

STATES OF JERSEY
OFFICIAL REPORT
TUESDAY, 26th SEPTEMBER 2017

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[9:33]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

1. The Deputy Bailiff:

On behalf of Members I would like to welcome His Excellency the Lieutenant Governor to the Chamber this morning. **[Approbation]** In the Bailiff's gallery above me, I would also like to welcome Mr. Akbar Khan, who is the Secretary-General of the Commonwealth Parliamentary Association. **[Approbation]** That concludes matters under A.

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

2. Resignation of Deputy Andrew David Lewis of St. Helier as Chairman of the Public Accounts Committee

The Deputy Bailiff:

In accordance with Standing Order 133(2), Deputy Andrew Lewis of St. Helier has given written notice to the Bailiff of his resignation as chairman of the Public Accounts Committee.

3. Appointment of Chairman of the Public Accounts Committee

The Deputy Bailiff:

In accordance with Standing Order 119 I therefore invite nominations for candidates for the position of chairman of that committee.

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

Could I propose the Connétable of St. John?

The Deputy Bailiff:

Is that nomination seconded? **[Seconded]** Are there any other nominations? If there are no other nominations then I declare the Connétable of St. John has been appointed as the chairman of the Public Accounts Committee. **[Approbation]**

QUESTIONS

4. Written Questions

4.1 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING MEETINGS HELD WITH REPRESENTATIVES OF THE REPUBLIC OF THE UNION OF MYANMAR: [1(495)]

Question

What communications or meetings, if any, have taken place over the last five years between government of Jersey members and officials and representatives of the government of the Republic of the Union of Myanmar?

Answer

There have been no communications or meetings over the last five years between the Government of Jersey, its members, officials and representatives of the government of the Republic of the Union of Myanmar.

4.2 DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE TREATMENT OF HIV: [1(496)]

Question

Following the decision of NHS Scotland to pay for pre-exposure prophylaxis (PrEP) as an effective preventative treatment of HIV, what review, if any, has been undertaken into Jersey adopting a similar policy; and if there has been no such review, will the Minister explain why not?

Answer

Jersey has not adopted a similar policy to Scotland.

The Director of Infection Prevention and Control/Consultant for Infectious Diseases has reviewed the position in Jersey which can be summarised as follows:

PrEP stands for pre exposure prophylaxis. It means an HIV negative person taking anti HIV drugs before exposure to HIV to prevent acquisition of HIV. The only drug licensed for this is Truvada. The license is only for continuous use rather than on demand/*ad hoc* use.

NICE has summarised 4 trials. These show an efficacy of 44-86% compared with placebo. All trials were part of a package including early treatment of HIV, additional risk reduction including condom use and regular screening of those receiving prophylaxis.

Side effects include gastrointestinal symptoms, headache, dizziness and after 2 years the potential for bone and kidney problems.

The NHS is recruiting 10,000 individuals in a £10 million real-life study to look at uptake, adherence, drug resistance, sexual behaviour, prioritization for prophylaxis and cost-effectiveness. Concern about altered sexual behaviour is likely to be mitigated by the ongoing support and regular screening for sexually transmitted infections including HIV.

We interact closely with England at population and medical levels and are closely following this expanded study with a view to pursuing any recommendations at its conclusion.

4.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING RENTAL FIGURES FOR 1- AND 2-BEDROOM FLATS AND 3-BEDROOM HOUSES: [1(497)]

Question

Given that a recent update to the website of Andium Homes showed the average rent for 1-bedroom flats, 2-bedroom flats and 3-bedroom houses as being £167.42, £215.74 and £313.41 respectively, and further to answers previously provided by the Minister, in which it was stated that the average rents shown are based on a mix of pre-2014 tenancies and post-2014 tenancies (and that, overall, the average rent levels paid by Andium tenants are 77 per cent of the market value), will the Minister request from Andium Homes confirmation of what the average rents are for pre- and post-2014 tenancies, if they were to be treated separately, for these three types of unit?

Will the Minister also request and provide figures for the maximum private sector rent levels for these three types of unit (and what the 90 per cent rent level for these units are) in order to show

how they compare with the maximum rent levels shown on the website for these units of £254.07, £303.79 and £439.80 respectively?

Answer

The average weekly rents for Andium Homes’ pre- and post- 1 July 2014 tenancies (in respect of one and two bedroom flats, and three bedroom houses) are as follows:-

Type of property	Average rent pre 1 st July 2014	Average rent post 1 st July 2014	Overall average all rents as listed on the Andium Homes website
1 bedroom flat	£153.43	£198.89	£167.42
2 bedroom flat	£196.25	£251.47	£215.74
3 bedroom house	£259.67	£323.75	£274.26

It should be noted that the average rent for a three bedroom house is £274.26 and not £313.41 as indicated in the Deputy’s question. The £313.41 figure relates to the average rent for a three bedroom bungalow.

The Statistics Unit publishes the Jersey Private Sector Rental Index on a quarterly basis, which is based on advertised rents rather opposed to what tenants might actually pay following negotiation. In Quarter 2 2017, the average rents for qualified rented accommodation were as follows:-

Type of property	Jersey House Price Index – Average weekly rents for private rented accommodation (Quarter 2 2017)
1 bedroom flat	£228.46
2 bedroom flat	£399.23
3 bedroom house	£496.15

When comparing average private sector rent levels to the Andium Homes maximum rent levels, it must be noted that those quoted on the website relate to individual properties and are skewed by outliers, where the rental value will be affected by such factors as the size or location of an individual property and will not, therefore, reflect average rents in the private rented sector.

Andium Homes would welcome an opportunity to meet with Deputy Southern in order to explain how rents are determined and answer in detail any questions he might have.

4.4 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE RESOURCING OF THE LAW DRAFTSMAN’S OFFICE: [1(498)]

Question

Following reports in the 'Independent Jersey Care Inquiry Report' (R.59/2017) of claims that, historically, finance-industry-related legislation was prioritised above legislation relating to children's services, what consideration, if any, has been given to the resourcing of the Law Draftsman's Office and what plans, if any, does the Chief Minister have to ensure that adequate provisions are in place to enable Jersey to develop finance legislation simultaneously to the advancement of important social legislation faster than has been done previously?

Will the Chief Minister advise what consideration has been given to requiring the Law Draftsman's Office to record how much time it spends on different categories of legislation?

Answer

There is a substantial programme of social legislation underway, dealing with housing and care standards, charities, marriage reform, mental health and capacity, and criminal justice. There are more policy officers employed to develop the various strands of social legislation than financial and the resources of the Law Draftsman's Office are monitored to ensure drafters can respond effectively and quickly to prevailing policy priorities.

Legislation can take longer than expected, generally because of the time required to resolve technical and legal complexities, challenging policy issues, or changing priorities. Developing draft legislation is a collaborative effort that requires sufficient policy capacity as well as law drafting resources.

The establishment of Community and Constitutional Affairs has improved the coordination of policy development across government by combining different policy officers into one department. Building this capacity is a more effective way to deliver both social and financial legislation than using a time recording system.

The Care Inquiry recommended that the Island should develop a more effective mechanism for developing legislation, policy and practice for children and young people. The policy capacity of government is likely to need to expand to address this need, and this will feature in the Government's forthcoming response to the Care Inquiry's main recommendations.

4.5 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR INFRASTRUCTURE REGARDING RESIDENTIAL PROPERTIES OWNED BY STATES DEPARTMENTS: [1(499)]

Question

Will the Minister provide the total number of residential properties owned by each States Department, and state how many are currently unoccupied?

Answer

The Public owns the freehold interest of 185 residential properties.

These properties are owned by the Public, rather than individual departments, and are held on the balance sheets of the Department for Infrastructure and relevant Special Funds.

The properties can be classified by departmental use as follows:

Community and Constitutional Affairs	19
EDTS&C - Sport	3

Education	15 (4 Vacant)
Health and Social Services	82 (12 Vacant)
Infrastructure	2 (1 Vacant)
Office of the Lieutenant Governor	7

Infrastructure Other

Freehold interest in 99 Year Leaseholds	42
Let to Health and Social Services Clients	9
Let to Community and Constitutional Affairs Clients	1
Let to third parties/staff accommodation	5 (2 Vacant)
Total	185

Details of these properties are set out in the attached table.

There are presently 19 residential units that are unoccupied and can be classified as follows:

Awaiting imminent disposal	7
Awaiting refurbishment	4
Currently being refurbished to be re-let	3
Future educational use under consideration	2
Recently vacated, pending re-let imminently	3

Leffable Unit Name	Address Line 2	Directorate	Vacant?	Available?	Reason Vacant
2 La Croix Crescent	La Rue a Don	COMMUNITY & CONSTITUTIONAL AFFAIRS			
Brantwood	8 Six Rues Villas	COMMUNITY & CONSTITUTIONAL AFFAIRS			
Caroline	La Rue de la Hauteur	COMMUNITY & CONSTITUTIONAL AFFAIRS			
HM Prison Governor's House	14 Rue Baal	COMMUNITY & CONSTITUTIONAL AFFAIRS			
1 Rue Baal	La Moye	COMMUNITY & CONSTITUTIONAL AFFAIRS			
2 Rue Baal	La Moye	COMMUNITY & CONSTITUTIONAL AFFAIRS			
3 Rue Baal	La Moye	COMMUNITY & CONSTITUTIONAL AFFAIRS			
4 Rue Baal	La Moye	COMMUNITY & CONSTITUTIONAL AFFAIRS			
5 Rue Baal	La Moye	COMMUNITY & CONSTITUTIONAL AFFAIRS			
6 Rue Baal	La Moye	COMMUNITY & CONSTITUTIONAL AFFAIRS			
7 Rue Baal	La Moye	COMMUNITY & CONSTITUTIONAL AFFAIRS			
8 Rue Baal	La Moye	COMMUNITY & CONSTITUTIONAL AFFAIRS			
9 Rue Baal	La Moye	COMMUNITY & CONSTITUTIONAL AFFAIRS			
10 Rue Baal	La Moye	COMMUNITY & CONSTITUTIONAL AFFAIRS			
11 Rue Baal	La Moye	COMMUNITY & CONSTITUTIONAL AFFAIRS			
12 Rue Baal	La Moye	COMMUNITY & CONSTITUTIONAL AFFAIRS			
Le Quenne TA Centre Caretaker's Flat	Mount Bingham	COMMUNITY & CONSTITUTIONAL AFFAIRS			
Rianity	Longueville Road	COMMUNITY & CONSTITUTIONAL AFFAIRS			
The Fire House	Western Fire Station	COMMUNITY & CONSTITUTIONAL AFFAIRS			
Crabbe Farmhouse	La Rue de Crabbe	EDUCATION - SPORT			

4.6 DEPUTY S.Y. MÉZEC OF ST. HELIER THE CHIEF MINISTER REGARDING ATTENDANCE AT POLITICAL PARTY CONFERENCES IN THE UNITED KINGDOM; [1(500)]

Question

Will the Chief Minister confirm what arrangements, if any, have been made to have Jersey represented at the U.K. political party conferences this year, including which members of the government will be attending; how much has been spent on acquiring any tickets to dinners and other exclusive events; and, where such tickets have been bought, which conferences they relate to?

Answer

The Government of Jersey will be represented at the UK political party conferences this year, as follows:

Conference	Attendees	Tickets to dinners and other exclusive events
Liberal Democrats	Two officials from the Government of Jersey London Office	Zero spend

Labour	Minister for Home Affairs and two officials from the Government of Jersey London Office	Zero spend
Conservative	Chief Minister, three officials from the Government of Jersey London Office and two officials from Jersey	Zero spend
SNP	One official from the Government of Jersey London Office	Zero spend

Note:

- * The Minister for External Relations was scheduled to attend both the Liberal Democrats and Conservative party conferences.
- ** Jersey has an exhibition stand at the Conservative Party Conference, this is reflected in the number of officials in attendance.

4.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING INITIATIVES FUNDED BY THE ECONOMIC AND PRODUCTIVITY GROWTH DRAWDOWN PROVISION: [1(501)]

Question

Further to the response to Written Question 1(429) on 18th July 2017, will the Chief Minister detail for members the initiatives (whether through States Departments or private-sector bodies) which have received funding from the Economic and Productivity Growth Drawdown Provision (EPGDP); who signed off the funding in each case; and what criteria are used in assessing the success or failure of each initiative?

Answer

The initiatives which have received funding from the EPGDP

The following initiatives have received funding:

- Data Protection
- Digital Jersey Hub
- Financial Services Review
- Brexit
- Skills Strategy

In addition, the following initiatives have been recommended for funding by the Economic Policy Political Oversight Group and are either awaiting ministerial decision by the Treasury Minister or have yet to draw down funding:

- Jersey Business High Growth Pilot
- Skills Jersey

Who signed off the funding in each case?

Consistent with the process for any allocation from Central Contingencies, the Treasury Minister ultimately signs off all EPGDP projects. In doing so, he takes into account the recommendations of the Economic Policy Political Oversight Group and the EPGDP Officer Group.

What criteria are used in assessing the success or failure of each initiative?

Each project is required to provide details of success criteria as part of the application process. These criteria are bespoke for each project and set out in detailed business cases but, as far as possible, are linked to impacts on GVA, employment or productivity.

Where direct links cannot be made due, for example, to a lack of available data, success criteria are focused on outputs and a demonstrable economic rationale. The potential impacts are assessed by the Economics Unit as part of the approval process. Projects related to Brexit are assessed by reference to the delivery of the work that is required to ensure the Island responds adequately to changes required by the UK's withdrawal from the European Union.

4.8 DEPUTY J.A. MARTIN OF ST. HELIER OF THE PRESIDENT OF THE CHAIRMEN'S COMMITTEE REGARDING THE BUDGET FOR THE SCRUTINY FUNCTION: [1(502)]

Question

Will the President inform the Assembly of what the Scrutiny budget was at the start of the Scrutiny function in 2005 and what that budget is now; and will he indicate how the initial and current budgets compare when taking into account inflation?

Answer

Budget Category	2006	2006 adjusted for inflation (to Q1 2017)	2017
Fixed Costs	£520,058	£691,327	£896,044
Panel/Review Budget	£419,000	£556,988	£389,000
Total Overall Budget	£939,058	£1,248,315	£1,285,044

The Scrutiny Panels (initially four) and the Public Accounts Committee (PAC) began work under the new system of Ministerial Government in December 2005. The above table shows that the budget allocated to the Panels and PAC for discretionary spend on review work (for example adviser fees, research, hearing transcripts) in 2006 totalled £419,000. Adjusted for inflation this would be equivalent to £556,988 in Q1 2017, and compares to a budget of £389,000 for discretionary spend in 2017.

With additional fixed costs included, such as for staff and associated office accommodation rental fees, the overall budget allocated to the Scrutiny function was £939,058 in 2006 (adjusted for inflation this is equivalent to £1,248,315 in Q1 2017) and £1,285,044 in 2017.

The following might also be noted for context:

- A fifth Scrutiny Panel was established late in 2006, with the remit of the then Social Affairs Panel being shared out between the Education and Home Affairs Panel and the Health and Social Security Panel.
- Both elements of the budget have been subject to the influence of States wide Comprehensive Spending Reviews in intervening years on the States Greffe's budget (2011 -2%, 2012 -3%, 2013 -5%)
- In all years, Panel/Review actual spend has been within budget at year end.

4.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING BODIES CURRENTLY ENGAGED IN THE DELIVERY OF HOME CARE SERVICES: [1(503)]

Question

Following his policy decision to open home care funding to market competition, will the Minister list the names of the bodies currently engaged in the delivery of home care services locally, showing for each one their status as either a non-profit-making, charitable or private sector business; whether they are in local or other ownership; and the size of the organisation (as indicated by the number of staff employed)?

Will the Minister further set out a schedule for consultation on the delivery of an ethical care charter for these bodies engaged in the delivery of care in the home?

Answer

Details of the range of charitable and private sector organisations providing homecare in Jersey can be found on the Jersey Online Directory at www.jod.je

Health and Social Services does not hold information regarding the ownership details of the homecare providers nor the number of staff they employ.

Work is continuing on the consultation arrangements around a Jersey Ethical Care Charter and the first meeting with home care providers is scheduled for next month.

4.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE OWNERSHIP OF COMPANIES OPERATING IN JERSEY AND THE REVENUES RECEIVED FROM THEM IN TAX: [1(504)]

Question

Will the Chief Minister provide members with a breakdown, by local / non-local ownership, of the companies in the eleven sectors of the economy listed in Table 1 of the publication ‘Measuring the Jersey Economy: GVA and GDP 2015’; and, if not, will he explain why not?

Will he, following consultation with the Minister for Treasury and Resources, also state what tax revenues are generated in total by the companies in each sector, again differentiating between local and non-local ownership, either directly from taxable profits or through Income Tax charged on local beneficial owners?

Answer

Answer Part 1

The allocation of “business entities” between the eleven sectors of the economy is based on sectorial information held by the Population Office. For the avoidance of doubt the term “business entities” is broader than just companies (e.g. it also includes sole traders and partnerships). Table 1 below therefore sets out:

- 1) the total of “business entities” in each sector
- 2) the number of companies in each sector; and
- 3) the tax rate applied to companies in each sector

Table 1 – sectorial analysis of business entities, companies and applicable company tax rates

Sector	Number of business entities	Number of companies	Tax rate applied to company profits
Agriculture	334	140	0%
Manufacture	285	117	0%
Electricity, gas & water	5	5	20%
Construction	1,434	682	Note 1
Wholesale & retail	1,302	708	0%
Hotels, restaurants & Bars	616	449	0%
Transportation, storage & Communications	385	137	Note 2
Financial services entities	567	428	Note 3
Other business activities	3,857	1,441	0%
Rental income of private houses	0	0	Note 4
Public administration	1	0	Note 5
Total	8,786	4,107	

Note 1: “Construction” includes property development and general building. Profits from property development are subject to tax at 20%. Companies engaged solely in general building are subject to tax at 0%.

Note 2: Companies licensed to run part or all of a public telecommunications system under the Telecommunications (Jersey) Law 2002 are subject to tax at 20%.

Note 3: The term “financial services company” is specifically defined within the Income Tax Law. *Prima facie* companies that fall within the definition are subject to tax at 10%. However not all the companies categorised as “finance services entities” by the Population Office will be within the definition of “financial services company” for the purposes of the Income Tax Law. Those companies that fall outside the definition in the Income Tax Law will be subject to standard 0% rate.

Note 4: This component of GVA comprises actual rent, paid by households living in private sector rental accommodation (entitled and registered) and also an *imputed* rent for owner-occupier households. Companies paying income tax at 20% on any profits from actual Jersey property rental activities.

Note 5: The States of Jersey are exempt from tax under Article 115(e) of the Income Tax Law.

A list of the names of the companies in each sector has been provided to the Taxes Office. The Taxes Office will subsequently undertake an exercise to analyse the companies shown in Table 1 into two further groups namely:

- a) those companies where a Jersey resident individual ultimately owns more than 2% of the ordinary share capital; and
- b) all other companies

This is a manual process and will take some time to complete. The analysis will be provided to States Members as soon as it is available.

Answer Part 2

Table 2 below sets out the amount of income tax from those companies which are charged at a positive rate of tax for the year of assessment 2015.

Table 2 – analysis of 2015 company income tax based on company activity

Company activity	Tax for year of assessment 2015
Utility companies/quarrying companies/suppliers of hydro-carbon oil	£5m
Companies receiving property rental income/property development	£19m
Financial services companies	£70m
Total	£94m

When undertaking the additional work in relation to Part 1, the Taxes Office will also analyse the figures shown in Table 2 between:

- a) those companies where a Jersey resident individual ultimately owns more than 2% of the ordinary share capital; and
- b) all other companies

The total income assessed on individuals from distributions from Jersey companies for the year of assessment 2015 was £178,823,973.

It is not possible to specifically identify how much personal income tax has been paid on these distributions. Distributions are just one component of a number of components which make up the calculation of an individual's income tax liability (e.g. the individual may have other sources of income such as employment income). In addition some individuals receiving distributions will be entitled to a credit to reduce the personal income tax payable, this is because the profits out of which the distribution has been paid have previously been taxed in the company.

4.11 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING HOSPITALS AND MEDICAL CENTRES USED BY THE STATES OF JERSEY PRISON SERVICE: [1(505)]

Question

Will the Minister advise what hospitals or other medical centres in the United Kingdom, if any, are used by the States of Jersey Prison Service and how many prisoners have been referred to any such places over the last five years; and will he also state the purpose of any such referrals, the duration of the treatment provided, and what monitoring of the quality of the treatment takes place?

Answer

Prisoners requiring referral to the UK for specialist care that cannot be provided on-island are referred by HSSD consultants to the most appropriate care centre in the same way as any other Islander.

In the last five years, eight prisoners have received specialist care that cannot be provided on-island. The duration of this treatment is determined by their treatment team, with that treatment monitored according to the standard arrangements in place for any off-island treatment. Given the small numbers involved, it is not appropriate to give details of their treatment as this would risk identifying individuals.

4.12 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE MONITORING OF STAFF MORALE: [1(506)]

Question

Will the Minister advise members how his Department monitors staff morale, if at all, and whether staff attitude surveys are used? If so, will he publish the results of these or similar surveys for the last five years?

Answer

Most members will be aware that my Department undertook a large-scale staff attitude survey in 2015. This was based on the long-established NHS staff survey, suitably adapted to the Jersey context, enabling us to benchmark against appropriate peer organisations.

The results of the survey were published and available to all HSSD staff on the States intranet. There were also media briefings and the results were shared with the Scrutiny Panel.

A cross-section of front-line staff, trade union representatives and managers have worked together in a series of focus groups and workshops to produce an action plan based on the survey.

Staff have continued to be involved in monitoring this work through our Staff Partnership Forum where the CEO and her senior team meet regularly with staff representatives. This group has driven even more staff engagement throughout 2017 and there are some very positive developments that will be appearing later this year.

My officers are aiming to repeat the survey at an appropriate time in 2018.

4.13 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE INVESTIGATION OF COMPLAINTS AGAINST SENIOR STAFF IN HIS DEPARTMENT: [1(508)]

Question

Given that in certain services such as the military or police, complaints against senior officers can only be investigated by an officer of either the same or a superior rank, will the Minister advise whether such a policy applies to investigations of complaints against senior staff undertaken by his Department's governance team or whether members of the governance team can undertake such investigations regardless of their own level of seniority?

Answer

Health and Social Services has a mix of internal and external policies and procedures under which investigations relating to senior staff may occur. These include, for example, raising serious concerns, individual grievances, bullying and harassment, and complaints policies, which are available on the Internet or intranet as appropriate.

In the case of a senior officer, a more senior officer would commission any investigation and then make a decision on the basis of the facts presented. Where appropriate or necessary, independent investigators will be appointed from outside Health and Social Services.

5. Oral Questions

Deputy G.P. Southern of St. Helier:

Just as a point of order, it appears that I only appear to be asking one question because it looks like on the Order Paper my question has been repeated.

[9:45]

The Deputy Bailiff:

Yes, I was aware of this. Your question under question 3 and question 12 are in identical terms. In fact there is a Supplementary Order Paper, which substitutes the second of those questions for another question asked by you of the Minister for Social Security. So you do have 2 questions on the list and yours will be the last question.

Deputy G.P. Southern:

Thank you, Sir. Could you arrange for the Usher to give me what my question is? **[Laughter]**

The Deputy Bailiff:

It is contained in a Supplementary Order Paper and I am sure the Supplementary Order Paper can be handed to you, Deputy.

Deputy E.J. Noel of St. Lawrence:

I have just noticed that on the Written Question number 5 from my department it appears that in the printing only part of the attached schedule has been included in the packs for Members.

The Deputy Bailiff:

Thank you, Minister. Then you are informing the Assembly that the documentation that they have been provided as the answer to your question is incomplete and presumably the complete answer will be circulated to Members as soon as possible.

5.1 Deputy M. Tadier of St. Brelade of the Chief Minister regarding the Chief Minister's policy position on a referendum for the role of the Speaker: [1(522)]

Is it the Chief Minister's policy position that the question of the States Assembly electing its own Speaker should be put to a public referendum; and, if not, why not?

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

The decision as to who should serve as a speaker of the States Assembly is, in my view, one that should be taken by the Members of this Assembly.

5.1.1 Deputy M. Tadier:

Is it then the case of the Council of Ministers that this should be put to a referendum given the fact that one of his most senior Ministers has lodged an amendment, albeit not to his proposition but to mine, saying that there should be a referendum on this issue? Is the Council of Ministers divided on this fundamental issue of democracy?

Senator I.J. Gorst:

The Council of Ministers is made up of independent Members of this Assembly and it is divided on many, many issues. It should not come as a surprise to any Member of this Assembly. It is on the public record that I hold a particular view on this matter and how it should be decided. It is also on the public record that other senior Ministers hold a completely contrary view.

5.1.2 Deputy J.A.N. Le Fondré:

Given that the Assembly has previously expressed its view that a referendum on this most important issue is appropriate why is the Chief Minister not willing to let the public express their view on this most important matter, which is a constitutional change and wipes out 800 years of history?

Senator I.J. Gorst:

The Deputy well knows that those people who do not wish to see this Assembly electing its own Speaker want a referendum. It is the democratic norm around the globe that parliaments elect their own Speaker, whether that be one of their own Members, which is the majority position, or a member outside of the Assembly. That is what I am proposing. That is why I do not think there needs to be a referendum. The States well know that the questioner has a different view.

5.1.3 Deputy J.A.N. Le Fondré:

Supplementary. The Minister did not clarify why he did not think the public should have the right to support this change as opposed to the individual who may or may not eventually be elected.

Senator I.J. Gorst:

The public will. We are elected to this Assembly to make decisions. I hope that Members of this Assembly in due course, later this year, will agree to elect their own Speaker. Those Members who vote for that proposal will then have to face an election in May of next year, and the public, I have no doubt, in making their vote during that general election will consider how Members voted on a whole range of issues, not least the election of a Speaker to this Assembly.

5.1.4 Senator S.C. Ferguson:

Will the Chief Minister explain why he has not spoken on this matter with Guernsey, our representatives in London, the Privy Council and even our own Bailiff?

Senator I.J. Gorst:

It is a matter for this democratically elected Assembly to decide who it elects as Speaker. That is the democratic norm around the globe. Members cannot ignore that fact. Of course they can say that they are not prepared, do not want to make that change, because they think tradition and history outweighs that global democratic norm, but it is us, it is we who are elected who ought to make that decision, not push it off to some other consultation with some other body outside of this Assembly. **[Approval]** That is not what we are elected for. We are elected to make decisions in the best interests of Jersey and that is what I am asking this Assembly to do in due course.

5.1.5 Senator S.C. Ferguson:

Would it not be at least polite to speak to these people about what he intends to do rather than just issue a diktat, as he has done.

Senator I.J. Gorst:

Democratic norms across the United Kingdom, across the Commonwealth, across the globe, cannot be considered when presented to this democratically elected Assembly as a diktat. It is a question that the Assembly needs to ask itself and address which of those 2 outweighs the other; the global

democratically accepted norm or our traditions? That is the question we are going to have to face. I support this Assembly democratically electing its speaker in future.

Senator S.C. Ferguson:

Would it not be polite, Chief Minister?

The Deputy Bailiff:

Senator, you have already had a supplementary.

5.1.6 Deputy S.Y. Mézec of St. Helier:

Does the Chief Minister agree with me that when the Island is facing so many challenges the question of who presides in this Assembly being put through a referendum, when it frankly will not capture the imagination of most of the public, would be an imprudent waste of money when this Assembly is more than capable of deciding who presides over this Assembly?

Senator I.J. Gorst:

This Assembly has a woeful record when implementing the results of referendum. The only time we have implemented it, I think in recent history, is when the referendum asked members of the public whether they wish to retain Constables in the States. That required no change, so of course we accepted that result, we did not have to do anything. But when the public asked us to make a change and do something we put it into the “too difficult to do” box, and we did not make a change. Let us not make that mistake again. Let us get on and be masters of our own destiny in line with the global democratic norms that we see. As I said, not only in the United Kingdom but across the Commonwealth.

5.1.7 Deputy J.A.N. Le Fondré:

Is it not ironic, Chief Minister, that those who have used the words “democratic” a number of times in the words used today refused to recognise that it might be the ultimate test of democracy to take it to the public, particularly when this Assembly has already expressed the view there should be a referendum on this matter? Why is the Chief Minister ignoring that particular vote?

Senator I.J. Gorst:

The questioner, I am surprised, persists in such a question when he himself voted against the results of a public referendum when it comes to electoral reform. **[Approbation]** He knows he did. Now he is trying to say: “Let us have a referendum” and I fear if we have another referendum Members of this Assembly will simply ignore it because it will not agree with their preconceived ideas on the issue.

Deputy J.A.N. Le Fondré:

Point of correction, I did support the results of the last referendum.

The Deputy Bailiff:

There are no points of correction.

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

On this question, would the Chief Minister, as he says he wants to support full democratic norms, would he also support the full principle of full party politics, which is also a peculiarity of our Assembly?

The Deputy Bailiff:

I think that goes outside the ambit of the question that is asked which was specifically about a Speaker, so I do not allow that question.

5.1.9 Deputy M. Tadier:

That is a shame because that was going to be the gist of my last question, which I think I can relate. But let me start off and see at which point it falls out of order. The Chief Minister will be familiar, no doubt, with the quote from Abraham Lincoln, given that their political biographies are so closely intertwined [**Laughter**] when he said: “A House divided against itself cannot stand” and given his admission in the first answer that he gave to the Assembly, that the Council of Ministers is deeply divided, not just on this issue but on many issues, does he agree that in order to provide proper leadership in the future, whoever the Council of Ministers are, should stand on a political party ticket to make sure that the public can have confidence?

The Deputy Bailiff:

That is the point it dropped out of being relevant, Deputy, I am afraid. [**Laughter**]

Deputy M. Tadier:

That on the issue of the separation of powers, which is what we are debating, and on other issues, they can have full confidence in whichever government ...

The Deputy Bailiff:

I am sorry, Deputy, I cannot allow that. If I did not allow the first one I cannot allow that.

Deputy M. Tadier:

I will withdraw that and simply thank the Chief Minister for his answers.

5.2 Deputy R.J. Renouf of St. Ouen of H.M. (Her Majesty) Attorney General regarding contracts of sale and purchase passed before the Royal Court: [1(516)]

When presenting a contract of sale and purchase to be passed before the Royal Court, is it permissible for an individual or private company to omit reference to the amount of consideration payable under the contract on the grounds of commercial sensitivity, in the same way as recent contracts passed by Andium Homes Limited for the purchase of properties adjacent to the Town Park?

Mr. M.H. Temple Q.C., H.M. Solicitor General (Rapporteur):

I am grateful to the Deputy of St. Ouen for this question. All contracts relating to Jersey land must be registered in the Public Registry of Contracts. This requirement was first laid down by an ordinance of the States in 1602 for the establishment of our land registry. The requirement was confirmed by the Code of 1771, which still requires the Judicial Greffier to record the details of all such contracts, including the price, the *prix d'argent*, payable under the contract in respect of the property concerned. It is not clear what the precise effect may be of an omission to record the price in a land transaction in the public registry and the Judicial Greffier is considering raising this matter with the Court for determination, but the requirement contained in the Code of 1771 remains in force.

5.2.1 The Deputy of St. Ouen:

Will the Attorney General or Solicitor General be taking or speaking, giving any advice to Andium Homes to correct and publicise the prices it has paid under these contracts?

The Solicitor General:

In relation to these contracts the Law Officers' Department did not act for Andium Homes. But as I have said, the Judicial Greffier intends to raise this matter with the Court for determination and as part of that process I anticipate writing to the firms concerned who advised Andium in relation to these contracts, and will draw their attention to this matter and seek an explanation for it.

5.2.2 Senator P.F.C. Ozouf:

Is the Solicitor General aware of any other contracts that have had the price consideration not disclosed in the contract that is passed before the Court?

The Solicitor General:

The ones that I am aware of all concern Andium Homes.

5.2.3 Deputy J.A.N. Le Fondré:

Just as a point of record, would the Solicitor General note that the consideration was disclosed to the Corporate Services Scrutiny Panel in a public forum yesterday.

The Solicitor General:

I am grateful for that.

5.2.4 Senator P.F.C. Ozouf:

Would the Solicitor General also explain why it seems that such a fundamental part of a contract, the purpose of contracts being passed before the Royal Court, is that they are public? Could he also, when explaining to the Judicial Greffier, when he returns back or replies to this question explain why the contract itself was accepted without the consideration being paid, because it just seems to me such an extraordinary element of a contract not being included in a public court?

The Solicitor General:

Yes, the purpose ... so the Code of 1771 is clear that the public registry is intended to be exactly that. It is meant to be available for inspection, details of contracts are available for inspection by members of the public and that does include the price. In relation to the second question that the Senator asked, could he just remind me of what that question was?

Senator P.F.C. Ozouf:

Why was the contract accepted in Court?

[10:00]

Is it invalid if it does not contain important elements that the Court requires? That is the purpose of it, the Court can say no.

The Solicitor General:

The practice, as I understand it, of the Judicial Greffier is that contracts ... there are many contracts obviously that are presented on a Friday afternoon and the practice of the Greffier is that they can only scrutinise the contents of those contracts when it comes to listing them for inclusion in the Registry, which takes place 2 or 3 days subsequently to the Friday on which they are passed. So that is the reason why this has not been picked up.

5.2.5 Deputy R.J. Rondel of St. Helier:

Is the Solicitor General aware that probably quite a significant number of contracts have been passing through Court over the past few months that have the private agreement sort of statement in without any numerical figure against them, whereas there never used to be?

The Solicitor General:

I am aware of 7 contracts and, as I said, those all concern Andium Homes. I am not aware of other contracts. There may well be other contracts but the only ones I am aware of are 7.

5.2.6 The Deputy of St. Ouen:

As it is the view of the learned Solicitor General that the contracts have breached the legal provision in the ordinance and the code, can he explain the nature of the Judicial Greffier's proposed reference to the Court? Is it for the Court to make a general ruling as to whether the omission of the consideration would be permissible in future or is the intention to seek directions as to how the contracts that have been passed by Andium Homes should be corrected?

The Solicitor General:

It may well be that a benefit of referring this matter to the Court is to raise this matter publicly and give directions to firms generally concerning this matter. One possible remedy that might be sought would be simply an order that revised contracts are passed which do contain the consideration or the price that is paid under the contracts. But we are only just starting to think about the form of the representation and the relief that we will be seeking, so this matter is at a very early stage.

5.3 Deputy G.P. Southern of the Minister for Housing regarding rent control measures: [1(520)]

Will the Minister inform Members of her estimate of the increase in average rent levels over the period 2014 to 2017 in the private sector and in relation to Andium Homes and the housing trusts for one-bed flats, 2-bed flats and 3-bed houses; and will she state what measures she can take or is considering to control such rent levels?

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

The Statistics Unit has only recently begun collecting data on private sector rents, so it is not possible to provide an accurate figure of the increase in private sector rents between 2014 and 2017. However, we know rents in the private sector have increased on average by 3.3 per cent each year between 2012 and 2016. The States rental policy stipulates that social housing rents may be adjusted by R.P.I. (retail price index) plus 0.75 per cent annually until they reach 90 per cent of market rent. So Andium and the housing trusts would have increased their rents within these parameters. Since Andium was incorporated rents have increased by an average of 2.1 per cent each year between 2014 and 2016. I recognise that affordability of housing is a challenge for many households and a consistent supply of new homes will help reduce or put pressure on rents and house prices. In order to prevent unreasonable rent increases during this I am also considering re-establishing the Rent Control Tribunal so that people can challenge rents that they feel are unfair and do not reflect the market price.

5.3.1 Deputy G.P. Southern:

Does the Minister agree that the net effect is that we do not know currently by how much private sector rentals are increasing and yet we are pegged to 90 per cent of private sector rentals? Is there not a formula for a massive growth in rental levels and does she believe that the Rent Tribunal had, at the time, and will have, enough teeth to control the private sector?

The Deputy of Trinity:

I think there are 3 questions in there, so I will try and answer them. The price control of the rental sector, that as I said is the independent Statistics Unit who did record it from 2007 until 2012 but they stopped following the change of law with the Population Office. They no longer recorded that

data. But since 2012, as I said, they have been collecting data and that is the figure that I have given. The States policy of 90 per cent rent was debated and approved by this House so it is an Assembly decision, and it is ordered that the benefit of it is that all our social housing can now be upgraded up to a fit and decent standard that we like to think that all our residents can live in. So that is why that was in, to be able to pay back the £250 million bond. I have forgotten what the third question was.

Deputy G.P. Southern:

Will the Rent Control Tribunal, as was constituted, have enough teeth to control rents?

The Deputy of Trinity:

It has not met since before 2009. I think it only had 3 queries before that so I am looking at it and shall take it from there.

5.3.2 Senator P.F.C. Ozouf:

Would the Minister, while understanding the background to the reason why the Deputy is asking the question, agree that the only way to deal with rising rents is to put the right supply in place providing of course there is an immigration policy that works, and it is only supply and not a Rent Tribunal that is going to effectively control rents for private sector?

The Deputy of Trinity:

Indeed. I have said that many times, that the way forward is we know that there is a long list of people waiting on the Gateway for one, 2 and 3-bedroomed homes and we need to provide them. But also there is a group of people who are over-occupying who need to move down, either the family have left home and so they can move down to a 2-bedroomed home or even to a one-bedroomed home, of which there is very, very little supply. So yes, we do need to build more. Andium are set to build 1,000 homes on target, provided they go through the planning process, by 2020 with a view of building another 1,000 by 2025.

5.3.3 Deputy J.A.N. Le Fondré:

Could the Minister confirm that social housing rents are up to 90 per cent of market not 90 per cent of market, as the Minister previously stated? Therefore it is at the discretion of the directors of Andium or the trustees of the relevant housing trust, using their professional skills and knowledge, to determine at which level they set their rents up to that level, so it is within their discretion not to set rents at 90 per cent if it is appropriate, in their opinion?

The Deputy of Trinity:

Indeed. I am very pleased to confirm that. Why Andium is set at 90 per cent is because it was a States decision and the other housing trusts can do more or less how they feel is appropriate, which I know the Deputy does with his housing trust.

5.3.4 Deputy M. Tadier:

The Minister no doubt has a longer memory than I do, and I cannot remember the last time in Jersey when rents were not going up and when rents were not expensive or when supply was outstripping demand. Maybe the Minister can. But does she think that maybe the supply issue has got something to do with population? What is the population policy of her Government and what effect is that having on supply and demand in the housing market, including affordable rents?

The Deputy of Trinity:

There is an interim population policy and there is one going to be lodged fairly soon in the next couple of months or so. But we are an ageing society and whether population or not, we are all

ageing and we need to be housed. However we would like to get around it, it is an ageing population but do not forget if somebody comes into the Island and begins to work they cannot access social housing trusts, income support or social housing until they have been here for a period of time, which the good Deputy knows.

5.3.5 Deputy M. Tadier:

Can I ask the Minister: what is the point in building 1,000 homes over a period of the next few years if the population is going to go up by more than 1,000 new families in the Island? Does that stack up in her mathematics or that of the Council of Ministers?

The Deputy of Trinity:

As I have just said, we are an ageing society so we have got to look after them. We are all living longer and we all wish to stay in our own homes so we have got to deal with that. Yes, there is an incoming population policy but also they have to, as I have said, be here for a period of time, but we also need them to be able to pay for our pensions and also be able to reinvest in other services, especially in health and education.

5.3.6 Deputy S.Y. Mézec:

Much has been said about the supply of housing having a correlation with the affordability of rents, so what is the Minister doing to get the empty residential properties in the Island back on to the market and what is she doing to incentivise landlords not to hoard properties that they are not managing properly?

The Deputy of Trinity:

That is a very good question of vacant properties. I know I have had with my officers long discussions about how to get vacant properties or empty home properties back into circulation. I have said it before, we have talked to the Constables about understanding the whole remit, how many homes are empty, but that would need a change in the Rates Law. We have talked to the electricity company and J.T. (Jersey Telecom) about triangulating electricity not being used or no landline not being used. We have also talked with Andium at a very high level about whether ... somebody like Andium or other housing trusts or other developers might do a bit of partnership: "Well, we will do it up if we have the rent." These things are still going round. We need to do something, try and find a way forward of bringing vacant properties, understanding the reason, understanding how many and bringing them back into use.

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

Interesting to hear the Minister says she is promising 1,000 homes by 2020 and then popped out that we are going to have another 1,000 homes by 2025. Can she identify if these homes are already in the areas where they need to be built or have got planning permission? A very simple answer: what is she basing this population figure on? What is she building to? She is the Minister for Housing and if she does not have a figure we might as well all go home.

The Deputy of Trinity:

I have not got that figure here. In the Housing Needs Survey all that work was done and it was published and it is in the public domain. I am quite happy to make sure that the Deputy has that report. But we know we will need ... and Andium will be on target to deliver that by 2020. But we also need to look forward. As I said, the ageing population, et cetera. We still need to look forward. We cannot just stand still because that has been the trouble before is we are standing still and not developing.

5.3.8 Deputy J.A. Martin:

That was a simple question: does the Minister for Housing have a population figure that she is basing her housing supply on? It may be in a lot of papers. I need the figure. 100,000, 150,000, 125,000, what is the figure?

The Deputy of Trinity:

I can tell you, as I said, it is in the Housing Needs Survey and I am happy to give the Deputy access to that report, which is in the public domain.

[10:15]

5.3.9 Deputy G.P. Southern:

It is hard to know where to pull on the depths of ignorance on this subject. However one can note, as fact, that we have seen a 10 per cent increase over the past 3 years in the private sector which leaves private sector 3-bed house rental at around £500 a week and the fact that in pursuing the 90 per cent level of the private sector, rents for one-bedroom flats at Andium have gone up by 30 per cent. Does the Minister accept that it is no good building 1,000 houses, 2,000, 3,000 houses if people cannot afford to pay the rents to live in them? Is that not the case of her policy?

The Deputy of Trinity:

As I said before, the way to bring down rents is to bring on more supply. We know there is a waiting list on social housing providers but also Andium tenants paying 90 per cent rent; 29 per cent of Andium tenants pay 90 per cent rents. Overall the minimum rent charged is 76 per cent of market value.

5.4 Deputy K.C. Lewis of St. Saviour of the Minister for Infrastructure regarding a reduction in the cleaning of States roads: [1(515)]

Has the Minister ordered a reduction in the cleaning of States roads and, if so, is this a temporary measure?

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

I have not specifically ordered a reduction in the cleaning of States roads, however the Deputy will recall that my department was required to make significant budget savings as part of the M.T.F.P. (Medium Term Financial Plan) 2, and as a result a service review of the Department for Infrastructure cleaning services was carried out in 2016, which did result in this particular section making efficiency gains and optimising the resources that we have available. The mechanical sweeping and highways cleaning teams saw a reduction in direct staff numbers, mainly through to the outsourcing of all road cleaning works within the Parish of St. Helier boundaries by the Parish itself, and we are grateful for the officers of the Parish and indeed the Constable for working with us in this end. Some reorganisation of working times and practice will also present significant savings.

5.4.1 Deputy K.C. Lewis:

I think that was a yes. I refer not only to the litter in the road, but the leaves that are coming. Winter is coming on, leaves are coming off the trees and we have had minor flooding in St. Saviour and other parts of the Island, more serious flooding in St. Ouen where there was several feet of water. Will the Minister ensure that all storm drains are kept absolutely clear to avoid any flooding incidents this winter?

Deputy E.J. Noel:

That is a different area - that is not about the cleaning of the roads - it is about making sure that our drains are not blocked. We have not seen any changes to that team that go round. They work on a rotation basis and do target black spots where there are issues but when you have the level of rain that we saw 2 Saturdays ago, you are going to unfortunately get blockages from time to time.

5.4.2 Deputy M. Tadier:

That was a strange answer from the Minister. He said that he had not specifically ordered a reduction in the cleaning of the roads. So has he ordered it in a non-specific way, is the first question?

Deputy E.J. Noel:

Ministers are to be held to account and we are to answer the question that is put in front of us. The question that was put in front of us was: "Had I ordered a reduction?" No, I had not. I had authorised for a service review to take place to make sure we are carrying out our services to the public efficiently, which is what our department strives to do day-in day-out.

5.4.3 Deputy M. Tadier:

Did the Minister also say and admit that they had outsourced the service of cleaning the roads to another party and that is why there is a reduction in the service?

Deputy E.J. Noel:

No, I did not say that. What I did say is that for the Parish of St. Helier, the Parish now ... the Constable is not with us at the moment, and I am grateful to him and his team for agreeing to take on cleaning of the roads for the entire Parish of St. Helier. That has freed up our staff to concentrate on the rest of the Island, and the Parish themselves do an excellent job within their Parish.

5.4.4 Deputy G.P. Southern:

Does that mean then that the Minister has failed to establish a service level agreement with the Parish to ensure that we have the same standard of cleaning with the same regularity as previously?

Deputy E.J. Noel:

We have an excellent working relationship with the Parish **[Interruption]** ... if the Deputy would let me give him the answer that he is looking for, it might not be the answer that he wants. That we do have a service level agreement with the Parish and it has been therefore a considerable amount of time and it is refreshed regularly.

5.4.5 Deputy G.P. Southern:

Is the Minister satisfied that the standards produced by the Parish are satisfactory and meet that service level agreement?

Deputy E.J. Noel:

I am satisfied with the work that the Parish does on behalf of my department. To date I do not believe that we had any complaints from the public for the condition of the roads in St. Helier since the review in 2016, nor have we had any from anywhere else in the Island, to my knowledge.

5.4.6 Deputy A.D. Lewis:

Last year I notified the Minister on behalf of the residents of First Tower that all the drains in the area appear to be blocked and very quickly his department came out and cleaned them. We were very grateful for that. However, a year has passed and they do not appear to have been attended to again. He mentioned the fact that there was some kind of rota and a process whereby these things

are taken care of. Would it be possible for him to either publish that or let us have a sight of it so that we can inform our residents that these things are taking place on a regular basis and when they might be?

Deputy E.J. Noel:

I am most happy to do that. The Island is split into 4 sections that we deal with and they are done on a rota basis of those 4 sections in turn. But in particular, as I said, the road sweeping in St. Helier is done by the Parish but the gully collection on our roads I believe is still done by my department but I am happy to provide that information to the Deputy, and indeed to the public.

The Deputy Bailiff:

Deputy Martin.

Deputy S.Y. Mézec:

Would the Minister agree therefore that the natural conclusion of the ...

The Deputy Bailiff:

Actually, Deputy, I called on Deputy Martin. You are next on the list.

5.4.7 Deputy J.A. Martin:

I think I was going to go in the same direction. Did the Minister not stand up in this House many times when questioned by other States Members on when he was cutting costs and staff in his department and say that services would remain the same? Today we are hearing he did a service review after he cut the staff. Is that not the case? Or is my memory fading because I am sure the Minister did tell us service would stay the same.

Deputy E.J. Noel:

The service review was carried out in 2016 and the staff that were not required after that service review left after that, not before. Just to correct Deputy Martin there. We have maintained the level of service that we provide for road cleaning. What we have done is move away from our 7-day shift patterns to 5-day shift patterns, therefore saving costs of work being carried out at the weekend. Also one of the things we did receive complaints about was our road sweepers being out early Sunday morning, so we have listened to that and therefore that is one of the reductions we have done. It means that they are now out Monday to Friday throughout the day.

5.4.8 Deputy J.A. Martin:

Has the Minister been in town on a Friday or Saturday night to see the rubbish that is around the roads?

Deputy E.J. Noel:

As I have already explained, we have a service level agreement with the Parish of St. Helier for cleaning the roads within the Parish. I have not, to my knowledge, had any complaints about that but if it is an issue we will take that up with the Parish to ensure that they are complying with the service level agreement.

5.4.9 Deputy S.Y. Mézec:

Is it not now clear that the natural conclusion of the M.T.F.P. and this Minister's policy was that Islanders are now simply going to have to put up with living in an Island or in St. Helier, a Parish that is more messy than it was before, and that the concerns that were expressed by the workers at the time, the workers who he refused to meet at the time when he was threatening to outsource their jobs, were accurate and that the service has gone down?

Deputy E.J. Noel:

Absolutely not. I do not agree with the sentiments of Deputy Mézec there. The M.T.F.P. reductions were voted on by this Assembly. It is this Assembly that set our cash limit and we said that we would have to make significant savings. Our savings target was some 23 per cent of our cash limits. We also had a reduction of over 20 per cent of our staff across the board. Those were difficult things to do but we did them, I believe, with respect for the workforce and took the workforce with us through those difficult periods. We need to make sure that the services that we provide to the public are efficient and we need to optimise the resources that we have got available to us. My department, along with every other States department, have not got a bottomless pit of money. We have our cash limits and we have to use those monies as effectively as possible to provide the services to Islanders.

5.4.10 Deputy S.Y. Mézec:

It may well have been an Assembly decision to adopt the M.T.F.P. but in his election for Minister for Transport and Technical Services, at the time, he specifically said he wanted to do the opposite. So given the issues that have now arisen is he now happy to prepare to admit that the promise he made in his election speech for Minister for Transport and Technical Services was an irresponsible promise and that the Assembly made the right decision, or would he, even if he does agree with my sentiment, at least agree with the facts that the service has gone down as a direct result of this frankly ill-informed and dangerous, I would say, outsourcing of public services?

Deputy E.J. Noel:

No, we have made the services more efficient, and I believe the Deputy is referring to a question by his colleague, Deputy Southern, back in I think it was November 2014 for the elections of ministerial posts where he asked if I was going to reduce the headcount of my department. The truth of the matter was is that it was my intention to increase it because I was bringing 2 departments together. I was bringing Property Holdings to join Transport and Technical Services and therefore at the time that is how I answered him, in that vein.

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

Does the Minister accept that part of the policies of the Council of Ministers have caused a reduction of service and an increase to the problems he faces? To give one example, the number of gardeners were cut, they were privatised, and put out to private agencies. Those same private agencies, if you wander through St. Helier and you see them doing the gardens, their idea of cleaning up the gardens is using a blower, which blows all the leaves and all the rubbish into the road, which blocks the drains. So does the Minister accept that he needs, first of all, to try and speak with his colleagues and make sure the gardens are done properly, and they reduce the amount of rubbish that is going to the drains and causing blockages?

Deputy E.J. Noel:

An interesting question from Deputy Higgins because the gardens in St. Helier were outsourced to the Parish of St. Helier, in particular the maintenance of the Town Park, apart from the mechanical side in terms of the fountains, *et cetera*, again under an S.L.A. (service level agreement). If the Deputy is telling me that his Parish are not living up to that S.L.A. then I will take that up with the Parish.

5.4.12 Deputy M.R. Higgins:

No, I am not saying it is the Parish. I am talking about Andium Homes and the gardeners that are used there. I live right next door ...

The Deputy Bailiff:

Deputy, that is a response, not a supplementary question.

Deputy M.R. Higgins:

Okay, fine. Will he take it up with Andium Homes and the others then to try and get the gardens done properly, number one? Secondly, stop blocking the drains.

Deputy E.J. Noel:

Andium Homes does not come under my remit as the Minister for Infrastructure. If Andium Homes are not maintaining their properties to the satisfaction of Deputy Higgins then I suggest that Deputy Higgins takes it up with Andium Homes.

5.4.13 Deputy K.C. Lewis:

My questions are relating also besides debris, also to leaves. Last time I looked storm drains were in the roads so that does apply to my question. We have had some incidents in St. Saviour, there are people walking in the road because there are too many leaves on the pavement and it is very slippery. We used to have the roads and the pavements cleaned 3 times a week, now we are lucky if we see it every 6 weeks. As I say, winter is coming on, the drains are being blocked. When we had the recent storm the drains were, in my area, 7 of them, cleaned by me ... you can take the boy out of T.T.S. (Transport and Technical Services) but you cannot take T.T.S. out of the boy.

The Deputy Bailiff:

Deputy, we have to come to a question.

Deputy K.C. Lewis:

Will the Minister agree to look at this again and improve the cleaning regime?

Deputy E.J. Noel:

As I have already explained, I am not sure how the particular road outside Deputy Kevin Lewis is cleaned 3 times a week or previously cleaned 3 times a week. I find that quite difficult to take on board when we work on a rota basis and the Island is split up into 4 separate rotas, and those are done one after each other. We continue to look at the services that we provide and we continue to look for producing a more efficient and effective service with the resources that we have. So I am quite willing to look at that again because that is what we do day-in day-out.

[10.30]

That is what my department does on all of its services day-in day-out; we look at ourselves to make sure: "Is there a better way of doing it, is there a more efficient way of doing it, to provide more services to the public for the money that we are given."

5.5 Deputy S.Y. Mézec of the Minister for the Environment regarding the environmental impact of the residential properties planned for development around the Ann Court area of town: [1(524)]

What work, if any, is being done to consider the environmental impact of the residential properties planned for development around the Ann Court area of town; and, if no such work is being done or planned, will the Minister agree to implement a study of this matter to ensure that quality of life is maintained for the residents of that part of town?

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

The applicant, Andium Homes, has submitted a comprehensive environmental impact statement with this planning application, which is published and available on the States of Jersey website

under Planning reference P.2017/0730. A non-technical summary is also available. In addition, planning officers will assess the application in the light of the comments received and in accordance with the policies set out in the Island Plan before making a recommendation to the Planning Committee. Members will know that these policies are comprehensive and include among many other issues a requirement that the development does not unreasonably harm the amenities of neighbouring residents.

5.5.1 Deputy S.Y. Mézec:

Since the vast majority of the housing planned for this part of town will be undertaken by a States-owned body, this obviously provides the States a very good opportunity for comprehensive planning for the entire district. Would the Minister agree to engage with not only other States departments, such as the Education Department, which will have to provide school places for the children that live in these houses, but also the constituency representatives around the area who will be hearing concerns raised by people who are already in the area to do with things like traffic and pollution and the education for the people in that area, and make sure that there has been a much wider consultation than there so far has been before any final decision is taken?

Deputy S.G. Luce:

There are a lot of questions in that question but what I can tell the Deputy is I, like him, see the opportunity for a co-ordination of housing in this North of Town area. The North of Town Masterplan was implemented in 2011, went through this Assembly, and it envisages housing on a number of sites in the North of Town. The fact that we have one developer now in charge of 3 of those significant sites I see as a really good positive step forward and the opportunity to co-ordinate, as the Deputy says, a lot of issues which can make the life of people who live in that part of town better.

5.5.2 Deputy G.P. Southern:

One of the reasons underpinning the need for the Millennium Town Park where it is was the density of population in its surrounding. It is the highest population density on the Island. Can the Minister bring forward his estimates of what population density will return to after all of these 1,000 units of accommodation are built around the current Town Park?

The Deputy of St. Martin:

I cannot give the Deputy an answer to that question specifically, but it will come as no surprise that the density of population in that part of town can only rise in the future. We have identified in the Island Plan the desire to protect the countryside. We know, we accept, that we will have more people living in town. We know, because we have the North of Town Masterplan, we have a number of significant sites in that part of St. Helier that will be built on for housing. The density can only increase.

5.5.3 Deputy G.P. Southern:

The question was: would the Minister bring forward the figures which show the increase in population density? Would he recognise that these 1,000 or so units of accommodation are flats with people having no access to a green space apart from the park?

The Deputy of St. Martin:

The Deputy is talking about planning applications which have not even been submitted yet. I do not see how he knows what size the units are going to be or how a number of people are going to live there. I would say to him that he talks about people needing access to green and open space and the Future St. Helier project, and certainly my vision under the Jersey infrastructure levy, is to have the monies and the foresight available to turn this part of town, roads in this part of town,

streets and lanes in this part of town, into more accessible areas for pedestrians, for cyclists, to make it more green, more open, to increase the amount of amenity space. I come back. We now have a single developer on 3 significant sites, and I am sure in working with him ... and the Deputy will know if he has looked at the plans, the area outside the Arts Centre in Phillips Street, there are already some proposals on the table to make this part of town a much, much better place to live.

5.5.4 Deputy S.Y. Mézec:

In line with some of the final comments made by the Minister there about his vision for the area, could he just sum up what exactly has happened in the last 3 years to improve access and green space in that part of town? Because I live there and I do not think a single thing has been done.

The Deputy of St. Martin:

I can only admit that the Future St. Helier project has had a huge amount of work to do in putting plans together, in putting visions together, and the one thing it does not have is cash. The Jersey infrastructure levy will provide that cash. If we have it, we will be able then and in a position to move forward with schemes which we can fund. But with constraints on budgets, it has been very difficult to continue to build schemes across town like we have done in Charing Cross and Castle Street. But I can only assure the Deputy that I will continue to work, and while we have not developed out and created a lot of new green and open area in the past 3 years, if I get my way we will certainly be doing that in the next 3.

5.6 Deputy J.M. Maçon of St. Saviour of the Chairman of the States Employment Board regarding the continued employment of the former Chief Officer of the States of Jersey Police: [1(512)]

Will the Chairman explain for what period of time the former Chief of the States of Jersey Police is expected to remain formally in post, whether he is continuing to be paid his full salary, and whether with an Acting Chief Officer now in post it would be accurate to say that 2 Chief Officer salaries are now being paid?

Senator A.K.F. Green (Chairman, States Employment Board):

As announced, the Chief of Police is on his contractual notice and it finishes on 31st October. Clearly, he is in receipt of pay, but I do know that he has a lot of accrued leave. He is providing advice on an *ad hoc* basis to the Acting Chief of Police.

5.6.1 Deputy J.M. Maçon:

Is the Chairman saying that the reason for this decision is because the Chief Officer had much accrued annual leave left and effectively he is just filling out the rest of his term by using up his annual leave?

Senator A.K.F. Green:

No, I am advised that was a significant part of this decision.

Deputy J.M. Maçon:

I thank the Minister for his response.

5.7 Deputy C.F. Labey of Grouville of the Minister for Treasury and Resources regarding the Jersey Electricity plc's Standby Charge: [1(510)]

Will the Minister as shareholder representative advise how many businesses have been subject to the Jersey Electricity Company standby charge during the last 15 years and how much this has been charged at? Will he explain how it is envisaged the charge will be varied in the future and whether there is any intention to extend it to domestic customers?

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

The J.E.C. (Jersey Electricity Company) advises me that 6 businesses have been charged standby charges during the last 15 years, of which only one is still applicable. The costs have moved from £1.15 per kilowatt per month ex G.S.T. (Goods and Services Tax) to £2.19 including G.S.T. in the past. However, J.E.C. announced a year ago that the charge of £3.25 including G.S.T. would apply from this November for all newly connected commercial embedded generation. It is worth noting that this charge is still lower than those charges levied in Guernsey and the Isle of Man. I am further advised that the charge is based on the costs of sustainably providing the backup service and will be reviewed and updated from time to time to reflect any changes to these costs. Jersey Electricity assures me that it is not currently planning to extend the standby charge to domestic customers but will keep the matter under review in accordance with the press release issued by the company in November 2016. The company's priority to date is to ensure that commercial organisations are not being unfairly subsidised by other customers who, without levying these charges, would bear the higher costs in the form of higher charges.

5.7.1 The Deputy of Grouville:

A supplementary: can the Minister confirm the basis of the standby charge and how it will be varied in the future as I am very concerned at the impact and future adjustment that the standby charge will have? I am also concerned at the impact on the implementation and the undermining of renewables within the Island.

Senator A.J.H. Maclean:

Let me first be absolutely clear. From the Jersey Electricity Company there is no intention to undermine the development of renewables in the Island either now or in the future. With regard to the basis of the standby charge, it is quite simple. The Jersey Electricity Company has significant investment and for businesses that have the benefit of the standby charge who at certain times need to access the facilities in downtime periods of the J.E.C., that cost has to be taken into consideration. There are investments and on the balance sheet, for example, of the Jersey Electricity Company their property, plant and equipment is over £200 million and all the associated costs in maintaining that for businesses who need to still have the ability to access those facilities during downtime periods. That is the purpose for the standby charge.

5.7.2 Deputy G.P. Southern:

Talking about promoting green energy, can the Minister confirm or otherwise that while the J.E.C. pays 12p per unit to France for its electricity, it only pays 6p per unit to self-generated on the Island electricity through photovoltaics or otherwise? Will the Minister do his best to encourage the use of truly green energy by requesting that J.E.C. at least pays the same tariff to France as it does to those who generate through photovoltaics?

Senator A.J.H. Maclean:

I think the point that we need to focus on very clearly is that the Jersey Electricity Company is extremely well run. It is a well-run company whose carbon emissions have reduced by over a third over the last 25 years. It is also important to focus on the fact that Jersey Electricity prices are lower than virtually any of our immediate neighbours such as Guernsey, such as the U.K. (United Kingdom) and such as the Isle of Man, 22 per cent cheaper than Guernsey, 17 per cent cheaper than the Isle of Man and 14 per cent cheaper than the U.K. So, consumers and businesses are benefiting

from an extremely well-run company that takes seriously its environmental credentials and ensuring that carbon emissions are reducing and continue to do so.

5.7.3 Deputy G.P. Southern:

Thank you to the Minister for that list that he prepared before the question was asked, but it could continue: nonetheless they could do better. They could, for example, pay the same rate to self-generated electricity as they do to France. Will the Minister encourage J.E.C. to do so?

Senator A.J.H. Maclean:

The Deputy is talking about the buyback tariff, effectively, which has increased. J.E.C. had a somewhat more complicated buyback tariff, effectively £4.66, and it was split between night and day. It has now been consolidated into one and, in fact, it was a part of the press release that went out in November 2016 increasing to £6.24 I think it is. So, they take seriously the renewable area of the market. They want to encourage people to generate renewables, but what they recognise is on the standby tariff when large organisations want to access the grid there is a cost in keeping those facilities available for those businesses. It is only reasonable, otherwise other consumers are going to have to pay the price and that is not reasonable and it is certainly not fair.

5.7.4 Deputy A.D. Lewis:

Does the Minister believe that the buyback tariff is adequate enough to really encourage people to generate electricity domestically and put it back into the grid? Because at the moment we are woefully behind most other countries in terms of renewable energy and producing energy domestically to supply back to the grid. Surely if one wanted to encourage more of that, one should have a higher tariff. That is one of the ways. Of course, the other way is subsidising people to buy the equipment in order to install it. Does the Minister have views on that? Is there a policy? How can it be advanced?

Senator A.J.H. Maclean:

I do have some views. As I have pointed out already, the J.E.C. has increased last year the buyback price from £4.66 to £6.24. That is a good step in the right direction to encourage people to get involved in renewables. We have to remember, of course, there are significant numbers of Islanders who cannot afford to get involved in the renewable areas, those who are renting houses perhaps, those that are living in flats or properties that are not suitable. So, the J.E.C. has to take a fair approach across all consumers within the Island. I accept the point that they are moving in the right direction but indeed perhaps could go further, but we have to understand the cost associated with maintaining the infrastructure.

[10:45]

It is remarkable in an Island of this size that a business of this size can have some of the cheapest prices in the U.K. and among our neighbours and indeed for that matter in Europe. I think that is something to be celebrated.

The Deputy Bailiff:

Do you want a supplementary?

5.7.5 Deputy A.D. Lewis:

Yes, please. If the J.E.C. is making significant profits, why is it not investing that money into renewable energy, particularly domestic use, providing subsidies to people so they can get into the business of renewable energy in a domestic capacity? They have the funds. Why are they not investing in it? If we owned the whole company, perhaps we would.

Senator A.J.H. Maclean:

They are investing. That is the reason, for example, why we have the interconnectors with France, why they have invested £70 million in that particular area, and that is the right thing to do. We have very low carbon emissions in comparison to many of our immediate neighbours and it is important to continue to drive down that particular area and ensure that consumers have both safe but also low carbon and low cost electricity supply. That is exactly what the J.E.C. are seeking to do.

5.7.6 Deputy S.Y. Mézec:

Given that climate change is literally the most important issue facing humanity right now and given that there have been many amazing technological advances over the last few years on renewable energy, would it not be a good thing for this Government to show some real leadership on this and say that we will have a stated ambition for 100 per cent renewable energy in the future, not nuclear power from France, and would he not accept that this Government has a great opportunity to get the wheels in motion to get towards that ambition given our ownership stake in the Jersey Electricity Company? Would he like to say that it is not all about cost because at the end of the day this is something that will one day destroy the planet if humanity does not deal with it? Would he be prepared to say that this should be an ambition we should be working towards?

Senator A.J.H. Maclean:

I think it is fair to say that it is an ambition that is being worked towards. We do not own 100 per cent of the J.E.C. J.E.C. is a listed company. The J.E.C. does pay a significant dividend to the States of Jersey. I think in 2016 it was about £3.4 million. Any questions of subsidies have to be paid for and I would suggest that those would be paid for by Government, not the company itself because it is not a wholly-owned company of the States of Jersey. I think, therefore, it is very much a matter that would need to be considered in that wider context. But without doubt the other factor to take into consideration is the technical advances that the Deputy referred to are driving down the cost of renewable products - wind, solar and suchlike - and making them more affordable. That is one of the reasons why governments elsewhere are reducing the level of subsidies that they issue.

5.7.7 Deputy S.Y. Mézec:

A supplementary: virtually everything in the Minister's answer there was to do with money and not to do with our environment and the state of the planet. Would it not be better to accept that this is not just about money, this is not just about the dividend we may get back from the company, and would it not be a better position to base this discussion purely on what is in the interests of our environment, against pollution, against nuclear energy as well? He spoke about the reduction in our carbon emissions. That is great but not if it is going towards nuclear. Would he agree that a lot more needs to be done to have a tangible target for getting towards renewable energy and that it is only the Government that can do that, not just expecting it to happen magically from the market?

Senator A.J.H. Maclean:

That is correct and that is why the Energy Plan was published and the Jersey Electricity Company is largely following the principles of the Energy Plan. Let us be absolutely clear. The Jersey Electricity Company is less than one-tenth of the carbon intensity of the U.K. electricity grid, one-tenth, less than one-tenth. That is something to be celebrated. The direction of travel is pretty clear and we need to continue to ensure that we make renewable energy as available as possible to the community.

5.7.8 The Deputy of Grouville:

In light of the proposals to install solar panels on the new Les Quennevais School, has the Minister considered the cost implications that this new ... well, not so new maybe, this charge will have on the public?

Senator A.J.H. Maclean:

No, I have not given any thought to that specific issue but I will take it away and report back to the Deputy.

5.8 Deputy M.R. Higgins of the Minister for Home Affairs regarding the operational control of the States of Jersey Police: [1(514)]

Will the Minister explain who is in *de jure* operational control of the States of Jersey Police at this time and who is in *de facto* control? If it is not the same person, will she advise how long the situation is to continue?

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

R.93 of this year was communicated to States Members on 14th July and provided notice of my intention to appoint Mr. Rob Bastable as Acting Chief Officer of the States of Jersey Police and Mr. Julian Blazeby as Acting Deputy Chief Officer, effective from 31st July. These interim appointments were confirmed in a subsequent Ministerial Decision on 31st July. It follows, therefore, that these 2 individuals are in *de jure* and in *de facto* control of the States of Jersey Police.

5.8.1 Deputy M.R. Higgins:

A supplementary: is it the case that the person who has been appointed Acting Chief of Police is on leave or ill and, therefore, his functions are being done by the other officer? Is that correct or not?

The Deputy Bailiff:

Deputy, surely that is a matter that is personal. Could we not simply say are both of them functioning in post at the moment or something of that nature?

Deputy M.R. Higgins:

I think part of the problem is that again it is expenditure, who is doing what. We have the former Chief of Police who is still acting in various capacities. We have 2 officers doing the other. Surely it is a question: who is running the police force? If there is a problem, when will it be resolved?

The Deputy of St. Peter:

I am very disappointed by this line of questioning. **[Approbation]** It is not really a matter of debate for this Assembly. What is a matter of concern for the Assembly is that there is a robust command structure within the States of Jersey Police and that there is an effective and functioning police force to maintain public safety in the Island. As Minister, I am content that that is in place.

5.9 Deputy J.M. Maçon of the Minister for Treasury and Resources regarding the extension of the loan repayment period by the States of Jersey Development Company: [1(521)]

Given that the States of Jersey Development Company has requested an extension of the period for its repayment of £2.5 million, is it the Minister's assessment that this indicates a lack of desire and need by businesses for the type of office space being developed in Jersey by the company? If it is not, will he explain why not?

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

I.F.C.1 (International Finance Centre 1), the first completed building on the International Finance Centre, is already 70 per cent let. Furthermore, around a further 20 per cent is either in legal hands or subject to final negotiations. Of the next building, I.F.C.5, which is currently under construction, more than half of the space is already let with negotiations continuing for the letting of the remainder of the building. This demonstrates to me that there is significant demand for such high-quality office space and is consistent with Jersey's improving economic performance over the last year or so. This particular borrowing facility will be repaid from the sale of I.F.C.1. The company have said that they hope to go to the market in quarter 1, 2018.

5.9.1 Deputy J.M. Maçon:

Can the Minister explain why this extension was sought?

Senator A.J.H. Maclean:

Yes. This is not unusual. Development companies typically have revolving credit and, therefore, S.o.J.D.C. (States of Jersey Development Company) is no different in this regard. Originally, this revolving credit was in relation to College Gardens and it was going to be repaid there through one of the housing trusts, but it turned out that that was not a feasible route so an alternative was to repay it from the sale of I.F.C.1 and that is where the extension agreement was put in place.

5.9.2 Deputy M.R. Higgins:

Can the Minister confirm to Members that on the second building, the building that is currently under construction and he says is 50 per cent let, the people concerned are not related to the States of Jersey Development Company like the existing tenants of building 1?

Senator A.J.H. Maclean:

I am not entirely sure of the Deputy's question. There are tenants in place. There are no improper - if that is what he is suggesting - connections between the developer and prospective tenants and those buildings are let on a commercial basis. So, I am not really sure what the Deputy is getting at.

5.9.3 Deputy M.R. Higgins:

What I am getting at is various companies have been assisting the States of Jersey Development Company, such as I think it is BNP who have been doing the property, who are involved. Others have been involved. All the companies who are currently, I believe, in building 1 have had some form of relationship, whether direct or indirect, with the States of Jersey Development Company. All I am asking is the new building, which is claimed will be 50 per cent let, do they involve the same companies or are they totally fresh companies who have no connection whatsoever with the States of Jersey Development Company?

Senator A.J.H. Maclean:

First and foremost, I would like to correct the Deputy with regard to I.F.C.1 and that is that there is, in fact, I think about 5 per cent of the building let now to inward investors, in fact, which was an original aspiration of the building. It was never likely to be achieved until it was completed or close to completion. So just to put that on record. With regard to occupiers, tenants of that building, this is a small Island and clearly some of these businesses will in some shape or form have provided services I am sure to S.o.J.D.C., but that does not get away from the fact that the relationships in terms of the tenancies are commercially constructed tenancies. I cannot really add very much more than that.

5.9.4 Deputy M.R. Higgins:

The question was building 2. Can he confirm that none of them have any relationship with the S.o.J.D.C.?

Senator A.J.H. Maclean:

It would depend what the Deputy means by relationship. I cannot confirm that, no, but if he would like to give me more detail as to exactly what he is asking I am happy to get back to the Deputy.

5.9.5 Deputy J.M. Maçon:

I believe - I am sure the Minister will correct me if I am wrong - that he said building 3 is looking to be sold off. If this is public land, can the Minister explain why the building is being looked to be sold off and not be under leases like the other buildings? If I have misunderstood, I am sure the Minister will correct me.

Senator A.J.H. Maclean:

I did not, I hope, mention I.F.C.3. That has not even got planning permission yet. It is some way into the future. I.F.C.1 is the first building, which is 70 per cent let. The board have said that once it reaches 90 per cent or more then they will consider going to the market. The intention, therefore, is to go to the market in the first quarter of next year, 2018. So, that is I.F.C.1. The plan was always to seek to sell the buildings and the profits from the buildings to be reinvested in regeneration projects principally in St. Helier, and that is still the objective.

5.10 The Deputy of Grouville of the Minister for Treasury and Resources regarding Jersey Electricity plc's provision of a backup service to embedded generators: [1(511)]

Will the Minister, as shareholder representative, clarify what costs are involved for the Jersey Electricity Company in providing a backup service to embedded generators? Will he explain how the company's funding of the grid works and whether it is factored into the company's service charge? Will he advise whether the service charge applies to all customers of the company?

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

I am advised by the J.E.C. that the costs involved in providing a backup service recovered through the standby charge include as an example those associated with keeping the undersea and on-Island distribution and transmission networks, including La Collette power station, maintained and ready for embedded renewable generators to fall back on when needed. This standby charge needs to fund the costs of operating, maintaining and financing the electricity supply infrastructure that serves Jersey's consumers. I am further advised that normally these charges are recovered through the unit charge, but here they are recovered through standby charge for embedded generators, which are generating their own power and relying on the grid for backup. Without levying these charges, other customers, including the less well off, would ultimately have to pick up these costs in the form of higher prices. Jersey Electricity's share of the grid is funded from its own balance sheet. This is not factored into the company's service charge, which is a charge covering metering, billing and administrative functions and is applied to all customers.

5.10.1 The Deputy of Grouville:

Does the Minister consider that the Jersey Electricity Company should be at the forefront of encouraging and supporting renewable electricity generation within the Island and does he see his position and the States of Jersey's position as a shareholder of J.E.C. to be a conflict in this regard?

[11:00]

Senator A.J.H. Maclean:

I think the answer is yes to the first question and I would hope and believe from what I have seen that the Jersey Electricity Company are supporters in that way. With regard to a conflict, clearly from a Treasury perspective as shareholder representative I do have very much a focus on the financial side, but that does not mean that other Members cannot take up a role in lobbying the company if they feel that they are falling short. I know the Deputy herself has done so with the J.E.C. I know she has spoken to the chief executive. I know they have exchanged a raft of information to answer a number of her questions and I know that she has been invited into the J.E.C. Hopefully, before too long, she may wish to take up that invitation and continue her good work in that way.

5.10.2 Senator S.C. Ferguson:

Given that the J.E.C. are installing smart meters all around the Island, will the service charge for consumers be coming down because they will no longer need to read meters with a gentleman going round with a piece of paper? They will be able to read them from the centre, from the offices of the J.E.C.

Senator A.J.H. Maclean:

Indeed, and that will make the company very much more productive and more efficient and allow it to, therefore, invest in ensuring that its infrastructure is kept up to speed. There is significant capital expenditure. It is quite extraordinary that a business turning over just over £100 million is spending of the order of around about £30 million last year on capex and over the last 4 or 5 years it has not been far short of that. In fact, in one or 2 years it has been more. It is a very intensively expensive business to ensure that the infrastructure is maintained.

5.10.3 Senator S.C. Ferguson:

A supplementary: yes, but does the Minister not understand that if the company pushes further with renewable sources it will start having to push prices up to the consumer as they have in the U.K.?

Senator A.J.H. Maclean:

The Senator has hit the nail, if I may say, on the head and that is the whole point of the standby charge, particularly with regard to commercial generation. There is a clear understanding that the infrastructure has to be funded and, therefore, the direction of travel certainly for commercial operators at this stage is through a standby charge in order to ensure continued investment in essential infrastructure, so the Senator is right.

5.10.4 Deputy A.D. Lewis:

Does the Minister believe that the current ownership structure of the J.E.C. hampers its ability to invest in things like renewables because you do have, of course, shareholders to consider in terms of dividend and profit and also there are many companies perhaps who want to invest in Jersey but require significant amounts of power ...

The Deputy Bailiff:

I am sorry, Deputy, I do not think I can allow that question. The question is specifically about the costs involved in providing backup services, not really general policy objectives.

Deputy A.D. Lewis:

I was talking about the ownership, Sir, the inability to have flexibility when you do not have full control of the business. Does the Minister believe that that hinders the company to make judgments like this?

Senator A.J.H. Maclean:

No, I do not. I think that, as I have already alluded to this morning, the company is making significant investments, so I do not think that that would be the case at all.

Deputy G.J. Truscott:

Sir, is it possible to raise the défaut on Deputy Russell Labey?

The Deputy Bailiff:

The défaut is raised on Deputy Labey. Final supplementary, Deputy of Grouville.

5.10.5 The Deputy of Grouville:

Can the Minister confirm if he ever attends board meetings? I know he is the shareholder so he would attend shareholder meetings, but is he ever invited in to discuss the way of direction the people of Jersey may wish the Jersey Electricity Company to travel in, or if he just attends the A.G.M. (annual general meeting)?

Senator A.J.H. Maclean:

I do not attend board meetings of the Jersey Electricity Company, but there are regular shareholder meetings with the J.E.C. and it is through that forum the question the Deputy has asked is dealt with. We have good discussions with the J.E.C. about all aspects of their business, including, I might add, this area because despite what some Members might have said I think it is an exceptionally important area. I think they are doing their bit. Everybody can do more and that is something that we need to continue to focus on.

5.11 Deputy M. Tadier of the Chairman of the Privileges and Procedures Committee regarding proposals to adopt Jèrriais as one of the official languages of the States Assembly, alongside English and French: [1(523)]

Will the Privileges and Procedures Committee give consideration to bringing forward proposals to adopt Jèrriais as one of the official languages of the States Assembly alongside English and French?

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

I am content to add this matter to our agenda for consideration.

The Deputy Bailiff:

A supplementary, Deputy?

5.11.1 Deputy M. Tadier:

Oui, Monsieur, je suis très content si on me permettrait de poser la prochaine question supplémentaire en français; une autre langue officielle de notre assemblée dont on doit être fier, aussi, également. Et ce serait bizarre si, par exemple, on pourrait poser des questions en anglais, en français, mais - et on est des gens de Jersey - pas dans la langue qui nous appartient aussi: le jèrriais. I will just translate that for those who are listening. I am sure the Chairman obviously does not need to ...

The Deputy Bailiff:

I think you are probably only allowed to ask the question once.

Deputy M. Tadier:

Okay. **[Approbation]** I am happy in whichever language the Chairman wishes to reply, so long as it is one of the official languages.

The Connétable of St. Clement:

It is nearly 11.10 a.m., Sir. [Laughter]

The Deputy Bailiff:

The Deputy obviously was posing the question where he viewed it as strange that he could speak in English and in French but could not speak in the third language of the Island.

The Connétable of St. Clement:

I think that is an example, Sir. I tried to be amusing and clearly I was to one or 2 Members. That does give an example of the difficulties of having 2 or maybe 3 official languages. The important thing about language in this Assembly is communication and we are communicating not simply or not only with our public and our electorate but also among each other. If we start using French or Jersey French, very few of us are going to be able to understand what is being said, so there will then be resource implications of having simultaneous translations, interpretations, having all our written documents in 2 or 3 different languages. So there is a real issue here and really I think one of the things we also need to understand, and I do not understand it at the moment, is what is meant by an official language. I think this is in the depths of history and some research will need to be done to understand that. I have a lot of sympathy for the work that Deputy Tadier is doing to support Jérriais and I hope that he recognises the bit I did all those years ago when I was president of the Education Committee and I persuaded the States to introduce and to fund the extracurricular activity of teaching Jérriais in schools. But as I said in my answer, which I think was quite clear, yes, we are prepared to put this on our agenda for consideration.

5.11.2 Deputy S.Y. Mézec:

When the committee considers it as part of their agenda, would they be willing to look at the example that the Isle of Man has where their indigenous language does feature in some parliamentary documentation and does not do so in an overbearing way where people who do not understand the language would not be able to understand the proceedings but has small contributions every now and then as a symbolic celebration of their heritage and culture? That is something potentially that Jersey could also emulate.

The Connétable of St. Clement:

Yes, I think that is a wise contribution, but when I say the committee would be prepared to consider it, I think we are not going to put limits on what we are prepared to consider in the round.

5.11.3 Deputy M. Tadier:

I do thank the Chairman for his answer. I appreciate this is not just a simple, straightforward matter about adopting something and that consideration needs to be given to how we deal with our pre-existing non-English other official language because there are potential resource implications. But I think ultimately it does come between a choice of either having only one language which is what the majority speaks but if we do want to recognise the history then making some kind of accommodation for that. I thank the Chairman for his positive response.

The Deputy Bailiff:

Very well, we come now to question 12 that Deputy Southern will ask of the Minister for Social Security. Do you have the text of your question, Deputy?

5.12 Deputy G.P. Southern of the Minister for Social Security regarding the calculations of the annual and quarterly contribution factors in respect of claiming sickness benefit compared to other benefits such as the maternity grant: [1(519)]

Yes, indeed. I have tracked it down. Will the Minister explain how the annual and quarterly contribution factors are calculated in respect of claiming sickness benefit and why these factors differ from the factors stipulated for other benefits such as maternity grants?

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

Annual and quarterly contribution factors are defined in Article 8A of the Social Security Law. Contributions are recorded on a monthly basis and the monthly contribution factor is a value between zero and one, representing the total contributions paid and credited to the person's records during that month. A full record has a value of one. The quarterly contribution factor then takes the factor for each month in a quarter, adds them up and divides by 3. So, a quarterly contribution factor of one means that a contributor has a full contribution record for the 3 months of that quarter. Likewise, the annual contribution factor adds up the 4 quarterly contribution factors and divides by 4. An annual contribution factor of one means that a contributor has a full contribution record for all 12 months of that year. Each benefit paid from the Social Security Fund has its own set of eligibility criteria, which include achieving a certain level of contributions as measured by quarterly and annual contribution factors. These rules are set out in schedule 2 of the law. A one-off payment such as a maternity grant has a single test against the contribution record. A periodic benefit like short-term incapacity allowance that can be paid over long periods of time typically has 2 qualifying tests as the total value paid under a single claim can be significant.

5.12.1 Deputy G.P. Southern:

I congratulate the Minister on producing an answer in approximately 90 seconds, which adds some complexity which I will pursue later.

The Deputy Bailiff:

Exactly 90 seconds.

Deputy G.P. Southern:

But, in effect, one of the things she was saying was that there is a lower contribution threshold under which if you do not earn that level of earnings you become ineligible for receiving sickness benefit. That lower contribution threshold is £880 per month. Given the preponderance, the drive towards zero hours contracts with low pay and low hours, is it not the case that many more of our employees are failing to reach the contribution threshold and are failing to be able to claim sickness benefit?

Deputy S.J. Pinel:

As the Deputy stated, if you earn less than the required amount for contributions in a month, the contributions can still create a full record for that month as long as they are above the lower earnings limit. As the Deputy said, this limit is set at £884 per month. If you have earnings below this limit, your contributions will still count towards your pension entitlement but they do not give you access to the other benefits. The fund has to achieve a balance between what is paid in and paid out.

The Deputy Bailiff:

Senator Ferguson?

Senator S.C. Ferguson:

Sorry, Sir, it was my folder which did the light. I apologise.

5.12.2 Deputy G.P. Southern:

Final supplementary which probably contains 2 elements. Is it not the case that if a low-paid worker reaches the threshold on one month or 2 months of the 3-month quarter that they are eligible for a third of the benefit or two-thirds of the benefit as appropriate, but someone who falls below the threshold, say £700 per month, in all 3 months cannot claim anything and, therefore, the system that we have does not support the worker in a claim for sickness benefit? Is it not time that she had a look at the system in order to get some form of equality, especially given the predominance of zero hours contracts nowadays?

Deputy S.J. Pinel:

The Deputy is quite right. If the contributions or if the hours worked during the week or the month have not reached that lower earnings limit, then the contributions paid will not allow the payment of a short-term incapacity benefit, which is the newer word for sickness benefit. As the Deputy has posed that question, it is a very good time to say that at the end of this week we are launching the Social Security review, which will be looking at all the benefits paid out of the contribution scheme.

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

The Deputy Bailiff:

That brings Questions with Notice to an end and we now come to the first period of Questions for Ministers without Notice. The first period is for the Minister for Health and Social Services.

[11:15]

6.1 Deputy J.M. Maçon:

With the publication of the nutrition strategy, on page 14 it says that the department and the Minister will consider a range of fiscal measures to improve access to a healthy, balanced diet for key groups and also says along with taxes to discourage consumption of food and beverage products high in fat, sugar and salt. Can the Minister please update us as to where he is with these considerations and also why the report omits to discuss artificial sweeteners like aspartame which are more toxic than the sugars as well? Should that not be taken into the round when forming these considerations?

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

Dealing with the latter part of the question first, of course on these matters I have to be advised by the clinicians as to what actions may be appropriate and, indeed, what actions may or may not be successful. So, in regard to whether artificial sweeteners should be there, that is something I would need to be advised on and I have not seen advice to that so far. With regard to the fiscal comments, I have spoken to the Minister for Treasury and Resources, who I know totally disagrees with me, by the way. However, I do believe that while a tax on sugars and high salts may be impractical, I do believe that a tax on carbonated drinks may be practical. I have to say that my colleagues do not agree with me, but I am not going to stop shouting about it.

6.2 Deputy G.P. Southern:

In his response to written question 9 today, the Minister states that Health and Social Services does not hold information regarding the ownership details of the home care providers, nor the number of staff they employ. Will the Minister seek one of his colleagues to supply that or will he inform me,

who does know who owns what care agencies, so that I can pursue the issue and find out what the answers are?

Senator A.K.F. Green:

The approved providers, which is what I think Deputy Southern really is asking about because not all service providers are approved providers, are approved and listed by the regulatory authority, which until recently came under myself but now comes under the Chief Minister's Office. Indeed, probably if it has not moved it is about to move under the Care Commission.

6.3 Senator S.C. Ferguson:

When the Minister talks about a sugar tax or a carbonated drinks tax, has he looked at the results of doing that and the way that the market adjusts for it and people go and buy elsewhere? There are a number of examples that economically it does not make sense at all.

Senator A.K.F. Green:

We will have to agree to disagree on this one. I cannot see, frankly, large volumes of carbonated drinks being moved from one tax jurisdiction to another. The advantage of taxing carbonated drinks, in my view, is that it would allow more work to be done on dental care. If it did change behaviour - it may not but if it did change behaviour - the dental health of children, which is quite good in the Island compared to other places, could be significantly improved.

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

Last week it was reported that St. Helier House would have to close before 2019 with the loss of 44 beds for residents. In the event that those 44 residents decide to move sooner rather than later and look to occupy one of the 50 beds currently available in the market, what steps is the Minister taking to ensure that the Health Department have enough beds available this winter in the event of a flu outbreak?

Senator A.K.F. Green:

I will answer the question in a second, but I would just like to pick up on the last point first. The Health Department does not need to provide all of these facilities. My role, however, is to ensure that these facilities are available. I think the Deputy probably meant that anyway. This is like *déjà vu* for me with the Limes. It was a similar problem that we had with the Limes and here we are with St. Helier House. I know the Constable has worked very hard with officers and with the fire service to mitigate the risk and also to ensure that people can stay where they are familiar in safety for as long as possible. We do have about 50 empty beds at the present time and I am told, although they have not actually made an application yet for registration, that Cheval Roc is almost ready for registration and then occupation later on, which will improve the situation. But that is the best we have at the present time.

6.5 Senator P.F.C. Ozouf:

In recent days there has been conflicting statements concerning the recruitment of G.P.s (general practitioners). On the one side the G.P. Association says there is no issue; on the other hand the Co-op that has provided useful additional competition in the G.P. market have said they have difficulty recruiting G.P.s. What is the Minister doing about this and is there an issue?

Senator A.K.F. Green:

I thank the Senator for his question. There is no problem at the present time with the recruitment of G.P.s but let us look at the 2 sides of what has been said. First of all, I think the Co-op have made an outstanding contribution to G.P. services. They have changed the dynamic of the market starting with free access to services for children. I am very grateful for their work. I just think that

they were a little naïve in their comment - I listened to them on the radio - that they had to recruit G.P.s from the U.K. Well, frankly, you will have to recruit most G.P.s from out of the Island, not necessarily the U.K., it could be New Zealand or somewhere else, but you will have to recruit most G.P.s from out of the Island. The process for them took 6 months. That is about the norm for recruitment of a G.P., including taking up references, safeguarding and then arranging for the move back to Jersey. I agree with the G.P. representative that there is no problem. However, we are not complacent about that because we need to keep looking at the number of G.P.s we have, whether G.P.s can be attracted to work in the G.P. practice. We have an excellent G.P. practice. We want to keep that the way it is, but we are not complacent.

Senator P.F.C. Ozouf:

Sir, can I follow that up?

The Deputy Bailiff:

Yes, with a supplementary.

6.5.1 Senator P.F.C. Ozouf:

Is the problem not the reality that many G.P.s do not have pensions and require a payment in going into their existing practices in order to basically replace G.P.s and is not the pension issue of the existing G.P. practices, not the Co-op, the elephant in the room that has to be solved?

Senator A.K.F. Green:

I know that is what I was referring to when I said that things may need to change. At the moment you have to put a significant sum in. You buy a partnership. That is working at the moment. It may not always work, so we need to keep a close eye on that.

6.6 Deputy L.M.C. Doublet of St. Saviour:

Could the Minister inform the Assembly whether a feasibility study looking at suitable facilities for acute mental health services, which was due in September of this year as promised to a Scrutiny Panel in February, has been completed and is it available to view?

Senator A.K.F. Green:

Sorry, I missed a bit of the question. I knew it was about acute mental health facilities but I missed the bit at the beginning of that. Could the Deputy say that again?

Deputy L.M.C. Doublet:

The Minister promised a feasibility study looking into suitable facilities for acute mental health services.

Senator A.K.F. Green:

Thank you. Yes, it is ongoing work. It is disappointing that we are not in a position to report back yet, but we are getting close. This is not something that has been pushed to the backburner when we have been doing other work. It is work that is going on at the moment. I can say that in terms of C.A.M.H.S. (Child and Adolescent Mental Health Service) and Jersey Talking Therapies we expect to be in the new accommodation by the end of January next year. In terms of Orchard House, that is under review at the present time and I hope that we will have plans shortly.

6.6.1 Deputy L.M.C. Doublet:

A supplementary, please: could the Minister give a date for when the study is expected?

Senator A.K.F. Green:

I cannot because I do not want to mislead the Assembly accidentally, but I will come back to Members with a date.

6.7 Deputy M. Tadier:

Earlier in the year, the Minister said that he hoped that by the autumn certain medicinal cannabis products would be available from G.P.s or on the schedule. Can he advise where he has got to with this?

Senator A.K.F. Green:

It is still my hope, a little later than autumn if we take autumn being at the present, that by the end of this year we will have something in place. The difficulty has been in sourcing clinically safe - i.e. we can guarantee the way it has been manufactured - products and also that we can get it into Jersey via the U.K. and France, who are not taking this way. We are not giving up. I do not think we have met any insurmountable problems and we hope to see this done. It does not need a States debate, it just needs to move suitable products that we know are safe to the prescribing list for doctors when we know that they are safe and that we have a supply. I do not want a window dressing thing where we can have a long list of things that we know are safe but we cannot get them. That information is very shortly to be on my desk.

6.7.1 Deputy M. Tadier:

If it is an issue with supply, why does he not just leave it to pharmaceutical companies after he has produced a list to source their own approved cannabis products? Is that not a simple way to do it?

Senator A.K.F. Green:

That is possibly what will happen in the end, but they have to be able to bring it through countries where it is not accepted, such as France or the U.K. There may be other routes directly from Switzerland but that is a thing that is being looked at at the moment. It is not a barrier we are putting in place, it is a barrier we are trying to ensure does not become a problem.

6.8 Deputy G.J. Truscott:

I am concerned there seems to be an overreliance on the use of agency-supplied nursing staff and social worker staff. Not only is this practice costing the taxpayer a considerable amount of money, it does not provide for a stable working environment in the hospital or offer continuity for vulnerable people who need to build a stable relationship with their social worker. What measures is the Minister taking to resolve this rather expensive and unsatisfactory situation?

Senator A.K.F. Green:

I entirely agree with the Deputy, but we have robust recruitment programmes. The stark choice we have at the moment is if we do not use interims in both nursing and in social work you will not have anybody in that post and that would be even worse. The Deputy is absolutely right. Continuity is absolutely important and for that reason the huge recruiting drive on nurses both in Portugal and in Sheffield particularly has had significant results, I am pleased to say. We are always trying different ways of recruiting social workers and not sitting on our laurels. We are introducing in the autumn our own social worker training programme to try and help with that shortage of skills.

6.9 Connétable P.B. Le Sueur of Trinity:

Will the Minister share with the Assembly the outcome of any recent meetings that he has held with hospital consultants and, in particular, if they have shared with him any concerns about the proposed new hospital in terms of its fitness for purpose to serve the needs of our community?

Senator A.K.F. Green:

In the last couple of months I have been out of action so I have not met personally with consultants, but what I do know is that all consultants are being consulted with in order to ensure they have the facilities that they need in the new hospital. Indeed, a hospital consultant lead has been appointed to go on to the management team.

6.10 The Deputy of St. Ouen:

The Minister will recall a statement he made to the Assembly in January concerning organ and tissue donation, and in the statement he stated that he was hoping the research work would be completed by early summer. Could the Minister update the Assembly?

Senator A.K.F. Green:

It will be a pleasure to do so. Currently, in what used to be J.A.S.S. (Jersey Annual Social Survey), now the Jersey Opinions and Lifestyle Survey, which is rather difficult to remember compared to J.A.S.S., there are a number of questions about organ donation and we are expecting that answer either in the next couple of weeks or certainly by November. That will inform the way I go forward, but I am hoping because I strongly believe that assumed consent is the way to go. In fact, I had a long discussion with the Minister for Health in Wales recently, only last Wednesday, about this, where they have seen a 30 per cent increase in what was described as the gift of life, i.e. organs being allowed to be harvested and then used by patients. I am passionate about this so I hope to see it through, but I need that information, which I should have in the next couple of weeks.

6.10.1 The Deputy of St. Ouen:

A supplementary: so, following November, will the Minister be in a position to bring legislation to this House before the States session comes to an end?

Senator A.K.F. Green:

I believe I will.

The Deputy Bailiff:

That brings to an end the time allocated for questions to this Minister. We now have questions of the Chief Minister.

7. Questions to Ministers without Notice - the Chief Minister

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

Does the Chief Minister agree that the Super League Triathlon held on the waterfront this weekend was an outstanding event? Will he join me in thanking the officers of the Economic Development, Tourism, Sport and Culture Department and the Minister for securing it and all those who volunteered their help, especially the police and the honorary police? Will he pledge his support for a return of the Super League Triathlon in future years?

[11:30]

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

I thank the Connétable for the question. He is absolutely right. For my part, I think it was a superb world-class event which brought sportspeople from the world stage here to Jersey. Am I also allowed to say that it made our waterfront look appealing on the global stage, which is something we do not always appreciate locally? I do, of course, thank all of those people that the Connétable mentioned. I also thank those who put financial support into the Super League Triathlon and I look

forward to the negotiations which are now taking place to try and secure that event for another 3, 4 or even 5 years.

7.2 Deputy D. Johnson of St. Mary:

Will the Chief Minister advise which department is now responsible for bringing the proposed waste charges for debate in the Assembly?

Senator I.J. Gorst:

A very good question; news travels fast in these parts. The chairman of that panel will know that although all the technical work has been done by the Department for Infrastructure, there has always been a question of whether the proposals should be led by the Department for Infrastructure or Treasury because they are income-raising measures. I have met with both of those Ministers. It seems reasonable that it will move from a bringing to this Assembly to the Treasury Department because it is an income-raising measure, but they must work together in order to do that. There is a current conversation which is ongoing about when that might be and what form consultation at this point may need to take and, therefore, what the timescale will be.

7.2.1 The Deputy of St. Mary:

A supplementary: could he please clarify the timetable? As he will be aware, the Scrutiny Panel has already been engaged in much work on the liquid waste. It has worked out its own schedule in respect to solid waste and this lack of clarity is causing us a great deal of problems. Could he please clarify if not today when the date for lodging is going to be? Could he give a date when that announcement will be made?

Senator I.J. Gorst:

It will be clarified in short order because of the budget proposals and we expect to be in a position to clarify at that point. Of course, we must remember the Assembly referred the proposition back to the Minister to consider some of these issues, so it should not be a surprise to Members that Ministers are sitting down together to consider these issues.

7.3 Deputy G.P. Southern:

In his written answer to my question 10 today, the Chief Minister has failed to answer the question, failed to give a breakdown by local and non-local ownership of companies in a variety of sectors. Will the Minister explain to me - because my question said: "and if not, why not?" - why he cannot do that or is it just an oversight and, if it is, will he produce that list of local and non-local ownership of companies trading in Jersey?

Senator I.J. Gorst:

We have provided the information in the form that we hold it. I can, of course, go back to officials and ask if it is available in the format the Deputy was suggesting, but I suspect because of the way that we provided it that it is not easily accessible. But I will double check for him.

7.4 The Deputy of St. Ouen:

On several occasions on questions about income inequality the Chief Minister has stated that he would seek funding to accelerate the next Income Distribution Survey. Does the Chief Minister have that funding and, if so, when will the survey be conducted?

Senator I.J. Gorst:

The timescales have not changed from the last time that I answered the Deputy's question. I can recirculate that if that would be helpful to Members.

7.4.1 The Deputy of St. Ouen:

I cannot recall the timescale given for the period that the Minister was to seek funding. Have matters evolved?

Senator I.J. Gorst:

If I recall there was a written question in answer to the Deputy and I do not think that the situation has changed from then that funding has been sought and I have not personally been updated on where that request is and, therefore, the survey could be brought forward I think it was to next year.

7.5 Senator P.F.C. Ozouf:

Following the tragic news of a serious fire at farm accommodation which resulted in the death of a 41 year-old man, a family man, while in no way predetermining the outcome of the fire service inquiries, would the Chief Minister explain what actions he is taking or his agencies of Ministers to ensure that workers with gas facilities are safe and all is done to protect lives and would he also extend this Assembly's condolences to the family?

Senator I.J. Gorst:

I thank the Senator for his question. Rightly, I think Members' thoughts and condolences are with the family of this person. I think we all feel that in this day and age such accidents should not happen, and the feeling that we have is that this death perhaps was unavoidable. We will not know that for certain until the fire service have done their review. I would expect also that that would be done in association with the Health and Safety Executive. I suspect that the findings of that review will mean that we must do a more global review of similar facilities right across this type of accommodation. We have to be careful not to do that right now as we know from other fire disasters, particularly in the United Kingdom, that one has to understand exactly what the causes are so that when one does a global review one can then check for those causes. It is not acceptable. We must let the fire service do their work and then, once we have the evidence, then I think we will have to do a review of all of these types of facilities. It cannot be acceptable that people lose their lives in our Island because of such issues.

7.6 Deputy M. Tadier:

The Chief Minister will be aware that in 2012 the States Assembly agreed to recognise 28th September annually as Reform Day to mark the so-called corn riots. Will the Chief Minister speak to the Minister for Education to make sure that this event is remembered this year in all of our state schools and in future years? Will he speak to the Bailiff to make sure that appropriate flags and other provisions are made throughout the States of Jersey to commemorate this event? Will he also make sure that he starts conversations with relevant stakeholders to make sure that in 2019, which marks the 250th anniversary of Reform Day, that there are appropriate celebrations taking place?

Senator I.J. Gorst:

I am aware of that proposition which was adopted by this Assembly. As I understand it, that particular day in our history is already in the education curriculum. I am not sure what other work, although I know at the time the Greffe Department working in conjunction with the Bailiff's office did consider how it could be commemorated, but I do not recall what the outcome of that particular work was. The Greffier is in the Assembly this morning. The Deputy Bailiff is in the Assembly this morning. They do not require me to then write to them or speak to them because they have just listened to the question and the request.

7.6.1 Deputy M. Tadier:

A supplementary: obviously I am not going to ask whether the Chief Minister personally thinks it is an important day, but clearly the Assembly made that decision and that has not been overturned since. Does he agree that it is important, generally speaking, that when this Assembly makes

decisions and when they have not been overturned that we should stick by those decisions? So, specifically in the context of this where a resolution was passed to recognise annually a specific date for a specific purpose, we need to make sure that is done and put meat on those bones.

Senator I.J. Gorst:

The Deputy will recall as I do that it was an interesting debate. There were more parts to it than what the Assembly approved and the parts that added any - to use his phrase - meat on the bones or finances were not adopted by the Assembly; simply a recognition was adopted. I think that probably accounts for why we find ourselves in the position that we do today. The Education Department has taken action. As I say, I do not recall what the outcome of the other actions were, but in principle the Deputy is right. If this Assembly adopts a proposition, it ought to be acted upon.

7.7 Deputy G.P. Southern:

In attempting to make something from the chaos that is the current population policy in the Council of Ministers, has the Chief Minister been speaking to Guernsey, our fellow Island, to see how they are moderating their migration issues and whether there is anything to learn from Guernsey policy rather than our own?

Senator I.J. Gorst:

There is always a lot to learn from Guernsey. Chaos is not a word that I would use to describe the population policy. It is quite clear there is disagreement, however, in the public domain, in this Assembly, about what that policy should be. Ministers have been working on bringing forward proposals to this Assembly. They will be doing that in very short order. We know that we do not want unlimited immigration. We know that we do not want a closed door to immigration. The question is how we deliver that balance. How do we provide workers for the hospitality sector, for the agricultural sector, for other sectors of our economy, without ensuring that there is too much strain on the infrastructure in the longer term? That is why some of the proposals that we are bringing forward will help to address that. If one does look at the Guernsey situation, from reading the press there they have made some changes to their immigration system, but it seems to be generally accepted there as well that their system is not functioning optimally.

7.7.1 Deputy G.P. Southern:

The question was has he talked to the authorities, not read the papers. Has he talked to the Guernsey authorities about their plans and ours?

Senator I.J. Gorst:

Officials between the 2 Islands do engage on a whole host of matters, not least of which is population.

7.8 Senator P.F.C. Ozouf:

Would the Chief Minister agree that the I.o.D. (Institute of Directors) debate held last week at the R.J.A. and H.S. (Royal Jersey Agricultural and Horticultural Society) was a good debate and did he take anything from any of the comments made by the former Chief Minister of Gibraltar or Bronwen Maddox in relation to the difficulties of running a government and the importance of long term versus short term?

Senator I.J. Gorst:

It was an excellent debate. We know that it is very easy to criticise government; it goes with the job. But there was an acceptance at that debate that while we needed immigration to be successful into the future, it had to be appropriately managed. There was also an acknowledgement that while

we might like to be self-critical in order to improve what we offer to our community, generally speaking we are on the right track. Where we have gone wrong is not communicating that we have been making long-term decisions; take, for example, the long-term care scheme that others look at with envy, dealing with the ageing population, balancing our budgets, investing in health and education. We are making long-term decisions in an arena where public discourse makes it more and more difficult for governments to do so. We must stick to our guns and continue to do that because it is the bedrock of our success today and will be into the future.

7.9 Senator S.C. Ferguson:

Carrying on with population, the Minister for Housing seems to think that some 2,000 houses over the next few years will solve the housing problem. Given that we are at the moment collecting something in the order of 1,000 immigrants per year, what is the Chief Minister recommending?

Senator I.J. Gorst:

This Assembly will have to decide. We cannot try and push these difficult decisions off on to one particular person, ministry or department. We have to come together to agree that management is appropriate. The Senator is shaking her head and yet I think she knows that that is the case.

[11:45]

As I said earlier, we do not want an open door policy without any control whatsoever. We do not want a closed door where we allow no immigration. The challenge for us all is to find the middle ground where we are appropriately balancing the needs of Islanders for jobs, the economy that we want to build for the future, the social requirements of our community, while at the same time making sure that we are not building up long-term strain on our infrastructure. That is why we will be making some of the proposals that we will into the future.

The Deputy Bailiff:

That brings the time allocated for questions to the Chief Minister on this occasion to an end. There is nothing under J and K, so we come on to Public Business.

PUBLIC BUSINESS

8. Draft Education (Amendment No. 3) (Jersey) Law 201- (P.56/2017)

The Deputy Bailiff:

The first item is the Draft Education (Amendment No. 3) (Jersey) Law, P.56/2017, lodged by the Minister for Education. Members will recall that this Assembly adopted the principles of the law at the meeting on 12th September and it was subsequently referred to the Education and Home Affairs Scrutiny Panel under Standing Order 72(1). I think it would be appropriate to ask the Greffier to read the citation once again.

The Greffier of the States:

Draft Education (Amendment No. 3) (Jersey) Law 201-. A law to amend further the Education (Jersey) Law 1999.

The Deputy Bailiff:

Very well. Minister, we are now at the stage of Second Reading. How do you wish to propose the Articles?

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

En bloc, Sir.

The Deputy Bailiff:

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

Deputy L.M.C. Doublet:

Yes, Sir. Sorry, Sir, I am confused. Is the Minister speaking at this point?

The Deputy Bailiff:

No, the Minister has proposed *en bloc*. He has chosen not to speak to any of the Articles, but obviously he will answer whatever questions if he can that you raise during the course of your speech. It is now to speak on the Articles - I think there are only 2 - within the law itself.

8.1.1 Deputy L.M.C. Doublet:

My apologies, I have not called any legislation in with my Panel before so I am getting used to the process. I wanted to thank the Minister and his department for co-operating in a constructive manner with the questions that the panel had and just to hold my hands up and to apologise to the Assembly. It would have been preferable that we had raised the issues earlier and we do give our best attention where we can, but we are only human and this was spotted on the day. But again, I thank the Minister. Our concerns have been fully addressed by the Minister and we are pleased that we did raise those concerns because I believe it has moved forwards in terms of the policy that will be coming. I will not go into great detail, just to request if he could confirm when the accompanying policy will be coming forwards after the law is in place in Jersey so that the Panel can follow that up. Thank you.

The Deputy Bailiff:

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

8.1.2 Deputy R.G. Bryans:

Thank you to the Deputy and the Panel for raising this issue with regards to a certain amount of ambiguity about a particular aspect, anything that provides greater clarity and removes that ambiguity for schools, heads, teachers and parents is most welcome and the timescale would be within a week of the law from the Privy Council we will put everything in place.

The Deputy Bailiff:

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

POUR: 34		CONTRE:		ABSTAIN:
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Mary				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy J.A. Hilton (H)				
Deputy of Trinity				

Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (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 Deputy Bailiff:

How do you wish to deal with the matter in the Third Reading?

Deputy R.G. Bryans:

Take it *en bloc*.

The Deputy Bailiff:

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

9. United Nations Convention on the Rights of the Child: compliance of draft Laws and training of States of Jersey employees (P.63/2017) - as amended

The Deputy Bailiff:

The next item of Public Business is the United Nations Convention on the Rights of the Child: compliance of draft Laws and training of States of Jersey employees, P.63, lodged by Deputy Doublet of St. Saviour. Deputy, I understand that you have lodged an amendment to your own proposition and therefore you would wish us to take the proposition as amended?

Deputy L.M.C. Doublet:

Yes, please.

The Deputy Bailiff:

Then I would ask the Greffier to read the proposition as amended.

The Greffier of the States:

The States are asked to decide whether they are of opinion to consider in conjunction with the Children’s Commissioner a desirability of giving the U.N.C.R.C. (United Nations Convention on the Rights of the Child) a similar status to the European Convention on Human Rights in Jersey by incorporating it into legislation, and to report back to the States Assembly on the outcome of that

consideration by 10th April 2018; (b) to bring forward the necessary legislative changes in conjunction with the Children's Commissioner to ensure that a Minister who lodges a draft Law (i) considers whether it will impact upon children's rights as specified in the United Nations Convention on the Rights of the Child; (ii) makes and publishes a statement confirming that this consideration has been given and whether the draft Law does or does not have an impact on children's rights; (iii) if relevant, makes and publishes a statement as to the compatibility of that draft Law with the U.N.C.R.C.; and (c) to ensure in conjunction with the Children's Commissioner that every States of Jersey employee receives a copy of the U.N.C.R.C. and, where relevant, receives training on the U.N.C.R.C. and how it applies to their role.

9.1 Deputy L.M.C. Doublet:

I am ready this time. I began researching this proposition 12 weeks ago on the day that we had the in committee debate on the Independent Jersey Care Inquiry report. I hope that Members could perhaps take themselves back to that day and back to the feeling that was in the Chamber on that day because I lodged this proposition by the second day. Members will see that it has very much come from my heart this proposition and it has very much come from a place of concern for children, which is the value that I try to put at the heart of all the work that I do, whether on Scrutiny or as a Back-Bencher or whether in constituency work. I have also, though, as well as this coming from my heart, given this real careful consideration. I have spoken to law officers, law drafting staff, officers within departments, a number of colleagues in the Assembly and also with the Chief Minister, as Members will see from the amendment I made following the discussions, taking the Chief Minister's advice. So it has already been 12 weeks since that significant report was released and I just want to take a moment to reflect on what we have achieved so far because things do move very slowly in the world of politics I have come to understand, and to reflect also on how much time do we have left to make a difference. It is a matter of months, it is not much time at all. I really hope that this can be the first real change that we can make collectively as an Assembly towards making the Island better for children. I will just take Members very briefly through the 3 parts of my proposition, just to try to give Members an understanding of my intention really behind each part. So part (a) which has been reordered, as the Greffier has read out, is about giving the United Nations Convention on the Rights of the Child a similar status to the European Convention on Human Rights in Jersey by incorporating it into our domestic law. So I was not quite sure what we had already done on this, I had to seek some advice because I was aware that we had extended the Convention to Jersey but I was not quite sure what that had meant. That was 3 years ago, it was within this current term of office, I believe, or perhaps just before. So we have made the first step. It means that Ministers do have to give some regard to the Convention when they are creating legislation but it does not compel us to do anything. So if we approve part (a) it will start work on making a definite change within all of our departments so that with every single piece of legislation that is being considered there is a step there. Also when the United Nations Convention on the Rights of the Child is incorporated into our legislation it means that children who have not had their rights adhered to will have some way of recompense through the courts. This is really important, I think, in terms of having a culture change in this Chamber. I know that we all deeply care about children, it is something that is important to all of us but I do not want that to be forgotten. We might not all be here in a few months' time so I want this to be put into our laws so that whoever comes next after us, the States Members that will be in here in the next term, will have that there. So part (b) is to bring forward the necessarily legislative changes, and I will just summarise, so that Ministers have to consider the United Nations Convention of the Rights of the Child, to publish a statement saying that they have made that consideration, and to say whether it is compatible. Now, I was not sure about putting this part in because usually this would come after we have incorporated the Convention into our laws. So I did take advice on this and I was not sure because it would usually come after. But the advice I was given was there is no reason that we

cannot do it first and I did leave it in because I feel it is really important. One of the things that stood out for me from the Care Inquiry report was that culture change is really needed. So my first part will hopefully achieve the culture change at our policy level but the second part, I think, that will really embed it within the process. It will make sure that there is a step there so that when departments are drafting legislation it is written down there that there is a step they have to go through because, as I have said before, we are all human and things get missed. I think things have been missed in the past. So I want Members to reflect back on how they were thinking when the Care Inquiry report came out and the importance that we wanted to give to children. This really just puts that step in the process. It is really necessary because we need to be clear that we are considering the Convention of the Rights of the Child when we legislate. We, as States Members, need to know that that consideration has been made because, as you have probably gathered from my speech, we are not legal experts, we need to know that other people have done that work on our behalf and we can then check. If we are not compliant we need to be aware of that when we are debating the law. So part (c) is also about culture change but on more of a wider scale and I am hoping that this will be able to filter down through to all of the States of Jersey employees and across the diversity of our workforce because it is not just staff within schools that work with children, anyone that is coming into contact with members of the public I think needs to be aware of this Convention on the Rights of the Child; so have seen the positive impact that the Convention has made. There is a programme called the Rights Respecting Schools programme, it is run by U.N.I.C.E.F. (United Nations International Children's Emergency Fund) and many of our Island schools have this embedded within the culture of the school. I have seen the change - there is some resistance at first from staff sometimes as there often is with any kind of change - schools come out the other side of that and having that understanding of children's rights and they teach the children about their responsibilities as well and I have seen the deep understanding within our schools, an awareness of children's rights, and I would really like to see that within our States of Jersey workforce as well. So to sum up, I hope that Members will support this proposition as our first collective action. It is a symbolic action in many ways. It is saying that we put children first always, no exceptions. There will be a step in our processes where we will consider children and it sends a message that Jersey is somewhere where children really matter. It is a small first step but hopefully effective towards culture change within the States of Jersey at all levels, at legislative level, at policy level and within our frontline services.

[12:00]

So I hope Members will support this proposition and send the message to survivors of abuse and to all children in our Island today that we have not forgotten them and that they are important to us. So I make the proposition and I hope Members will support it.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition?
Chief Minister.

9.1.1 Senator I.J. Gorst:

I wanted to speak directly after the mover because the Council of Ministers have considered what the implications might be for departments, how we would work with a decision to bring in legislation before the Commissioner has done their review and whether there was not a slight element of putting the cart before the horse, if I can use that phrase, in regard to this proposition, and whether we had correctly detailed the financial implications. I think it is fair to say, and I should tell Members why I say this - you could argue that part of the proposition is the cart before the horse, agreeing that we are going to change the legislation. You could argue that the implications for departments considering children's rights when bringing forward legislation was

an onerous obligation. You could argue that and you would be perfectly at liberty to do so. But I think it is more valuable if we look at the benefits that this proposal could - and I think will - bring. Of course without the Convention of Rights in statute the lawyers would tell us that there is no means of remedy - I think to use their phrase, I have to be careful, I do not want to start sounding like a lawyer - and that is correct. But what the Deputy is trying to do, and here I support her, is change the culture, is ensure that departments are thinking about the implications for children and the provision of Children's Services when they are bringing forward any new piece of legislation. For my part, I think that is a positive step in changing culture. It is, I think as many Members in this Assembly have said, the hardest and most difficult challenge that the Inquiry set us was how do we change culture. This, I think, is going to make a step towards changing that culture. Some departments may not like it, they might think it is bureaucratic, they might think it is going to cost them and, as I said at the start, on the one hand it is and it will but if it starts us on that culture change of considering children appropriately throughout all that we do then surely that is a positive change. I met with the Deputy to consider how would the new Children's Commissioner fit into what is being proposed here and hence the amendments that she has brought forward and is now part of this proposal. I think that is right. If we are employing a new Children's Commissioner whose primary role will be to make sure that we are thinking about children, that we are caring for them in all that we do, it is right that they are involved in this piece of work and we ask for their views and opinions in this regard. We know, of course, that in Wales they already do this, in Scotland they either already do it or they are just about to start doing it, so it is not absolute new ground but for my part I think it is a very worthwhile step on seeing culture change. We will do the piece of work. We will make the changes that the Deputy is asking for and then, of course, it will be right and it is right that the Children's Commissioner will review such changes to see where they are working or to see where they can be enhanced into the future. This is a new way that we are going to have to work and that is make changes and then appropriately review to ensure they are delivering on the policies that the Assembly and departments want to see change. Culture is, I accept this, difficult in that regard but I think that this is a good positive step in seeing culture change and therefore, despite these conversations that Ministers have had and we are very grateful for the advice that we have received, I think that today we should be going on that this is a step in seeing culture change and it is a good thing to do. Thank you.

9.1.2 Deputy M. Tadier:

It is good to see that there seems to have also been a sea change in the approach taken by Government, or at least the Chief Minister, because so often in this Assembly, even in recent times, we hear the words and the usual line from the Council of Ministers is that I support the spirit of this proposition, it is well intentioned and we fully support what it is trying to do but I could not possibly support this form of wording because you are putting the cart before the horse or there is this thing that needs to be tweaked, or we need more information. So it is good, I think, today and hopefully ... I think the Chief Minister indeed has acknowledged it in his opening speech that there needs to be a cultural shift across the Assembly as well as in civil society or through the way we do things more generally as a States. So that is welcome to hear that. I do think that we need to look at some relevant issues about the way in which currently children, and by extension their families, and it is usually women in Jersey, face unintended discrimination due to some of the practices and whether we can sign up to something today looking at what those articles really mean because essentially we are saying we should work towards signing up to the United Nations Convention on the Rights of the Children even if we have not yet signed up to it. I think that is essentially what we are saying. I think it is quite right then that the Council of Ministers, although we have not been privy to their deliberations, have probably raised those kind of issues. Should we be signing up to something or making commitments in the direction of something which we may have serious problems fulfilling? Let us look at some of the Articles. I am particularly grateful that Deputy

Doublet has circulated with her proposition as the Appendix a child friendly version or even a States Members' friendly version, if you like, of the Articles of the relevant rights to the Rights of the Child. Let us look at some of them. So the first one I want to highlight is Article 3, where it says that all adults should do what is best for you. When adults make decisions they should think about how their decisions will affect children. I think that is something generally that is axiomatically true. Nobody should disagree with that. When it comes to applying government policy that becomes a problem and one of the issues I want to explore quite briefly is the way that we currently treat some children in the Island versus some other children and the way we treat some people versus other people. It also says earlier that the interests of children in Jersey and beyond trump any other consideration. That is not part of the Convention but that was something that was said in the Committee of Inquiry report. Again, that is not true. What I am talking about there is the Housing Law that currently exists in Jersey. There is a tension that exists between the way that traditional, this current, and former administrations have tried - and I would say unsuccessfully - to manage population growth because it does not do that. We have seen that successively since the 1960s and 1970s, the population has grown out of control. What that tells us is that the housing policy and the work policy in the Island does not work, it is not an effective way of controlling population but what it does do as a by-product is that it is discriminatory often against young families, against working families who come to the Island, and we have all seen it that we have had to take on ... or if we have not taken on the cases about hardship where you get a marriage breakdown, it is often exclusively the woman who gets left with the child, they find that they have not got 10 years' residency, they may have previously owned a property, they have to move out of the property if they do not have local qualifications. They have a young child perhaps of the age of 4, 5, could be 7, 8, 9 who is born in Jersey, Jersey is that child's home, they do not have any other home than the Island in which they were born. They might have an older sibling who was not born here but has been educated here, and they do not have the same rights as other children. So when there is a blanket that says: "All children have the same rights" can we honestly sign up to that and even work towards that aspiration without fundamentally reviewing our housing policy? Interestingly, I think, the Minister for Housing, and presumably other Ministers and other States Members have recognised that there is an issue in this regard. I think the question was asked previously: "What do housing restrictions now serve?" Certainly in the rental sector, and what is the point in having a restriction on rental housing when it does not work, it forces a certain subsection of our society into housing which can be often substandard, which can be cramped and in which it does not represent the best interests of children. It certainly does not do that so are we signing up to something today which is going to change that? By all means, I am quite happy to sign up to that because that is the direction of travel in which I want to go but I think we cannot have it both ways. If we look at Article 22 that says you have the right to special protection and help if you are a refugee, if you have been forced to leave your home and live in another country as well as the rights in this Convention. But that will not apply to Jersey. We know that the Chief Minister and others in the Assembly and elsewhere wanted to bring in refugees to Jersey and there are even talks about selectively bringing in children who might have been refugees to the Island but Article 22 will not apply to Jersey because we do not have an immigration policy and we do not even seem to have a proper refugee policy when it comes to people who may come up to the Island saying: "Look, I am a refugee." So a family turns up with children off the boat or from the plane, they want to seek refugee status in Jersey, we send them back. That is what we do. Whether that is right or wrong ... I personally think I have great problems with that but if a child rocks up in Jersey wanting to seek refugee status I do not even know whether it would get to that stage, they might have been stopped from coming here before that. But if they did I have got grave concerns about what the current practice is, let alone what the moral aspect is of we should be doing for that. Perhaps the Minister for Home Affairs could comment on that. I think there are real issues if we sign up to this without knowing what we are doing. But, like the Chief Minister, I think we should

be moving in the right direction. There is also Article 26 which says that you have the right to help from government if you are poor and in need. But, again, going back to the notion that all children should be treated equally, if you are a child who has been in the Island - or your parents have been in the Island - less than 5 years you do not have the right to get help automatically from government. So even if you are poor and in need and you are a child, you may have been born in this Island and you are 4 years old, your family has lived in the Island for 4 years, paid their taxes, paid their rates, paid their social security contributions, you will get absolutely no help from the government and from the Social Security Department necessarily. I stand to be corrected, but I think the 5-year rule is there for a purpose. You will not get that 5-year help. We need to be putting these kind of things into the mix because I certainly am not comfortable about spending my political life, however long that is - whether it is another 6 months or longer - being faced with the same old issues of injustices that come to our attention without being able to deal with them. I do see women who come to me and say: "I have to move out of my property now [for whatever reason] and I have got a child but I cannot rent very easily in the private sector. First of all I may not be able to find the rent. So many properties do not take children anyway and government has allowed that discrimination to keep going. I cannot get any help from government in regard to my situation because I do not get treated in the same way that others should."

[12:15]

I am not saying these solutions are easy but I am saying when we look at this, if we are truly signed up to the spirit of what is being talked about, and we know that words are quite cheap, we really need to be looking at all of these issues in the round. I am grateful, for one, that Deputy Doublet has raised these issues and that we can be working on this perhaps across party benches to make sure that human rights, which is not just an abstract concept, it needs to have real implications in the way we deliver policy in Jersey.

9.1.3 Deputy R.G. Bryans:

I will be brief because I think the Chief Minister has articulated a few of the things that I wanted to say, but what I love about this document is just a few things. First of all, I can open the door to the Council of Ministers and say that when we first saw this we wanted to adopt it wholeheartedly, the problem was the nuances, the detail, which is why the Deputy has had to amend her own policy with regard to what we already had in legislation. But what was enjoyable for me as Minister for Education was this ... taking the Care Abuse Inquiry, the genesis of this policy was a creative act on the part of the Deputy to put children first and to take that dreadful document that we all saw some time ago now and put some real creativity into looking at the way in which we, as a collective, whether it is through the Assembly or as a Council of Ministers, will always use this framework to put the children first. The very first time that both the Deputy and myself attended a school in my role as a Minister was back at her previous school, strangely enough, and they were dealing with this subject matter of the rights of the child. We stood and we talked to the children. They were so hungry for the knowledge that this document produced and what was great was they were all running around waving their particular favourite right and saying: "This is what I wanted to do" and for the first time ever there I was with primary school children and they began to understand the political act of having their own rights. So I think it is a fundamentally profound policy. I can also say one of my first acts as a Minister was, when I came across the document that you have attached to the policy, to put it up in the Education Department. For me it was one of those pieces of the jigsaw that was missing that every day we needed to be reminded of what our roles were in this society and children were first and foremost in every decision that we made. So I thank the Deputy for this. I think she had done a remarkable job and I love the notion it comes from the heart. Thank you very much indeed.

9.1.4 Senator P.F. Routier:

I am pleased to be following the Minister for Education because I recall the day that we went to Grouville School with all the children who were doing the piece of work on the rights of a child and it was for me an inspirational day the way they were grasping the whole issue about them having rights. I too have the Rights of a Child leaflet stuck up in my office in Cyril Le Marquand House and it is there always trying to remind me about how important this is. Following up on what Deputy Tadier was saying about the challenges which that puts to us about how we treat people within our Island; it is a challenge, there is no doubt about it. We also have challenges with the human rights legislation as well. Over the years that has been taken to the European Courts with regards to our housing legislation but the judgment that was ... the position that we got to was that because we are a small jurisdiction the position is correct that we do restrict access to certain things because of our proportionality. So although we are signed up to these things that all children can have something, we still have the ability within our own jurisdiction to do what is correct for the size of our Island. It is a challenge obviously. We would love to be able to do everything for everybody but because of our circumstances within our community we do make fine judgments about all our legislation, whether it be social security benefits, whether it be access to housing, access to work, that is the position we have taken with matters within our Assembly. So we want to do all we can to do everything to support children and we want to sign up to all the issues, all the rights which are there but I just put a sound of caution that we do have to do what is suitable for our community.

9.1.5 Deputy J.A. Martin:

I was prompted to speak after the Minister for Education. I fully support what Deputy Doublet is trying to do and I know as somebody who arrived here 31 years ago with a 6 year-old he had the right to education then, he did not have the right to have qualified housing. They were stopped. Then I listened to Senator Routier, he says we can still carve out different things. So you have equal rights except you are not a qualified child, you have equal rights but you do not have this. Your parents do not have that. So I stand up to say today, I am going to sign up to this. I am going to hold every piece of legislation that comes through here, because this is what the Minister has said, the Chief Minister has said, Senator Routier was a bit: "We are going to carve this one out", you either take this seriously ... we sign up to it today and when I see the new population policy I want to see how it works with this. So please do not do me lip service, do not do Deputy Doublet lip service, if you are going to sign up to this it will affect ... and education I am proud to say is the last one it affects because they have been exclusive for many, many years. A child arrives on this Island, they have the right to be educated. I was told that 31 years ago before I came. So I know that and it has not changed. But there are other difficult things we are going to have from the housing. So I want everything ... I fully support this, it is not through lip service and when we see on every piece of documentation that comes through this is signed up and it is from the Rights of the Child, we need to ask the questions on how. We do not have a carve out so we need to know when you are signing up this today, this applies to every child who lives in our Island the right to work, play, live and rest, not: "Oh no, you have only been here ... you were born here but you are only 3 and you do not have the right that that person has because their parents were born here as well." You have to decide that. It is not going to be easy to do but it is an easy thing to sign up to do. Thank you.

The Deputy Bailiff:

Does any other Member wish to speak on the proposition? I call on Deputy Doublet to reply.

9.1.6 Deputy L.M.C. Doublet:

Thank you to those who have spoken. I think everybody was speaking in support today. The Chief Minister mentioned concerns about the costs to departments and I think we have to refer back to the

Inquiry report that said we seem to spend a lot of money on our financial legislation, money does not seem to be an issue there, time does not seem to be an issue there and I think we need to put the same time into children as we do into our finance industry. Also with regards to thinking about the wellbeing of children, rather than looking at it as a cost it should definitely be looked at as an investment in children and as an investment in the future of our Island. Just to make Deputy Tadier aware, so in part (a) I am calling on the Chief Minister to consider in conjunction with the Children’s Commissioner the desirability of giving the U.N.C.R.C. a similar status to the Human Rights Law. So I think a lot of these things will ... this is asking for a report on whether we can do it. I am hoping it will be the first step towards having it in our domestic law, I am sure that it will be, but it is just the first step so hopefully these concerns can be ironed out. Deputy Martin, as well, raised similar issues to Deputy Tadier and I fully agree, I think consideration about some of these nuances on our Island with regards to housing policy and things like that, if we approve this proposition today it will force some of those conversations to happen earlier on in the process and to happen within the department so that it does not have to just happen here and then it is too late and it goes through, *et cetera*. I think it will have some positive change there. I want to be hopeful that it will. I want to see those same changes as well. Finally, Deputy Bryans, I recall that visit as well and that was one of the high points of the first year that I was a States Member. I wish that everyone could go into a school and see the change that this has had in our schools and for these children because they have the hope in their eyes and when they learn about the rights that they have as children I think you can see that they feel empowered and they feel like they have some ownership over their own lives but if one of those children was to sit in front of us today I would have to say them: “Well, you do not because it is not within our domestic law. We have taken the first step but, sorry, it is not quite there yet.” I do not want to be saying that to children in our schools or to my own child, I want to say: “Yes, in Jersey we care about you, we care about children, we have this in our legislation, we have it at policy level, everybody is aware of it in the States of Jersey and it is really important to us as States Members.” So I ask for the appel. I maintain the proposition and I ask for the appel. I hope Members will support me.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. If all Members have returned to their seats I ask the Greffier to open the voting.

POUR: 40		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy J.A. Hilton (H)				
Deputy of Trinity				

Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy 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)				

[Approbation]

10. Draft Act annulling the Motor Traffic (Cabs - Fares and Charges) (Jersey) Order 2017 (P.64/2017)

The Deputy Bailiff:

The next item of Public Business is the Draft Act annulling the Motor Traffic (Cabs - Fares and Charges) (Jersey) Order 2017 lodged by Senator Ferguson and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to adopt an Act as set out in Appendix 1 to this proposition, annulling the Motor Traffic (Cabs - Fares and Charges) (Jersey) Order 2017, and to request the Minister for Infrastructure to enter into discussions with the Taxi Drivers Association under the supervision of a mediator.

10.1 Senator S.C. Ferguson:

I hope my voice is going to last the session. First of all, Members will note that they have received a schedule. Now, there has been all sorts of schedules flying around saying if you get a taxi for 5 miles or you get one for 6 miles, I thought it was more helpful to say: “Right, if you want to go from the Weighbridge to St. Mary it is a distance during the day of about 6 miles - according to Google that is - and if you go between 7.00 a.m. and 11.00 p.m. and there is one passenger it is £15.60. If you have 4 passengers and 2 bags, it is £15.60.” You will contrast that with the old column ... there is a new column and an old column and you will note that for one passenger the fare has gone up and if you have 4 passengers and 2 bags the fare has gone down. But this is just indicative. I shall return to this schedule later on. I do understand that my measurement of distance to St. John does not equal that of the milometer of the Connétable so it is either my Google or maybe his car needs adjusting. Right, we have had a lot of literature from the Minister and he talks

of taking ... he talked earlier this morning of taking workers with him. Well, you know, it is unhappy that he has been so cavalier with the drivers. He has implied that they have been intransigent over this matter. As I shall point out later, they are open to change but would appreciate it if the Minister and the department would understand when practical problems are raised. It is a matter of communication and when people are not listened to when they come up with a practical problem then it is a recipe for disaster. The other items that the Minister has provided is a list of tariffs and so on and the tariffs that will go in the taxis.

[12:30]

Now, I think that is great and the taxi drivers think it is great because everything is laid out so people can see it. You can see that the various cab firms charge 25 per cent, 27 per cent, 20 per cent more than the tariffs charged by the taxis. That is good. Excellent. The only thing I would query is the one at the very end which says: "Taxi cab fares; are you being charged the correct fare?" Well, frankly I would need binoculars when I am sitting in the back of a taxi to try and read whether I am on tariff 1, 2, 3 or A, B, C. That is a practical problem which needs dealing with. Now, this has been raised by the taxi drivers with the department but the department just say the departmental staff will police it. One lot say the departmental staff will police it, the other people say: "Well, we have not got the resources so we will use mystery shoppers." If I am a partially sighted person sitting in the back of the cab I do not have a clue which tariff I am being charged. So, anyway, those are a few thoughts on the Minister's - I do not know what you would call them - selection. What I have discovered over the past few weeks is that a lot of people do not know the difference between a taxi and a cab. I did not. I would ask those who do know to have a little patience when I digress slightly. Taxis can pick you up in the street, can wait on ranks ... well, the old system was they can pick you up on the street, they can wait on ranks, they have yellow plates and their tariffs are dictated by the Minister for the Department for Infrastructure. Cabs are operated by private hire companies. They have white plates and their fares are not set by the Minister. Under the new rules it is intended that all cabs and taxis should have purple plates and the purple plated taxis/cabs can pick up on the street or the ranks using the taxi tariff. They can also operate out of private high companies when they must use the private hire tariff. Are Members with me so far? I think it is also worth stating that the consultant to who prepared the report on the taxi service stated in front of a room containing some of the senior executives from the Department for Infrastructure that he did not know how the taxi industry operated. This was somewhat disconcerting for people working in the industry. It does raise the question as to the reliability of his report. Would you like your leg to be operated on by an arm specialist but I will return to these matters later. One major bone of contention is that the previous tariff included 20 pence extra if there was an additional passenger or a piece of baggage. The Minister decided this should be bought out. The consultants who prepared the original report on the industry advised the department and the result was that the starting fare was increased by 20 pence and at the same time the operation was changed so that the meter will click over every tenth of a mile and the first drop equalled all subsequent drops in distance. With the taxi driver's letter to Members there is a copy of the spreadsheet which has these details along the top of it and at the bottom. But the trouble is that the Minister has changed all the distances so he has changed just about every variable that is being dealt with for the drivers and he has not given them a simple schedule like the one I have done, with the cost of getting from the Weighbridge to the airport, to indicate what the changes will be. It used to be that the first drop, which is the first time the meter clicks, is 164 yards and subsequent drops are 260 yards but now it is a tenth of a mile. I think Members need to understand that just about every variable that could be changed has been changed and if you are going to drop change like that on people you do have to listen when they say: "Well, there is a practical problem here or there." I mean the Minister states that it is a structured methodology but it takes no account of the change in the extras and they have not been checked by the chief statistician. The basic

model, which is the spreadsheet, is used to get a weighted average and it was designed by the chief statistician I think something like 20 years ago. It is a sound piece of work and it calculates the weighted average accurately. The problem is that this year distances have been changed, the size of the steps have been changed and the 20 pence for extras has been removed. The Chief Statistician has confirmed that he has done no work to check the change in extras or the addition to the start-up fare to compensate for the loss in extras. Those changes were done by a firm in Manchester and the results apparently fed into the spreadsheet. I wonder, Sir, if the muttering to my left would stop.

The Deputy Bailiff:

Well, I did not hear muttering to your left, Senator, but if there is something that is distracting you I am sure people will stop.

Senator S.C. Ferguson:

Thank you, Sir. So the results have been fed into the spreadsheet and this means that the weighted average of the tariffs includes the buyout charge, but should it? It is difficult to see that there has been a valid quid pro quo for the loss of the 20 pence per passenger or piece of baggage. There are also claims that some drivers have been manually adjusting the meters. On the other hand the department are relying on the meters for the statistics to modify the extras. This problem is that according to the manufacturer of the meters the - and I have seen his letter. I have a copy for any Member who would like to see it - the department cannot rely on statistical memory readings from the meter to work out drivers' averages unless the totals are cleared and reset from a defined time and date. In other words, there should be a carefully controlled experiment and that has not happened. The Minister also states that Jersey taxi cab tariffs are the sixth most expensive in the U.K. but he does not appear to be distinguishing between rank taxis or private hire cabs. Interestingly, the comparison for airport fares to the town centre, which again was included with the email from the Taxi Association, was published by EasyJet with the addition of Southampton, and this indicates that Jersey fares are nearer the bottom of the list rather than the top. The Minister has also stated that the public consultation felt that the Minister should set maximum fares. I suspect that many of the respondents, like me, were not aware of the difference between taxis and cabs. If we are to have a free enterprise society the Minister cannot set the maximum tariff for cab fares. That is socialism writ large. The fact that the percentage by which the private hire cabs will exceed the rank taxi tariffs is to be published and will bring competition into the private hire business. This is to be commended even if nothing else is. The rank taxi drivers are more than willing to change and bring their industry up to date. They have arranged with one of the leading providers for a supply of card readers so they can take credit cards. They are also in the process of setting up an app which will enable customers to call a rank taxi with the app on their smartphone. I have mentioned the spreadsheet which was sent by the Association. This works through the various permutations of the tariffs available for rank taxis. If you take the new daytime tariff it can be seen that the fares for one passenger, with or without baggage, through to 4 passengers, with or without baggage, are identical. The handout which the ushers have brought around, which I have mentioned before, shows the typical fares from the Weighbridge to the airport and Jersey Parishes at various times of the day and night and there are sample fares for Sunday, Christmas and New Year. During the day tariff 1 took ... 7.00 a.m. to 11.00 p.m. from the Weighbridge, the new fare for 4 passengers and 2 bags is less than the old fare but the wear and tear on the vehicle for 4 passengers and 2 bags is more than for one passenger. Is that fair? At the bottom of the page of tariff 1 on the spreadsheet it gives the waiting times. Not only has the charge been reduced, that is the spreadsheet that you got from the Association, the charge has been reduced and the speeds at which waiting time is effective have also been reduced and according to the manufacturers of the meter, and despite what the Minister says, the speed crossover is somewhere between 8 and 16 miles an hour in general with taxi companies. Below the speed crossover the meter will charge

time and above it it will charge distance and it therefore stands to reason that when the Minister talks of waiting time at 7 miles an hour this is technically the speed crossover time. Theoretically, it should be the same for all tariffs but this is totally unclear with the comments from the department. The waiting time for daytime drivers, who are most likely to need the waiting time because if they are trying to get to the airport and go through Beaumont there will be a queue. The waiting time charge has been reduced from 30 pence to 21 pence, which is a reduction of nearly 30 per cent. Again, dictated. It came by diktat. No negotiation. "That is what you are going to do." So you have got a situation where under tariff 1 daytime tariff, one passenger, the average is a 4.7 per cent increase in fares. That is fine. For 2 passengers the average increase is 3.1 per cent. For 4 passengers with no baggage the average increase is zero and the reduction in the average fare for 4 passengers and 2 items of luggage is minus 2.9 per cent. With figures like this it is no wonder the rank taxi drivers are confused and upset because I should say not only has the Minister changed all the variables it has changed the number of tariffs as well. You have got 3 tariffs instead of 4 so you are imposing, and it has been an imposition; he is imposing an awful lot of changes in a diktat because under ...

The Deputy Bailiff:

Senator, if I could interrupt for a moment. Could you indicate how much further you have, you think, in your proposition because Standing Order 44 requires me at this point to put to the Assembly whether they wish to adjourn until 2.15.

Senator S.C. Ferguson:

Yes ... **[Interruption]**

Senator L.J. Farnham:

I was persuading the Senator to adjourn.

Senator S.C. Ferguson:

I think he is hungry. I do have a bit of time to go so perhaps if we adjourn for lunch and then if people like to look at their spreadsheet ... it is a bit like school is it not?

[12:45]

Yes, I will hold fire for the moment.

The Deputy Bailiff:

Is the adjournment proposed?

Senator P.F. Routier:

Before I propose the adjournment I believe the Connétable of St. Helier would like to just say something.

The Connétable of St. Helier:

I am grateful for the Council of Ministers for their comments on P.75, the matter relating to Warwick Farm and the creation of a country park, also to the Ministers for Environment and D.f.I. (Department for Infrastructure) for their emails. The latter Minister has offered to do the feasibility study in his department that the States approved back in the last Island Plan and I am grateful to him for that and also to those Members who have expressed their support and members of the public for the creation of a country park providing extensive recreational health benefits for the residents of urban areas. So on that basis I am prepared to withdraw P. 75.

The Deputy Bailiff:

Thank you very much.

LUNCHEON ADJOURNMENT PROPOSED

Senator P.F. Routier:

In proposing the adjournment can I remind Members that the Secretary General of the Commonwealth Parliamentary Association is available for a meeting downstairs? Everybody would be welcome to come along to that.

The Deputy Bailiff:

Before we adjourn I give notice that the Draft Maintenance Order (Enforcement) (Amendment No. 3) (Jersey) Law P.89/2017 has been lodged by the Chief Minister. Very well, the States stands adjourned until 2.15.

[12:47]

LUNCHEON ADJOURNMENT

[14:16]

The Deputy Bailiff:

Very well, we continue with the proposition, P.64/2017, Draft Act annulling the Motor Traffic (Cabs - Fares and Charges) (Jersey) Order 2017.

Senator S.C. Ferguson:

I probably need to remind Members that we were talking about the speed crossover time, which has been reduced to 7 miles an hour, and the fact that the waiting time charge for daytime rates has been reduced by 30 per cent. So we are talking with the tariff now, with the new 3 tariffs instead of 4, as I say, just about every variable you can change has been changed so that it is extremely difficult to find out exactly where you are going. Basically if you have 4 passengers and 2 items of baggage then you are losing money in the daytime. Given that you are also losing money on the waiting time, the speed crossover time, this is extremely unfair on the taxi drivers who work mainly during the day. Now, the Minister, despite my vilifying it, pointed out that he did not quite understand what I had said about the chief statistician reviewing the figures. The chief statistician said he had not reviewed the figures for the buyout other than that he checked the D.f.I. - I am sorry I keep calling it T.T.S. - spreadsheet to make sure that those figures were correct. I am sorry if the Minister did not quite understand what I had said and I am sorry if I have unwittingly misled anybody else. As I say, the chief statistician had no say in the arrangements for the buyout of the 20 pence extra, the extra charge, that is a cause of so much of the unrest. Now, the average percentage increase in fares for Sundays has now gone up to 22.6 per cent with their waiting time, and there are very few times you are caught in a traffic jam on a Sunday; that has gone up by 3.3 per cent. For Christmas and New Year the average fare has increased by 6 per cent and the waiting time ... again, how many traffic jams do you see at Christmas? That has gone up by 13 per cent. There is the comment that if there is so little extra for working Christmas and New Year will we have a shortage of taxis at New Year? Members will appreciate that this does not particularly make sense when the basic increase should be 4.6 per cent. Those drivers who work mainly during the day will be losing out significantly more than those who work mainly at night or on Sundays or Christmas and New Year. It would have been helpful if the department could have discussed the range of fares with the taxi rank drivers before just dictating their adoption. So why do I think the Minister should negotiate properly? The methodology used in removing or buying out of extras is extremely questionable, especially since the manager from Digitax, who make the meters, states

and confirms that he told the department that the data collected from meters would be unreliable and that any measurements should be started from a new date and time. In other words there should be a controlled experiment. The extras are not excessive at 20 pence when compared to the Isle of Man where they are 50 pence and they should have had an increase on their own as they have been set at 20 pence since 2007. D.f.I. increased their charges on average 2.5 per cent a year. The 4.6 per cent is over 4 or 5 years so it is not unreasonable. There is no doubt that apart from carrying just one passenger the drivers lose out on the examples of tariff 1 shown as carrying 4 passengers and just 2 items of luggage minus 2.9 per cent on average and this calculation is confirmed by the chief statistician. The waiting time on tariff 1 has been reduced by 30 per cent and despite what is said if a taxi waits for an hour the fare is £14.82. On the old tariff it was £21.18 and with 4.6 per cent it should have risen to £22.20. The overall taxi review has not taken into account any impact assessment on the existing public rank space available. Demand is not steady. In the taxi world there are periods of intense activity and sometimes, especially during the winter, there are long periods of waiting around. Jersey is affected by the weather such as job delays, rough seas, *et cetera*, and when the additional planes and boats come in then there are a substantial number of passengers waiting for taxis. One of the questions which needs to be sorted out clearly is that of the ability for private hire cabs to pick up from the ranks or on the street. It appears that the cabs, the private hire cabs, will have both tariffs, that for the rank taxis and that for the private hire cabs, on their meters. On the one hand the department states that they will be checking this but on the other hand there have been comments that they will have insufficient resources. The department also states that they will use mystery shoppers. Now, while the alert and informed passenger can check which tariff is on the meter the more aged and infirm passenger will find that difficult. I think I have already said that I would need a pair of binoculars to read the meter from the back of the cab and so it is more difficult. It would appear that a more intensive information programme is required so that the public are totally conversant with the situation. Some may question the age profile of the drivers and there is no denying that overall many are over 55 years old. However, in the taxi cab review it is proposed - and the drivers have not objected to this - that the medical would be beefed up and the drivers have agreed to their services being monitored through unmet demand surveys as is normal practice elsewhere. Therefore, if there is an undeniable and proven drop in the service that cannot be remedied then more taxi plates would need to be issued. The States themselves have been promoting that 60 is the new 40 on a banner placed on the hoarding on the new Finance Centre on the Esplanade recently and it has been encouraging older people to carry on working. In my experience of industry, and I do have some experience of the heavy engineering industry, if, after negotiations, both parties feel that they could just have got a better deal, then the balance is probably about right. At the moment the Minister seems to feel that the correct conclusion to the negotiations have been reached. I can assure him that the taxi drivers are not at all happy. In fact some of them maintain that they are losing money and looking at the tariffs and the effect on the tariffs this is correct. It is for this reason, based on my experience, that I hope Members will support my proposition so that further negotiations can take place. I move the proposition.

The Deputy Bailiff:

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

The Deputy of Grouville:

Could I declare an interest as my husband is a taxi driver and reserve my right to speak?

The Deputy Bailiff:

I will have to just ... well, I shall call on Deputy Rondel and I will look into the matter as the speeches go on.

10.1.1 Deputy R.J. Rondel:

I have the utmost respect for Senator Ferguson and would very often support many of her suggestions and views but I do believe that in this case she has misjudged the situation. I presume she thought there was some kind of injustice but there really is not. The tariffs imposed by the regulator, after much discussion with the industry I should point out - much discussion - are fair and mediation, as suggested, is not the right way to go. Not only is it not in the public interest I do not believe it is in the taxi cab industry's interest either. The public are not supporting the actions of the J.T.D.A. (Jersey Taxi Drivers Association) and neither are all the taxi cab industry. Senator Ferguson has been told what sounded like a compelling story but unfortunately the figures that they have provided her with are flawed and the regulator is legally allowed to set the maximum fares for both taxis and cabs. Just how long has the States been talking about modernising the Island's taxi cab service, removing the unnecessary barriers to trade and creating a simple set of common tariffs? The earliest reference that I have been able to find is in May 1986 when the Defence Committee Taxi Working Party, and they recommended the ultimate merging of the taxi and cab trades. I will not go through all of it but there are 31 years of reviews, all promising essentially the same reform; to try and improve the service for customers, the public. All of them halted to no effect. I was so incredulous I have listed them on a sheet which was handed out in front of you and it is marked *My potted history of 31 years of taxi cab regulatory reform in Jersey*. Why did this happen? Well, I obviously was not around all those years ago but from what I know now I would suggest that this is an industry that has taken some amount of unwillingness to change to the next level. Following 31 years of talking about modernisation a period of huge technological change and increase in public expectation under the leadership of the then Minister, Deputy Kevin Lewis, things started; they started to move forward with a formal Green Paper consultation in March 2012.

[14:30]

The Green Paper was a huge consultation exercise with the public, businesses and the taxi cab industry stakeholders. Meeting opportunities were provided to every single individual tax cab driver, company and driver's association, including the Jersey Taxi Drivers Association, the J.T.D.A., which I refer to regularly. In October 2012 Deputy Lewis launched the results of the consultation in a White Paper setting out the Minister's intentions for policy changes. In addition to presenting the industry's views the paper summarised 742 responses received from the public, the highest response to a States consultation to that time. In its conclusion, supported by the consultation results, the White Paper rejected J.T.D.A.'s assertion that customers are best served by the current one and a half year hybrid system and recommended that the current 2-year taxi licensing system should be replaced with a single tier system. It is also worth noting, from the consultation, that the private hire cab drivers were strongly in favour of moving to a single tier and the removal of artificial barriers to their trade. On 16th May 2014 Deputy Lewis, as Minister, wrote to all taxi cab companies and drivers associations, including the J.T.D.A., advising them of his intent to introduce an industry-wide maximum tariff as soon as possible due to the amount of support from the consultation. The letter was publicised by media statements in which the Minister noted, of the 742 individual responses received in the Green Paper consultation, over 90 per cent agreed that the Minister for Transport and Technical Services should set a maximum level of tariffs of fares for all taxis including support from the Chamber of Commerce, the Jersey Cab Drivers Association and C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities). You can see from this bit of history the J.T.D.A. has had plenty of time to come to terms and plenty of evidence of the support for change. It highlights by the time the 2015 Taxi Regulation final recommendations were published by the now Minister, Deputy Noel, and this was in September 2015, there had already been 3 full years of discussions with the J.T.D.A. as well as all other parties to the industry. Within this document the Minister acknowledged there was disagreement within the industry and that despite a considerable amount of discussion there was no reasonable prospect

of reaching a compromise. However, we continued again to engage following J.T.D.A. industrial action to disrupt Christmas traffic. Discussions continued with regular meetings right up until June this year which resulted in 9 - yes, 9 - further concessions given to the J.T.D.A. to ease the transition as set out in the comments pack. Believe me, it was not for the want of trying that we have not brought J.T.D.A. on board. An example, in March 2016 the Minister agreed with the J.T.D.A. that industry proposals for transitional arrangements or commonly known as grandfathering rights, this extends the time by up to 5 years for existing rank drivers to meet new requirements such as joining the new single class of taxi cab, undergoing customer service and disability awareness training and providing equipment to assist customers with disability. These concessions were not given up lightly by the Minister but were a sincere token of goodwill to ease the change. I must admit it is quite hard to believe that anyone in a customer serving industry would ask for more time, by up to 5 years, to undertake disability awareness training in this day and age. As I say, the Minister gave in to these concessions despite delaying the beneficial change for the customer, the public. Change which would be dragging the industry into the 21st century. The Minister was trying to minimise disruption for the public and smooth the changes needed for modernisation. So how did that work out for us? It has been somewhat one-sided. The concessions were embraced but nothing was given although the Minister believed, in discussions, that this would be the case. There has been industrial action and disruption, you could say wild cat action at that, giving no respect to the public and the customers and now this proposition has come before us but that is not all. They are also making an appeal to the Public Administration Complaints Board and lawyers' letters threatening court action. Bringing change to the taxi industry is not for the fainthearted. I am here and pleased to support the Minister in what he is trying to achieve and I am glad he is getting the support and recognition from the public on this. I think and hope that this is an issue where he will also get support and I ask States Members to support the Minister on this occasion. Members in preparation for this debate will, I am sure, have solicited opinion. People I have spoken to say that they try to avoid using taxis as much as possible. Change has to happen. I must acknowledge here, and this is one of the issues with this proposition, there are a lot of really great taxi drivers who do provide excellent service and want to adopt change. **[Approbation]** Indeed, some of them have chosen to get in touch with myself and other States Members. They do not want to be tarred with the same brush. The issue with this proposition is that it does not represent all the taxi cab industry. It does not even represent the majority of the taxi cab industry. It represents some. I fully understand that drivers should be able to expect to make a reasonable living. That is in the public interest as it allows them to invest in reliable and safe vehicles. If it is in the public's interest it is in the department's interest and we have put a great deal of effort in ensuring that the tariffs provided are reasonable. A 4.6 per cent rise in line with R.P.I. taxi calculation in conjunction with the States statistical office for the period 2014 to 2017 is a reasonable tariff increase. The calculation is transparent and can be objectively substantiated. Obviously the J.T.D.A. told us they were not happy with this. They wanted more, much more; 10 per cent more initially. They have said our calculations were based on incorrect information despite the fact they provided us with it. They said that there must have been an error. Okay. We asked them to provide us with revised data and we would reassess. Despite repeated requests they have not yet done so. If this proposition was successful and the J.T.D.A. achieve their aims and the cost of a typical weekday journey from town to the airport would rise by some 10 per cent making it among the fourth most expensive tariff in the U.K. above central London and just below Heathrow. Does the Senator believe that this would help support the industry or just add to their demise? I would ask her, what research she has undertaken and what are the views of the more commercially motivated operators? You will have seen that extras, and we have heard, have been brought out by an added 20 pence on all journeys. Do the majority of drivers who have not benefited disproportionately from extras for luggage carried from the airport rank support reverting to the previous 2014 order and the subsequent 4.6 per cent reduction in their earnings? Perhaps she

could advise us in her summing up. Taxi cab driving is a regulated profession. The numbers are restricted so that there is sufficient business for all while meeting customer demand. However the J.T.D.A. cannot reasonably expect to enjoy this benefit without accepting the accompanying consequences of belonging to a regulated industry. The Minister must regulate the industry according to the public interest and not a minority of drivers. Research has told us that there is almost a complete lack of understanding of the distinction between taxis and cabs and how their fares are applied. We have had to try and address that. The Minister, in his order, has made tariffs completely transparent for the first time. It also allows D.V.S. (Driver and Vehicle Standards) to inspect every taxi cab meter, not just rank taxis. It has allowed D.V.S. to ensure that calendars and clocks that set the tariffs cannot be tampered with by drivers giving customers peace of mind. Now, when booking a taxi in advance it will be far easier for customers to price compare and shop around for the best deal with helpful information provided online. Frankly, I am a little surprised the Senator has decided to champion this cause when it is really not in the public interest. It represents a minority. It goes against the objectives of clarity and transparency and the fair calculations challenged have been independently verified by the Stats Unit independently verified. Just in closing I would like to remind Members following J.T.D.A.'s industrial action this summer some 77 per cent of *J.E.P. (Jersey Evening Post)* responding to an online poll stated they did not agree with the J.T.D.A.'s concerns about the changes. I urge Members to vote with the public and against this proposition.

The Deputy Bailiff:

Deputy of Grouville, I have had the opportunity of considering the point that you raised earlier. Standing Order 106(1) says: "A Member who had or whose spouse or civil partner or cohabitee has a direct interest, financial interest, must declare the financial interest and must withdraw from the Chamber for the duration of the debate." Does any other Member wish to speak on the proposition? If no other Members wishes to speak I call on the Senators to respond. I am sorry, I beg your pardon, Senator, apparently I missed ...

10.1.2 Senator P.F.C. Ozouf:

Around the turn of the century, about 100 years ago, most Members that would have turned up to this Assembly would have come ... who did not walk, would have gone on a bike, would have come by a horse and carriage. Now we arrive in a car. When cars were introduced there was regulation brought in called the Red Flag Act. I cannot find one on the Jersey statute book but I do know there was one in the United Kingdom. An innovation of a driverless car required that there should be 3 people at all times to operate the vehicle; a driver, a person to fuel the vehicle and somebody to stand in front of it and wave a red flag. Now, what I am intending to say that there are changes in all sectors and industries that happen and there are lobbyists that represent the interests of the different industries that are, at the end of the day, trying to make a living. We do have, of course, the Taxi Drivers Association and they are quite rightly and properly lobbying and are allowed to lobby on behalf of their sector. I should declare an interest in saying that I speak to an awful lot of taxi drivers.

[14:45]

I ring. I am not sure whether or not it was illegal but I ring the public taxi rank in order to get picked up because I know that they deliver a better value service than the private hire services that are on offer. One thing I will commend the Minister for doing is being more transparent and giving customers choice in terms of awareness of exactly what the value of money issues are in relation for the taxi ranks and the private hire. I am unable to properly drive at the moment as Members may know because I put my foot in a pothole. I needed a taxi last night and the rank taxis could not pick me up so I used a ... I will not say which one ... I was not aware of the Minister's ... I should

have been aware of this. I was not aware of this information and I rang for a private hire firm and I was charged £32 from St. Ouen to my home in St. Saviour after 11.00. I am afraid to say I think that is extremely bad value for money. Now, the issue that I wish to say is that I do understand the Minister's difficulty in relation to dealing with the taxi industry and I also understand that there are issues in relation to who represents them. I speak to an awful lot of taxi drivers and some say to me, just as the Assistant Minister has said, that they do not want anything to do with the accredited Taxi Drivers Association and that they do not feel that they represent them. Others have said, in very trenchant terms, that they are not happy with the Minister's decisions and then I speak to also some private hire issues. Change is difficult and it is by dialogue and good consultation that you make good decisions. I do have sympathy with a lot of the taxi drivers in some of the changing world that they live in. There is often conversations that I have with taxi drivers about Uber, about whether or not Uber ... I was a former digital Minister ... whether or not Uber was going to come to Jersey. Well, they are not and there are obviously issues about Uber regulation that are now well known in the United Kingdom. The reality is that all industries, whether or not it be horse and carriage to the taxi driver industries, do need to innovate and change. The Minister should be commended, for example, in encouraging ... and the Taxi Drivers Association, in having cashless payment available to customers. My approach to economics is growing the market. I want there to be more plentiful taxis with more customers using them at a known price which is reflective of market demand. Regulation, in terms of this strict regulation, does not appear to me to be working entirely. The Minister told me before the debate started that these tariffs that are at the heart of what is being attempted to be struck down, are in fact the maximum tariff. I have to say I did not know that and so it is therefore with some interest that I think that the Minister ... and he also tells me - and if he does want to speak or anybody does speak - I think for example the tariff 2 that is now on the main issue of the Sunday tariff being the same tariff after 11.00 on Sunday is absolutely crazy and not in the interests of consumers. The public rank taxi fares that are being charged by this order in relation to being the after 11.00 p.m. on a Saturday evening all day Sunday is crazy. Now, somebody is not saying the right thing. On the one side I am told that the regulator was told that this was a requirement of the Taxi Drivers Association; that they wanted it. Now, I am told that the Minister says that there are issues and I almost would like to have a confirmation from the Minister that he is going to look at issues. I cannot support this proposition that Senator Ferguson is making for a lot of the reasons that have been said by the Assistant Minister but I also do not think that the current arrangement of the current taxi structure tariff is entirely right. I am not saying I like taking public rank taxis after 11.00 on a Saturday but do on a Sunday; that tariff is not right. It is crazy. It is just not right. I am told that there are private hire firms that are cheaper. I do not understand why there is not, for example, an arrangement where there is a pick-up charge where you can ring for a public rank taxi, a single number, and get allocated ... technology must allocate scarce resources more efficiently. It drives me crazy when I see that there are taxi drivers waiting for fares at the taxi ranks around St. Helier. Yes, I plead guilty to having moved one of them, and I am sorry for the taxi drivers that I upset at the time in Library Place, but effectively there has to be a better way of allocating taxi drivers sitting in their taxi ranks where I am a consumer, or another Islander is a consumer, want to be come and picked up and I accept the fact that I need to pay something to be come and picked up. Now, what I want to hear from the Minister is effectively a responsive dialogue that will continue. This is not just the end of it. This is the start of what should be a dialogue with the taxi driver industry in order to improve not only the experience for passengers but also effectively growing the incomes of taxi drivers. It is in nobody's interest for there to be unhappy taxi drivers picking up tourists at the airport and giving it ... well, I am not sure what the parliamentary language that is appropriate is, but letting off steam about the plight of the political situations in Jersey because all is not well. To have taxi drivers that are unhappy is also one thing that many of us, when we do travel, they are a kind of an indication of what society means and I mean no disrespect to our taxi drivers but I do wish that they would talk

up our Island a little more than sometimes I hear from what they do when they have ... a lot of them do I have to say but some of them do not and there are standards that need to be adhered to. We want to see a taxi industry that does look ... yes, we do not want to go back to peaked caps and white shirts and ties but there are some standards in some taxis which are simply not acceptable and that must be improved. The Minister has conceded, and I know that he has conceded, in relation to the disabled requirements for taxi drivers that were originally put forward. It seems to me perfectly sensible that not all taxis have to have an ability to have a wheelchair. So I stood up because nobody else wanted to say anything and maybe Senator Ferguson is not going to be successful in striking this order down but I want to hear from the Minister or other members of the Council of Ministers what they are going to do in order to basically heal the wounds that are among the taxi drivers who do feel as though the fare structure is unfair, who do feel that it is not working in the interests of their clients. At the same time I have to say to taxi drivers that they have to adopt and in taking cashless payments I do commend them for the work that they are doing. They have to. I am afraid to say we live in a cashless society. If I get in a taxi in Jersey I want to be able to pay not with cash but with a card and I want it quickly and efficiently done so that it can be ... expense to otherwise or firms that do these things, it has got to be done in a modern way. I do want a single number or an app that is universally acceptable which allocates taxis coming from a certain part of the Island to somewhere that is seeking a taxi service and when is that going to happen? How are we going to do ... or what are we going to do to increase the incomes of taxi drivers and make the whole industry more successful? So I end by saying that I am afraid I cannot support Senator Ferguson for a lot of the things that she is saying but I also have to say that I think that there are serious issues in relation to the tariffs that have been set by the Minister. I just do not understand the diametrically opposed views that I hear from taxi drivers. Some are absolutely behind the association. Some want nothing to do with it and it pains me to say it. I have these conversations with taxi drivers and there does need to be a coming together of parties and there does need to be more dialogue in order to solve this. Striking this order out is not the solution. More talking, more dialogue is important and some recognition that the world is changing and is going to change some more just in terms of ... people may laugh about the horse and carriage but driverless technology is coming too and we need to use technology in order to maximise the economic situation of all Islanders so that they get from A to B. Taxis are liberation for people. People who do not drive need taxis and we need a functioning well-run taxi service in Jersey for our visitor community, our commercial community, for our night time economy, *et cetera*. It is an industry that is really important and we have to get it right and the Minister is in a difficult position because he is the regulator and I am not sure who is looking after the economic interests of taxi drivers because it is an important sector which requires policies that work in the interests of taxi drivers themselves. I look forward to hearing what the Minister has to say in terms of evolution and not revolution and improving the incomes of taxi drivers, not destroying them.

10.1.3 Deputy A.D. Lewis:

I went to the presentation that the Minister kindly laid on last week at Fort Regent and I found it most revealing. I did not know much about taxis at that time; I do now. But I did get involved about 10 years ago when this same issue came to the States then, so it has been more than 10 years that we have been discussing this very issue. We do take our time to make changes in this Assembly as we well know but that is hopefully so that we get it right. But I am afraid listening to the civil servants in particular that presented their case or the case for the Minister last week it was pretty compelling and I am very concerned with the proposer's annulment proposal here, is that all that work, all that progress, could be curtailed. It could stop. I am talking here about years and years of discussing this matter. I also found out that this is perhaps - apart from maybe electoral reform - one of the most consulted pieces of work that the Government has undertaken in recent years in terms of numbers of people that were consulted during this process to come to these

conclusions. So it is not a back of a fag packet type proposal at all, not that I am suggesting Ministers do that very often, but this certainly is not one of them. It has been well thought through. I was particularly taken as well by what Senator Ozouf mentioned earlier on, the bulletin here that has been put out. I believe it is now on the D.V.S. website. So for the first time now we appear to have competition, competition in our taxis, because the Minister, although I think slightly bizarrely, is suggesting that there should be regulation of fares; in other words a fixed upper amount that you can charge for a fare. To me, as a free marketeer, that sounds odd. I used to work in the aviation industry where we had to publish our fares 6 months in advance and we could not change them. The Government would not allow us to change them until the next round of discussions. Today that would seem bizarre to us all when we go on the internet and look for a cheap airfare. So why does it exist in taxis? So I asked that question at the presentation last week and I got what I thought was a pretty good answer. If you did not have that kind of regulation you would have the Cairo taxi scenario turning up at a taxi rank and a load of haggling going on as to how much you would charge to go to your destination; not a sight, I think, that would be terribly awe-inspiring in Jersey so I do get that but we do have, as a consequence, yes, regulated taxi fares but all the Minister is suggesting is regulating the upper figure, so in other words the maximum you can charge as a taxi driver. So as a consequence this indicates clearly that some companies and perhaps private owners as well, are charging less than the maximum the Minister is setting. So I can see the reason for the regulation and I can see how it then helps competition and that is only a good thing. I just hope that this can be more widely circulated so the public understand and appreciate what is happening here. But I am not sure at the moment, even with the proposals that are happening or hopefully happening, that we are still getting value for money as Senator Ozouf was suggesting. I was away at the weekend. My wife was at a party that I managed to get out of in Gorey and she shared a taxi with some friends via St. John and then on to St. Peter before 11.00 p.m. at night and it was £50. That does not sound like good value for money to me. We normally share the driving. We do not often get taxis. We share it because I drive there and she drives back. So we very rarely get a taxi. So we were a bit shocked by this so I am not sure if other Members have had similar experiences, which clearly Senator Ozouf has. All this will help with that. The type of regulation that the Minister is suggesting, I think, is a good idea. Lastly, the taxi era is changing.

[15:00]

The reason why we had 2 types of taxis in the past, and it was explained very clearly by the Minister's officers, is that we had private hire and we had cabs that could be hailed because if you were out at a friend's home you used a fixed line telephone to phone for a cab. If you were out in town you hailed a cab or you went to a rank. That has all changed now. All of us virtually have mobile phones in our pockets. It does not have to be a fixed line to make the call. You do not even have to make a phone call to book a taxi, we can use an app and I hope that technology will develop much further much quicker as Senator Ozouf was suggesting. The market has changed because of technology and we should be taking full advantage of that. This sets the scene for creating that opportunity. Annulment at this stage would be a real shame, so I would urge Members strongly to resist the temptation to do what we are so good at doing in this Assembly: delaying something once again. The Minister and his team have worked really hard on this. It would be a real shame to not get there properly finally. But that does not mean it ends there, as Senator Ozouf is suggesting. There are some anomalies in here that perhaps are not perfect. I think it was Senator Le Marquand that used to say: "Better a plan than a perfect plan." Maybe it is not perfect but we can change it later. We can amend it, we can evolve it, and it should evolve and it should change. We should be looking at these things far more often than every few decades, which appears to have been the case in this instance, so I would urge Members not to support the annulment. We understand, of course, that the Island is run by taxi drivers and hairdressers. We have to accept that. But these are hard-working people, they do want to earn a good crust and we

should let them do that. I think with a system that the Minister is suggesting, that is exactly what will happen: more competition will occur. The average age of taxi drivers in Jersey is high. There is nobody new or very few coming into the industry and that is because of all sorts of reasons that were explained to us at the presentation; this again will help with that. So to throw the baby out with the bath water at this stage would be a real, real shame; all the work that the civil servants have put into this and the Minister's Department. It should go forward and it should not be annulled in the way that the Senator is suggesting, as well-meaning as I am sure she is. I have not heard a strong case from her yet that it should proceed in this manner, so I would urge Members to vote against it. Thank you.

10.1.4 Deputy G.J. Truscott:

I got involved with the negotiations about, what was it, 8 months? It was really an election pledge to Mr. Tostevin. I said, if I could, I would assist the taxi drivers with negotiations. I have a partial-declared interest. My grandfather was on the rank taxi from 1960 to about 1970 when sadly he died but that has gone by now. Now I really have got to congratulate the Minister and his team; they have done a really good job in developing this whole process. They have brought the taxi drivers on board and I have just to commend him for what they have done. I think they are a tough bunch of people to negotiate with. My grandfather was a character and I have got to say if you had tried to negotiate with him, it would have been a challenge. They are larger than life, a lot of them. But nevertheless it is a band of brothers and they are 100-plus in numbers so there has been a lot of give and take on both sides. I think that has been very important in the whole process. I think the industry itself realised that it had to really come out of the 1960's, 1970's practices that they had been using for so long and there was that realisation that they had to modernise. I think the Minister has helped them come along on that journey and he has brought them with them which, as I say, is good. I also congratulate Deputy Kevin Lewis for starting the whole process quite a few years ago. So here we are, we are virtually at the end of the negotiations, and this is where the rub is for me. It just seems that the Minister has left the taxi slightly early, and he has not left a tip either, and he has left a degree of, well, bitterness one could say. It may be a bit strong, I do not know, but he has just left the drivers wanting that little bit extra. Not through greed or anything, it is just they have got to make a living in what is quite a difficult profession. A lot of us probably would not even do the hours that they do. These people start at 7.00 a.m., they are there to meet the first plane in, they finish at 2.00 p.m., 3.00 p.m. in the evening; it is not easy. There is the wear and tear of the vehicles, there is the depreciation and there is the petrol. Jersey is an expensive place to live. Now if they feel short-changed in some way in their earning potential, you cannot blame them for feeling aggrieved in the way they do. Now he has said that there are not many in the Association that feel this way. Well I do not know where the Minister was when the entire rank was doing a circle in protest about a month ago. So I really do feel that it would not hurt to talk. I am going to support Senator Ferguson this afternoon. I think it would be a good thing to talk to the industry. They are proposing a mediator; you could come out of this on top. There is no reason why, the public in particular, would be any worse off than they are now but it is so important to talk. I think that is very important. So I will leave it at that and, as I say, I am just pleased to have a say on behalf of the Association. Thank you.

10.1.5 Deputy J.A.N. Le Fondré:

I was, in the previous 3 years of the Assembly, the Assistant Minister for Transport and Technical Services when the Minister, Deputy Kevin Lewis, was introducing the taxi strategy at that point, as has been referred to previously. I think at that point the comment was made that we were having sensible discussions - or the Minister was mainly; I had very little to do with this aspect - were having sensible discussions with the industry who recognised the need to change. I am very pleased to follow the last speaker because I think it is exactly the point he is making. I think the

Minister at the last gasp has slightly dropped the ball. The recognition we have got to make all the way through this is this is about people's livelihoods and I think that is where the argument comes through. One can go through with "lies, damned lies, and statistics" or "death with numbers" or whatever it is but there is a fundamental disagreement between whether it is a 4.6 per cent increase or it is not. It is all very well for the department and the Assistant Minister for D.f.I. and the Ministers, I am sure, are going to say the same thing, they have said it in their documentation, this has been confirmed by the Statistics Department. The Statistics Department are very, very clear that they had not taken account of, I will call it, the extra charges, whether it is 2 bags and all the rest of it. It seems from the information we have had that that makes a fundamental difference to the calculations. That is where the argument is landing. Can I remind people, let us go back to the actual proposition, because some of the speeches I have heard so far have been everything about anybody offering any form of, I will use "taxi service" in the widest context, which is not what we are debating as far as I can see. What we are debating is the Taxi Drivers Association and going to mediation and the fares. That is it. It is not about whether it is disabled facilities, chairs for children. I do not know. I have to say, the Assistant Minister's speech, I lost the plot, and I was listening to it downstairs. I am also very thankful to receive this schedule from, I gather, the Minister. I think it does illustrate, unless I am misinterpreting it ... and if I am misinterpreting it well that may be why you need mediation. On the schedule, if Members would look at it, there are a couple of lines that says: "7.00 a.m. to 11.00 p.m." **[Interruption]** I am sorry, I do apologise, in which case even better. Sorry I was misinformed by the Minister to my left; I believed it was the Minister for D.f.I. that had given it. Even better. The second line down has a line that says: "Four passengers plus 2 bags." On that line between old and new fares, every fare on the new one, as far as I can see, is lower than the old fare. I cannot see any increase across that line at all - if there is one, it does not matter - but every fare on that particular tariff is lower. So the old fare on the first one, airport, 5.3 miles was £14.20 is now £14.13. Gorey Pier £13.90 is now £13.71. Was £12.70 for St. Martin, it is now £12.45. All these numbers are lower than the old fare and I think, taking those figures as read, that is the issue. That is it. Therefore, it does not seem unreasonable, which is what this proposition is saying, is that I think as a matter of fact that there is a fundamental disagreement between the Minister and the association. I think, it would seem to me, if it is the association that seem to represent the majority views of that association ... I do not know if it is the majority views of all the other providers of, shall we say, passenger-carrying services. But on the other hand if, according to this schedule, the private-hire cab fares are 25 per cent, 27 per cent and all the rest above the tariffs, they are probably less excited about it. I have to say, the comment I will pick on - which I am in danger of doing the whole thing - greater transparency. Well if on a Saturday night after 3 pints in a pub I get into the back and I have got to work out whether it is showing a "1" or a "2", somewhere down there, and "1" means one thing and "2" is a different charge, that is not going to help me very much. So I am not too sure of the analysis of a fare from Gorey back to St. John of £50. It depends, I suspect, whether it was a rank or whether it was a phone call because one charges less than the other. So going back, as far as I can ... **[Interruption]**. Precisely. If one charges less than another, the other one charges more than the other. That is not transparency. Can we not have the muttering, please, Minister? The point is, is that the numbers, according to the schedule, imply in certain tariffs that the Taxi Drivers Association will be forced to charge less than what they previously would have charged. That to me seems a very fundamental reason for going to mediation. I am stopping there because I did not want to get dragged into too complexity. I think it is that simple an argument and on that basis I think we should be supporting Senator Ferguson. **[Interruption]**

The Deputy Bailiff:

I would ask people up in the public gallery not to show any influence, please. The Connétable of St. John.

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

I was very interested to hear an earlier speaker reminiscing on the days of red flags; it was before my time. I regret to say that I am not a great supporter of the taxi industry because I very rarely take a taxi myself, the reason being, having 4 children, they are heavily in credit to me for free journeys late at night. But when I have taken a taxi, I have always found them polite, helpful and I have enjoyed the journey. It is somebody to talk to which when sat on my own in a car I tend not to do. **[Laughter]** As a result of the proposition being brought, one of the great successes has been this: it is a simple fare chart; what it costs for a 2-mile journey or a 5-mile journey and what the various cab companies as opposed to taxi companies charge. I took the trouble of printing one off and immediately putting it in the Parish noticeboard in the precinct. During the first week I had 2 parishioners come in and say: "I wish I had known that because it shows £13.29 from St. Helier to St. John which is 5 miles but we were charged over £20." This is an issue and it is why I think that the industry is perhaps being marred by one or 2 rogue drivers. Now, I cannot point fingers, I do not know where it happens, but these stories keep coming out: "I took a taxi to the airport [or whatever] and this is what I was charged." It is those bad stories that come out as opposed to the many, many good stories that we hear. I would like to draw the Assembly's attention to a local shipping company who, when you wish to go to France or the U.K., you book your car and one passenger or 2 passengers or 3 passengers, and you pay according to the number of passengers. It is therefore an accepted way and I think for a taxi to be charging the same fare as to whether there is one, 2 or 3 passengers in it is unfair. While I would hate to differentiate between baggage and passengers, I think it reasonable that passengers are charged but to start adding on more and more extras such as baggage, well, is a shopping bag baggage or does it go in the boot? It is an area of interpretation, whereas a passenger is a person and that is simple and easy. I am personally strongly divided as to which way to go on this and I would be interested to hear the Minister's response.

[15:15]

But I would like the Minister to make an undertaking that he will go back to the taxi firms and negotiate some form of extra to allow the taxi firms to charge for additional passengers on a particular journey. Thank you.

10.1.7 Deputy E.J. Noel:

My duty as Minister is to ensure that there is an adequate, efficient and a reasonably-priced taxi-cab service available throughout Jersey at all times. The need for taxi-cab reform was identified a long time ago but more recently it was highlighted by the Sustainable Transport Policy. My predecessor, Deputy Kevin Lewis of St. Saviour, started off the process with his Green and White Paper consultations. I then picked up the baton and embarked on the implementation. Throughout the regulatory reform process, both under my and Deputy Lewis's leadership, the primary focus has been to improve the level of service for customers, i.e., moving the industry from one that could be arbitrarily driver-focused to one that is customer-friendly. A second, albeit important, concern has been for drivers and other industry participants to make a living. Experience elsewhere has shown that a disregard for the industry does not serve the customer well in the longer term. I am also conscious that in a small and interlinked community such as Jersey, it is important to avoid inflicting unnecessary hardship. Therefore, I have been at pains to consult and engage with the industry and work transparently to avoid unnecessary disruption. This is not quite the same picture that has been presented but this is what has happened. The gathering of data and developing of proposals was carried out through the Green and White Paper consultations by Deputy Kevin Lewis when he was then Minister and, as I said, as his successor it was up to me to deliver the changes. I have been out with the drivers in their vehicles at night time, I have met with individual drivers, I have met with groups of drivers. I have met with the J.T.D.A. and other bodies. My officers have

been in constant communication with the Drivers Association and the companies to agree on how the changes should be implemented. To smooth it through the changes, I have provided a considerable number of concessions and in particular concessions to the J.T.D.A. They have negotiated concessions, including grandfathering rights to extend the time up to 5 years for existing drivers to meet the new requirements such as the requirements to attach to a booking entity, to undergo customer-service training, disability-awareness training and to provide equipment to assist customers with disabilities. To add, in the most recent negotiations, they have persuaded me to backdate the R.P.I. (Taxi) to 2014, thus providing them a consolidated 4.6 per cent increase rather than just the 1.7 per cent increase that would have been if we had just done it for the last 12 months. I agreed to use the March 2017 index rather than the December 2016 and delayed the implementation of these tariff changes because it enhanced their position because we were proved right in the end. We suspected that the March 2017 figures were going to be slightly higher than the December 2016 figures. Probably my biggest concession was to provide them the night-time tariff rate to apply to all day on Sundays, in their views, that without that they would not have been able to encourage their drivers out to work. So I do have some sympathy with the views of Senator Ozouf that Sunday daytime tariff is high. It is higher than I originally wanted it to be but that was one of the concessions that we made to the industry because they told us that without that they would not get their drivers to work on a Sunday. At the end of the day it is the demand from the public that needs to be met and so we conceded on that. Other concessions have included not to increase the overall number of taxi cabs unless the independent - and they are independent - unmet demand surveys indicated that there was a shortfall. Strangely enough, the President of the Taxi Drivers Association only last week when we met with Senator Ferguson and the chief statistician in my offices asked for 5 more licences to be issued for the rank drivers, so they themselves realised that there are not enough rank drivers out on the streets when there is the demand for their services. I also agreed that we would have a tariff review point in January of 2018, only a few months away now, to consider any objective and substantiated new evidence that they might bring forward. In particular, this was with regards to the buyout of the extras. What we have done, just for clarification, is that we calculated what the typical extras are per year and we have worked out an amount that is per mile and we have applied that to every single journey. So, every single journey now taxi drivers are rewarded for the extras that they would have incurred throughout the year on individual journeys. I wonder how many thousands of the hardworking Islanders would be overjoyed if they were offered a 4.6 per cent increase for the same period of time. By example, I am advised again by the States chief statistician that our public service workers over the same period of time have seen an increase in their earnings of 2.9 per cent. Some may say I may have been too generous to the industry agreeing to 4.6. In her report, Senator Ferguson says that all the drivers are asking for is for the ability to meet the Minister for Infrastructure and sort out the tariffs. From the concessions that I have spoken about, you can see that we have already met; we have already negotiated. I have already made substantial concessions and, as I have already indicated, these are not necessarily concessions I wanted to make; in particular the Sunday one. But they were concessions made in good faith in an effort to show goodwill and to reach an agreement. However, as you can clearly see, these concessions were grabbed with both hands and instead of reciprocating in good faith, the Jersey Taxi Drivers Association have turned down a very reasonable increase and want the public to pay even more for their services. Their latest bid in writing was for a 7 per cent increase and a doubling of the extras charges. For me, I have to put the public first and that was a step too far. The President of the Jersey Taxi Drivers Association said in the review that was put before them that it was a "done deal" in 2015. It gives the impression that they had no opportunity for input, does it not? However, as I have explained, there was extensive Green and White Paper consultation, as well as background research which they were heavily involved with. We have shared our very comprehensive reform document produced in 2012 with them and despite this so-called "done deal" we have gone back and made significant concessions

since September 2015. So, how justified are their remaining claims? The 4.6 per cent R.P.I. (Taxi) was independently calculated by the States Statistics Unit and the States Chief Statistician has confirmed that in his email to all States Members on 12th September. The additional 20 pence, as I have already said, for the buyout of the extras was calculated from the records and from downloaded meters from the industry, including some provided by the J.T.D.A. So instead of just getting 20 pence for every extra bag or extra passenger, they now get 20 pence for every single journey. It just happens to be the same fee of 20 pence. But it has been calculated, not by my department, but independently to show that that is the buyout to smooth out those extras throughout the year. The States Statistics Unit has also confirmed that the weighted average calculation is statistically reliable and valid. I met with Senator Ferguson and the President of the J.T.D.A. last Tuesday with the States Chief Statistician to run through the calculations which were collaborated by his department. Unfortunately for the J.T.D.A., both their assumptions and their mathematics were flawed but their spreadsheets have subsequently been corrected. That was the reason that Senator Ferguson postponed this debate from 2 weeks ago because of the identification that the J.T.D.A.'s figures were flawed. Indeed, the Statistics Unit were kind enough to correct those figures and both sets now have been proved to come to the same 4.6 per cent figure. It is the same calculation, it is the same methodology that has been applied for the last 14 years and then it is simply applied to the uplift of the distance element of the tariffs. But let us be clear, this does not mean that every journey will be consistently 4.6 per cent higher but the weighted average over the whole year of the combined tariffs for a sample of typical journeys is 4.6 per cent plus the extra 20 pence for the buyout. Now, some individual journeys may be slightly more; some may be slightly less but the effect of the increase of the flag charge, which is what the customer pays when they enter the vehicle, is approximately £3 for the basic rate. That effect of that upfront payment diminishes over the length of a taxi journey. So if you have a long taxi journey, maybe 10 miles, that initial £3 has got less impact on what the fare is compared to if you have a short journey say of 2 miles. Just for Members' interest, the typical average length of a taxi journey is 6.7 miles. There are other mathematical effects depending on the timing of the tariff, and the figures are very sensitive to point-of-a-penny changes. One of the obvious things was, naturally, the Christmas Day tariff has a very low weighting because it is only one day of the year and therefore it has a low weighting in the weighted average. But the objective is that 4.6 per cent is consistently applied over a set of typical journeys at different times of the day and at different times of the year so the average earning has been increased by 4.6 per cent (Taxi) R.P.I. These assumptions were made available to the association at the time and were physically validated by D.V.S on real routes using 2 standard test meters. By that I mean 2 meters were installed in a test vehicle: one calculated the fare under the new tenth-of-a-mile method; and one under the old method to prove that both gave exactly the same end fare, so it was not just a desktop or spreadsheet exercise. We proved the new system worked in the real world. The chief statistician has confirmed to the Senator that the order provides as a good mathematical fit as practical using whole coinage; so we cannot use fractions of a penny. The model is the same model that has been used for every other rise over the last 14 years. The corrected version of the J.T.D.A.'s own spreadsheet shows increases across tariffs ranging from 4.7 per cent up to, I believe, 22.6 per cent. Thus, I can confirm that the overall effect on earnings for the distance-related elements of the tariff is 4.6 per cent. To put this into a life example, a businessman travelling from the airport to town on a typical journey without bags on the day after the tariff increases on 1st July would pay 4.6 per cent plus 20 pence more than he would have done the day before for such a journey that comes to a 4.7 per cent increase. If this order is annulled and we renegotiate a new set of tariffs, they will be above 4.6 per cent and that is going to increase the cost to the public even more than the current proposal which is the cost of living. I do not think that the travelling public would stomach that. We are already seeing members of the public choosing other options. The Jersey Taxi Drivers Association's claim would increase costs to the customers. It would make Jersey the fourth-most expensive location in the U.K. just below

central London and, as I already indicated, the public are already voting with their feet and seeking out alternatives to regulated taxis such as Jersey Lifts. An above-inflation increase would spur them on to the detriment of the drivers themselves, so we are taking the drivers' economics position to account. What is better for everybody is if we can grow the cake, make taking a taxi cab more often a reality, helping drivers to be more productive and have less downtime and therefore have an opportunity to earn more and, of course, at all times offering the public a better service.

[15:30]

Senator Ferguson questions if I, as the Minister, have *vires* under Article 38 of the Motor Traffic Law to implement these changes across the industry setting a maximum tariff for all taxi cabs. The simple answer is: yes, and the law officers have confirmed this. Then there is the claim that the work to create a single tier has not been successful and, again, this simply is not true. Good progress - and it is progress; it is not a revolution; it is not a big bang - but implemental progress has been made over the last 2 to 3 years. I believe that we are not going to please all of the drivers all of the time because it is a diverse industry and some drivers only work day time, some drivers only work night time, some drivers only do airport runs, some drivers do a mix, and it is that mix that we have to take account of. We have brought forward measures to put in place an improved accessibility of all the vehicles such as visibility strips and handles for the visibility impaired, grab handles for the infirm to be able to get in and out of the vehicles. There has been an increase in the number of wheelchair access for vehicles which is now 20 per cent of the rank fleet. We originally asked for 100 per cent because the industry could not tell us how many they needed and who would get them. They could not agree among themselves who would provide that service which is why we said: "Well in that case until you can, everybody should." We ended up bringing them to the table and we came to 20 per cent. We have also brought in disability-awareness training, safeguarding issues, and I will come back to that, if I may, and customer-service training has also been introduced, as have family-friendly measures, such as carrying of child-booster seats. We have also brought forward the new shared-rank space for taxi cabs to clear the town night culture as quickly as possible. Members should be aware that my department have stepped in to cover the shortfall in the funding of the taxi marshals now that the Jersey Taxi Drivers Association has stopped their share of funding the taxi marshals. But we were happy to do that and we will continue to do so until we find a solution to pay for that. Most recently the requirement to accept bank cards and electronic payments; it is quite ironic as soon as I announced that the order was coming in this October, that the industry jumped first before the order came in and started offering that service to the public. But I come back to safeguarding and it is a comment that I read, and worried me somewhat, in the letter from the President of the Jersey Taxi Drivers Association that was distributed via the Greffe to all States Members over the weekend. It is very strange that the Jersey Taxi Drivers Association President in his letter to Members over the weekend called that: "Drivers with more than 20 years' experience should be exempt from enhanced D.V.S. checks." I find that uncomfortable that that should be such a request in light of what we have been through in our recent past. Lastly, I must ask a rhetorical question. I know I am not allowed but I will do anyway: is it right for a regulator, whose purpose is to support the rights of the customer, to have mediation imposed upon it by minority industry players trying to protect their market position? I say "minority" because the Jersey Taxi Drivers Association number some 90 drivers whereas the industry itself has some 300, so they are in a minority. Would anyone consider doing the same thing to the Jersey Financial Services Commission or C.I.C.R.A. or certainly Trading Standards or the Environment Department as a regulator to force them into mediation? That is not what regulators do. Regulators such as myself in this instance, we are there to protect the public, not the industry, and our ability to act must not be hamstrung to protect the commercial privileges of a minority. We have to take them into account, which is what we have done, which is particularly why I did not follow C.I.C.R.A.'s recommendations in 2010 which was to deregulate the industry.

We wanted to take them on an evolution process, not a big-bang process. A set of consolidated base tariffs is fundamental to taxi-cab regulation. The purpose of rationalising tariffs is to reduce a complexity that has developed over the years, increase the accessibility to the tariffs which allows a customer to shop around for best value. In conjunction with the Consumer Council we will be publishing those leaflets that I have handed to States Members, that are already on the website, to help the public have an informed decision about which services they take up. Taxi-cab drivers choose to pursue a career in a regulated profession partly because of the benefits from that economic protection that the regulator offers. The regulatory barriers to entry are designed to protect the public in the public service offered. They have a secondary effect of restricting the market to protecting the incomes of the existing drivers. However, members of the industry cannot reasonably expect to enjoy these benefits without accepting the accompanying consequences of being a regulated industry. The Assembly called for taxi reform when it approved the States Sustainable Transport Policy. It is clear that the reform proposals have overwhelming public support from the many respondents to the formal Green and White Papers and even more so to the June 2017 *J.E.P.* readers' poll. Given this, no change is simply not an option. I think it is only fair to remind everyone of the policy options that were available to me. The transitional reform as set out by the TAS Report, and it is a meaty document, it was well-considered, and I am grateful to my predecessor for instigating that work. That document was lodged in the States as a Green and White Paper for a more direct open-market approach recommended by C.I.C.R.A. Given the recent events and the behaviour of the Jersey Taxi Drivers Association, perhaps with hindsight I should have been less sensitive to the drivers' concerns about the disruption to their lives and been more open to the 2010 C.I.C.R.A. recommendations. But I chose not to; I chose to work with the industry to try and make progress. My door is always open for further discussions with the Taxi Drivers Association, with the individual drivers, with other bodies and with the cab firms on the next steps, but for the tariff increases, 4.6 per cent is reasonable. However, before I close, I would just like to share with Members the feedback we have had directly from taxi-cab drivers since the tariff increases came into effect on 1st July. As Members know, I was asked to circulate emails, shortly before the last States sitting, which I did, from the drivers. It is also worth noting that neither D.V.S. nor myself have received any complaints about the tariffs, other than those contained in this proposition, since they were introduced. Finally, I would like to make clear what the immediate consequences are of supporting what I consider to be this ill-considered proposition would be because there are some practical, not unforeseen consequences because they are foreseen consequences, of approving this annulment. This proposition, if passed, would have the effect of immediately annulling the July 2017 order and the legislation would revert back to the 2014 order. The consequence of this is that the tariffs which have been injected, tested and sealed in all of the public-rank taxis and all of the private-hire taxis would be in breach of the law. The order sets the maximum tariff that can be charged and the 2017 tariff is 4.6 per cent higher than the 2014 tariff. Thus, to say within the law, I would - and it is really with much regret because it does not serve the public well - I would have to immediately suspend the public ranks until the meters could be regularised before each vehicle could be brought back in, the 2014 tariffs injected, tested, sealed and for those vehicles to go back on the road. It would not affect the private-hire industry so much, apart from they would not be able to be hailed and they would not be able to pick up on the part-time ranks on a Friday and Saturday night. But they would then be free to charge exactly whatever they liked for whatever journey they liked which was one of the main drivers for bringing in this order: to finally control the private-hire fares. I think it would be detrimental to all of the industry. I think it would dent the drivers' earnings but would be extremely disruptive to the public. I hope that Members, if they vote with the Senator or vote against the Senator, take this into account that there are some practical consequences of this that obviously if it does go with the Senator we would do our utmost to minimise. The final, final - thank you to Deputy Southern - is the hidden cost of accepting this proposal and that is that we would be stuck with an antiquated taxi-cab system with

inefficient use of the vehicles, too much dead time for the industry when they could be more productive and earn more and it would put back the work for some 5 more years. An awful amount of work has been done to get to where we are today and I urge Members to respectfully reject Senator Ferguson's annulment proposition.

Deputy J.A.N. Le Fondré:

Can I seek a point of clarification from the Minister?

The Deputy Bailiff:

Yes.

Deputy J.A.N. Le Fondré:

I believe in his speech towards the end he was saying that the consequences of accepting this proposition would be that part of the industry would effectively be closed while meters were reset. Presumably he has known this for a while. Could he explain to me where in his comments that has been brought to the attention of Members? Because I do find it rather alarming that we only get told about this midway through the debate rather than we should have known this in advance.

Deputy E.J. Noel:

We have been working on trying to find a way for this not to happen but it transpires that we have not been able to find a work-around that allows the ranks to stay open if this was accepted.

Deputy J.A.N. Le Fondré:

Sorry, so to be clear, it was a risk but he did not tell us about it because he thought he might have a solution but has not been able to find a solution?

Deputy E.J. Noel:

It was something that I was made aware of the latter part of last week and since then we have been trying to find a way of resolving it so it does not come in.

Deputy J.A.N. Le Fondré:

This has been lodged since July.

The Deputy Bailiff:

Deputy Tadier. Deputy Tadier and then Deputy Southern.

Deputy M. Tadier:

Could I defer to Deputy Southern, Sir, or is that unusual?

The Deputy Bailiff:

Yes, but seeing as you are one after the other I do not see any difficulty there. Deputy Southern.

10.1.8 Deputy G.P. Southern:

The Chair must have been very quick in spotting the flash of light that came from my neighbour on the left. Time and again I come back from a rest and look forward to hearing really good debates so that I can make my mind up on some clearly-presented facts and we can be seen to be an efficient body. Unfortunately, time and time again I keep being regularly disappointed. The worst argument I have heard today is the one at the very end of this which has said basically: "The reason why we did it by Ministerial Order means that if you vote for this alternative, you are just going to wreck the whole system" when you could have had it brought by regulation and we could have debated it in the first place and tied this up and then there will not be any sword of Damocles

hanging over us in terms of the complete abandonment of our taxi system. The other failure, I think, that we have seen from the Minister, and it is very clearly laid out on the back with the lovely little smiling taxi cabs where the second bullet points says: "Service built around customers' needs, not the taxi driver." This illustrates clearly, as has the speech, the imbalance on which the Minister has been operating. He has been saying: "I operate only on behalf of the public not the taxi driver" and yet part of his duty as regulator is to make sure that the service which he is providing is sustainable. Favourite word of the Council of Ministers: "It has got to be sustainable." The Minister illustrated it by saying: "We have not taken the recommendations that we should deregulate."

[15:45]

No: "Nor have we vastly reduced the rates because that would make the taxi service unsustainable because nobody would do it." He illustrated that by saying: "We gave some ground on the Sunday tariffs because otherwise there was a serious risk that we would not get taxi drivers." So the Minister has a duty to balance what are competing interests and not act on behalf of one interest at the expense of the other. The end result of the Minister's approach to this, I think, is that he has failed to achieve any agreement whatsoever; consensus. What he has done is create a win/lose system and the taxi drivers are walking away thinking: "We have been beaten up; we lost." What that is about, I think, is a false negotiation. Unfortunately, this Council of Ministers often puts itself in that position, that it pretends to negotiate when in fact it is not negotiating. Because it is going into the negotiation saying: "What is my B.A.T.N. (Best Alternative to Negotiation)?" Now for taxi drivers, that may be saying: "Well you will not get Sunday drivers if we do not up the rate on a Sunday." Or it may be taking strike action and closing down town as it sees fit. That is a very limited B.A.T.N. The Minister had a great, big B.A.T.N., a great big stick: "I am allowed just by ministerial directive to do what I want and you have got to lump it" and that is exactly what he has done. He has imposed a solution at the end of the day without achieving agreement so that people can walk away feeling that it is a win/win situation: "We have got that, and we had to give on that, but by and large it is okay." What he has got is a dissatisfied workforce providing a service for which he is responsible which is walking around with a grudge. One cannot blame them hardly; trusting the Ministers and their promises and negotiating when in the past they have, quite frankly, been lied to when they were assured that their parking space in town would remain and be replaced, the same place, and it was not. So no wonder they are highly suspicious of dealing with the Government in this particular case. The Minister had the nerve to say: "Look at what this deal is. It is a very good deal at 4-point-something per cent compared to public sector workers who have had their pay either frozen and their conditions changed or 1 per cent, 0 or 1 per cent, per year after year after year so they are far worse off than this particular case." So to use the public-sector workers to say: "They are even worse off" when he was involved in those ministerial decisions is just shameful. What the result of that is, is those public-sector workers cannot afford to take a taxi anyway whether they are going to work or not. So I think, very much, a very unsatisfactory mechanism and negotiation has been laid before you on the part of the Minister. The key to voting with this opposition, despite the promise of total chaos if we do, is that this is a way forward for mediation to try and bring the 2 sides together as a way forward so that this does not continue year after year after year because that is what the formula is. You walk away from a deal with a grudge, you are going to see that grudge again and again and again. This is a deal which is a no deal and I will be voting to go for mediation in this case.

10.1.9 Deputy M. Tadier:

There is a sense in which perhaps all of the States debates should have their own theme song when they go past a certain length of time. I think the appropriate song, which I am not going to sing ... **[Interruption]** in case any Members or people listening in the gallery are worried. I am not even

going to sing it in English, let alone in any other language, official or otherwise. I think it has got to be the , *rive* song by The Cars which says: “Who is going to tell you when it is too late? Who is going to tell you things are not so great? You cannot go on thinking nothing is wrong. Who is going to drive you home tonight?” Minister ... **[Laughter]** at the end of that. I would be completely making it up, of course, if I said when I was younger I thought that song was about taxi drivers because you can always find a taxi driver out there to tell you when things are not so great and when things are going wrong. I am sure it is important that we listen to all of our constituents when they tell us these things. It has already been said before what this debate is about and what it is not about. Deputy Le Fondré, I think, hit the nail on the head. From my point of view as somebody who listens to the public but also who works closely with trade unions and worker groups in the Island, for me when I look at the Taxi Drivers Association, and even ones who are not necessarily associated with the Taxi Drivers Association, they are first and foremost workers, they are out there doing a living, gaining money for themselves and their families and they are a workers group. That does not mean that they are always right but it does mean that they have a basic right to be treated with courtesy. When it comes to big decisions that affect their livelihood, they have a right to have free and open negotiations and to be heard. I am not saying that the Minister or the department have not done that but what clearly is the case here is that this is not just about who is right or wrong. It is the case, and Senator Ferguson has identified the fact obviously by talking to people in the industry, that there has been a breakdown in communications, there has been a breakdown in the relationship between many taxi drivers, the industry and their union, if you like, and the people who regulate them: the Government and the Minister. Now that cannot go on; that is not sustainable. It is not simply the case that we can all pretend that this is not happening, that the Ministers or any of us in this Assembly can keep our heads down and say: “Well, look, this decision has been made. We have to go along with it and the taxi drivers will just have to suck it up”, that the Minister is right and that they have got it wrong. Similarly, I do not think they are expecting us to say that they have got it all right and they do not want to accept change. Clearly, we have seen that change in negotiations can happen. When the department and the Minister came up with a quite laudable aspiration, which I think every right-thinking person in Jersey thinks that disabled people should be able to get around the Island as and when they want to and they should not be discriminated against, I do not think anybody disagrees with that. But of course what was being suggested initially by the Minister, for the right intentions, was not workable and they managed to come to what seemed like a sensible negotiation in that. You find out what the market needs, if you tweak it, then if it needs to be tweaked later on, you do that, and taxi drivers were quite open to those kinds of negotiations. So the point of this proposition of course is not to say that no change is going to happen; it is to simply say that there has been a breakdown in this relationship. It is not sustainable for that to continue. There needs at some point to be a better relationship, whether it be with this Minister for the rest of his term and, who knows, perhaps beyond or for whoever becomes the new Minister or the body regulating that. In order to do that, I think it is necessary to annul the current law which has been changed because otherwise you cannot have free and open negotiations. You need that *tabula rasa*, you need that blank canvas where people can sit around a table in good faith and say: “Well everything is up for grabs.” Why a mediator? It is because we cannot, with all the best will in the world, be completely impartial. We are not the best judges of who is right and wrong in these issues and a mediator can sit there and say: “Well, on this occasion we think in these areas the Minister and the department have got it quite right. Do you accept that? Do you accept that you need to be moving in this direction?” They might come back and say: “Well, look, of course we do; we have never really disputed that. You might find that in a lot of these issues we just did not like the way we were dealt with.” The Minister similarly might say: “Well, look, I think there has been a misunderstanding on your part of the way. This is what I was trying to do” and I think it can only be a good thing for this to go to mediation. I would hope, and I would imagine - and I am sure Senator Ferguson can confirm this

when she sums up - that there would be an element of goodwill on both sides, that when the mediator has gone through those negotiations, there is somebody there impartial and obviously somebody who has been approved from both sides to look at the issues in the round. So I think this is a positive thing. I think this is something that we should adopt today. I think it is responsible governance and I do not think the usual arguments about: "Oh well, we make decisions and then go back on them." I do not think this really washes in this situation. I think this is about how we treat people with dignity and respect and moving forward in the future we say that there are changes of course that need to be made. I was concerned when I read in the document that this is being sold primarily from a customer-focus point of view and that is natural, of course. You can understand why the Minister who, again, I am sure, like all of us, we hear one side from people late on a Saturday night when they cannot get a taxi. These might be people who only use taxis once a month or very rarely but they do not see all the downtime that taxi drivers get in the week, for example. I think there are still profound questions that need to be answered about regulation of the red plates. I know I asked a question in 2004 because there were still red plates in existence which get allocated to companies. We know that depending on how many red plates a company has, they might give preferential treatment to employed drivers, whereas those with their own plates do not necessarily get the work. I am not sure if that is still the case. I know that some firms have seen a reduction in the last few years but I think those kinds of issues over a long period of time have left a bad taste. Of course, I think the other thing to remember is that taxi drivers who now work on the rank were not always on the rank. Most of them of course learnt their trade driving with a company and driving for themselves with a company as well. So I think there is an appreciation and a wealth of experience out there from taxi drivers which needs to be listened to. Of course, in some quarters there is always reluctance to change but I think we all go into this with our eyes open; none of us is naïve in that. So I do implore Members to really bite the hand of Senator Ferguson - not literally, unless you are close enough to be able to do that, but that is probably not parliamentary, but metaphorically speaking - because I think it is important to restore the trust in Government which is endemic in society, not just with taxi drivers. I think this is the first step to show willing on our part.

10.1.10 Deputy K.C. Lewis:

I will be very brief. I will not repeat things that have already been said. Sadly, there has been a breakdown in trust which is very unfortunate. In all my years in the Assembly ever have I ever heard my name mentioned so much. I am not quite sure if I am being credited or blamed but that is one side. As Deputy Southern mentioned earlier on, this breakdown in trust started some time ago when the taxi drivers were kicked out of the centre of town and the area completely paved over. In fact, there was a joke going around at the time that nothing is set in stone except the taxi rank and this mistrust has sadly carried on. Somebody said earlier on, I am not sure who it was, that an incomplete plan is better than no plan. I disagree. I think we need to get this right. I did do a lot of work on this when I was Minister for Transport and Technical Services. I was criticised by several organisations, namely C.I.C.R.A., who wrote to the Chief Minister complaining that I had not done anything. It needs to go through a process and we need to get it right. I do not believe we should revisit this. We should get this right now after all these years and, for that very reason, I will be supporting Senator Ferguson. Thank you.

10.1.11 Deputy S.M. Brée:

I came into this debate with a very open mind, realising that there were positives on both sides of the argument. However, having now listened very carefully to what everybody is saying, I do not know whether other Members feel the same, but I feel somewhat bogged down with intricate figures and that we are arguing about small percentages when really this is about a principle. The

principle is: is government dictating what happens to industry? Is it government with a big “G” or a little “G”? So let us look at this perhaps slightly on a wider scale.

[16:00]

We all accept that the taxi and cab industry is vitally important to Jersey, not only for the hospitality side of it but we have many, many workers in the finance industry who come into the airport, need a taxi; we need to support also, I believe, taxis and cabs as part of our overall public transport offering. So we need to recognise their importance within the bigger picture. I think we all agree, not only here but the public and possibly even most of the taxi drivers themselves, that reform is needed. We need to do something to revitalise; to get the public using taxi and cab services more often. Yet, all I have been hearing so far is, on the one hand, we have a request from an industry representative body, albeit not all taxi and cab drivers belong to it, but it is a fairly substantial representative body. We are hearing a request from them: “Please talk to us further. We are still not with you yet.” We understand that a lot of negotiations have taken place, and we understand that a lot of good work has already been done on both sides, both by the department and by the taxi industry itself to realise that reform is needed, and yet we go back to: is this just heavy-handed government intervention in an industry where the industry is not going with them. When you wish to reform anything, when you wish to change anything, the first thing you know is that there will be resistance to change. The second thing you know is that you have to take people on the journey with you otherwise it will never, ever work. I think that the Taxi Drivers Association does have a point here: a policy, a set of charges, has been handed down by Ministerial Decision. This Assembly was not even given the opportunity to discuss it; it was by Ministerial Decision by the Minister who, basically, from what we can gather, got fed up of talking to the industry, so decided: “This is what is going to happen.” I do not think that is the way Government should act towards the public. Yes, this might take longer, but we have got to get it right. We have got to get the industry moving in the same direction as Government wishes to go. We are not here to dictate anything to industry. As for being the regulator: “Therefore why, as a regulator, would I wish to go to mediation?” That has got to be the worst argument I have ever heard about not going to mediation. I think we all have to be sensible. We accept we need reform, we all do, but we also need to respect the industry’s views and be willing to give it the time that it may need to take to get this right and, therefore, I feel that we should support Senator Ferguson’s proposition here. We have heard that, if we do, there will be consequences and practical considerations to bear in mind: “All rank taxis with effect from 12 midnight tonight will no ...” or something like that. I have always been a firm believer in you can always find a solution; if there is a will to find a solution, one can be found, and I would hope that the Minister, should this proposition be accepted by the Assembly, would work very hard at finding a solution. Therefore, I would recommend that we do support this, so that Government does not appear to be using a big stick towards any industry, but wants to make sure we agree on the way forward.

10.1.12 Senator I.J. Gorst:

I think Senator Ferguson started out by saying that she felt there was little understanding between taxis and cabs, and I think she is right: from the public’s perspective, what it is looking for is value, and I think it was Senator Ozouf who said: “A plentiful supply.” The last speaker has just said that taxis and cabs are an important part of public transport and, indeed, they are, and they are critical to all sectors of our economy. The Minister has been placed in a very difficult position because the regulator, C.I.C.R.A. has made it quite clear to him, and to the previous Minister, that he should be bringing forward deregulation. At one point I thought that is what Senator Ferguson and the last speaker were suggesting: “What on earth is Government doing bringing forward regulation about the fares that can be charged?” But then I think that Senator Ferguson really was saying that she felt the changes to the fares were either too low, or perhaps unfair, because the structure was

changing. So it was not that she is against regulation, as she initially suggested, nor, I think, the previous speaker, even though he indicated that. They, and other speakers, seemed to have been in favour of regulation. The Minister started this work then against the backdrop of the regulator, C.I.C.R.A., saying: "There should be no regulation. There should be an entirely free market. Anybody who wants a licence, in whatever category, should be given one." Perhaps it is unfortunate how he sometimes is perceived, being a problem-solving solution-focused Minister, as sometimes coming across as not listening and being brusque, but he said no to C.I.C.R.A.; he wanted to engage and go through this process. I think I am grateful to Deputy Truscott, who said that he felt, largely, the process had been good and the Minister had got ... I do not know if he used the term: "90 per cent of the way there", but: "The Minister had largely got there" and he felt disappointed that, at the end, agreement was not continued to the proposal that the Minister had finally brought forward. I think that is important because I do not think that, therefore, an annulment is the right approach. The Senator is saying: "It is either carry on as we are or annul the order, and the only option is to annul the order." That is what she is asking for. The Minister has rightly said there are some issues if the Assembly votes to annul the order on that getting to where Members seem to be in agreement, that perhaps the final decision-making process has not been as good as it might have been. Deputy Brée said: "Where there is a will, there is a way", and it is a good saying, and the Minister did not say that there would not be a will if the order was annulled, he simply said for probably a short period of time he would have to close down the rank and the machines would have to be opened, reinjected and resealed. I think that is the technical term. So there will be a will to deal with the annulment of the order but it will have the short-term consequences to service to the public. I do not think it is quite as binary for some Members as Senator Ferguson has suggested. I think that both sides have come to this negotiation in really good faith. I think the Taxi Drivers Association has recognised that there need to be changes; we see changing in technology, we see the use of app technology. It was Senator Ozouf who said he did not think Uber would come to Jersey. We know the issues that Uber is having in London right now, but a similar type of app technology, I have got no doubt, will become more prevalent, because it is how members of the public want to engage with all sorts of services. I do not know if you have used the Uber facility around Europe; I have been with others who have, and it is incredibly straightforward: you can choose, in those situations, the category of car that one needs. You can have, I think they call it Uber Black, so you have a slightly posher type of car if you are going to an important meeting, which sometimes I need, or if you are just going from a meeting to the airport, you can have a more run-of-the-mill type of car. You can see where they are and they literally come round the corner to meet your transport need. We in Jersey also know that we have something called Jersey Lifts, which is changing the way people think about public transport and being transported around the Island as well. We also know, and perhaps this is something that the licensing members needs to think about, that one of the problems is the tipping out, in the Friday and Saturday evenings particularly, and the stress that places on taxi and cab drivers, and how you manage that particular process as well. But taxi drivers have to make a living; there will not be that service if people are not making a fair living while providing a good service to the public as well, and that is what we are trying to deliver. The reason I say that I do not think it is as binary a choice, as the Senator is suggesting, is because there was a little phrase that the Minister mentioned in his speech, which I think he could have made a bit more of, and that is that he is already planning to do a review to see how it is working ... I think he said January. I know that he will have listened to what Members are saying, and now I am speaking out of turn, and it will not surprise me, and I know that he will be open to bringing forward that review, if that is what Members felt. He is nodding his head, and that does not surprise me, that he also wants to, if it is possible, to then re-engage in such a review so that we are not in this binary: annul the order, have those short-term difficulties, and take the approach that the Senator is suggesting, or start the review and get back round the table with some of those perhaps more technical issues. I think the Senator spoke about

the number of passengers, and I think sometimes for the public it is difficult to understand why the fare is greater for 4 passengers than it is for one passenger, but the Constable of St. John made an interesting point: if one is on an aeroplane or on a train, if there are 4 of you, you pay for 4 tickets, if there is one of you, you pay for one ticket. So there is an argument there that perhaps could be looked at again. I think it is far better for Members to make it clear to the Minister that they would like him to start his review back round the table with taxi drivers earlier, rather than annul the order. It seemed to me that the Senator was making the point throughout her opening remarks that she wanted the order annulled because she did not think the increase was great enough.

[16:15]

That is the indication from the sheet of paper that she gave round: that it was not great enough if you had 4 passengers in a car. Perhaps I am slimming my words down too much. I do not think it is that binary, I do not think an annulment of the order is the right approach; I think it is far better to say to the Minister: “You have done a really good job, under the circumstances.” Change is always difficult. Everyone knows that we need to change. Taxi drivers have got to feel they have a fair living out of the changes, and the public has to feel it is having a fair and appropriate-cost service. Rather than annulling the order, we ask the Minister to bring forward his review and sit down with taxi drivers to complete and do a bit more work, because they have done a lot of good work. That, I think, would be the better approach, rather than having the short-term difficulties that would arise to the service to the public, to taxi drivers, that ordering an annulment would bring.

Deputy J.A.N. Le Fondré:

Sir, can I seek a point of clarification again from the Chief Minister? I would be reluctant to reject this proposition, but he seems to be implying that if there was a mechanism to defer this debate, if that is what the Chief Minister is suggesting, then the Minister for Infrastructure would undertake to go straight to mediation. Is that correct?

Senator I.J. Gorst:

I had sat down, but I am happy to answer that question. I did not say that at all, I said that the Minister said he would be undertaking a review of the changes, and I have no doubt, and he indicated that he would, that he would be happy to bring that forward and therefore the annulment would not be the right approach to take.

Deputy J.A.N. Le Fondré:

Sorry, with or without mediation? That is the important matter. If the Chief Minister is proposing a path ...

Senator I.J. Gorst:

No. I did not mention mediation. There was no indication of mediation.

10.1.13 The Deputy of Trinity:

I will not be long, because we have had, I think, a good debate, but I would just like to think what the Senator is trying to achieve by annulling this order. Who are the winners and who are the losers? If this proposition is successful we would go back to the Minister only regulating rank taxi fares; private care hire fares would no longer be regulated, their meters would not be inspected by D.V.S. Private hire companies, again, would be able to calculate fares in different and incomparable ways with high premiums for standing times, and fare journeys could vary. As has been said, we would have the extras. There is understandable confusion among customers over possible complexities with the regulator, and considerable tension within the taxi cab industry that we have lived with for such a long time. A lot has been said about the time; it has taken over 30 years, and we do need change, nothing stands still. Taxi journeys have been one of the very few

things you embark on without really knowing what you will be charged. You may remember what it cost you last time, but did you know it could cost you a pound more if there were 2 of you? Would you be charged an extra 20 pence if you were travelling with 2 children between the ages of 3 and 12, and also extra for handbag or luggage? Change is needed and it must happen. Customers need easy and transparent charging tariffs, and open competition, of course, is healthy. When hailing a taxi or using the rank, customers should know what they will be expected to pay for a journey. When pre-booking, customers should be able to price-compare and shop around for the best deal. That is what we all do, that is what a good housewife does: shop around for the best deal. There should be no unexpected extras. The drivers have been given a tariff increase of 4.6 per cent. Of course they have the right to challenges, and of course they do; they have done that and it has been verified as correct and reasonable. I understand that Senator Ferguson is representing 90 or so members of the J.T.D.A., but she is not representing the other 220 or so drivers who are not part of that Association, and thought must be given to them too. I understand past tariff increases have been calculated in the same way over the years, the only difference is an additional 20 pence per journey has also been added across the board to provide compensation for the loss of extras, based on a representative sample of data taken from the meters. There are no winners or losers; it is a regulated body that needs to move forward and needs to develop with change. Of course we have got to put the public and the J.T.D.A. and all the cab and taxi drivers at the heart of it, but especially the public. It is a service. As the Minister mentioned, a rank taxi, at least, would have to cease operating until their meters are changed back to pre-tariff increases, and thought must be given to that. Mediation is a process that looks for compromise which, in fact, could mean a higher-than-inflation increase. Some cab companies have already responded to the challenge of competition and reduced their rates and become much more competitive. J.T.D.A. will be the winners. They will lose income while their meters have to be put back to pre-tariff rates, and I know that the Minister and his hardworking staff will work as hard as they can to get that up and running as soon as possible, but it will have to take time. The whole point is that D.f.I. move to a one-tier system which has got to be fair for all, whether you are a customer, taxi or cab, and it is time to move forward. I will not be supporting this proposition.

10.1.14 The Deputy of St. Martin:

I will be brief. I was grateful that Deputy Rondel highlighted right at the beginning of this debate just how long we have been attempting to get some reform into the industry. My own involvement started in 2011 where, as part of the Environment Scrutiny Panel, we reviewed the TAS Report. We urged, as strongly as possibly we could, the Minister for Transport and Technical Services of the day to implement the suggestions in that report just as quickly as he could. I am disappointed that we are here today and I am disappointed with the speeches of some Members who maybe do not have much knowledge of the history here. I am disappointed that the taxi drivers did not come to the table earlier and I am disappointed that the Minister has not been able to deliver, despite the many concessions given. The taxi drivers need to do better, the Minister needs to do better because the public deserves better and, in order to deliver that betterment, we need to move forward and not backwards, so I will not be supporting this proposition.

The Bailiff:

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

10.1.15 Senator S.C. Ferguson:

I am not going to go through everybody's speech; I thank everybody who has spoken. I think the main things that matter are that the drivers have demonstrated their willingness to change: we have the credit cards, we have the Act that is coming. You have got to remember, though, that not everybody has either a Smartphone or a computer. The one thing is, the best way to do change is to

demonstrate to people that they will benefit, and by how much they will benefit. There are comments that the taxi drivers were not happy with the 4.6 per cent; no, they were quite happy with that. There was a minus inflation of about 1.1 per cent, I think it was, a couple of years ago, and they said: “Well, it is not worth the expense of changing our meters.” You cannot say that they are not being constructive. I thank Senator Ozouf for his comments. I gather they had to give up the red flag as the people carrying them kept getting run over. **[Laughter]** I have given credit to the Minister for the price advertising but, as the Senator says, change requires good dialogue, and I think that is what we are missing. Deputy Andrew Lewis of St. Helier complained about the price of his taxi going round the Island. If he looks at the spreadsheet he has been issued with ... oh, he is not here, but I was assuming he could read a spreadsheet. If he looks at it, he can validate the fare for the distance travelled. I thank Deputy Truscott for his comments, and Deputy Le Fondré, and I would emphasise that the chief statistician has not checked the buyout calculations. He has checked the way the spreadsheet works and the way things have been added into it, but he has not checked the way TAS, the company, has worked out the buyout calculations. The Connétable of St. John making the comment about the baggage; if you pick up a medic who has come back from a trip, and they have got a stretcher and all the other equipment that is necessary for these sorts of medical emergencies, it is quite a lot to get in your cab ... your taxi; I am sorry, I must remember. If somebody has got a couple of golf bags, those are not just silly little bits of luggage, those are fairly substantial pieces of equipment. Skis is another one; 20 pence or a pair of skis is not unreasonable. The comment about the drivers and the extra plates: there are some drivers who have retired and the plates have not been reissued; in fact, the number proposed to be reissued is less than the number of retirees. The glitch on the spreadsheet that the Minister talked about; it was a minor glitch, which is the sort of thing one expects when you are designing a computer or spreadsheet model, and the chief statistician found it in 2 minutes flat, so I do not think it was that bad a mistake. The Chief Minister has been putting a lot of words in my mouth; I did not recognise my speech from what the Chief Minister was saying. I just objected to the diktat from the Minister. I think the way the tariffs have been worked out is unfortunate. It would have been a good thing to go through with the drivers before they were issued. I have no opinion about the level, as long as it is fair, but any imposed solution will never appear fair. I think the doom and gloom scenario; as Deputy Brée says: “Where there is a will there is a way.” I think eventually, if you are giving people an alleged increase and then when they see the results and they find that the fare is reduced, that is unfair, and those sorts of wrinkles should be sorted out before the new tariffs are imposed. I make the proposition and I ask for the appel.

[16:30]

The Deputy Bailiff:

The appel has been called for. If Members would like to return to their seats. I ask the Greffier to open the voting.

POUR: 15		CONTRE: 29		ABSTAIN: 0
Senator S.C. Ferguson		Senator P.F. Routier		
Connétable of St. Saviour		Senator P.F.C. Ozouf		
Connétable of St. John		Senator A.J.H. Maclean		
Deputy J.A. Martin (H)		Senator I.J. Gorst		
Deputy G.P. Southern (H)		Senator A.K.F. Green		
Deputy J.A. Hilton (H)		Connétable of St. Helier		
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. Mary		
Deputy M.R. Higgins (H)		Connétable of St. Ouen		
Deputy S.Y. Mézec (H)		Connétable of St. Brelade		

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

11. Jersey Financial Services Commission: appointment of Commissioner (P.70/2017)

The Deputy Bailiff:

Very well. The next item of Public Business is the Jersey Financial Services Commission: appointment of Commissioner (P.70/2017) lodged by the Chief Minister. I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion, in pursuance of Article 3 of the Financial Services Commission (Jersey) Law 1998, to appoint Mrs. Annamaria Koerling as a Commissioner of the Jersey Financial Services Commission with effect from the day of the States debate for a period of 5 years.

The Deputy Bailiff:

This is a matter that is taken *in camera*, and I therefore ask that, in accordance with Standing Order 82, all strangers now withdraw from the Chamber and the precincts of the States.

[Debate proceeded *in camera*]

The Deputy Bailiff:

Very well, all strangers who are left are welcome to come back in. We are no longer *in camera*. The appel has been called for. Can I ask any Member not in Chambers to return to their seats for the Greffier to open the voting?

POUR: 43	CONTRE: 0	ABSTAIN: 0
Senator P.F. Routier		
Senator P.F.C. Ozouf		
Senator A.J.H. Maclean		
Senator I.J. Gorst		
Senator A.K.F. Green		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Peter		

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

12 Draft Statutory Nuisances (Jersey) Regulations 201- (P.71/2017)

The Deputy Bailiff:

The next item is the Draft Statutory Nuisances (Jersey) Regulations 201-, P.71, lodged by the Minister for the Environment, and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

The Draft Statutory Nuisances (Jersey) Regulations 201-. The States, in pursuance of Article 3 of the Statutory Nuisances (Jersey) Law 1999, have made the following Regulations.

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

We live on a small Island, and generally we get on pretty well with each other, but occasionally something or someone does do something that causes annoyance, mainly to his neighbours or neighbour, however, generally this is cleared up with a quiet word. Sometimes, if this nuisance becomes more serious, the matter is referred to the Environmental Health Department. This happened 158 times in 2015, 339 times in 2016 and, so far this year, over 350 times. My team at

Environmental Health try to resolve such complaints using persuasive compliance. On the very few occasions where there is a problem and the approach is unsuccessful, a statutory notice is served. In 2016, 6 of those were served and, so far this year, 2. These were for nuisance, mainly from smoke or noise. Each year there are a number of complaints about people feeding seagulls, pigeons, ducks or feral chickens, in such a way that the noise, smell and the guano that the birds produce and the vermin attracted by the large amounts of food left out for these birds, cause problems for neighbours or landowners. I know from my mail that this can, and does, cause distress to people, and I have no doubt that other Members have received similar complaints. To date this year, Environmental Health have received 29 formal complaints and 8 informal requests to advise about the feeding of birds. The majority of these were for seagulls, but we have also had complaints about ducks, pigeons and feral chickens and we have had one complaint about a peacock. At first, it may seem like a trivial problem, however, it is clear that the noise, the disruption to events held in gardens, the guano on cars, property, laundry, and the aggressive behaviour of the birds, which can be especially upsetting for small children, causes genuine distress to those who suffer from it. It can also encourage vermin. Jersey Water, for example, last year spent thousands of pounds to remove a rodent problem caused by inappropriate feeding of ducks at one of its reservoirs. At present, there are no powers available, save persuasion, to resolve these problems, but this draft legislation seeks to make the feeding of wild birds, animals, insects and reptiles, in such a place or manner to be prejudicial to the health, or nuisance, or statutory nuisance, under the law. Officers would, as they always do, seek to use persuasion and education to resolve complaints, but having this Regulation in place would give them a measure of last resort and would make a statement about the potential serious nature of the problem. I would wish to stress that this is certainly not about discouraging the feeding of wild birds; my department encourages the responsible feeding of these birds and frequently gives advice on the best ways of doing it. Many people have bird feeders, and that is to be commended. This is to deal with those who feed irresponsibly or indiscriminately. Such feeding is also damaging to the health of those birds; as I said, it causes neighbourly problems and it attracts and encourages vermin. I will not go on, I just finish by mentioning that the inclusion of wild animals, insects and reptiles is to avoid the claim that, for example: "I was just feeding the squirrels." While amusing, it is an excuse that has been used in the past. I hope Members would agree with me that this problem needs to be resolved, and I commend these Regulations to the Assembly.

The Deputy Bailiff:

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

12.1.1 Deputy A.D. Lewis:

I would just like to commend the Minister's department. There have been a few issues in my particular district that the department, with the existing powers it has, has tackled admirably, but unfortunately they did not have the powers to take it to the end, which is what the Minister has just said. I am sure these powers will not be used that often, but I can assure you that it will be very well received by constituents in my area who have had a serious problem with people feeding seagulls, causing all the issues the Minister referred to, and attracting vermin, so they will welcome this. One thing I would like to add though is that the Minister did mention the risk to small children. This is a serious risk to infants, and I have had reports from neighbours in this particular area, where they were frightened to put babies in prams in gardens because they were being attacked by seagulls. Of course, the guano as well was a serious health issue with infants. The Minister does not mention infants here, he does mention children, but I was asked to mention that by my constituents, as it is a serious and quite worrying issue. I commend the proposition and I fully support it and I would urge Members to do the same.

12.1.2 Deputy K.C. Lewis:

In a similar vein, I have had reports to me, and I have had to knock on somebody's door and ask them not to feed the seagulls; nearby cars in a church were covered in guano, and I explained to the lady why she had 8 inches of grass in her roof guttering was because the seagulls were waiting up there, leave guano in the guttering, and this self-seeds, and that blocks her own drains up. It also caused a rat problem. I am delighted to say that the lady no longer does it; at the moment that is. I fully support these Regulations.

12.1.3 Connétable S.A. Le Sueur-Rennard of St. Saviour:

I would like to say that I am on the Scrutiny Panel for this and I have had problems with this because there is a problem with seagulls, that is not the thing, but what worries me is that we can decide that the pigeons in the Royal Square, that the children feed, is going to be wrong. There were a load of ducks and all sorts of geese at the bottom of Grand Vaux; they have disappeared, so I would think that, since they have disappeared, we really do not need this law, because the law has been taken out of our hands and been dealt with. You cannot tell me that about 30 or 40 geese and ducks have flown away, so they have been disposed of, which is quite understandable, if that is what the water company mean. I find that I have squirrels in my backyard; I have 8 or 9 of them that come every day and they get fed. I have hedgehogs that come every night for supper; I can get 12, 13 or 14 of them. I am feeding them and once this law is passed, I am obviously breaking the law. There is no point in shaking your heads, because that is what is going to happen. This is the thin end of the wedge. The seagulls are nasty, no one is against that, because they really are, bless them, but the pigeons down here are wonderful and the children chase them and enjoy their company, and the mothers know that the diseases can be there, but they still feed them. You know what will happen. I am not going to agree with this and, as I say, I am on the Scrutiny Panel and they know this because I have been quite upset about this. This is, as I say, the thin end of the wedge: you will find that all the wildlife will disappear in the end, except if you are feeding the birds in your back garden, and then, providing the neighbours do not mind. But if they are going to have poop on their car they are going to complain about it. It is true.

The Deputy Bailiff:

I am sure this is not parliamentary. I sure there is a more parliamentary way of expressing it.

The Connétable of St. Saviour:

Sorry, is that not parliamentary language? I do not know another word, Sir, to put it in parliamentary language.

The Deputy Bailiff:

They: "Cause a mess on their cars."

The Connétable of St. Saviour:

If they cause a mess on their cars, the neighbours are going to complain. I do apologise. You know me. But I do think that this is the thin edge of the wedge, and I will not be going along with this and, until I am locked up inside, I will continue to feed the hedgehogs, the squirrels, the doves, and everything that comes into my garden.

12.1.4 Deputy M. Tadier:

I knew that this debate was going to ruffle some feathers; **[Laughter]** I am sure the Minister did as well. This only talks about feeding wild birds, of course. What happens if somebody feeds a duck, whether it is wild or not? We have got to think about the welfare of the animals as well. If you feed a duck inappropriate food and that duck dies in the water and then the owner has to go and fish

the duck out by its beak, who is going to pick up the bill for that one? **[Laughter]** It is going to be the owner who is left holding the bill for that mistake. I have not had enough time to think of any more; **[Laughter]** I think there is definitely a decent guano joke in there, perhaps, and maybe something like ... yes: "Wing it", that is right. There is probably a good: "Water off a duck's back" one somewhere. But there is an old saying, which I am going to use for the first time, that: "You are not a politician in Jersey unless you have had seagull complaints." I am sure we all had them early on. That does not mean that they are not serious, and it is very difficult, of course, when you have got nothing in the armoury to be able to deal with those complaints.

[16:45]

It is not for politicians, or for the Minister, indeed, or even his officers, to go round and knock on someone's door and say: "Could you please stop feeding the seagulls because they are causing a very real problem in terms of the washing getting messed" or whatever, or just causing a nuisance when people are trying to sleep early in the morning, *et cetera*, because they do not have any levers to use, so there is no point in going round and saying that. I am sure that, while there is a fine attached to it, this will be a law which will simply give a mechanism by which to say to some unsuspecting person, who does not even really know that their behaviour is causing a problem, that: "We have had a complaint. This is against the law; did you know that?" "No, I did not." "Okay, Minister" or: "Okay, Officer. I will stop doing that." I think that is really how it is going to work in practice. It is not going to solve all the issue though to do with seagulls, of course, and part of it - and I am sure this has been said before - is to do with human behaviour. But I have had complaints recently in the Don Farm area, for example, where I have had to contact Environmental Health to do with nuisance with seagulls nesting on the roof of the nearby church. This will not be covered by this legislation; I have been told that there is nothing in the legislation that can be done. I think it is important that general nuisances which do not necessarily involve feeding, but it is still something that the owner of any said premises needs to deal with, if seagulls or any other animals are causing a nuisance on your property to neighbours then there needs to be some form of legislation or other ways to deal with that. But also many of us might park in town or be walking home later, we will go up by Snow Hill and we will see the bins which invariably are overflowing there, and we do not need to feed the seagulls there because invariably they feed themselves, especially if it is after a weekend when the bins have been left to overflow. I do not know if that is because of a cut from services from D.f.I. is no longer picking that up, but I think it was probably the case even before that was the case. It is one thing for us to legislate and say: "Do not feed the birds" but if we are not putting our own house in order and we are allowing bins to become a nuisance in town for example, or in other places, then I think we need to lead by example on that. I am sure those comments have been picked up by the relevant person or people that need to hear those, and let us make sure that bins are not overflowing in town before we start telling people in their back garden who and what you can feed on your own premises.

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

I just really wanted to ask the Minister what was taking so long. We have had a significant problem, certainly in my Parish in St. Peter, with a flock of feral chickens, around about 250 of them which are around a derelict farm. Unfortunately the ex-farmer still goes to feed them and obviously he throws the food over the hedge and, therefore, the seagulls come to feed off that food for the chickens as well. The question I have really got for the Minister though is: would he consider feral chickens as wild birds under that same heading as well, albeit that they were once of course tame birds which have gone wild. But I think the issue is quite strong and all the people that live in that particular area are constantly, constantly on at the Parish Hall: "What can you do about these feral chickens?" because they are the ones bringing the seagulls in after their food and also

after their eggs and the young chicks as soon as they hatch as well. So it is a bigger issue and it really does affect people, particularly in this case in a fairly residential area.

The Deputy Bailiff:

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

12.1.6 The Deputy of St. Martin:

I thank all Members who have contributed to the debate. I would just like to say to Members that it is always the first step with my department to educate and persuade if possible, only if people do not want to take that advice would we move to an abatement notice. With the new Regulation in place we could then refer a nuisance to the Attorney General's office. I think it most unlikely that we will ever get that far but we need the Regulation to be in place so we can deal with extreme cases. I would point out that this needs to be a nuisance and it needs to be a complaint about nuisance, and it needs to come into the department before we can act so in all cases people will need to complain that there was a nuisance being done to them. I do not think that the pigeons in the Royal Square provide much of a statutory nuisance at the moment, and in response to the question about wild bird nesting, certainly wild bird nesting comes under a different law, and bins certainly is a different issue. But I am sure that other Members will be the same as me, I have had a very significant number of calls since I lodged this proposition and in all cases people have said to me: "We are so pleased that you are doing this, we have major issues which we have not been able to address." I would just finish by addressing the issues that the Constable of St. Saviour brought to us and I would just like to say that a good example of how we like to address issues of complaint is the geese in Vallée des Vaux, which are the ones I presume the Constable is referring to. In that particular instance nuisance feeders were causing a mess and it was a huge amount of noise for the neighbours. But, working with the J.S.P.C.A. (Jersey Society for the Prevention of Cruelty to Animals), my officers rounded up these birds, they were all health checked and they were rehomed. There was not a need to use the law here but if we had it at our disposal we would have had some different options. As for the Constable's squirrels in her back garden, she can rest assured that she will not be prosecuted for continuing to feed them. The idea here is not to dissuade people from genuinely feeding wild birds or wild animals in the proper way, this is about nuisances caused by inappropriate feeding of wild animals, wild birds and, yes, Constable of St. Peter, feral chickens are very much on the list. So I thank Members for their support and I ask for the vote.

The Deputy Bailiff:

Did you say you call for the appel?

The Deputy of St. Martin:

Yes, please, sir.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on the principles in these Regulations. I ask the Greffier to open the voting.

POUR: 39

Senator P.F. Routier
Senator A.J.H. Maclean
Senator I.J. Gorst
Senator A.K.F. Green
Connétable of St. Helier
Connétable of St. Clement
Connétable of St. Peter
Connétable of St. Mary

CONTRE: 2

Connétable of St. Saviour
Deputy S.Y. Mézec (H)

ABSTAIN: 0

Connétable of St. Ouen
Connétable of St. Brelade
Connétable of St. Martin
Connétable of Grouville
Connétable of St. John
Connétable of Trinity
Deputy J.A. Martin (H)
Deputy of Grouville
Deputy J.A. Hilton (H)
Deputy of Trinity
Deputy K.C. Lewis (S)
Deputy M. Tadier (B)
Deputy E.J. Noel (L)
Deputy of St. John
Deputy M.R. Higgins (H)
Deputy J.M. Maçon (S)
Deputy S.J. Pinel (C)
Deputy of St. Martin
Deputy R.G. Bryans (H)
Deputy of St. Peter
Deputy R.J. Rondel (H)
Deputy A.D. Lewis (H)
Deputy of St. Ouen
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)
Connétable of St. Saviour
Deputy S.Y. Mézec (H)
Senator P.F. Routier
Senator A.J.H. Maclean
Senator I.J. Gorst
Senator A.K.F. Green
Connétable of St. Helier
Connétable of St. Clement
Connétable of St. Peter

The Deputy Bailiff:

Deputy of St. Mary, does your Scrutiny Panel wish to scrutinise the matter?

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

Despite the valued contribution from the Connétable of St. Saviour, no, we do not.

The Deputy Bailiff:

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

The Deputy of St Martin:

I will just propose it, I have nothing to add.

The Deputy Bailiff:

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

The Deputy of St. Martin:

I do, thank you.

The Deputy Bailiff:

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

13. States Assembly: selection and appointment of Ministers, Committees and Panels - return to secret ballots (P.73/2017)

The Deputy Bailiff:

The next item of Public Business is the States Assembly: selection and appointment of Ministers, Committees and Panels - return to secret ballots, P.73, lodged by Deputy Labey of St. Helier. I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion (a) to agree that the election of the following by States Members should be undertaken by way of a secret ballot and no longer by an open ballot - (i) the Chief Minister; (ii) Ministers; (iii) Scrutiny Panel Chairmen; (iv) the Chairman of the Privileges and Procedures Committee; (v) the Chairman of the Public Accounts Committee; (vi) the Chairman of the Planning Committee; (b) to agree that the Minister(s) subject to review by a corresponding Scrutiny Panel should be excluded from voting for the Chair of that particular Panel; (c) to agree that a nomination of an elected Member as a candidate for the office of Chief Minister can be made by just 2 elected Members, not of whom being restricted to the nomination of one candidate only; (d) to charge the Privileges and Procedures Committee to bring forward for approval the necessary legislative amendments to give effect to the above proposals for implementation before the elections in May 2018.

13.1 Deputy R. Labey of St. Helier:

Earlier in this parliamentary term Senator Ozouf and Deputy Martin, as part of a P.P.C. (Privileges and Procedures Committee) subcommittee did excellent work on reviewing and reforming Standing Orders. Part of the early part of that process was a questionnaire sent around to all States Members to ask their thoughts on various issues of the Standing Orders. I cannot remember if exactly this issue that this proposition pertains to was on that list but there was a big comments section and I took the opportunity to go large on the abandonment of the secret ballot by means to elect a Chief Minister because I passionately have always held the belief that the Assembly took a retrograde step in abandoning that in 2011. For me it is much more offensive that in 2017 this Chamber is still going *in camera* than it is once every 3 or 4 years to go to a secret ballot for these specific elections because the open ballot is always open to more abuse than the secret ballot. That is why the secret ballot is so popular in democracies the world over. The issue did not see the light of day after Senator Ozouf and Deputy Martin's review, but because I feel very strongly about it I wanted to bring it to the floor of the House to test the opinion of the Assembly and I never intended to try to do P.P.C.'s work for them or undermine them in any way. I just wanted to make that clear, and I

am incredibly grateful to the comments from P.P.C. on both my propositions, which are well-considered and very thought provoking and very helpful and arrived over 2 weeks ago, which is rare. For me, nothing should come between a Member and his conscience when he is voting for a Chief Minister. I believe Members must be free to vote for the best candidate, the one they genuinely believe is to be the best candidate, and they should be able to vote without fear or favour, without fear that they might incur the wrath of the successful candidate and not get offered a position in the cabinet or so forth, without the fear that they might upset their political friends, their political allies; in this House they are relatives. I speak from personal experience on that one. Or even their electors. They should be able to cast their vote having had the opportunity to talk to the potential candidates, to hear what they are saying, to see what their manifestos are, to see how they answer the questions. They should be open to make their decision on what they hear and see in the debate and without predisposition. For me the issue is far too important for there to be any other principle applied. The principles, the major democratic planks upon which the principles of the secret ballot are held, trumps everything else; for me even considerations of openness and transparency. For every action there is an equal and opposite reaction so in 2011 you go to an open ballot for these elections, but that is susceptible to abuse, to patronage, to cronyism, *et cetera*. I am not saying that it happens in this Chamber but we have got to future proof and try to ensure that it does not. The secret ballot is less open to abuse but on that one occasion per term, yes, it is not all open and transparent. But what are the issues? What is the argument for openness and transparency in this case? When I proposed this proposition, when it was lodged, I did get emails and there was a fair amount of comment and raised eyebrows I think that I, as I hope perceived as a progressive Member of this Chamber, was bringing in this proposition to go secret again. I took the time with everybody who emailed me and, a rarity for me, I went on the social media threads on Facebook and contributed and sometimes I copied my whole report from this proposition and I pasted it on there and I answered individual questions. It was very interesting because once I had explained the motives behind this, that I believe this is more democratic, that I believe the public are better served by this being secret ... I hope that is not me. It is, I am so sorry. **[Laughter]**

The Deputy Bailiff:

I am sure you will make the appropriate contribution to the Greffier's charitable fund.

[17:00]

Deputy R. Labey:

Of course. I was about to make a good point, I am sure of it. When you try to educate people, inform people, what you are doing with something that may on the face of it look dodgy to them, I found a very positive response. I found a very positive response from many of them saying: "Okay, now you have explained it I get it, I understand." Some still of course saying: "Okay, thank you for that, I understand, but I still think we want to see who is voting for who." There was a comment by a political commentator on Facebook, who is an intelligent man, and I remember reading his comment and it was: "This is not right; I want to see which of my representatives are voting for which candidate for Chief Minister so that I can take appropriate action at the next appropriate time." So let me get this straight: people want to see how their elected representatives are voting so that if they disagree with this 4 years' later at the next general election they can reap their revenge and not vote for them, never mind what happens in the intervening period, whether that Chief Minister is a huge success, whether the candidate's voting pattern can be looked at for those 4 years to see whether they find that person has once again got back into their good books. Others will explain to me, I am sure, what the openness and transparency argument is for this tiny section of our first sitting as a new Parliament. I will listen with interest but, as I say, it is my contention that in fact this is much more democratic. It is a good thing that people are interested, I know that, and we want to encourage that and I do not want to bat them down. But I do think that it is important to

address the message that this sends out because I think that is a concern to people who are not disposed to go with me on this. But all I can say on that is if it is explained properly to people the principles that I have just talked about I believe they will understand. The secret ballot has become so common, so cherished, so valued, so respected, so useful in modern democracies throughout the world. It is hardly ever challenged. It was challenged in 2011 in this Chamber and the Assembly voted to abandon the secret ballot for these elections. I understand why; that vote was a product of its time. I remember listening to the debate, and I have read it all again on Hansard, and I can see why. I remember the debate, I think I might have been cheering former Deputy Trevor Pitman along, I am not sure, but it strikes me that that time in our political life in Jersey was quite mistrustful, was quite toxic. There was a suggestion that Members were saying one thing and when they got into the Chamber they were doing another and they needed to be held to account. But I do not think all of that can be lumped on the secret ballot because who among us at election time - even though we are prompted to do so by a *J.E.P.* questionnaire or by questions at a hustings, who can say categorically: "I am voting for this person to be the next Chief Minister." How can you say that when you do not know if that person will even get re-elected, or who else will declare, who else will be among the candidates for Chief Minister? So you cannot really make that categorical assurance unless you are heavily campaigning for somebody and you do make that a manifesto promise; of course you should honour that promise and we should always do that. I think that we should do that of course throughout our manifesto pledges. But I do not think the issue of people changing their minds on the election of the next Chief Minister is necessarily happening a great deal or a massive point to abandon the secret ballot on. Do I think any Member of this Assembly here today can be in any way lent on or intimidated, or that such practice goes on? No, I do not. Do I think - to use the immortal words of Deputy Martin in that debate of 2011 - that the House is made up of jelly babies who will melt in the rain at standing up for what they believe in, standing up to be counted and voting in that way, whatever the consequences? No, I do not think that. We have seen over the last 3 years with the very difficult decisions that Members have had to make that every one of the 49 has done what they believe to be right and I think that is a given. Do I think the open ballot can either consciously or subconsciously influence a Member in voting for a candidate they think is going to win over the candidate they might really rather prefer won? That is human nature and I think that is a risk. I think that is a risk. Generally it is human nature to vote for the favourite because we like to be on the winning side. There is also the question of wanting to back the winner in case one is barred from preferment in the next cabinet perhaps. When I was putting this proposition together it was suggested to me that if we are to return to the closed ballot for the Chief Minister the same courtesy should be applied to Scrutiny chairs and other committee chairs, and I have got no argument with that and that is why it is in my proposition. It seems entirely sensible. In reality we are not likely to go through the whole rigmarole for Scrutiny chairs, are we, because contested elections for those roles are rarer. The omission of the President of the Chairmen's Committee and the Chairman of the Jersey Overseas Aid Commission is due to nothing more sinister than an oversight on my part, and if the House goes along with this proposition I am sure that would possibly be part of the legislation that comes back before it. I recall instances in the past of newly appointed Ministers abstaining on principle from the vote on Scrutiny chairs directly relevant to their department. I think that is a noble course of action and if that had been followed by all and was part of accepted precedent we would not need part (b) of my proposition; but it is not the case so we do, and we should deny Ministers from picking their own scrutineer or inquisitor. As I say in my report, who are you going to prefer to be probed by: Jeremy Paxman or Alan Titchmarsh, or perhaps neither? There is something for me that is inherently wrong with a Minister choosing the man or woman who is going to chair the Scrutiny Panel that is going to look into what he and his department are doing. There is something inherently wrong with that for me and that is why I have proposed that the Ministers butt out of those elections and let that be a matter for the rest of the house.

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

Deputy, I am not sure “butt out” is a parliamentary expression that we can ...

Deputy R. Labey:

I think it pertains to a gun rather than anything else.

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

We will ensure it is spelt right in Hansard then.

Deputy R. Labey:

Yes, double T. I of course withdraw it if that is the case. Moving on, Standing Orders currently allows for Members to nominate multiple candidates for Chief Minister. For me that enshrines in statute the curse of the political hedging of one’s bets, and that is no use to anyone. Just to remind Members, a chief ministerial candidate would need 6 nominations on his paper to go forward, but those nominators can also nominate multiple candidates. I think we should scrap that and I ask, in a House of 49 do we really need candidates for Chief Minister to find those 6 signatories, to have those 6 signatories signed up? Because for me if 6 people declared already for one candidate ... I cite the Conservative Party, when Theresa May was elected leader of the Conservative Party she only needed a proposer and a seconder of an electoral college of 316 to go forward to be on the ballot for leader of the Conservative Party and, as they were in power, automatically Prime Minister. So she just needed 2 people. In this Assembly you need 6. So to become leader of the Conservative Party, and Prime Minister, you need 0.63 per cent of the electoral college to sign your paper; to become Chief Minister of Jersey you need 12.3 per cent of the electoral college to sign your paper. I do not think it is necessary. I do not want any incoming Chief Minister to feel beholden to anyone. Of course they are going to have allies that they are going to almost certainly want to work with, and those allies will be their proposer and seconder. Do we need to go further than that? I do not think so, and 6 is over half the Council of Ministers, possibly sewn up at that stage. That does not sit well with me. P.P.C. tell us in their comments that a higher threshold was set for candidates for Chief Minister in terms of the number of nominations required in order that candidates could demonstrate to a greater extent that they could feasibly achieve such authority within the Assembly, which is exactly something which becomes immediately apparent on the results of the first ballot. It becomes immediately apparent. So why have that middle process? Why can we not cut out the middle man in terms of that requirement? To close, and to anticipate the argument that this is in some ways a retrograde step; as I said before, I believe the retrograde step was taken in 2011 because of the open ballot being more open to abuse than the secret ballot. One of the unexpected outcomes of the M.P.s (Members of Parliament) in the 2000s in the House of Commons in the U.K., and at the instigation of the resulting reform committee set up to find ways of rebuilding the reputation of the House of Commons, there was a big change; a break with centuries old tradition. From 2010 onwards a secret ballot was introduced for the election of all Select Committee chairs. That took many by surprise, but I just cite that as precedent for Members if they are worried because the House of Commons after that terrible expenses scandal, to rebuild the trust of the public, to reform their ways, opted for the first time in centuries to have a secret ballot for the important positions of the 28 Select Committee chairs.

[17:15]

That was immediately seized upon by the new intake of M.P.s in 2010 because for the first time across party lines they were able to get together and try and get younger, newer Members of Parliament on to those influential roles as chair of the Select Committees, and they were successful. What that did was make the chairmen of the Select Committees more representative of the Parliament and, thereby, more representative of the people too. So there is precedent there. This

will be interesting because there are 10 Members in the Chamber still who voted in 2011 to abandon the secret ballot. There are 10 Members in the Chamber still who voted to save the secret ballot, they were on the losing side at the time, and there were 3 Members who were not there to vote, who were not in the House. I am grateful for this opportunity to test this with Members because I do believe it is much safer, much better, much more fair, for everybody to return to the secret ballot just for this one occasion. But I do want those who voted to get rid of it to know that I completely understand in the time of the time why they voted in the way they did, I might have been one of them if I had been here. But listening on the radio I could not believe, and I have come to find that I cannot shake the opinion that removing the secret ballot for these elections is wrong and potentially unfair, and not as good for democracy - weird as it may sound - as having a secret ballot. I make the proposition.

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

Is the proposition seconded? [**Seconded**] There is an amendment from Deputy Mézec but I am mindful of the time and I just wanted to test the mood of the Assembly as to what you would like to do.

Deputy M. Tadier:

I think the mood here is to adjourn and come back tomorrow.

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

If Members would like to show; those who are in favour of adjourning please show. Those against.

Deputy M. Tadier:

Could we ask for the appel please?

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

Very well. The appel has been called for. I ask Members to return to their seats. If you are in favour of the adjournment then pour, so those in favour of adjourning now and reconvening tomorrow at 9.30 a.m., and I ask the Greffier to open the voting.

POUR: 23

Senator P.F.C. Ozouf
Senator S.C. Ferguson
Connétable of St. Peter
Connétable of St. Ouen
Connétable of St. Brelade
Connétable of St. Saviour
Connétable of Grouville
Connétable of St. John
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy of Grouville
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 R. Labey (H)
Deputy S.M. Bree (C)
Deputy M.J. Norton (B)
Deputy T.A. McDonald (S)
Deputy of St. Mary

CONTRE: 16

Senator P.F. Routier
Senator A.J.H. Maclean
Senator I.J. Gorst
Connétable of St. Helier
Connétable of St. Mary
Connétable of St. Martin
Connétable of Trinity
Deputy J.A. Hilton (H)
Deputy of Trinity
Deputy K.C. Lewis (S)
Deputy E.J. Noel (L)
Deputy of St. John
Deputy S.J. Pinel (C)
Deputy of St. Martin
Deputy of St. Peter
Deputy of St. Ouen

ABSTAIN: 0

Deputy G.J. Truscott (B)
Deputy P.D. McLinton (S)

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

Very well, the Assembly stands adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17.17]