing are not sustainable and anybody, who knows what they are talking about, will say that the system that we have put in place cannot be made to work. Stop tightening the knots on the machine. It is not going to work. It is not going anywhere. So, it will be with some reluctance, because we have not got anything in place that I will take the opportunity to mark my lack of faith in what this Council of Ministers is doing in this particular proposition by voting against it.

**12.1.2 Deputy M. Tadier:**

So, here again this is probably the second proposition today - the first one obviously got delayed - which is going to impact, disproportionately, on the hospitality industry and I look forward to hearing from the Minister for Economic Development, Tourism, Sport and Culture. The problem with this, although it is trying to tinker around the edges by doing something and one questions again, is this primarily to raise revenue, or is it to try and control the population, neither of which it will do effectively. It will raise some money, sure. The Council of Ministers have a fundamental problem here, because for year upon year they have set a ceiling and we should call it a ceiling, rather than a target on population, which is 320 net inwards migration, yet they exceed that. It is probably the only target that they exceed, not by once, not by twice, or 3 times, but by 4 times, so that year-on-year the population in Jersey is going up by more than 1,000, which means that it is very difficult to plan things like a hospital and a new school in my constituency, which I still have severe concerns that it will be too small within 15 years of it opening. That is, perhaps, a different matter although it is germane, I think, to this debate in the wider context. Now, let us look at these figures, because what it does, if we analyse the figures, which I have been calculating briefly, the hospitality industry, listed on page 4 is: hotels, restaurant and bars employ 1,810 people on a registered basis out of a total of over 5,000. That represents 34 per cent of their workforce, which are registered, do not have the 5-year entitlement and there is a reason for that. That is not because the industry are bad, or they are lazy, or they choose to discriminate against locals; it is because of the nature of the job and it is also because of the nature of the economic model in Jersey, which they do not have a control over. So, when it comes to their ability to pay, they are going to be asked to cough up £90,500 for an industry which is very vital and I think which we all value, not just in terms of the economy, but also the fact that we use them personally, or our friends and family, when they visit, use them as well. Now, let us compare that to the financial and legal services industry, which employs only 610 on a registered basis, out of a workforce of over 12,000 and that industry will be contributing £30,500 so, already, the hospitality industry, which are very important G.V.A. (Gross Value Added) to our economy; but in terms of the productivity and the contribution they make, which of those industries is going to be most able to bear that new

additional burden? Is it the finance industry and the legal profession industry, or is it the already beleaguered hospitality industry? I would say to the Minister that he has got this wrong. I mean, if he really wants to address this issue, he should be looking at something which is proportionate and looks at the ability for those individuals to pay. Now, one idea for doing that and that you would have to work out the human rights implications for it and otherwise, is to link it to what the individual is being paid. So, if somebody is being paid, let us say, £9 an hour in one industry, a £50 fee a year for that permit is going to be much more significant than somebody in the finance industry, who is being paid anything - let us pick a figure out of the air - £100 an hour, or £50 an hour. If you linked it to the social security contributions and said: "Look, we are going to make it proportionate, so that we will charge double for example. So if you employ somebody on a registered permit, you will have to pay twice the social security contribution." I suspect that those industries across the board would be able to accommodate that. I know we have got some in here and that is not policy on the hoof, but it is saying that the Minister needs to be more creative when it comes to these ideas, so that people think about: "Do I need to employ these people, or not?" I think this is yet another attack on the hospitality industry. It does not do what it says on the tin and it is simply a way of getting some easy money in, but also putting a sticking plaster over what is a much bigger problem, only less than 10 months before an election. I would say to the rapporteur here that surely the Council of Ministers can do better than that. Surely there is some creative thinking which can take the industry along with them, but which can take also those in Jersey, who are fundamentally concerned about population increase and the quality of life in our Island going forward which affects us all whether we are in the business community, because fundamentally we are all residents of Jersey and we want to see the quality of life in our Island being enhanced and not eroded and under this Council of Ministers that is exactly what is happening.

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

I am sorry to let the rapporteur know I am in a similar vein as Deputy Tadier and I have a very long memory. This has been tried before. It was in the days of just before the last Assembly and Deputy Baker of St. Helier No. 1 made a scathing attack on it then, saying why it would not work and I think it was withdrawn. It certainly was voted out, if it was not withdrawn. It is a similar vein. We do not have a proper population policy. We have ... little things keep being introduced to try and control. I mean it says on the tin: 'Control of Housing and Work' but, really? No. Again, look at that graph on page 4: wholesale and retail and then hotel, restaurants and bars between them will be bringing in over half of what it is, about £300,000 to us in the scheme of things are not, but to a lot of these businesses it is a lot of money and also do not forget the registered person, who comes over, already pays for their registered card down at Social Security. So, it really is £50, but is it £50 if you are employing 100 people? We are letting our local staff down, we know that. We are not training them properly. We are not encouraging them to go and these same people, who are going to vote for this, when you stand up and say these industries should be giving a proper living wage will say: "No, they cannot afford it" but now they are telling us they can afford this extra fee. Which one is it? This is rubbish. It should be consigned to the rubbish bin and that is what I am saying. Do not let this go through. It is tinkering again at the edges. Do not know what to do. Let me bring forward ... no, let them bring forward a proper costed population policy, so we all know where we are and stop tinkering with these silly figures, because it will really affect the 2 massive industries which they lump together; 2 sectors. They say hotels, restaurants and bars and then financial services. There is retail in there, as well, and wholesale, small businesses that employ 540 people on licences ... registered sorry, which would need to pay this small fee. Sorry, I cannot support it. It is again just one of them, please remember this has been tried before. They think we have not got a long enough memory, bring it back 4 years' time and it will sneak in. No. This person has the memory of an elephant, sorry.

### **12.1.4 The Connétable of St. Helier:**

Yes, I just want to let the staff, in particular, of the Population Office know what a great job I think they do in very difficult circumstances and the fact that I am going to vote against this proposition, really for the reasons outlined by Deputy Tadier and Deputy Martin. I would not want them to take it in any way as a reflection on the difficult job they do. I am very grateful all the time for the fact they do listen to the needs of hospitality and retail and we all know of small businesses who say to us: “We would like to open more. We would like to open longer, but we cannot, because we cannot get the staff.” There is a disconnect, at the moment, between what the retailers and hospitality are telling me and the fact that our population is inexorably rising and no one has really found a solution to it yet and I think the Members, who have spoken and asked for the policy to be improved, are right. We cannot simply slap more charges on hospitality and retail. This was something that I would have spoken on this morning had we got to a fuller debate on waste charges. Hospitality, in particular, are being hit from all sides by numerous extra charges, not just this one. Not just for liquid waste tax. The Employment Law, alone, has led to some hotel chains having to employ new staff, simply to manage the demands of the Employment Law on their businesses, so it is a difficult time for the hospitality sector and I do not want myself to do anything that makes it more expensive for them to operate in an already expensive environment. So, I will not be supporting the proposition.

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

I have done the arithmetic and I think some Members are jumping to conclusions. For example, financial and legal have 800 licensed employees and they pay between £175 and £200 a year, so approximately £160,000. Add to that 600 registered and they are paying £190,000, as opposed to the tourist industry, or hotels, restaurants and bars, about £94,000. So, there is a balance within there and, generally speaking, I support this, but this has been brought in isolation. I want to see a complete package for immigration and immigration controls. Do not bring us one slice of salami at a time. Bring us the whole sausage, let us see what it looks like and then we can vote on the whole package. **[Interruption]** I had to get food in there somewhere **[Laughter]** especially as, I believe, it is now lunchtime. I shall be opposing this proposition.

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

Before the adjournment is proposed, could I just remind Members there is a brief presentation by the Financial Ombudsman in the Members’ room at lunchtime?

#### **The Bailiff:**

Is the adjournment is proposed?

#### **LUNCHEON ADJOURNMENT PROPOSED**

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

Yes. I would have loved to have carried on, but I propose the adjournment.

#### **The Bailiff:**

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

[12:44]

#### **LUNCHEON ADJOURNMENT**

[14:16]

#### **The Bailiff:**

Very well, debate then resumes on the Draft Control of Housing and Work (Amendment of Law - Annual Charges) Regulations. We are debating the principles. Does any other Member wish to speak on the principles?

#### **12.1.6 Deputy R. Labey:**

I was not expecting to be called immediately, but I will wing it. I must make the declaration that my family are potato farmers, but I do not get a share of anything, financially, in that way. I do not know if these are stupid questions, but I have a few questions for the Assistant Minister. I did not go to any briefings on this and, in some respects, I feel that the briefings risk ripping the heart out of the debate in this House, sometimes, where we do not ask the sort of questions, perhaps, that the people listening, or watching, might want asked, because it has all been cleared up in a room elsewhere. So I make apologies and I make no apologies at the same time. I want to know how the November registration is anticipated to advantage people. If I can talk about the potato farmers who employ, of course, a lot of seasonal workers and the seasonal workers for potato ... I wonder if the Assistant Minister knows how many potato farmers are left in the Island, or whether there has been consultation with any of those sole trader individual family potato farmers. I wonder if they have been spoken to in any way, because, by my reckoning, there are 10 such farmers left in the Island. There are 8 sole trader individual potato farms working with the Bartlett Organisation as their merchants and I think there are 2 left in the now Greenvale Group, Jersey Royal Group, and the rest is corporate farms, in terms of landowners have let their land to Greenvale and it is farmed, corporately, by gangs of seasonal workers. I am looking to the Constable of Grouville, because he knows much more about this than I do. So, these individual potato farmers they hire their staff ... when they hire their seasonal staff they pay their £75 social security registration and are they now being asked to pay an extra £50, is that right, for every person they hire? Another cost. They have already seen their area payments cut down, their subsidies cut down. The situation with these farmers is that they are clinging on. As I said, there are 10 left, by my reckoning. We lost last year the last young farmer that was going to take on the family business, an incredibly bright young man, who watched what was going on with his father and the farm he was farming and he decided to go and work in the finance industry. As I say, he is incredibly bright and he will do extremely well there and it was just, you know, I remember that family saying to me: "We are going to have one more go at this and if we are not going to make a profit we are not going to do it anymore" and these are highly intelligent people, who run an extremely efficient ... ran an extremely efficient potato farm, but they could not make sufficient money to make it worthwhile. So, we are down to 10 individual farmers. Have we spoken to these farmers, I wonder, and is there some differential between that kind of category and the corporate farm category? It seems to me that there is a lack of understanding and even some animosity, towards these 2 big groups but, for individual farmers, they are very important. Somebody has to market the potatoes, and it is a ... you know, getting product into supermarkets is highly specialised and I think we need them at the moment. I do sense that there is some sort of ... I do not know if distrust is too big a word, or lack of understanding. In fact, I think, overall, from this Chamber there is a lack of understanding of what farmers do and the difficulties they are in and the tightness of the margins and this is yet another tax on them. I think it is the wrong thing to do, because we should be helping them, not penalising them. The agriculture industry should be among the principal pillars, along with health and education. I do believe that the agriculture industry should be among the pillars of priority, by any government of this Island, because the consequences of losing them are really terrifying to contemplate. You will have to pay for a lot of *branchage*, besides anything else. So, I just worry that this is hitting a part of the industry where, really, it is not welcome for them to be hit. People think farmers are always complaining and that they are raking it in; it is, in my experience, not just with my brother, but I get to speak to a lot of potato farmers, talking to them is very different from, I think, the perception of the Government. Just recently we, on the Planning Panel, had a very difficult application to

consider with a young farmer in St. Lawrence, not a potato farmer, who wanted to diversify and build, effectively, a small hotel on a green field site and there were 6 of us on the panel. It was a very interesting determination where we had representation from the Minister for Economic Development, Tourism, Sport and Culture and I know he is a sympathetic ear, to be fair to him, to the farming industry and I sometimes wish his colleagues on the Council of Ministers would listen to him a little bit more ... do not clap on your own, or someone will throw you a fish! **[Laughter]** We had a very difficult determination. A young farmer, who wanted to build, effectively, a small hotel for what is agritourism: somebody can come and stay on the farm, and there is a big market for this in the U.K., and this guy has got this idea to do it here. It was an application that we had had previously and turned down a year ago, and then it came up before us last month. We had a very good representation from the Minister, from the President of the N.F.U. (National Farmers Union), from a lot of people and the salient point that came out from that was: what is the use of preserving the countryside, if there are no farmers left to farm it? There was a huge emotional argument put on the Panel - I feel unfairly - and we granted, in a vote 4:2, the application. Our magnificent chairman of the Planning Committee voted against it, as did Deputy Maçon and, by the letter of the law, I have to say, they were correct in their interpretation of the Island Plan. I think the 4 of us that accepted the emotional argument and voted for this ... and this might go to appeal and it might be in trouble, in the strict reading of the Island Plan we were probably not as right as the Constable of St. Mary and Deputy Maçon of St. Saviour.

**Senator I.J. Gorst:**

I wonder if the Deputy would give way. Having made his decision, I would advise him to be careful how he speaks about it, so that his decision is ultimately upheld and he does not say anything that might prejudice such an appeal.

**Deputy R. Labey:**

I am grateful to the Chief Minister. I was trying to be careful, but maybe I was not careful enough. In many respects, it is out of our hands now and it goes elsewhere. Why I was cross about that is because there were 12 months for the Government to introduce policy that would make our decision lawful and right and sensible and we had grounds for doing it. There was no policy in the Island Plan, amended, or what-have-you, that we could hang that on. I think that we were put in a very difficult position and I regret that. It would have been a good idea to help farmers in that way, if they could diversify on their farms, using part of their farms, their sheds, or what-have-you, in a different way. It may be the way forward and somebody needs to be looking at that. I have deviated and I will try to get back on track. The last thing is that the people I am speaking for in this debate are to be hit with another tax. You may think: "Oh, it is just a little nip, nip, nip here" but the margins are so tight. I do not think it is just tight in the potato industry, I think it is tight in the agricultural industry, everywhere. Ask Normans how many farmers are 2 years' late paying their bills. It is an indication of how very tough the climate is. Going to the U.K. supermarkets is a highly specialised, highly difficult area now and it is a difficult market, it is a competitive market, and any nipping away at farmers' margins, which are tight, negative, at the moment, is a retrograde step. This is exactly what they do not need.

**12.1.7 The Deputy of Grouville:**

I have 3 main points to make. The first one is the impact to industry that this proposition is going to have. I do not see any analysis anywhere, just like the user-pays liquid waste charge we had this morning, that there is no impact whatsoever to industry. It seems to me that it is the same industries that are going to be hit in this proposition as this morning and yesterday's, so it is agriculture and fisheries again, who are the biggest employers, who are going to be hit the hardest. I also note, reading through this, and this is more, or less, an aside to the issue, the amount of



refusals that are given to hospitality and health and education compared to other sectors. I know that is an aside, but I do find that quite troubling. Why should finance get everything that they want and hospitality and health and education are refused all these licences?

[14:30]

There may be good reason and I look forward to hearing the Assistant Minister, when he sums up, but my point is: here we are, imposing more charges on business, but at a time when we are meant to be encouraging business, encouraging people to do high-value things, encouraging employers to play their part. I must say that the imagination that goes into forming a migration policy is not very forthcoming. I asked a question, my written question 6 this session and it was to the Minister for the Environment. I was asking if there was any form of phased limitation on the States developments that we do. For example, we have huge projects that are about to take place: we have got the hospital, the finance sector and Les Quennevais School, all run by the States, that is going to suck in labour from the construction industry. Is there any form of condition placed on planning, or forethought of the States to do these developments in stages, so that all the construction labour is not sucked in at the same time? The answer was disappointing, in that there are no plans, or conditions in place from a planning perspective to halt, or interfere, with the timing of building developments. I also asked the question - and this is the other huge plank of the migration issue - and that is education: "What requirements, if any, are in place to ensure developers employ a certain number, or percentage, of apprentices, depending on the size, or contribute to a training levy for the construction industry?" It does not just have to be the construction industry, but I was asking it for this particular time. There are no requirements, none. So, the construction industry - and other industries, it is not just fair to pick on them - I feel, are expecting ready, tailor-made labour off the peg, and if they have not got that particular person, they do not even entertain the idea of training, or apprenticeships. I would like to see a little bit of imagination here when the migration policy is, eventually, forthcoming. I am going to vote against this, because I do not agree with imposing more charges on business at this time, especially when there is no financial analysis as to what impact it is going to have on these businesses, especially those that are struggling.

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

Before I start, obviously, I have got connections with farming and I still do have a farm business, but it is very small now - in fact, little more than what I would describe as a hobby farm - and I do not employ any labour. Like the Deputy of St. Ouen, Deputy Labey, my family do farm; my siblings are heavily involved in potato growing and other sectors. I, like Deputy Labey, am a little bit confused, as well. I do not quite know where this arbitrary 1st November date came in, for example. That is fine if you are a potato grower, but if you grow winter crops you may well have seasonal labour who come over to harvest cauliflowers, for example. I have to say, I do not think you will find many local people who will want to go out in all weathers, particularly in November, when there can be sleet, hail and the rest of it. We do need these seasonal staff and there appears to be a cost involved in that. It is some time since I employed seasonal labour, but at the time, from memory, I had what I would describe as ... I am not sure if it was a 3, or a 5-year licence or agreement, whereby I said: "I need that many seasonal workers every year" that was agreed. I assume, under these new rules, I would have to pay every year for that facility, but perhaps the Assistant Minister would be able to enlighten us on that. That is all, really, I have to say.

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

I find myself, often, in difficult positions, being a member of the Council of Ministers and having to try and stand up and take the interest of the industries I represent; it is very difficult. I know I try the patience of my colleagues, but sometimes one has to stand up and be counted. I am grateful for the fact that it is not being proposed to charge seasonal staff, at least, although that is "seasonal" as

we understand it, the traditional season of the summer season, which applies, mainly, to the hospitality season; in agriculture there are different seasons. I see this possibly could result in an exercise of achieving a reduction in licences, but not a reduction in people, or not a reduction in the appetite for staff. Because businesses, in all sectors, do not particularly want to create jobs, they tend to run their businesses very well and will only want to employ the people that they absolutely need. Not many businesses can afford to carry dead weight. There is no preference, either, I know, from agriculture, or hospitality - they do not look to immigrants, necessarily, to employ - they will want to employ anybody who is fit and able and willing and skilled, or qualified in any way, shape, or form, to do the job on offer. Of course, it is going to be always almost impossible, not just because of the wages on offer and I know those industries do, sometimes, pay minimum wage, but I just want to refer briefly to the document I placed in Members' pigeon holes this morning. This is an economic contribution of tourism study, that Visit Jersey commissioned, that was published in May and it looks at the productivity opportunity of these sectors. Some Members of the Assembly have said to me: "Well, do we really want some of these small businesses? How many coffee shops do we need?" but it is not all about that. I am just going to refer to one paragraph here, and I will read it to Members, if I may: "There is a wide range of careers in tourism-related services going well beyond the common perception of restaurant and bar staff: in entertainment and leisure, tour operators and travel agents, airport staffing, travel, journalism, photography, as well as the rapidly-expanding areas of digital marketing and e-commerce." I am very pleased with Deputy Martin: she has got a well-thumbed copy in front of her there. When we look at digital marketing and e-commerce, this applies to agriculture, as well, and retail and the other sectors of commerce that we are working hard to develop and make more productive. We have an odd position, because we give a good grant every year to Jersey Business, who are doing an absolutely brilliant job in advising businesses and helping businesses to set up, but we are almost, with Jersey Business, creating new jobs, but with one hand we are trying to restrict the jobs. It is a really difficult position. Senator Routier deserves credit: he has to sit there with the Housing and Work Advisory Group and weigh up these decisions week after week and it is not easy, I know that. It is difficult. I personally think the way forward and we have spoken about this at Council of Ministers: when we get into population policy, we have got to find a way of making sure our industries get the staff they need, without it having a long-term impact on our population. Of course, we go back to a work-permit system. I know that is not ideal, but I know a number of businesses would prefer that, where they have certainty with staff for a 3, 4 or 5-year period. It is difficult, because after 3, 4 or 5 years, people get settled and they have to move on, but that might have to be the way forward, otherwise I cannot see a way of stopping our population growing exponentially, because of our strong economy, because we are employing now, I think, more people than we have ever employed before across most sectors of the economy. Population is only going to go one way. It is difficult; this is a difficult decision for Members and it is a lot of grief and not a lot of return, in financial terms, but it is a hard decision that the Assembly has got to make. I thank Members for listening to me and I apologise for the juxtaposition I find myself in with the Council of Ministers from time to time, and I thank my colleagues on Council of Ministers for their understanding.

#### **12.1.10 Deputy J.M. Maçon:**

While I appreciate this is about the fees to be charged, of course, there are the wide implications, which Members have started to discuss. What I wanted to say is, I think, when we look at this, we do look at the impacts on agriculture and hospitality. It does make you wonder, though, when you look at these aspects under retail, whether such licences are necessary. Certainly, when we hear in the news stories a business complaining about not having a licence granted, I do wonder, as part of H.A.W.A.G. (Housing and Work Advisory Group), how often it is asked: "Well, how much are you trying to attract people for? What are the level of wages that you are offering?" Then they say: "Well, Jersey people do not want to do it." It may not be that Jersey people do not want to do it,

they just may not want to do it at the rate which is being offered. As part of the Brexit aspect, we know a lot of traditional Labour land supported Brexit, but it was because of the deflationary effects that were perceived in importing eastern Europeans, in particular, which then stagnated and kept wages low for individuals. I think this is part of how it goes in Jersey, in that because we have the finance industry, which is so dominant and the wages that that is able to pay, compared to other industries, sometimes it has been referred to as: “The Cuckoo in the nest” in that, given that it cannot pay the wages to other industries, it, in some ways, leads to a 2-tier society. If you are not working in finance, or you are not working, perhaps, somewhere for the States, that affects your earning potential, which then leads to what H.A.W.A.G. have to try and manage, as we see here today. On the other hand, I do welcome what the Assistant Minister has come forward with, talking about this skills levy. Certainly, on the Education and Home Affairs Scrutiny Panel it is something which we have brought up time and again: how little this Island invests, comparatively to other European jurisdictions, how much we put into our education per G.D.P. (Gross Domestic Product) per head, which was revealed in the Tera Allas innovation review. In that way, I welcome that, but I would like the Assistant Minister, when he sums up, to speak more about that if he wants my vote, because I really want to understand that a lot more, and what that means for the young people of this Island. Certainly, what we hear a lot is, again: “Local people are not skilled to do X, Y, Z job.” Then, going back to H.A.W.A.G., how much do they ask and determine: “Well, where is your succession planning? What training have you put in place?” and those types of issues. It is all well and good saying: “Well, local people are not skilled up to do these jobs” while, at the same time, there is a responsibility on the employer, as well, to put in training opportunities for young people, or any type of person, as well. I wonder how robust those debates are around the H.A.W.A.G. table. Again, in one sense, my vote is in the air, because I appreciate what Members are saying. Maybe we need to, perhaps, look at a German model where you look at different industries, you look at different industry advisers and you tailor the legislation towards different industries differently. Maybe that is something we need to look at. Again, I have been a big supporter, for a long time, of a work, visa permit system; that is something that has always been on my manifesto, it has always been something that has been very popular and, certainly, I wait to hear the response of the Assistant Chief Minister.

[14:45]

#### **12.1.11 Deputy P.D. McLinton:**

Like the flowers love the rain, I do enjoy a good metaphor and I always enjoy the Constable of St. John’s metaphors, when he leaps to his feet and I particularly enjoyed his salami metaphor earlier. I do take the Constable’s point about piecemeal, thin slicing and introducing various tactics to population control. I am going to stretch the metaphor further: I do not see this as necessarily not tasty, because there will be and hopefully I can find it here ... I would like the Assistant Minister to talk more about the £300,000 investment, the good side of this, what we can get from this moving forward, I would like to hear a bit more about that, because right now I am on the fence. There is good in this and I would like to hear what that good will do before I make up my mind. So, if the Assistant Minister, in his summing up, could talk to the £300,000 investment into the industries, then perhaps that will help me inform my decision.

#### **12.1.12 Deputy A.E. Pryke of Trinity:**

I am pleased to follow some Members. We have had a lot of discussions and I am sure we will do in the time to come, about population, but we all know there is not one magic wand that is going to answer all the issues; it is a range of ways of control. We know our economy is vibrant, businesses on a weekly, on a daily, basis are asking for more licences, and we do refuse some, of course we do, and the Population Office refuses at least half the applications. If businesses appeal to H.A.W.A.G., where they sit in front of a group of States Members appealing as to why they should

have more staff to run their business ... it might be a hotel, it might be agriculture, barber shop, gardening; you name it, it is across the range. To take Deputy Maçon's point, we do ask them: "Where is your succession planning? Have you engaged with Back to Work? Are you looking at apprentices? Can you take apprentices?" All those questions, we ask. Some have not engaged in Back to Work and our response is, quite swiftly: "Well, you need to. Refused." We do, on H.A.W.A.G., refuse most of them. If we did not, our net migration would be much higher than what you are seeing today. Also, I put a challenge down to all States Members. I know Senator Routier has, many times, offered an invitation to sit with H.A.W.A.G.; well, I think all States Members should take up that offer and come and see how it is done. We do make those difficult decisions. Over the last year, the Population Office have worked with businesses which have the highest number of licences to get back some licences. In the main, businesses have worked with us; they perhaps do not like it, but they have worked with us. We will always need some migrants into our Island, we know that we have not got a workforce to fill every vacancy, but that is not new; we have always had them for many years in the past and they do play an important role in our economy. This proposition aims to get businesses to stop, really think: "Do I need that licence?" These fees will help them, because the money will go to making sure that the businesses are compliant, which I hope we all would encourage and enable funds to go into skills to help train our own local people in hospitality, in agriculture and other jobs. Surely that is a good thing. Yes, a lot of work is being done with Back to Work and other skills strategies, but more always will need to be done and this will help fund that in a more targeted way. At the moment, licences are free. H.A.W.A.G, quite rightly, focuses on the social and economic value that a person brings with them, but it is still a challenge when you have businesses, continually, asking for more staff. These fees will make more businesses, as I said, stop and think. It is an extra £50 per worker, per year, on 1st November. Why that date? It is not for seasonal workers. The date was chosen, because it does not cover the summer season, where you get hospitality having seasonal workers, or the winter months, where you might get agriculture workers. The biggest impact is on the financial industry, and they pay. Also, businesses have got to think: there is no cost to employ local people, so businesses have a choice: they did not want to pay, they need to invest in our local people, to get people back into work and to get more training for their roles that they do. The £300,000 from Skills will go to Social Security to tailor and support industries, to help people into businesses and helping people and businesses working together to upskill their needs. So, if we are serious about making a difference, a small difference albeit, to help our population, to reduce our population, then I urge Members, please, to support this proposition.

#### **12.1.13 Deputy S.Y. Mézec:**

I support more investment in education and training and I support measures which will limit Jersey's population growth. The Council of Ministers, I presume, will try to argue that this proposal achieves both of those, but I think, in reality, we know that the impacts this will have will be negligible in the grand scheme of things, which is why what we actually need is a proper population policy, not this salami slice that we have in front of us. I had a conversation with a businessman a few months ago now when this idea was initially floated and I do not think he intended to persuade me one way, or the other, but he just made one comment that to me, I think, summed up the situation quite nicely and shows some of the underlying problems there are. This person runs a business in the finance industry and he said that if he needed to employ somebody with particular skills and could not find anybody, who was already in the Island to do that a £50 would not put him off, a £500 charge would not put him off, a £5,000 charge would not put him off, because, ultimately, that amount would still be less than what he would be paying on training to get somebody, who was already in the Island, to be doing that job. The charge was, actually, not a disincentive to getting somebody from outside the Island in to doing that job. The fact was that it is a successful business, it is making lots of money and when it is growing and when it needs new

people in to that business a charge of £5,000 – peanuts - it does not matter. Maybe that contribution can go to training, as well. So, this businessman that I spoke to inadvertently convinced me that this is not the right way to go about things and it is for a similar philosophical basis that I have stood up and opposed both of the previous charges we have been debating in this States session - the user pays for the police and the waste charge - which is that these charges do not do what they are meant to do. If we want improved funding for education and training, a little charge like this in the grand scheme of things is not going to achieve anything, but it is being charged in a non-progressive way. If there are businesses out there, who could be charged thousands of pounds to bring somebody in to a particular job, they are not going to be put off by these charges. They are absolutely nothing in the grand scheme of things. So, it is not going to impact on their behaviour, but what it will do, as has been mentioned by other Members about businesses and other industries, is that these charges adding up and adding up will negatively affect those businesses, which are already struggling. Now, this is what I dislike about what has been happening over the past couple of years with this Government and the charges it has been trying to introduce: is that they are not targeted progressively, they are targeted on an arbitrary basis that does not take into account a particular business' viability, its profitability and its contribution and potential contribution to the economy overall. So, I am completely against this charge on principle, because it is not progressive and I am, frankly, more and more frustrated as every month goes by, that we do not have a proper population in place for the Island and everything we have got coming up - whether it is the new hospital, whether it is Les Quennevais school, whether it is broader housing issues in the Island - we are simply not dealing with these issues at all and this, I think, philosophically represents a Government that does not really know what it is doing on population. I think that is the fact of the matter here. This is essentially nothing. If we choose to vote against this, as I hope the States does, the impact it will have on the ground in Jersey is none whatsoever. This is not going to improve anything. The amount of money allocated to training is not much and I would say that if the Government is serious about training and having more qualified people on the Island to go into these jobs, so that these businesses do not feel like they have to look outside the Island to get people, there are 2 things that they are going to have to do. The first is that there is going to have to be real investment in education, and real investment in education is not a few hundred thousand pounds, it is millions of pounds and we are going to need to talk about where those millions of pounds are going to come from and we are going to need to talk about how we best direct young people into different types of training, because it is not just university, there is other vocational trainings that can be equally useful for their own careers too. But that is a discussion much wider than what this proposition gives us scope for. This is really scratching at the surface if we think we can transform the Island system with just a few hundred thousand pounds. We need millions of pounds to make sure young people in the Island - and not just young people for that matter - and people of all ages, who want to retrain, have the skills that they need to take part in what is a changing economy and the nature of work is changing and this does not help us. But, looking at the numbers we have in the chart that shows sector registered licence and entitled to work, I look at hotels, restaurants and bars: that has a very large number registered there. Agriculture and fishing. This is a point that several of us in this Assembly have raised before: that many people, already in the Island, look at those industries and they simply do not see potential careers for them in that. Part of that is to do with the way that they would be paid if they went in there. The fact that they know they would not have enough money to leave their parents' homes until they are in their 30s. Speaking as a 26 year-old, I can tell you nobody my age wants to be living with their parents. They want their independence, they want to be working towards their future, but they look at these industries and they simply do not see it as an option. So, something to do with the low pay in these industries is something we are going to have to address if we want to say to people in Jersey: "These are industries that you can have a bright future in, if you choose to go into it", rather than having an economic situation, where the business leaders in these industries

simply cannot get local people into those jobs. They have to look outside the Island instead. So, that is an issue that is going to have to be addressed and it is not addressed in this. The one at the very bottom: education, health and other services, I look at health there and I see professions within the health industry that have been systematically degraded over recent years. Nurses in particular, I think, do not get treated as well as they deserve to. We look at the U.K. and we can see what a terrible job is happening up there defending workers in the U.K., but it has not been much better here in Jersey either. It is similar to the point I would make about agriculture and hospitality, is that if we want to see more people, who are already in the Island, going into those professions, we have to make sure that it is an attractive career option, because of the working terms and conditions and pay and that we provide adequate training, so people who are already here can go into it. They are not going to rack up thousands of pounds of debt to get their training elsewhere, or are not going to leave the Island and decide they do not want to come back. So then we have to look for somebody else to do that job instead.

[15:00]

So, I am against this proposition because it is not progressive, it does not target the businesses that are most able to pay; instead it is just arbitrary and ultimately a regressive rate and because I think that it does not really provide anything close to adequate for providing further education and training to people in the Island. This really is symbolic, I think, of the shambles that this Government has had with its population policy over the previous few years and in the last Assembly, as well. Frankly, the Island deserves much better than this and I think as our way of showing that we believe our constituents deserve much better than what is before us we should vote against this and add extra pressure on to the Council of Ministers to come up with something that is fit for purpose, delivers for people who are already in the Island, protects our economy and helps those businesses that are struggling now, perhaps more than they have in previous years and get a real resolution in place, not this piecemeal proposition. I hope Members will vote against it on those bases.

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

This is not a new concept: it is one that is followed in Singapore, but it should still be part of the full population and migration policy. Who is going to be allocating the money collected? There is talk of it funding migration controls. Who is assessing which businesses can have licences? I get very jumpy where I hear of politicians and civil servants assessing which businesses can get licences. Despite what has been said, there is still no control over who comes into the Island from the Common Travel Area. So, until we have a proper functioning migration and population policy that works, I cannot see that this is going to be an awful lot of use. It is a lovely thought and the concept, I think, has merit, but it needs to be a part of a proper plan and it is not. So, I also shall not be supporting this.

#### **12.1.15 Deputy M.J. Norton:**

I have listened from afar as I have been making my way back to the States Chamber this afternoon - as I remind Members, I was attending a funeral - listening to a great deal of what was said in the last 20 minutes, certainly, and forgive me if I missed those Members that spoke before that. This is part of a system of levers that will enable the immigration policy, that we wish to put in place, happen. If you do not give us the tools to do that we cannot do the job effectively. Part of the incentive, and at the moment, to be quite frank, apart from the very robust conversations, Deputy Maçon, that happen over the table I would welcome ... are you shrugging your shoulders? I recommend, as has already been mentioned, any States Member, as the Deputy of St. John, as Senator Bailhache, as other States Members, who are not Members of H.A.W.A.G. to come and join H.A.W.A.G. and sit and just observe how diligent and how robust we are at thoroughly

checking that employers are doing everything they can in succession planning, in apprenticeships, making sure that they are doing everything they can possibly do, but the incentive to employ someone in Jersey ... well, there is not one, because it costs the business exactly the same to employ a registered employee, as it does a local employee. Until there is a differential, until there is a point at which the employer knows that there is an incentive for them, they will not willingly move forward. Some will, some are excellent employers, but some see no incentive. They will simply go to the Common Travel Area and take the next person, because they already have a registered permission. The Population Office and the H.A.W.A.G. - as it is being called, I do not need to explain anymore - do a job of reducing, wherever possible, the amount of registered permissions and licences. Over the last year it has taken away registered permissions from businesses and is continuing to do so, in order to encourage them to engage with Back to Work, to do succession planning, to start apprenticeship schemes, and we have had some very successful apprenticeship schemes that have started in hospitality, in building and in other niche market areas. The work that training centres, like Highlands College, have been doing has been exemplary and we should encourage more of that. To encourage more of that we must support this proposition. I have also heard that people are concerned as to what good work will come of the money that is accrued from this. As has already been stated - and I am sure the Assistant Chief Minister will very shortly outline even further - this will go towards further training in those specific areas. Now, it is all right to say: "Well, we need to target some areas more than others" and we do, because at different times of our generational cycle we might need more people in tourism, or we might need more people in building, or we might need more people in agriculture. It changes. It changes on one year, 2-year, 3-year, 4-year, 5-year cycles. In order to do that we need the levers in order to control that. The legislation and the laws that we already have in place mean that we can, when someone comes to apply for a registered permission and they come to an appeal on H.A.W.A.G., we can name that person. We can name how long they can stay in the Island for and have that registered permission. We have that legislation already, so if there is any talk from anyone saying what we need is further controls to limit, we have those controls and we have started flexing our muscle on using those controls. By having the incentive that means that a business - if they really need a registered permission or they really need a licence permission - then that is a cost to this Island. If it is a cost to this Island it is not one that every man, woman and child of this Island, who is a taxpayer, should have to bear. This is a token payment that will make any employer who has 5, 10, 20, 100 registered employees think twice every year, when they think about how many registered employees they get. If any Member in here has done a live radio broadcast, or a live television broadcast, or a vociferous interview for the local paper where they have said: "Why are you, Deputy, not doing something about population? Why are you not doing something about this? Why are you not controlling this 104,000?" We are, we are managing it. We can manage it better if we have better tools to do it with. If you, at this moment, are sitting on the fence and deciding whether or not this is going to be good, or not, let me heartily recommend to you that these are just exactly the tools that the people outside of this Chamber have been asking us to do. Control how many people are coming into this Island, control it by controlling whether they get a registered permission. If you really need it, employer, then there is a token payment. If you have 10, perhaps you might think that next year you might need 9 and you might do an apprenticeship scheme and you might do some succession planning and you might invest in education and you might invest in bursaries. These are all really important, but if you want to get an employer to think about these things, there is only one way to get them to think about that. I urge you to support this proposition, it is crucially important.

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

Could I have a point of clarification from the last speaker, please?

**The Deputy Bailiff:**

Yes, point of clarification.

**Deputy J.A. Martin:**

In the middle of the Deputy's speech, he said that this was not about charging, this was about reducing population in year one, year 2 ... can he produce these figures, or where can we find them, because they are not in the proposition and if they are around I would like to know, because it might affect the way people vote?

**The Deputy Bailiff:**

Are you able to provide clarification on that, Deputy?

**Deputy M.J. Norton:**

I am not sure I can clarify much further on this. If, in my enthusiasm to do justice to this proposition ... it is really important to that recognise the work of H.A.W.A.G., it has been doing its level best to manage population. If I said we have been reducing population, we have not reduced population, as is quite clear from the figures; what we have done is we have limited it from the further increase that we would have had by having the controls we have had so far. This is an extra tool to make sure that we can do that. I hope that clarifies the situation, I cannot answer any further than that.

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

After that very enthusiastic speech from the Assistant Minister, I think we need to just drag ourselves back to reality. What we are looking at is really the impact that such a fee will have on the various industries we have that are reliant on registered licences, seasonal workers, if you want to call them that. The 2 that really do concern me are what I would call Jersey's more traditional industries: agriculture and fishing and hospitality, hotels, restaurants and bars. This particular proposition nibbles at the edges of what I believe we need to talk about, which is to have an honest debate on the future of the hospitality and farming industries in Jersey, because without that honest debate, they will not continue in the way in which we know them today, because the fees, user pays charges and pressure that they are being brought under at the moment are going to cause major financial problems to them. We heard from Deputy Labey that it is virtually impossible to encourage young local people into farming nowadays. Why is that? The reason is that there is no profitability left in it. Now, that is due to a number of external factors as well, which is not only what happens on this Island, it is the markets that produce is being sold into. So, that is why I say we need an honest debate on are we going to support and look after our traditional industries, or are we going to let them fall by the wayside. There is, however, one phrase in this particular proposition that does concern me greatly. Within the report and I will read it out, it says: "It is hoped that some of the permissions may be voluntarily relinquished." So what we are doing is we are giving a financial penalty to industries, who rely on seasonal workers and industries whereby it has been very difficult to get local people to work in those industries. So, what are we saying? So we are going to introduce a financial penalty to industries that require seasonal workers, cannot find the people locally, who want to do the job and then what do we expect is going to happen to those industries? So, really, what we are talking about is an attempt to redistribute the licences that already exist within the system to other areas. Is that the direction of travel this Assembly wants to go in? Is that in the best interests of this Island? I do not believe it is, because it all boils down to a failure by this Council of Ministers to bring forward a meaningful population policy. How are we going to deal with things? What is the policy, because you need a policy out of which everything else flows.

[15:15]



This attempt to introduce a financial penalty on those people, who are reliant on registered licences, in isolation is meaningless, it does not achieve anything. It really does not achieve a thing. If this were to form part of an overall population policy, where we could see, possibly, an advantage in doing this, then I would support it. But at the moment, in isolation, it is meaningless. Perhaps, really, what this debate has stimulated, certainly in my mind, is that we need a completely new approach to the question of population, migration of workers into the Island, education, to teach children that the finance industry is not the only industry this Island can offer you as a future, because if you look at the way education is moving, the curriculum, the emphasis is on churning out people to go towards more finance-industry-related type professions. That worries me because this is just, in isolation as I said, in my mind, putting more pressure on those industries that at the moment do need support. We have heard that we have seen green shoots in the tourism industry, Visit Jersey, we have heard from their report ... are you all right, or do you need to go and see a doctor?

**Deputy M.J. Norton:**

Would the Deputy withdraw that remark about me seeing a doctor, please? I was applauding the fact that he mentioned Visit Jersey.

**The Deputy Bailiff:**

Please sit down, Deputy. Yes, I think ...

**Deputy S.M. Brée:**

I withdraw that remark and offer my apologies to the Deputy. Visit Jersey have been producing some very good figures on projected growth in tourism, but if we are going to put increased financial pressure on the very businesses that are designed, or should be there, to feed that growth in tourism it may all fall down like a house of cards. If we value the Island, the beauty of the Island, farmers are custodians of our landscape and our Island and we should value that. We should see past the fact that they are producing potatoes, or they are producing cauliflowers and recognise their value to this Island, not only as part of the traditional industry, but also for the tourism industry. People want to come and look at a beautiful Island. If we start introducing financial penalties on them, then they will not be able to survive in the way that they have been in the past. Profitability margins are so tight. We add pressure to that, we have only ourselves to blame if we see more farmers deciding to sell up, to give up where there is no profit left in their industry. So, I would urge Members to think very seriously about whether or not you want to increase financial pressure on those very industries that we are looking to see (1) growth from and (2) represent our traditional industries.

**12.1.17 Senator I.J. Gorst:**

I am pleased to follow the last 2 speakers. I will leave Members to judge which one was bringing us down to earth. Nothing is always better than doing something. That is what we have heard today. The Council of Ministers has not got an appropriate population policy, so let us do nothing. It is a legitimate argument. Let us just talk and not take any action. Surely, it is the other way around: action speaks louder than words. The money that this approach will put into training is not enough, we have heard, it requires millions of pounds, we were in favour of raising extra revenue from business, just not this one, nor the one earlier in the day, nor perhaps any other one that any Member might think of. Business should pay their way, if they want to employ registered and have a licence. Surely, that is the right approach. Members chastised the incoming Council of Ministers, the Scrutiny Panel said that we had not put enough focus in the Strategic Plan on balancing a budget and on balancing the budget over the period to 2019. We cannot have it both ways. We cannot continually want to spend money on good, proper and appropriate things for our community, but not be prepared to rightly raise income and bring forward income raising measures

where they are appropriate. This is appropriate. We have heard that it will not make a difference. One Member spoke to somebody in the financial services, set it at £5,000, it is not going to make a difference. We have heard other Members say: if we bring in these measures businesses will close, businesses will cease. We cannot have it both ways. We have heard some Members criticising that we have not allowed ... or we have allowed too many licences, that we are not controlling and managing immigration. We have even heard that from Members who have appeared with members of the business community in front of H.A.W.A.G. saying that there is a shortage of hairdressers and that we should allow more immigrants to become barbers. Looking at you and I, or perhaps myself, Sir, you are always very well presented. **[Laughter]**

**The Deputy Bailiff:**

Thank you, Chief Minister.

**Senator I.J. Gorst:**

Members may agree with that, but the point is this, Members say one thing in this Assembly about controlling immigration, about talking tough, about making businesses pay, but they go before H.A.W.A.G. and plead a special case for a constituent. That is not right. We should be making appropriate long-term policy in this Assembly and we should have courage, even where it is difficult. This is quite clearly part of a package. Members of H.A.W.A.G. - and we said it in this Assembly previously - are taking licences off businesses for registered licences and it is difficult. It is difficult work to do, but they are doing it week in and week out. That is important, because that deals with the 600, or so, people that graduate over the 5 years and then create spare capacity that people moving here can step into those licences. That is why they are doing that difficult work. But as part of that package, it is right that a methodology like this, as the Assistant Minister said, makes businesses think twice about approaching H.A.W.A.G. for further licences. It is part of a package and that package, of course, will very shortly be set into the context of a population policy that this Assembly will agree upon. But do not, for a minute, think that there is a magic bullet, a brand new idea, that we are going to be able to present as: "If you do this one thing, population, or people wishing to come here, businesses' desire for people work in them will suddenly fall away", it will not. It will only be in the area of population management difficult decisions to make. There will not be any easy ones, because there are not. The balancing of what is happening in the global market place around agriculture and the need for seasonal workers ... and just to put something to rest, the reason that the 1st November date was set, was to help mitigate some of the issues that the agricultural industry has got about seasonal workers, particularly potato farmers. I accept, entirely, the comments of the Constable of Grouville about winter growers and they may get caught, but the department will, I have no doubt whatsoever, work with those growers as well. That is why we set that date, so that there were not unintended consequences on seasonal workers in the potato industry and, to a large extent, in hospitality as well. So, we are alive to the concerns that some Members have about those particular sectors. That is also why the Minister for Economic Development, Tourism, Sport and Culture, the Minister for the Environment have agreed to work with the Chief Minister's Department about increasing the minimum wage quicker than we are currently proposing, because they will need support in that regard. Some of that support will need to be financial, because it is important that they continue to see that they have a future. Young people going into, particularly, agriculture, but the same applies in the hospitality sector, as well, in a way that it did not in the past, why are they not doing it? I am the son of a farmer, one chooses and remains in farming, I think, because it is about a lifestyle choice. It is not just about money, other Members of this Assembly come from generations of farmers, who have toiled on the land for very little financial reward for hundreds of years. That continues to be the case: those margins continue to be under increased pressure but we, I think, probably, are one of the first generations where people have, in large numbers, moved away from the land and, sought lives outside of

agriculture. Jersey has been affected, as has the rest of Europe in that regard. It does leave us with challenges. But that challenge is not going to be overcome by voting against this proposition today, to make sure that we are better managing the need for registered licences. Again, there is no easy answer to that challenge, either. It was Senator Ferguson, who picked up on a very good point. I am pleased that she recognised that other jurisdictions are using similar methods and she spoke about Singapore. Often we are compared unfavourably with Singapore, but in this regard, I think, she was trying to compare favourably what H.A.W.A.G. is bringing forward. But she also raised the issue of the C.T.A. (Common Travel Area). This is issues that we will need to consider as we move through the Brexit negotiations and these issues will be very pertinent to the bringing forward of the new population policy. How are we going to manage that in the future? Is there going to be a requirement for work permits for E.U. (European Union) citizens in the future? We do not know yet. Or is there going to be some other methodology and how will we deal with that, because that will also have effect to our agricultural industry, to our hospitality industry. But we are working through those issues and we will need to continue to work through those issues. We also had - I am not sure who the speaker was - a suggestion that education is simply turning out - I have to use a careful word here - identikit fodder for financial services. I do not believe that is the case at all. In fact, I am concerned more along the lines that, sometimes, education is not preparing pupils for what is available, currently, in our economy and that is not just about financial services. There is a broad range of jobs available, broader than people suspect, even in finance and business services, where a wide variety of subjects could be very useful into the future.

[15:30]

In fact, Education as part of their change have been bringing their curriculum up to date, including things about our culture and about our history, understanding where we come from. So, I do not fear that, I fear we should be focusing a little more on enabling pupils to understand what is available. Having understood what is available, not just what that can do for them here in Jersey, but also the opportunities that it creates further around the world. I know that Senator Routier will talk about the use of the £300,000 and I think that is a real benefit also of these proposals around training. I have to be honest and say: I do not think it is enough, but it is a start and it is a good start. I think that those programmes, that will mirror some of the good work that the Back to Work team are doing, will show that there is a greater need for a great amount of money put into this area. Only last night, a member of the public contacted me, via email, about some of the issues that she was having a ... I have got to remember back to the email. I think this was a single mum who had started the first year of a degree course at Highlands and then was now struggling financially and wanted me to - which I have not done yet - intervene on her behalf with the Minister for Social Security, to see if we could not develop a better way forward. I have no doubt that the Minister for Social Security, knowing her as I do, will look favourably upon that particular issue, because it is important. Here is a proposal that is going to kick start some of that training, as well. I ask that Members do not think there is an easy, simple, answer around the corner, but work with the H.A.W.A.G. group to deliver this change, because it is part of a suite of changes that they have already been delivering.

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

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

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

There are many benefits of sitting next to the Chief Minister, but one of them is not when he is looking at my notes and seeing how I am going to respond. **[Laughter]** It is like sitting in a class and there is a cheater beside you. **[Interruption]** Sorry, I do apologise. No offence meant at all. Week after week and sitting after sitting, we are in this Assembly and Members are calling on us to

really do something about population. We have come forward with a package of measures here, not only within these Regulations, but also in the Order, which is made with regard to increasing other fees, which are a package which we believe are going to make some difference. We have been listening to what people have been saying to us. Businesses we meet on a regular basis. We see them fortnightly. We see them in the street. We hear from them about their concerns. Their concerns are about getting people to work in their businesses and it is tough decisions that we have to make about deciding whether they are going to get those licences, or not. We do ask that ... I think it was Deputy Maçon asking about the questions we do ask. We ask about: are they training people, what are the salaries they are paying, are they preparing for succession planning? Those are the sort of questions we ask. Invariably, if they are not very supportive of those things and they are not paying a decent wage we are saying no. That is the hard reality of some of the decisions that we are making. It is really tough. The issue about the agricultural industry, the Chief Minister did pick up on that before about we have set this in a way that we want to ensure that the high level of employment, which is carried out at the height of the season, is protected. It is really the ... we have gone for 1st November. We have spoken to Members in the industry and also the Economic Development, Tourism, Sport and Culture Department have had input into that. I have to say, the speech that was made by the Assistant Minister for Economic Development, Tourism, Sport and Culture was first class. For it to come from that department, who are there to support businesses and to promote business opportunities, I think they gave a real balanced view of the decisions that the business community are asking us to make and the way we deal with it. It was Deputy Martin who spoke about we are bringing back something which Deputy Baker brought before. My view on that is: if only we would have approved that at the time, we would be in a different place now. People would have been thinking about their permissions and asking ... I really regret that decision the States made at that stage, because it moved one of the tools away that we needed to help us to make people think about what they were doing with their staff, their licences. What we found out over the last few months, people have been talking about the businesses being concerned about 3 things. They have been concerned about the waste charge, they have been concerned about minimum wage, and this one is the least of their worries. They were not concerned about it. We really have spoken to them and they have made that quite clear to us. The Constable of St. Helier, I was pleased that he made the comments about the staff in the Population Office, because they have ... although we see the tip of the iceberg, on a fortnightly basis, they deal with applications day in, day out, and they have to make those judgment calls. Another matter which - I think it was Senator Ferguson picked up on - was about who is making these decisions. When there are really tight decisions to be made, Jersey Business are involved in helping support us to make those decisions and so are Locate Jersey. They have the skills to assess business needs and the performance of businesses and so we rely on them for those particular ... help us to make those decisions. Let us be clear about where we are heading. Some people have spoken about this being ... we are waiting for a full population debate. We need to have that debate. There is no doubt about it. We are going to have that debate. The population policy is going to be lodged within the next few weeks. That is not a reason for not progressing this, because whatever we debate in this Assembly is going to take ... it could take a little while for that to be put in place and then we have the added issue with regard to Brexit. Are we going to have to change that? We have got to try and do what we can, within our own resources. The Deputy of Grouville was mentioning about the financial impact. The way we are looking at this is an impact on population. This is what we are mainly concerned about. There are financial implications. It is £50 per employee. But what we are interested in: does an additional person coming into this Island cause a strain on our infrastructure? Does somebody who is being paid ... these are the sort of things we think about. If someone is coming into the Island and the job is attracting a salary of around £34,000, they are not paying the full social security contribution, they are not paying a decent amount of tax, so that person, being paid under £34,000, is a drain on us. So, we have to make those decisions, really hard decisions. I think, in financial

terms, I do want to make that clear. They do contribute in providing services, there is no doubt about that, but we have to take that into consideration when we are thinking about that. I sense there was a reaction to what I said there, but that is the financial aspect that comes into part of that decision making. Because we do support the tourism industry, we do support the agricultural industry and we do give licences, but in part of that decision making we have to take the ... we also take into the consideration those matters. I think the Chief Minister covered very well the issue about training and apprenticeships. It is something which is all ... we need to do more and we are going to do more. The £300,000 will be a tailored scheme, which will be run by the Back to Work team. They do tremendous work, as they currently do, but they are limited in what they can do. So, if a business comes to them and needs support in trying to find particular skills within their business, we tailor a particular training package for them, to ensure that they can get the person who is entitled, who is already in the Island, can have their skills increased, so that they can fulfil the position. That is something, which has been successful and we need to do more of that. Just an aside, people are talking about charges. In Guernsey for a 9-month licence they pay £136, for 9 months. In the Isle of Man they pay £60 on an annual basis. Just as an aside. If you are in Guernsey, for instance, they pay £330 for a 3-year licence. There are some businesses which are pan-Island, who have spoken to us about this and they are not concerned about this £50, because they can see it is a different situation with regard to having to pay in other islands. The Constable of Grouville was asking whether there is a fee for every year. It is a fee for every year. It is £50. If somebody has a permission on the 1st November they will be liable to a charge for £50 payable at a later date, later month. I was grateful for Senator Farnham's suggestion, which it was part of his suggestion that the hospitality and agricultural licences were focused on 1st November. That came from the department. They thought it was the best way to go about it. If Members want to vote against this, they are entitled to do that. What I can say is: we are trying to do our very best to try and control population. These are some mechanisms, which we are bringing forward to help us to do that. If we are not successful today with these fees, we will not be getting the enhanced training skills. We will not be getting the additional compliance people to ensure that we are fulfilling the demands of this Assembly to try and control population, to work with businesses. I just hope Members will feel able to support this, because it will help us to try and control population. I ask Members to support the proposition.

**Deputy G.P. Southern:**

Could I seek a point of clarification? The speaker suggested that someone earning £34,000 a year would not pay tax into the system. Surely, a single person who was earning £34,000 would pay something like £4,000 into the system.

**Senator P.F. Routier:**

Yes, sorry, the picture I was trying to convey ... I said they would pay little tax, but what **[Interruption]** ... pay little tax, but they also would have their supplementation topped up as well. So, there is an effect there which Social Security would have to fund supplementation. That is the point I was making.

**Deputy J.A. Martin:**

Can I have a point of clarification? The Minister, in his summing up speech, gave some vital information about other jurisdictions and what they pay for licences. He did not mention what industries and he did not mention, or can he confirm, that their population policy, the 2 places he did, are on work permits and not the same as ours? Is he comparing anything like apples and pears?

**The Deputy Bailiff:**

Can you clarify the nature of the industries?

**Senator P.F. Routier:**

It is across all industries. That is the level of fees that they pay in Guernsey and the Isle of Man.

**Deputy J.A.N. Le Fondré:**

Can I have a point of clarification, if possible? I was interested to hear the £34,000, because both this session and near enough a year ago, I have been asking for some form of data as to what are the costs coming through and each time I am getting lack of information and “it is not available” and “we are doing work on it”. Given that the Minister obviously does have some figures could he relook at the answer that was given to us yesterday ...

**The Deputy Bailiff:**

I am sorry, Deputy, that is not a point of clarification.

**Deputy J.A.N. Le Fondré:**

It is on his £34,000.

**The Deputy Bailiff:**

The fact he happened to mention it clearly after the...

**The Connétable of Grouville:**

Could I have a point of clarification please, Sir?

**The Deputy Bailiff:**

I think I saw a light on over there. Very well, Connétable.

**The Connétable of Grouville:**

Yes, it was about this 1st November date. The Assistant Minister was a little vague about who he had consulted with. Did he consult with the Jersey Farmers Union, which is the representative body of all growers, not just potato growers?

[15:45]

**The Deputy Bailiff:**

Are you able to clarify that?

**Senator P.F. Routier:**

The consultation came through the Economic Development, Tourism, Sport and Culture Department and they carried that out for us.

**The Deputy Bailiff:**

Those Members in favour of adopting the principles kindly show. The *appel* is called for. I invite Members to return to their seats and ask the Greffier to open the voting.

<b>POUR: 25</b>		<b>CONTRE: 17</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator S.C. Ferguson		
Senator P.F.C. Ozouf		Connétable of St. Helier		
Senator A.J.H. Maclean		Connétable of St. Mary		
Senator I.J. Gorst		Connétable of St. Ouen		
Senator P.M. Bailhache		Connétable of St. Saviour		
Senator A.K.F. Green		Connétable of Grouville		
Connétable of St. Clement		Deputy J.A. Martin (H)		
Connétable of St. Peter		Deputy G.P. Southern (H)		

Connétable of St. Lawrence		Deputy of Grouville		
Connétable of St. Martin		Deputy J.A.N. Le Fondré (L)		
Connétable of St. John		Deputy M. Tadier (B)		
Connétable of Trinity		Deputy M.R. Higgins (H)		
Deputy of Trinity		Deputy S.Y. Mézec (H)		
Deputy K.C. Lewis (S)		Deputy L.M.C. Doublet (S)		
Deputy E.J. Noel (L)		Deputy R. Labey (H)		
Deputy J.M. Maçon (S)		Deputy S.M. Bree (C)		
Deputy S.J. Pinel (C)		Deputy T.A. McDonald (S)		
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.M. Wickenden (H)				
Deputy M.J. Norton (B)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

**The Deputy Bailiff:**

Deputy Le Fondré, do you wish to pull this in?

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

No, Sir, it is a pointless exercise.

**The Deputy Bailiff:**

Senator, how do you wish to deal with the matter in the Second Reading?

**Senator P.F. Routier:**

I would like to propose a Second Reading *en bloc*.

**The Deputy Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on the Regulations in Second Reading? All those in favour of adopting the Regulations in Second Reading, kindly show?

**Deputy J.A.N. Le Fondré:**

The *appel* please.

**The Deputy Bailiff:**

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

<b>POUR: 25</b>		<b>CONTRE: 15</b>		<b>ABSTAIN: 0</b>
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Senator A.J.H. Maclean		Connétable of St. Ouen		
Senator I.J. Gorst		Connétable of St. Saviour		
Senator P.M. Bailhache		Connétable of Grouville		
Senator A.K.F. Green		Deputy J.A. Martin (H)		
Connétable of St. Clement		Deputy G.P. Southern (H)		
Connétable of St. Peter		Deputy of Grouville		
Connétable of St. Lawrence		Deputy J.A.N. Le Fondré (L)		
Connétable of St. Martin		Deputy M. Tadier (B)		
Connétable of St. John		Deputy M.R. Higgins (H)		

Connétable of Trinity		Deputy S.Y. Mézec (H)		
Deputy of Trinity		Deputy L.M.C. Doublet (S)		
Deputy K.C. Lewis (S)		Deputy S.M. Bree (C)		
Deputy E.J. Noel (L)		Deputy T.A. McDonald (S)		
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.M. Wickenden (H)				
Deputy M.J. Norton (B)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

**The Deputy Bailiff:**

Do you propose the matter in Third Reading?

**12.2 Senator P.F. Routier:**

Yes, Sir.

**The Deputy Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading? Deputy Tadier.

**12.2.1 Deputy M. Tadier:**

Why not, Sir? I think it is the appropriate place to mention it. What we are seeing here, of course, is not just an isolated element within this proposition, but it is a general theme that has been running through policy coming out of various different departments. That is the introduction of charges, as opposed to taxes or, in this case, joined-up policy to achieve a certain end. In this case, of course, the policy, which is lacking, is a population policy. We have said it before and we will say it again, even in the Third Reading. It has been put in through a back door, if you like, ostensibly to say we need this in order to bring forward and attach it to a wider package of population measures, which we will be bringing forward. Of course, we have no idea of the interrelation between those 2 aspects, because we have not seen the population policy, again, 4 years in the making and nothing being put forward. Just so we know, let us not be under any illusion what is going on because the tax and spend model is so broken. It is interesting when Senator Routier stands up and says that even somebody, who is earning £34,000 in Jersey, is a drain on the system, because the amount of tax they are paying, let us say, around about £4,000, 26 per cent on that £20,000 - I think it is more than that so it should be £5,200, if my estimation is correct - that does not pay for the public services that they are using, presumably, is what the Senator is saying. It would be interesting if he could circulate the crossover point, so somebody earning that wage in Jersey, presumably, does not even pay for their keep, if you like. That is pretty drastic when it comes to the fact that many people in Jersey, the median are earning much less than that. That is very worrying to see. So we are moving under this Government ...

**The Deputy Bailiff:**

Deputy Tadier, I am afraid I have to interrupt you. Standing Orders provide that the debate, in relation to Third Reading, should be confined to the content of the draft as adopted in Second Reading and I think your speech is going rather further than that.

**Deputy M. Tadier:**



So, what we have seen also from the various parts and detail in this Law is that it is, yet again, consistent with an underlying philosophy that talks about charges, rather than looking at the fundamental way in which we sustainably fund our public services, which is ultimately through fair taxation on income tax - and in other jurisdictions, they do it on corporation tax as well. This Government know they cannot do that so, yet again, the detail is underpinned by that philosophy.

### 12.2.2 The Connétable of Grouville:

I think I heard the Chief Minister, in his speech, say there may be some leeway in the date of 1st November. Is that correct and if there is some leeway, will the Assistant Minister take that up?

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

I rise in the Third Reading, to ask if the Assistant Chief Minister would be good enough to undertake in order to ... while absolutely enthusiastically supporting the proposals that he has brought forward and acknowledging the difficulty that he has in administering with H.A.W.A.G. the most difficult issue and it is simply not a population policy and agree with it. Now that the Regulations have been passed, would he undertake to keep under review any effects on, for example, particularly the £500 charge that is going to be adopted for agencies' workers and if there are any issues which come to light, which mean that there is a problem with agencies securing the right staff in the right places, that he will immediately respond to that and make any changes that would be necessary to make sure that the labour markets are functioning in a sufficiently friction-free way, and so that we can ensure that we have got the right staff, with the right skills, in the right place? It is just that aspect that I think needs to be kept under careful review.

### The Deputy Bailiff:

Does any other Member wish to speak in Third Reading? I call upon Senator Routier to respond.

### 12.2.4 Senator P.F. Routier:

I would like to thank Deputy Tadier for his comments and the Connétable of Grouville. I will certainly look at what can be achieved from what the Chief Minister has said. It has certainly given me food for thought and I will look at it, to see what can happen with regard to that. Senator Ozouf's comments about agency workers, certainly, we will monitor that, as we will monitor the whole package of fees, to see how that is affecting our population decisions and see if there will be anything that needs to alter at a later stage. I maintain the proposition.

### The Deputy Bailiff:

All Members in favour of adopting the proposition in ... The *appel* is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

<b>POUR: 25</b>		<b>CONTRE: 14</b>		<b>ABSTAIN: 1</b>
Senator P.F. Routier		Connétable of St. Helier		Senator S.C. Ferguson
Senator P.F.C. Ozouf		Connétable of St. Mary		
Senator A.J.H. Maclean		Connétable of St. Ouen		
Senator I.J. Gorst		Connétable of St. Saviour		
Senator L.J. Farnham		Connétable of Grouville		
Senator P.M. Bailhache		Deputy J.A. Martin (H)		
Senator A.K.F. Green		Deputy G.P. Southern (H)		
Connétable of St. Clement		Deputy of Grouville		
Connétable of St. Peter		Deputy J.A.N. Le Fondré (L)		
Connétable of St. Lawrence		Deputy M. Tadier (B)		
Connétable of St. Martin		Deputy M.R. Higgins (H)		
Connétable of St. John		Deputy S.Y. Mézec (H)		
Deputy of Trinity		Deputy S.M. Bree (C)		

Deputy K.C. Lewis (S)		Deputy T.A. McDonald (S)		
Deputy E.J. Noel (L)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy M.J. Norton (B)				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

### **13. Draft Commissioner for Standards (Jersey) Law 2017 (Appointed Day) Act 201-(P.58/2017)**

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

Very well, we now come to the Draft Commissioner for Standards (Jersey) Law 2017 (Appointed Day) Act lodged by the Privileges and Procedures Committee. I ask the Greffier to read the proposition.

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

Draft Commissioner for Standards (Jersey) Law 2017 (Appointed Day) Act 201-. The States, in pursuance of Article 19 of the Commissioner for Standards (Jersey) Law 2017, have made the following Act.

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

Members will recall that the Commissioner for Standards (Jersey) Law was adopted by the States back in February and it has been registered in the Royal Court in April. I am pleased to report that recruitment of the Commissioner has commenced and we have some very high quality candidates and the recruitment process should be completed within the next couple of weeks. Under the terms of the Law, a proposed appointment will need to be notified to the Assembly for a minimum of 2 weeks before it is made, so, therefore, it is essential that the Appointed Day Act is brought into force before the appointment can be completed. In making the proposition for the Act to be adopted, I should point out to the States that I will not be asking today for the next proposition P.59/2017, the Amendment to the Standing Orders, to be taken today but rather that be deferred until September, so that any items, which are currently under consideration by P.P.C. can be completed under the current regime. I make the proposition.

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

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? Those in favour of adopting the proposition, kindly show. Those against? The proposition is adopted. Very well, Chairman, as you have indicated, P.59/2017 is not to proceed. We now come to arrangements for future public business.

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

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

I refer Members to the Consolidated Order Paper and would ask that, on 26th September, which has currently nothing down, the Minister for External Relations has asked that we have an

in-Committee debate, which he considers might last for a couple of hours, on the recently produced paper *The Brexit Information Report*. In addition, for 10th October, the item that was moved on this morning in P.38/2017 in the name of the Minister for Infrastructure and also P.57/2017 in the name of the Minister for Infrastructure, to be transferred from 12th September to 10th October. In addition, on 12th September, as for P.59/2017, which I have just deferred to Standing Orders relating to the Commissioner for Standards, be added. That will be the proposition for forthcoming business. If business remains the same, obviously, we have a little time between now and 12th September, but if it remains the same, there is a lot of business down for 12th September and I would consider that the type of business we have there could easily last for 3 days.

#### **14.1 Deputy J.A.N. Le Fondré:**

May I ask a question in relation to the waste charge, I think it is P.38/2017? It strikes me that given the Minister for Infrastructure is meant to be consulting properly with the industry and this is the busiest time of year for, in particular, the hospitality industry, that doing it - well, essentially, the tourism industry will extend not only through this summer, but almost up to half term - that a little bit extra time would be appropriate and so what I am wondering is - and I would like to explain some logic here - it strikes me that as the Council of Ministers is deferring the implementation of this until January 2019, that it is slightly less pressing than it was. Also, for the avoidance of doubt - although I was not able to speak to the Minister and I did speak to the Chief Minister on this and I do not know if there has been a discussion, or not - the other issue with doing it, for example, on 14th November which would be my preference, which is just after half term, is that we know we have a huge amount of programme of work coming down the line in September to Christmas. Off the top of my head, we have the Budget, the hospital debate, the Care Inquiry results and as well as the Brexit reform side, as well as anything else the Council of Ministers have on their agenda. So, although from my perspective 14th November would be a good date - slightly later than the Minister might like - I would like to sound the mood of the House and suggest instead that the waste charge should go into early January, because that gives a lot of time for proper consultation to take place with the industry and is going to be relevant, given the volume of work that we have coming down. I know the Chief Minister was reluctant on that front. I would like to test the mood of the Assembly. I would be very happy with 14th November, but I think I would like to start with a proposal under, I think it is Standing Order 89(1), that it go to 30th January. I know the head of the relevant Scrutiny Panel may also have a view.

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

There is a proposition, then, that it goes to I think ... what was the date, sorry?

#### **Deputy J.A.N. Le Fondré:**

I think I would like to try 30th January 2018.

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

30th January of next year. Is that seconded?

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

On a point of order, I suspect that that would make the proposition, then, out of time. It was lodged on 18th May. Therefore, it has to be done by 18th November.

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

Chairman, the position is that the debate has already been opened on P.38/2017. It will not need to be re-lodged. It can simply be relisted when the Assembly agree. So, there is a proposition to defer that until 30th January. Is that seconded? **[Seconded]** We obviously do not want a particularly

long debate on it, but does any Member wish to speak on whether or not it should be deferred? Minister.

**14.1.1 Deputy E.J. Noel:**

Just to give some information to Members, obviously the liquid waste debate P.38/2017 was only one half of the waste charges that my department has been tasked to bring forward. We will, in the next 2 weeks, be lodging the second part of that which is the solid waste element. I was hoping that P.57/2017, P.38/2017 and the solid waste charges along with amendments to Article 4 of the 2005 Law could all be debated on the same day and we were aiming for 10th October to be that date.

[16:00]

**Deputy M. Tadier:**

I am not sure what the mood of the Assembly is, but I would like to ask whether P.62/2017 might be moved to the first item on the agenda. I am not saying that other items are not ...

**The Deputy Bailiff:**

Deputy, we have to deal with this one first. We have to establish whether the States agree with the proposition made by the Deputy first.

**Deputy M. Tadier:**

I am sorry. I thought we had done that.

**The Deputy Bailiff:**

Does any other Member wish to speak on this proposition? Deputy of St. Mary.

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

I simply wish to endorse Deputy Le Fondré's proposition that - as much as Scrutiny wishes to support the principle involved and will co-operate in that - I do believe that the suggested date of 10th October will give us insufficient time and it will give the Minister insufficient time to consult with the stakeholders involved. So, I would welcome a deferral beyond 10th October, whether it is 30th January or not.

**14.1.3 Deputy M.J. Norton:**

Just to briefly say that I have consulted with the hospitality industry in great length over the last week, particularly yesterday, last night and again today, along with the good Connétable of St. Saviour. In talking to them - and I do take the point that, of course, it is the summer season and they may well be busy, but if you looked up to the gallery you would have found that they were all in the gallery at this busy time of the year, so I do not think that that applies - I would also suggest that those within that industry would be very keen to get on with that consultation and to get on to the debate, as soon as possible, so that they themselves in the industry know exactly what is going to happen before they get into the autumn period. From that perspective, I cannot support this proposition.

**14.1.4 Senator I.J. Gorst:**

I do think that today is too early to move, to say, that the debate will be in January. As a Council of Ministers we did make a commitment - and it is going to be difficult enough to stick to as it is - that no major items would be brought after Christmas. This is a major item. The Minister just needs a short period of time to map out his consultation, not least of which he is going to need to consult with Members, to really understand where their concerns lie and how he can mitigate them. That can be done in really short order, but I would suggest that today is not the day to decide when the debate will be, particularly pushing it off to the following year and I ask Members just to bear with

the Minister, while he undertakes that in very short order and not accept the proposition to put it in January.

**14.1.5 Deputy M. Tadier:**

I just rise to support my chairman of the panel. One of the considerations, first of all, is that it is not just the industry that will need to look this and the Minister, we have literally just published our report this week and we have some form of response back, but we will need time to also look at the consultation that is taking place with the industry and to talk with the Minister, the department and the industry, to make sure that we are also satisfied with the way it is going forward. It is also pertinent to remember that up until today there was only going to be a 6-month lead-in period for this. Now we have got clarity that it is not going to be coming in until January 2018. That is more than a year period, so even if it were to be debated ... I am not sure what is being proposed, is it January?

**The Deputy Bailiff:**

30th January.

**Deputy M. Tadier:**

30th January. Whether it is that date, or a date at the end of this year, I think the point is there is still enough lead-in time, certainly twice as much as the Minister was going to give the industry anyway for proper consultation. Surely the message that we have learnt today is: let us leave enough time for proper consultation to be done and there is still a long enough lead-in period with that half and, of course, 2019 is when the main charge will come in in its full respect. So, from a Scrutiny point of view, certainly, we would much appreciate the longer lead in period for this to be able to scrutinise it in the second round more thoroughly.

**14.1.6 Deputy J.A.N. Le Fondré:**

All I would say is, unfortunately, the Assistant Minister for Economic Development is wrong, because I too spoke to the industry and unless he spoke to them subsequent to the end of the debate, which is when I spoke to them, they would very much welcome an acknowledgement of the fact that this is the busy time of their season. We were very lucky to have them in this Assembly today and I think that is a mark of the level of importance and concern they were wishing to express on the item. But, certainly, when I spoke to the representatives of the Hospitality Association, one was very clear - that was a personal opinion, I think - that they needed time. To do it right immediately at the end of the busy season really - and this is my interpretation - is not saying: "Let us get the consultation right. Let us get the recommendations from Scrutiny under consideration." As I said, my original thought process was into November some time, but I really emphasise again, wearing my Scrutiny hat - I have not had a chance to discuss it with a lot of chairmen - looking at the volume of work that is coming down on seriously big and urgent issues, Brexit we know, the Care Inquiry is probably the most critical, but on top of that the normal budget and the normal hospital stuff. We heard from the Minister that even the proposals on solid waste are not yet even lodged. So, that is 3 items together on the same day, which are all relevant. It seemed to me - yes, I welcome the commitment from the Council of Ministers not to put significant items in after Christmas - that this is slightly less critical compared to those other items and giving Scrutiny and the industry - industries I should say, because it is not just about hospitality - the proper time to consider matters appropriately. I did consider 3rd November and I am trying not to do it straight after Christmas break and all that sort of stuff, allow Members to get back in, I did not think that was too much of a delay compared to if it had been shifted into December, or not. But certainly the view of the industry I spoke to, give them time and do not do the consultation over a busy summer period which is otherwise the risk that we will end up with. Also including half term. So, I make the proposition, let us see what the mood of the House is. I call for the *appel*.

**The Deputy Bailiff:**

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

<b>POUR: 18</b>		<b>CONTRE: 22</b>		<b>ABSTAIN: 0</b>
Senator L.J. Farnham		Senator P.F. Routier		
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Connétable of St. Helier		Senator A.J.H. Maclean		
Connétable of St. Saviour		Senator I.J. Gorst		
Connétable of Grouville		Senator P.M. Bailhache		
Deputy J.A. Martin (H)		Senator A.K.F. Green		
Deputy G.P. Southern (H)		Connétable of St. Clement		
Deputy of Grouville		Connétable of St. Peter		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Mary		
Deputy K.C. Lewis (S)		Connétable of St. Ouen		
Deputy M. Tadier (B)		Connétable of St. Martin		
Deputy M.R. Higgins (H)		Connétable of Trinity		
Deputy J.M. Maçon (S)		Deputy of Trinity		
Deputy S.Y. Mézec (H)		Deputy E.J. Noel (L)		
Deputy L.M.C. Doublet (S)		Deputy S.J. Pinel (C)		
Deputy S.M. Bree (C)		Deputy of St. Martin		
Deputy T.A. McDonald (S)		Deputy R.G. Bryans (H)		
Deputy of St. Mary		Deputy of St. Peter		
		Deputy S.M. Wickenden (H)		
		Deputy M.J. Norton (B)		
		Deputy G.J. Truscott (B)		
		Deputy P.D. McLinton (S)		

**14.2 Deputy M. Tadier:**

May I make a counter proposal that it be listed for 12th December, unless there is any good reason that it should not be?

**The Deputy Bailiff:**

You are entitled to make the proposition, Deputy. It would be unfortunate if we were to just go through every date between now and then, but do you have a specific date you would like to propose?

**Deputy M. Tadier:**

I am just looking at the Order Paper and the 12th is the last sitting day and I know that would give a good clear year of lead-in time for it to be brought and I think that would be sufficient time for our scrutiny panel to any of the requisite work on that.

**The Deputy Bailiff:**

There is a proposition for the Assembly to defer the debate on the same piece of legislation until 12th December of this year, is that seconded? **[Seconded]** Does any Member wish to speak on the proposition?

**14.2.1 Deputy J.A. Martin:**

Like Deputy Le Fondré, I think I have been speaking to different people in the industry and it is very lucky they could afford a few hours to come and sit in the gallery over the last couple of days. They are in no urgency ... well, the Minister can laugh, so we now know what the reason is. But

the reason I stand to support this is because the comments made by the Chief Minister about not taking any large business into next year, so what have we got to? We are going to be on the hurry up to pass things, no consultation, and this is not 30th January, it is 12th December, it is this year, but it does give, after the end of September, middle October, the industry at least 6 weeks to have proper consultation. So, I think this is really to work with the industry, not with what the Council have decided that they are going to bring no big pieces of legislation after January. Perhaps we can all have a few months off. I really think we cannot do this when the Minister wants to and for the reasons given by the Chief Minister being on the hurry up.

**14.2.2 Senator L.J. Farnham:**

The only thing that concerns me is that we could end up in the same position, if we do not give enough time. We want to find a solution, the industry wants to make its fair contribution and the reason they were in the gallery today is they are so very concerned. That is why they turned out in such great numbers. If we do not give them enough time, they are going to do the same in October and we might come to the same conclusion. We need to get over the line, we need to work together, we need to bring the business sectors with us. So, it is not going to make any difference at the end of the day really on the timing and I think it would be prudent to give the industry enough time and not give them lip service of just saying: “Yes, we are going to listen” and rush it all through again as soon as we possibly can, but do it in the appropriate time. We all want to get to the same place.

**14.2.3 Deputy G.P. Southern:**

Let us show a little respect for Scrutiny. Scrutiny has said they need this time, let us show them respect and give them that time.

**The Deputy Bailiff:**

Does any other Member wish to speak on this proposition? Deputy Tadier, you have the right to reply as other Members have spoken.

**14.2.4 Deputy M. Tadier:**

Yes, that is right. Sorry, I know we have been caught slightly unawares, but I have been, obviously, doing my best to communicate with the chairman. He is in agreement that we do need a reasonable amount of time for the list to be brought in. I think, hopefully, this is a good compromise. It means the proposition can be debated by the end of the year, it gives a full year lead-in period. I think, in many ways, the principle has largely been adopted, but there will still be some fine detail that we, as an Assembly and as a panel, need to look at. I hope that Members would see reason and allow us that time. I call for the *appel*.

**The Deputy Bailiff:**

The *appel* is called for. I ask the Greffier to open the voting.

<b>POUR: 22</b>		<b>CONTRE: 19</b>		<b>ABSTAIN: 0</b>
Senator L.J. Farnham		Senator P.F. Routier		
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Connétable of St. Helier		Senator A.J.H. Maclean		
Connétable of St. Mary		Senator I.J. Gorst		
Connétable of St. Ouen		Senator P.M. Bailhache		
Connétable of St. Saviour		Senator A.K.F. Green		
Connétable of Grouville		Connétable of St. Clement		
Connétable of St. John		Connétable of St. Peter		
Deputy J.A. Martin (H)		Connétable of St. Martin		
Deputy G.P. Southern (H)		Connétable of Trinity		

Deputy of Grouville		Deputy of Trinity		
Deputy J.A.N. Le Fondré (L)		Deputy E.J. Noel (L)		
Deputy K.C. Lewis (S)		Deputy S.J. Pinel (C)		
Deputy M. Tadier (B)		Deputy of St. Martin		
Deputy M.R. Higgins (H)		Deputy R.G. Bryans (H)		
Deputy J.M. Maçon (S)		Deputy of St. Peter		
Deputy S.Y. Mézec (H)		Deputy L.M.C. Doublet (S)		
Deputy S.M. Wickenden (H)		Deputy M.J. Norton (B)		
Deputy S.M. Bree (C)		Deputy G.J. Truscott (B)		
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy P.D. McLinton (S)				

**The Deputy Bailiff:**

Deputy Tadier, you indicated that you had some other item of business you wish the States to consider on a different date?

**14.3 Deputy M. Tadier:**

It is not of paramount importance, but I was wondering whether P.62/2017, given the fact that it is quite a weighty subject that is coming back, might go to the top of the Order Paper. It also saves us having to debate our own pay as the first item of business, which might be an added selling point.

**The Deputy Bailiff:**

So, it is the first item of business on 12th September, you wish to make a proposition to that effect?

**Deputy M. Tadier:**

Yes, please.

**The Deputy Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak? That is moving P.62/2017, which is Bailiff of Jersey: cessation of dual roles and the appointment of elected Speaker of the States from the sixth item on the Order Paper on 12th September to the first item on that Order Paper. Does any Member wish to speak? Chief Minister.

**14.3.1 Senator I.J. Gorst:**

It is totally up to the Member proposing to propose that. I think he is using the argument that we should not be discussing our pay as the first item. We will be - in that proposition that P.P.C. is asking us to approve - discussing the pay of the next Chief Minister, so it is not every single Member's pay. Members will have to think about whether they are going to put themselves forward for that position, or whether they are going to take part in that debate, or not. I do not think it is a reason to move, as the Deputy is proposing, his particular proposition to the top of the Order Paper. The item that is at the top of the Order Paper has to be discussed, and rightly discussed, and Members will need to think between now and then, whether they have a potential conflict. I look forward to them mentioning that conflict at the start of that debate.

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

I was going to suggest that quite apart from pulling it up the agenda, it is pushed down the agenda, because we have just had a number of reflections and speeches about more information needed in order to make a decision.

[16:15]



I think that this decision is something that does require more discussion and certainly should be the subject, and is likely to be the subject, of amendments. So, I urge Members to absolutely reject this and then go on to a second proposal, which I was going to make, in order to defer consideration of this until a later sitting in September, or October, when there will be the appropriate opportunity for proper discussions about such a massive issue. I just say to Deputy Tadier: if he persists in asking this to be taken early, then I am afraid he is going to lose it and he is going to lose the people that fundamentally are in agreement, as well. He is not doing the substance of the arguments any favours at all. One minute we are hearing we are rushing things and the next minute we have, effectively, not got enough information. If anything requires more work, as the Chief Minister has said in this working group, then surely this one is and it should not be taken as the first item, it should be delayed.

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

I will support the Deputy's request. It depends on other people whether it is completely moved. Just out of practicality, if it is moved to the top of the Order Paper, the Bailiff will not be sitting, yourself, in the Chair when it is discussed, and ...

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

No, that is right, Deputy, neither the Bailiff, nor I, of course, will preside over that debate.

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

So I say, for practicality, Sir, if it is the first item on the agenda maybe you could go, the Bailiff or yourself, do something else that morning. You do not have to come in and do roll call and just in practicality terms, it seems to be wise as you will not know when it is, are you in, are you out, you know, in the morning to me, first item, is practical if we are going to do it on that day.

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

So, we have teased out some of the rationale here from Senator Ozouf and Senator Gorst, who - we almost need to have a word for referring to them jointly, I suspect - although they have not formed their party yet. Maybe it can be called the Reform of the Judiciary and Chair of the States Assembly. The truth is, the Chief Minister and Senator Ozouf have had, since 2014, to bring forward the detail of this. This was part of the Chief Minister's manifesto, when he stood for election, he told the public that, yet he has done decidedly nothing on the issue, he was away, I think, for the last debate and he failed to whip his own Ministers, or come out with any detail. So, he will have the whole of the summer break, as will Senator Ozouf, to put any amendments to this proposition that they want to and put any detail. I have been told time and time again there is not enough detail in the proposition. I think it is quite clear, it sets the way forward for making a political decision about whether, or not, we separate the roles and it says that we should choose our own Member for that. Now, if they want to bring their own proposition to create an office of Speaker, to provide funding, then it is either up to them to do it, or P.P.C., as they will be charged, but the key thing is that we cannot proceed until we have a political decision from this Assembly. There is no point in doing a whole body of work if the Assembly, who has the authority on this issue - it is not myself and it is not Senator Gorst who can make this decision - it is for the Assembly to be persuaded one way, or the other, and that is a very simple, if albeit emotive, decision that needs to be made. Then the meat can be put on the bones. So, I suggest that it does need to be made, it would be practical to take this as the first item on the agenda, so that we can all know, and this is essentially the last time this will be coming to the Assembly before the next election, win or lose, and then the matter can be put to bed, one way or the other, before the elections. But I do not accept the reasons that are put forward by the duo of the Council of Ministers there. Let us have the debate and let us put it as the first item.

**The Deputy Bailiff:**

Do you seek the *appel*? I ask the Greffier to open the voting.

<b>POUR: 15</b>	<b>CONTRE: 28</b>	<b>ABSTAIN: 0</b>
Senator L.J. Farnham	Senator P.F. Routier	
Senator S.C. Ferguson	Senator P.F.C. Ozouf	
Connétable of St. Helier	Senator A.J.H. Maclean	
Deputy J.A. Martin (H)	Senator I.J. Gorst	
Deputy G.P. Southern (H)	Senator P.M. Bailhache	
Deputy of Grouville	Senator A.K.F. Green	
Deputy J.A.N. Le Fondré (L)	Connétable of St. Clement	
Deputy K.C. Lewis (S)	Connétable of St. Peter	
Deputy M. Tadier (B)	Connétable of St. Lawrence	
Deputy M.R. Higgins (H)	Connétable of St. Mary	
Deputy J.M. Maçon (S)	Connétable of St. Ouen	
Deputy S.Y. Mézec (H)	Connétable of St. Martin	
Deputy L.M.C. Doublet (S)	Connétable of St. Saviour	
Deputy T.A. McDonald (S)	Connétable of Grouville	
Deputy of St. Mary	Connétable of St. John	
	Connétable of Trinity	
	Deputy of Trinity	
	Deputy E.J. Noel (L)	
	Deputy S.J. Pinel (C)	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy of St. Peter	
	Deputy A.D. Lewis (H)	
	Deputy S.M. Wickenden (H)	
	Deputy S.M. Bree (C)	
	Deputy M.J. Norton (B)	
	Deputy G.J. Truscott (B)	
	Deputy P.D. McLinton (S)	

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

In the light of my previous comments, may I propose that this matter be agreed for deferral until the meeting after 10th October?

**The Deputy Bailiff:**

31st October is the one ...

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

31st October, if that is agreeable in terms of order of likely dates. I say that in absolute seriousness. This is a matter of significant public importance ...

**Deputy G.P. Southern:**

Apart from being Halloween, is that in order?

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

I do not think I sat down, did I?

**The Deputy Bailiff:**

No, but the Deputy is entitled to raise a point of order. Yes?

**Deputy G.P. Southern:**

My question is: is it in fact in order, is it not abuse of a Back-Bencher's right to bring a proposition?

**The Deputy Bailiff:**

No, it is for the States in plenary session to organise its own business and it is perfectly at liberty to change the day on which something is debated and so it is possible for the Senator to bring his proposition.

**Deputy G.P. Southern:**

But it is rarely that that happens, I would have thought.

**The Deputy Bailiff:**

That is a matter of observation and comment, but it is not against Standing Orders. Senator, if you would like to continue.

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

If I may just address the substantive issue, the proposition, as I see it, is a proposition of quite some detail and there is a 4-page report with a number of other cut-and-paste comments from other matters. It seems to me that, in view of the enormity and significance of the issue that is going to be required to be debated, that it is, surely, of course important. It was supposed to be an olive branch to Deputy Tadier, but clearly he is rejecting that, because, in fact, what could and should happen is a proper discussion with Members of the importance and implications. What this proposition is, is a single proposition, which agrees the issue in principle and charges Privileges and Procedures to bring forward the legislation in the terms of the recital that the proposition says. So, it is not even a sort of agreement, in principle, then to do some more work and then to do legislation, it is the specifics of what is going to be brought in the legislation. That seems to me to be an extremely unwise thing to do and requires more work, irrespective of where Members sit on either side of the issues, because the issue is not simply a binary one, there are issues of detail, which surely this Assembly - it is the Speaker of the Assembly that we are speaking about here, in other places the Servant of the Assembly, as it is known and as you have been known to say in your oath of office. So, it is surely a matter that that is the subject of proper discussion and not simply a rushed binary choice in the manner in which Deputy Tadier is proposing. So, I move that it is proposed to be moved to the Order Paper for 31st October, to ensure that amendments can be made, as appropriate, for there to be proper discussion with Members and the Greffe, and then there to be a proper discussion, which would then still be in the name of Deputy Tadier, because it could be amended, rather than another substantive proposition could be brought forward. I would have thought that was a sensible way forward and something Deputy Tadier might agree to, but maybe not.

**The Deputy Bailiff:**

Is the proposition seconded? **[Seconded]** Deputy Southern.

**14.4.1 Deputy G.P. Southern:**

The usual process with an olive branch is to offer it to the opponent, not to hit them with it. **[Laughter]**

**14.4.2 Senator L.J. Farnham:**

Can we just stay on and do it now? We just might as well stay on and do it now, while we are in the mood.

#### 14.4.3 Deputy S.Y. Mézec:

I am sorry for phrasing it this way, but I think that the position of Senator Ozouf is manifestly nonsense. He said it is not a binary choice. Well it is. We have an elected Speaker, or we do not. I remember the last time that the States had this debate; there were some Members who stood up and said that we do not like this proposition, because it does not have enough detail on it and Deputy Tadier has changed this from his original proposition. There were other Members who said we do not like this, because there is too much detail on it, we want to decide the principle first, before working out the rest. So, some Members were against it for one set of reasons, it being too detailed, and others were against it for being not detailed enough. I think the fact is that I cannot foresee any amendment to this proposition to enhance it. I just do not think one exists. It is a really simple proposition, it says we already have a President of the States; we just change the person who holds that title to one that is elected out of the membership of this States Assembly. There are no amendments that could enhance this, it is a binary choice at this point and what it does is, to delay it, it deprives P.P.C. of the opportunity to get the enabling legislation through in time for the next election when that first potential election for the elected President of this Assembly would take place. So whatever reasons there are for delaying this proposition, I think the ones that the Senator gave were manifestly nonsense.

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

The origins of an olive branch is a biblical quotation from Genesis 8 in which a dove returns an olive branch after the flood, taken as a symbol of peace after punishment. It is holding out an olive branch in terms of an offer of reconciliation. That is the purpose of an olive branch; it is not in any way a negative sense, it is designed to be a helpful one and one that attempts to find a solution. I maintain the proposition in that spirit, not in the spirit in which the opponents of this made them.

#### The Deputy Bailiff:

Do you seek the *appel*? Yes, the *appel* is called for. I ask the Greffier to open the voting. We are voting, Deputy, for deferring P.62/2017 to 31st October.

<b>POUR: 17</b>		<b>CONTRE: 25</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator A.J.H. Maclean		
Senator P.F.C. Ozouf		Senator L.J. Farnham		
Senator A.K.F. Green		Senator P.M. Bailhache		
Connétable of St. Peter		Senator S.C. Ferguson		
Connétable of St. Lawrence		Connétable of St. Helier		
Connétable of St. Martin		Connétable of St. Clement		
Deputy of Trinity		Connétable of St. Mary		
Deputy E.J. Noel (L)		Connétable of St. Ouen		
Deputy S.J. Pinel (C)		Connétable of St. Saviour		
Deputy of St. Martin		Connétable of Grouville		
Deputy R.G. Bryans (H)		Connétable of St. John		
Deputy of St. Peter		Connétable of Trinity		
Deputy A.D. Lewis (H)		Deputy J.A. Martin (H)		
Deputy S.M. Wickenden (H)		Deputy G.P. Southern (H)		
Deputy S.M. Bree (C)		Deputy of Grouville		
Deputy M.J. Norton (B)		Deputy J.A.N. Le Fondré (L)		
Deputy of St. Mary		Deputy K.C. Lewis (S)		
		Deputy M. Tadier (B)		
		Deputy M.R. Higgins (H)		

		Deputy J.M. Maçon (S)		
		Deputy S.Y. Mézec (H)		
		Deputy L.M.C. Doublet (S)		
		Deputy T.A. McDonald (S)		
		Deputy G.J. Truscott (B)		
		Deputy P.D. McLinton (S)		

**The Deputy Bailiff:**

Was there a point of order you wanted to raise?

**Deputy M. Tadier:**

It is no longer valid. **[Laughter]** If it helps, I was going to ask whether, or not, if this had been successful, whether I could propose a different date for it, but obviously that could go on *ad infinitum* and thankfully ...

**The Deputy Bailiff:**

No, I think once the States have approved a date, then that is the date.

**Deputy M. Tadier:**

Yes, that is right.

**The Deputy Bailiff:**

Very well, are Members generally in agreement that we take the business, as altered by the 2 votes that we have had, but otherwise in accordance with the ... Very well. That concludes the business of the Assembly and the States stands adjourned until 12th September.

**ADJOURNMENT**

[16:27]