

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 16th JANUARY 2018

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[10:47]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

1. Welcome to H.E. The Lieutenant Governor

The Deputy Bailiff:

Firstly, on behalf of Members, could I welcome His Excellency the Lieutenant Governor to the Chamber today. [Approbation]

2. H.M. The Queen and the Duke of Edinburgh – congratulations on 70th wedding anniversary

The Deputy Bailiff:

I hope that Members have received a copy of a letter of thanks from Buckingham Palace from Her Majesty's private secretary on behalf of Her Majesty, which says: "The Queen and the Duke of Edinburgh send their sincere thanks to you, the Lieutenant Governor, the States and people of Jersey for your kind message of congratulations on the occasion of their 70th wedding anniversary. Her Majesty and His Royal Highness much appreciated your thoughtfulness in writing, as you did, and in return send their warm good wishes to you all." [Approbation]

3. Donation of works of art – appreciation to Deputy E.J. Noel of St. Lawrence

The Deputy Bailiff:

Lastly, under A, Members may wish to join me in acknowledging in the traditional way the thanks due to Deputy Noel for his kind donation of works of art by the artist Nick Romeril to the States Assembly. Thank you, Deputy. [Approbation]

QUESTIONS

2. Written Questions

2.1 DEPUTY J.A.N. LE FONDRÉ OF ST. LAWRENCE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING CHARGES MADE FOR ASSISTANCE PROVIDED TO VESSELS: [WQ.1/2018]

Question

Within the last 5 years, has the States, or any States-owned entity such as the Ports of Jersey, made any form of charge for any vessel under their control assisting another vessel, including taking such vessel under tow?

If so, will the Minister identify, by year, the number of occasions and the total amount charged in each year?

Answer

Over the past five years Ports of Jersey vessels have assisted other vessels with towage on 452 occasions. These can be placed into two categories:- routine in Harbour towage to commercial vessels (357)* and Search and Rescue tasking by Jersey Coastguard to both commercial and non-commercial vessels (95).

In Harbour towage is assistance normally by the Duke of Normandy to Ro Ro vessels entering Elizabeth Harbour in inclement weather but also includes tanker movements, special project such as delivery of the west link span and inner harbour movements by the Halcyon. These movements are charged hourly as per the published Harbour Commercial Tariff.

Search and Rescue tasking are those arranged through Jersey Coastguard, although most of these involve routine towage of vessels back to Harbour which have experienced mechanical issues or other non-urgent problems. Over the past five years there have been no charges for any of these. Search and Rescue tasking by response vessel type are available publically on gov.je **

Year	Harbour Towage	Revenue	SAR Tasking	Revenue
2013**	55	£31,229.33	21	0
2014	47	£33,589.99	23	0
2015*	84	£69,522.90	17	0
2016*	111	£84,423.31	23	0
2017	60	£33,485.00	11	0

Notes

* This includes a number of Guernsey Assists 2015/2016 when the Goodwill only had one bow thruster.

**The only exception is the fishing vessel Corentine in February 2013, technically not a Jersey Coastguard tasking as she was outside Jersey Territorial Waters (just south of Sark) but a commercial tow was arranged between Faulkner fisheries and Marine Services. This was charged as per the published tariff. Total charge for nine hours was £2,767.80.

2.2 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE E.U. ‘BLACKLIST’ OF NON-COOPERATIVE JURISDICTIONS FOR TAX PURPOSES: [WQ.2/2018]

Question

Further to his statement to the Assembly on 11th December 2017, will the Chief Minister –

- (a) define the “*certain economic substance tests [undertaken] prior to the approval of new regulated entities*” by the Jersey Financial Services Commission and which contribute evidence that “*Jersey is a jurisdiction of substance*”;

- (b) explain what “concerns were highlighted by the [E.U.] Code Group that Jersey did not satisfy [the Group’s] Criteria 2.2” regarding fair taxation and the attraction of profits without real economic activity;
- (c) outline his understanding of the mechanisms which could be regarded by the Code Group as enabling, or permitting, breaches of Criteria 2.2 and explain what changes to the Island’s “regulatory and legal framework and additional accounting and reporting obligations” he consequently has under consideration in order to eliminate concerns over Criteria 2.2; and
- (d) commit to publish revised GDP calculations for 2015/2016 to show the full scale of profits recorded by companies associated with the Island, so that the scale of the difference between GNI and GDP as a result of the relocation of profits to the Island for which there is no locally-associated economic activity can be identified?

Answer

It would be inappropriate for to make extensive comment on policy under development, particularly if such comment could undermine Jersey’s interests ahead of the EU Code of Conduct Group (“Code Group”) dialogue.

What I can say in response to each of the questions raised is:

- a) The Deputy is directed to the relevant regulatory laws and policies that are all available in the public domain.

A Jersey company that is to carry on a regulated financial services activity would need to be licensed by the JFSC under one of the following laws:

- Banking Business (Jersey) Law 1991
(covers deposit-takers)
- Financial Services (Jersey) Law 1998
(investment businesses, trust company businesses, general insurance mediation businesses, money service businesses, fund service businesses and AIF Services Business)
- Insurance Business (Jersey) Law 1996
(insurance companies)

In respect of each of those laws, the JFSC has published a licensing policy that sets out the criteria against which the JFSC will assess an application for a licence. The relevant requirements in respect of economic substance are set out in each piece of legislation and accompanying policy.

- b) States Members have been circulated the response sent by the Government of Jersey to the Code Group Secretariat dated 17 November 2017. However, at the specific request of the Code Group Secretariat, the Government of Jersey is not permitted to share any correspondence

received from the Code Group. It would therefore be inappropriate to share detailed content of correspondence received from the Code Group at this time.

- c) There is a commitment to dialogue with the Code Group and that process will start in the coming weeks. Until dialogue commences, it is not possible to provide a definitive answer as to what actions might satisfy the substance test contained in the E.U. Code Group's criteria 2.2. There is currently no internationally agreed position on "substance" of companies for tax purposes. Consistent with the approach outlined in other questions on this matter, it would be inappropriate to make extensive comment on policy under development, particularly if such comment were to have the potential of undermining Jersey's interests ahead of the Code Group dialogue.
- d) In line with many other small jurisdictions, Jersey produces a limited portion of the full System of National Accounts ("SNA") based on the "income approach". Jersey produces GDP and Gross Value Added (GVA) figures (see: <https://www.gov.je/Government/JerseyInFigures/BusinessEconomy/Pages/NationalAccounts.aspx>), but does not currently produce Gross National Income (GNI) figures.

GDP is a measure of economic activity that takes place in the Island and in the view of the Chief Statistician no evidence has been provided to date which would indicate that the previously produced GDP figures need to be revised.

2.3 DEPUTY G.P. SOUTHERN OF ST. HELIER THE CHIEF MINISTER REGARDING JERSEY'S CORPORATE TAX REGIME: [WQ.3/2018]

Question

Further to the responses to written questions 1(504) and 1(632), will the Chief Minister –

- (a) publish the report commissioned in 2017 from the Jersey Financial Services Commission (J.F.S.C.) indicating the total amount of profits reported for 2015 by regulated companies subject to tax at 0%; and if not, why not;
- (b) give a breakdown of the profits of the 6,000 companies covered, between those incorporated locally and those resident but incorporated elsewhere; and explain how estimates of £2.1 billion of profits subject to 0% tax, and of £1.2 billion of profits subject to higher rates of tax, were made;
- (c) advise whether 4,100 (9%) of the 45,000 companies considered resident in Jersey are trading, with 91% of companies therefore falling outside the tax system (albeit evidence for this is not available in 87% of cases); and
- (d) advise whether around 1,250 (2.8%) of companies linked to Jersey pay tax; whether, of total personal income tax, more than £179 million (44%) arise from the distribution of profits from Jersey companies; and

- (e) provide an estimate of any revenue lost as a result of profit deferral for tax purposes by local companies and state what measures he is considering to address this?

Answer

- (a) The Chief Minister is unable to publish the report in question as the information was provided confidentially to the Taxes Office to assist the Taxes Office in discharging its obligations on the development of tax policy for Jersey. The information contained in the report comes from restricted information collated by the JFSC pursuant to the regulatory laws, which also means it is not capable of publication.
- (b) It is not possible at the current time to provide a full analysis of the profits of the 6,000 companies split between the companies which are incorporated in Jersey and the companies which are incorporated outside Jersey but are taxed.
- (c) The companies “within” the Island’s tax system are those which are regarded as resident in Jersey in accordance with Article 123 of the Income Tax (Jersey) Law 1961¹ and non-resident companies which exercise a trade within Jersey totalling approximately 45,000 companies.
- (d) For the year of assessment 2015 there were c. 1,500 companies which paid tax in Jersey.

The total income assessed on personal taxpayers for the year of assessment 2015 was £2.7bn. This included distributions from Jersey companies of £179m. Accordingly distributions from Jersey companies constituted 6.6% of total income assessed on personal taxpayers.

- (e) In the majority of cases where a company is ultimately owned (wholly or partly) by a Jersey resident, individual revenue is not ordinarily lost but deferred until the profits are distributed.

Work is ongoing to quantify the amount of deferred profits. This work is being informed by the additional information collected through the company tax return for the 2015 and 2016 years of assessment from companies which had a Jersey resident shareholder which owned more than 2% of the ordinary share capital.

¹ Article 123 Income Tax (Jersey) Law 1961

(1)

- (a) a company incorporated under the Loi (1861) sur les Sociétés à Responsabilité Limitée or the Companies (Jersey) Law 1991 shall be regarded as resident in Jersey unless
- (i) its business is centrally managed and controlled outside Jersey in a country or territory where the highest rate at which any company may be charged to tax on any part of its income is 10% or higher, and
- (ii) the company is resident for tax purposes in that country or territory;

- (b) a company incorporated outside Jersey shall be regarded as resident in Jersey if its business is managed and controlled in Jersey.^[541]
- (2) The Treasurer, or other officer acting as treasurer for the time being, of any body of persons chargeable to income tax shall be answerable for doing all such acts as are required to be done under this Law, for the purpose of the assessment of such body and for payment of the tax, and for the purpose of the assessment of the officers and persons in the employment of such body:
- Provided that, in the case of a company, the person so answerable shall be the secretary of the company or other officer (by whatever name called) performing the duties of secretary.
- (3) Every such officer as aforesaid may from time to time retain, out of any money coming into the officer's hands on behalf of the body, so much thereof as is sufficient to pay the income tax charged on the body, and shall be indemnified for all such payments made in pursuance of this Law.

2.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE TRANSPARENCY OF ECONOMIC ACTIVITY IN JERSEY: [WQ.4/2018]

Question

Is it the case that, prior to 2017, Jersey authorities did not seek, and could not therefore gather, information on the profits made and tax paid by some 87% of companies either registered in, or associated with, the Island? If so, will the Chief Minister explain how it can be claimed that the Island is fully co-operative on transparency through the automatic sharing of information and that it can be known what profits can be linked to genuine economic activity?

Is it the Chief Minister's assessment that, in order to satisfy the substance test contained in the E.U. Code Group's criteria 2.2, the Jersey government should –

- (a) require all companies incorporated in, or associated with, the Island by way of a permanent establishment to file a set of accounts and tax return with its tax authority annually; and
- (b) ensure that those companies will be presumed to be taxable in Jersey unless they can provide evidence that they have declared their profits and have been, or will be, assessed for tax in another place;

and, if not, will he outline what alternative proposals he has under consideration which will satisfy the E.U. Code Group's criteria?

Answer

Details of the information collected through the annual company tax return process was provided in the answer of the Minister for Treasury and Resources to question 2017/632². Although profits information has not been systematically collected from all companies resident in the Island/trading in the Island through the annual company tax return process, that does not mean that information cannot be collected by the Jersey authorities. The Comptroller of Taxes has broad legal powers to request relevant financial records from any company which is tax resident in the Island or trading in the Island through both the Income Tax (Jersey) Law 1961 and the Taxation (Accounting Records) (Jersey) Regulations 2013.

The amount of profits data collected through the annual company tax return process does not impact on the ability of the Island to meet its international obligations regarding the automatic sharing of information (e.g. under the Common Reporting Standard or Country-by-Country reporting). In its recent review of Jersey compliance with its exchange of information on request obligations the OECD's Global Forum rated Jersey as 'compliant' across all ten areas reviewed; one of only six jurisdictions globally to receive this rating.

The Jersey Government is working with the Code Group to address their concerns over satisfying Criteria 2.2, regarding the existence of tax regimes that facilitate offshore structures that attract profits without real economic activity. Officers are actively considering what steps might be necessary to assuage the specific concerns.

It will only be during dialogue with the Code Group, which we expect will start in the coming weeks, that officials will be able to clarify what actions might satisfy the substance test contained in the E.U. Code Group's criteria 2.2.

Consistent with the approach outlined in the answer to question 2018/3, it would be inappropriate to make extensive comment on policy under development, particularly if such comment were to have the potential of undermining Jersey's interests ahead of the Code Group dialogue.

2.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE USE OF ZERO-HOURS CONTRACTS BY HER DEPARTMENT [WQ.5/2018]

Question

Given the definition of zero-hours contracts from the Jersey Advisory and Conciliation Service (JACS) that they are "*arrangements where people agree to be available for work 'as and when' required but that no particular number of hours or times of work are specified*" and that "*these contracts are also used by Temporary Staff Agencies that supply temporary staff to other organisations but where there is no guarantee that work will be available*", will the Minister advise

² See:

[http://www.statesassembly.gov.je/assemblyquestions/2017/\(632\)%20dep%20southern%20to%20tr%20re%20eu%20co%20of%20business%20taxation%20and%20information%20on%20company%20profits.pdf](http://www.statesassembly.gov.je/assemblyquestions/2017/(632)%20dep%20southern%20to%20tr%20re%20eu%20co%20of%20business%20taxation%20and%20information%20on%20company%20profits.pdf)

- (a) whether this definition applies to zero-hour contracts used by her Department and whether her Department continues to recruit staff from employment agencies for whom there is a “*mutuality of obligation*” (in that the both employer and employee expect regular hours to be required and supplied, albeit sometimes on a short term 6-monthly basis);
- (b) if so, whether she has undertaken any assessment of the appropriateness of continuing to use zero-hour contracts for these placements and whether she has reviewed on a regular basis the terms of the zero-hour contracts of such staff, as recommended by JACS; and
- (c) what hourly rate these staff receive and how that compares with other employees doing similar tasks, along with any further differences in terms and conditions?

Answer

Social Security engages Recruitment Agencies to supply temporary workers to work in the Department. These temporary workers are not employed by the Department – they are employed directly by the Recruitment Agencies. Their contractual arrangements and any mutuality of obligation that may arise are a matter for the recruitment agency and the individual.

The Minister considers that the Department’s current use of temporary workers is appropriate given the Department’s obligations. The Department must be able to act quickly to set up new projects and initiatives, provide support to customers following changes in legislation, pilot new ideas where permanent funding has not been established and cover short-term fluctuations in workloads.

The Department’s decision to engage temporary agency workers for these tasks accords with JACS guidance. The Department generally uses temporary agency workers for work that is regular (e.g. on a daily or weekly basis) but is initially expected to be for a short period of time. In this situation, the JACS guide advises an employer to “think about using an agency or a variable hours contract.”

The Minister is reassured that the Department keeps its use of temporary agency workers under regular review. The fact that around a quarter of the Department’s permanent workforce secured roles after being placed in the Department by a temporary agency demonstrates the Department’s commitment to engaging and employing staff directly.

Agency workers hourly rates vary depending upon the requirements of the role that they are hired for. Temporary roles, by nature are often different from permanent roles, and agency workers would not usually take on the full responsibility of a permanent employee.

However, it is the States of Jersey policy to encourage agency workers to apply for permanent employment, at the earliest opportunity, should the business require it. Agency workers are contracted by recruitment agencies, rather than the States of Jersey. Terms and conditions are therefore agreed between the agency and temporary agency worker.

2.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE PROMOTION OF ADDITIONAL PENSION SAVING BY THE ISLAND’S WORKFORCE [WQ.6/2018]

Question

In respect of promoting additional pension saving by the Island's workforce, will the Minister advise –

- (a) what progress, if any, she has made in developing policy in this area in the last 18 months and, if none, why;
- (b) whether she or her officers have had meetings during this period with the Minister for Treasury and Resources or his officers where this was an agenda item and, if so, will she release any notes / minutes of such meetings;
- (c) given that “*developing stakeholders*” was a target for 2017, what meetings have been held with organisations such as the Institute of Directors, the Chamber of Commerce, insurers, actuaries or others, and will she release the notes / minutes of any such meetings and state what new targets have been set for 2018;
- (d) whether her Department has done further research on the results from the 2015 Jersey Annual Social Survey on pension provision, including on what proportion of the workforce (by age and by income quintile) has additional pension provision or will be reliant on States support; and
- (e) when she expects to bring forward proposals for workplace / stakeholder pension provision to match developments in Guernsey and the U.K.?

Answer

This answer is ordered (a), (c), (e), (b), (d). Parts (a), (c), (e) are together because the questions ask about the past, present and future for policy concerning financial security in later life.

(a) Promoting additional pension saving by Jersey's workers is part of the bigger question of - How should the government support all of Jersey's people, whether they work or not, to save for retirement and be financially secure later in life?

This policy area is included in the Social Security Review which the Minister started in October 2016. The public consultation (Living Longer: Thinking Ahead part 1) questionnaire asked for views and experiences about saving for retirement, and there were also workshops with local organisations, experts and members of the public. All the details can be found at www.gov.je/socialsecurityreview

(c) The aim for 2017 for the ‘saving for retirement part’ of the Review was to build on the 2016 consultation and identify and build relationships with stakeholders and experts who could help with the next stage in 2018.

During 2017, departmental officers talked to a range of stakeholders about the ‘saving for retirement’ part of the review to raise awareness, gather initial views and ideas, find out who the experts are, and learn how other countries are supporting saving for retirement (including promoting additional pensions saving for workers). The stakeholders include:

- Jersey Consumer Council
- Jersey Financial Services Commission
- Jersey Chamber of Commerce
- Jersey Business
- Health and Social Security Scrutiny Panel officer briefing and quarterly hearings
- Officers in the States of Guernsey to find out about their planned auto-enrolment workplace pension scheme
- Officers from the UK government Department for Work and Pensions to find out more about their auto-enrolment workplace pension scheme
- Officers from the Isle of Man government to find out about their plans for supporting saving for retirement
- International Social Security Association
- Jersey pension industry experts and representatives
- Actuaries
- Financial Advisors

These were exploratory contacts and meetings that were not formally minuted.

(e) For 2018, the Minister is supporting research that will identify and assess what options to encourage retirement saving are, and are not, suitable for Jersey. This will include the option of introducing a workplace pension scheme like the UK or Guernsey. The Minister is not going to bring forward any proposals until the research has been completed. The next Minister and government will be able to consider the research before deciding what the proposals will be.

(b) SSD officers have met informally with Treasury officers to discuss parts of the Social Security Review. There were no meetings to specifically discuss promoting additional pension saving. The department is going to work with Treasury officers and other relevant stakeholders and experts this year to complete the research.

(d) The pension section of the 2015 Jersey Annual Social Survey (JASS) explored:

- The age of stopping work
- Encouraging a later retirement age
- Sources of income in retirement (including workplace and private pensions, and % of people who said they were/will rely on the States to look after them in retirement)
- Standard of living in retirement
- Introduction of new pension schemes
- Sustainability of the Social Security scheme

The responses to the questions in this section will not change very much from year to year, unless there are significant changes in saving behaviour or government policy. For example, in both the 2008 and 2015 JASS, the % of people that agreed that they had a good workplace pension remained at about 36%.

The first part of the Social Security Review consultation was designed to build on the results of the 2015 JASS and provide new information to help guide the Social Security Review, including how government should support people to save for retirement and be financially secure in later life.

2.7 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE EGOV BUDGET: [WQ.7/2018]

Question

Will the Minister provide a breakdown of how the eGov budget has been spent, including how much on which projects?

Will he also provide details on what further digital projects have not been completed, if any, and the estimated budget required to complete these projects?

Answer

a) The below table outlines budget spend, by project area:

Total expenditure - to Nov 2017	£'000
e-Gov team - including Digital Design Authority	4,182
Exemplar (proof of concept projects)	1,897
Customer Mapping	
Web Transformation	
e-Gov Digital ID	
e-Gov e-Forms	
e-Gov e-Payments	
e-Gov Tell us Once	
e-Gov phase 1 KPMG	
e-Gov Soc Sec	
Additional projects with Board / Political approval	679
e-Gov Online GST payments	
e-Gov Passports	
e-Parishes	
e-Gov DVS	

e-Gov Gazette	
Open Data	
Statistics Analysis	
Long Term Strategy	
Medical Practitioners Reg System	
Foundation Projects	1,730
e-Payments	
Integration platform	
Digital id	
People directory	
Foreground Projects	1,210
Sports bookings	
Social Security digital projects	
Love Jersey	
Tell us Once	
Total Expenditure	9,698

- b) The outstanding projects currently scheduled for completion include Digital ID, the Integration Platform, and services platform for business customers, with a combined budget of £2.9m allocated.

The transition team working with the new Chief Executive is now reviewing the e-gov programme. This review will consider the activities planned and look at how we can improve the pace of implementing digital services for Islanders.

2.8 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING CLASS 2 SOCIAL SECURITY CONTRIBUTIONS PAID BY SELF-EMPLOYED ISLANDERS: [WQ.8/2018]

Question

Will the Minister provide the details of how many self-employed Islanders are paying Class 2 Social Security contributions within in each of the following income bands; and will she further outline how much revenue is raised in each income band from those earners?

Income per year:

£0 - £10,000

£10,000 - £20,000

£20,000 - £30,000

£30,000 - £40,000

£40,000 - £50,000

£50,000 - £60,000

£60,000 - £70,000

£70,000 - £80,000

£80,000 - £90,000

£90,000 - £100,000

£100,000 - £200,000

£200,000 - £1,000,000

£1,000,000 +

Answer

Class 2 contributions are paid by self-employed individuals and other working age individuals who do not work for an employer. Contribution liability is based on income from two years previous. In 2017, liability is based on 2015 income.

The table below shows Class 2 contribution income for September 2017. These figures will be subject to change as they do not include accounting adjustments and accruals that will be included in the final accounts for the year. The table includes contributions made into the Social Security Fund and the Health Insurance Fund. It does not include contributions made into the Long Term Care Fund as these figures are not available separately for Class 2 individuals.

The Department does not require contributors to declare income above the Upper Earnings Limit (UEL). In 2017 this was set at £165,936 per annum.

Estimated Annual Income Bracket (2015)	Number of contributors	Sum of Class 2 Contributions (September 2017)
£0 - £10,000	25	£2,000
£10,001 - £20,000	1149	£174,000
£20,001 - £30,000	727	£187,000
£30,001 - £40,000	427	£154,000
£40,001 - £50,000	293	£137,000
£50,001 - £60,000	203	£107,000
£60,001 - £70,000	134	£73,000
£70,001 - £80,000	122	£69,000
£80,001 - £90,000	101	£58,000
£90,001 - £100,000	83	£49,000
£100,001 – UEL	320	£209,000
Above UEL (£165,936)	504	£364,000
Grand Total	4088	£1,584,000

2.9 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE PRESCRIPTION OF APPROVED MEDICINAL CANNABIS PRODUCTS: [WQ.9/2018]

Question

Will the Minister provide a list of approved medicinal cannabis products that he will make available in Jersey; and will he also confirm that existing products such as ‘Sativex’, and any new products, will be made available on free prescription where prescribed by a G.P. or from the General Hospital, and if not, why not?

Answer

Preliminary discussions with two potential suppliers of cannabis-based products produced to Good Manufacturing Practice (GMP) standards have recently concluded. It is probable that one or both

product ranges will be reclassified under Misuse of Drugs Legislation to enable the products to be prescribed by a hospital specialist and supplied from the hospital pharmacy. Any such supply from the hospital pharmacy against a hospital prescription would be free of charge.

Initially the most likely product ranges to be reclassified are the Bedrocan range produced in Holland and Tilray oral solutions produced by the Canadian company Tilray.

However it is possible that other GMP-produced products will be reclassified as they become available and any issue around the logistics of importing them into Jersey are resolved.

During the process of considering making unlicensed cannabis-based products available for medicinal use, the position of Sativex was also reviewed. Advice received from the Misuse of Drugs Advisory Council (MDAC) was that before prescribing an unlicensed cannabis-based product, clinicians should first give consideration to prescribing a licensed medicinal product even if the intention was to use that medicine “off label”. Sativex is a medicinal product licensed only for use to improve symptoms in patients with spasticity associated with Multiple Sclerosis. Use for any other reason would be considered off-label use.

As a consequence, Sativex will be made available free of charge when prescribed by a hospital specialist and supplied from the hospital pharmacy.

2.10 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING THE TRANSPORTATION OF APPROVED MEDICINAL CANNABIS PRODUCTS TO JERSEY: [WQ.10/2018]

Question

Specifically, what problems have been identified, if any, with the transportation of what will be approved medicinal cannabis products to Jersey, and has there been a delay in their transportation? If there has been a delay, what steps have been taken to make sure these products can be brought to the Island without further delay? What dialogue has taken place between the Minister and the Minister for Health and Social Services in this regard in the past two months?

Answer

Officers from across a number of agencies, who sit on the Misuse of Drugs Advisory Council, have been discussing all the issues in relation to medicinal cannabis products. In taking this matter forward officers have been reporting directly to the Minister for Health and Social Services. It is my understanding that significant progress is being made regarding the importation of medicinal cannabis products and the Minister for Health and Social Services will be in a position to update members regarding this progress in the near future.

2.11 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING MEASURES TO ATTRACT MORE WINTER VISITORS TO THE ISLAND: [WQ.11/2018]

Question

Will the Minister give consideration to supporting Visit Jersey's recent campaign to attract more winter visitors to the Island by –

- (a) ensuring that more Jersey Heritage sites are kept open over the winter months, even once a week, to ensure that sufficient activities are available to tourists;
- (b) reducing or scrapping airport fees for incoming flights during certain winter months; and
- (c) attracting a well-regulated casino to operate in the Island?

If not, why not?

Answer

I am extremely pleased by the work being done by Visit Jersey and my Department to support the tourism and hospitality sector in Jersey. I am extremely encouraged by the initial results of the campaign recently launched to attract more visitors to our wonderful island in winter.

- a) Having lots of things to see and do is a crucial motivator, so weekend opening of key Jersey Heritage sites would certainly be beneficial. Visitor evidence, courtesy of the replies from the Exit Survey, suggests a sense of disappointment that some attractions were closed in early November. We are currently in discussion with Jersey Heritage regarding its business plan for 2018 and opening hours during the non-peak season forms part of that discussion.
- b) Airport fees represent a relatively small portion of the overall ticket cost and Jersey is more competitive in terms of consumer taxes on aviation than the UK as we do not levy Air Passenger Duty on departing passengers.
I do support the principle of utilising ports (air and sea) charges to increase visitor numbers especially during quieter periods of the year and I am in regular dialogue with Ports of Jersey in relation to this.
- c) Any quality addition to the Jersey visitor experience would be welcomed and a casino could provide welcome additional year round entertainment for both locals and visitors. There are however no plans to pursue this option at present although I would expect the issue to be raised again during the next Assembly.

2.12 SENATOR S.C. FERGUSON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE LEAN INITIATIVE WITHIN HEALTH AND SOCIAL SERVICES: [WQ.12/2018]

Question

Since the launch of the LEAN initiative within Health and Social Services, will the Minister advise, to date –

- (a) how much has been spent in total on LEAN initiative;
- (b) how much LEAN costs annually;
- (c) how much has been saved as a result of LEAN projects on an annual basis;
- (d) how many projects have been completed;

- (e) how many projects are currently in progress;
- (f) how many Chief Officers, senior managers and consultants have been involved and whether a senior manager or senior consultant has been involved in every project?

Answer

(a) A total of £2.1m has been spent over the five years that the Lean programme has been running in HSS. The set-up costs over 2012 – 2013 were primarily for an external company, Capita, to provide training to launch the Lean programme. From 2014, the costs represent the in-house team, now named the Quality Improvement Team, which was initially funded by Public Sector Reform monies and is now met by the HSS budget. The table below shows expenditure in each year.

2012	2013	2014	2015	2016	2017	Total
£248,000	£129,000	£466,000	£437,000	£408,000	£450,000	£2,138,000

(b) £450k in 2017 made up of staff costs and non-staff costs.

(c) The LEAN initiative is now saving over £724,000 annually on a recurrent basis.

(d) In excess of 50

The primary aim of the Lean Quality Improvement Programme is to provide higher quality, safer care to patients and service users across Health and Social Services. Many projects deliver numerous significant quality and safety benefits which cannot be quantified as financial savings.

Some examples are below:

The Corbiere Ward Rapid Process Improvement Workshop (RPIW) held in October 2016 delivered a 29% reduction in length of stay for patients. This enabled 65 more patients to receive treatment on the ward during the winter pressure period 01/11/2016 – 28/02/2017.

The Social Work Assessment RPIW held in February 2017 reduced the average waiting time from receipt of referral to 1st contact, from 54 days to 4 days.

The Beauport Ward Stock RPIW held in May 2017 resulted in Health Care Assistants having 66 more hours per year to care for patients.

Since starting the use of Rapid Process Improvement Workshops, 107 staff have attended them and received training before delivery of improvement using their own ideas. When surveyed at the end of the workshops, 100% of staff agree the workshop was useful and 92% confirmed it will improve their services.

Successful Lean Quality Improvement removes waste in processes, enabling our highly trained staff to spend more time providing high quality care to patients and service users.

(e) 15 in total – 5 Rapid Process Improvement Workshops, 10 Yellow Belt Projects.

(f) Chief Officers have not been involved on a project basis, but the overall programme is reviewed fortnightly by the Health and Social Services Chief Executive Officer and Corporate Directors. Senior Managers at director level sponsor all Rapid Process Improvement Workshops. This role involves developing the scope for improvement, setting targets to be achieved and empowering and supporting front line staff to design, test and deliver changes using Lean methodology. Yellow Belt projects are also sponsored by managers, often at senior grade. Consultants have been involved in some projects as required and Associate Specialist-level doctors have attended two Rapid Process Improvement Workshops. A senior manager or senior consultant has not been involved in every project as some are small-scope departmental initiatives which do not require this level of involvement.

2.13 SENATOR S.C. FERGUSON OF THE CHIEF MINISTER REGARDING ATTEMPTS TO OBTAIN ACCESS TO INAPPROPRIATE OR PORNOGRAPHIC WEBSITES FROM STATES COMPUTERS: [WQ.13/2018]

Question

How many attempts, if any, were made to obtain access to inappropriate or pornographic websites from computers linked to the States system during 2017?

Answer

The States of Jersey filtering system blocks inappropriate or pornographic websites for all computers and devices that access the network. It does this by managing access to categories of websites, not by monitoring searches from individual devices. However, if we need to look at activity on individual devices we can, and do, and where appropriate, action is taken.

2.14 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING PUBLIC SERVANTS NAMED IN THE INDEPENDENT JERSEY CARE INQUIRY REPORT: [WQ.14/2018]

Question

Will the Chief Minister advise –

- (a) how many public servants were removed or transferred from their positions in the Health and Social Services Department after being named in the Independent Jersey Care Inquiry Report;
- (b) what roles they undertook within the department;
- (c) how many of them were subsequently reinstated in their former role or in a new role involving children or vulnerable people; and

- (d) explain in complete detail the nature of the investigation into these individuals including who carried out the investigation and the process that was used throughout?

Answer

Three employees from across the States of Jersey were investigated. Those investigations were reviewed by the States of Jersey Police and, where appropriate, the Attorney General.

All three were clear to return to their normal duties.

Where those duties included a front line role, the employees concerned were removed from those roles until investigations were complete. It is not appropriate to identify their roles or departments as we have a duty of care to employees who have no case to answer.

2.15 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHAIRMAN OF THE STATES EMPLOYMENT BOARD REGARDING EQUAL PAY FOR EQUAL OR COMPARATIVE WORK IN THE PUBLIC SECTOR: [WQ.15/2018]

Question

Will the Chairman advise –

- (a) how many men and how many women are employed in the public sector;
- (b) how many employees receive equal pay for equal or comparative work;
- (c) if there is a disparity between men and women's pay, what the percentage disparity is, giving examples;
- (d) if there is a disparity, what it would cost the States of Jersey to pay men and women the same wage rate for equal or comparative work?

Answer

- (a) 4,256 women (63%) and 2,498 men (37%) are employed by the States of Jersey.
- (b) All employees on the same pay grade within their current pay groups have access to the same rates of pay. Addressing any disparities between different pay groups forms part of the Workforce Modernisation proposals.
- (c) There is no percentage disparity between men and women within the same current pay group.

It is proposed that any disparities between different pay groups identified through the Workforce Modernisation project are addressed as part of the WFM final offer - a unified pay structure with harmonised terms and conditions

- (d) £47 million is being invested into phase 1 of the Workforce Modernisation project, which will address any current pay inequalities, and harmonise 9 pay groups to one set of modern and fair terms and conditions over the three and a half year assimilation period.

2.16 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE ARCHIVING OF MATERIEL COLLECTED BY THE INDEPENDENT JERSEY CARE INQUIRY: [WQ.16/2018]

Question

Will the Chief Minister advise members whether the material collected by the Independent Jersey Care Inquiry that has been given to Jersey Archive will be open for examination by the public and, if there are different release dates for some of the information, evidence what those release dates are?

Answer

Jersey Archive has now begun the major project to archive all public documents from the Independent Jersey Care Inquiry. Content should start appearing online in early 2018, however it will take two to three years to process all the documents.

The Archive's team have already received around 250,000 individual pages in digital form. This is the biggest digital archive ever to be managed by Jersey Archive whose staff will work with sensitivity and care over the next couple of years sorting, cataloguing and indexing the material.

Where possible, members of the public will have full and open access to these documents. Any material that could identify witnesses who asked to remain anonymous, will be kept off-island and out of the public domain for an extended period which will be determined by relevant legislation.

The Greffier and the Archivist will be discussing this matter with the UK authorities. Once a decision has been reached on how the sensitive material will be archived, details will be announced.

The Inquiry highlighted the importance of public access to the redacted material. The Jersey Archive will work with survivors and interested parties to develop a section of the archive online catalogue which is dedicated to the IJCI.

The documents that are already online will remain available in their current form until this work is complete.

2.17 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE 'SUBSTANCE TEST' WHICH APPLIES TO THE ISLANDS'S FINANCIAL ENTITIES: [WQ.17/2018]

Question

With regard to the European Union's requirement for companies and, if applicable, trusts and foundations, to have real substance within the jurisdictions in which they reside for tax purposes, will the Chief Minister advise members –

- (a) if the E.U. has advised the relevant Jersey authorities how they have defined the 'substance test', and if so what that test is; and
- (b) if the E.U. does not have a common test, what test Jersey is proposing to use in this regard; and
- (c) what knowledge he has of the test being used by Guernsey and the Isle of Man?

Answer

- (a) The EU has not advised their definition of a substance test;
- (b) This will need to be the subject of further discussion with EU Code of Conduct Group on Business Taxation ("Code Group") in the weeks and months ahead. There is no established international standard despite the best effort of bodies such as the OECD Forum on Harmful Tax Practices.
- (c) I am not aware of any prescribed test in Guernsey or the Isle of Man and would re-affirm the difficulties encountered by the international community in determining such a test.

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

3. Resignation of Deputy L.M.C. Doublet of St. Saviour from the Education and Home Affairs Scrutiny Panel

The Deputy Bailiff:

Before moving on to Oral Questions. I am afraid I missed out under F, the Appointment of Ministers, Committees and Panels. In accordance with Standing Order 127(2)(b) Deputy Doublet has given written notice to the Bailiff of her intention to resign as chairman of the Education and Home Affairs Scrutiny Panel with immediate effect. I understand you wish to say a few short words, Deputy.

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

I will be brief. I am standing aside from this particular role for workload reasons and the panel have assured me that, with the will of the Assembly, they wish to continue with the work, and I thank them for their hard work and for their support over the last few years. My thanks also must go to the staff in the Scrutiny Office for the excellent work that they do. I also wish to thank the Minister for Home Affairs and Assistant Minister for their co-operative and constructive manner that they engage with Scrutiny. Thank you. **[Approbation]**

The Deputy Bailiff:

Members should note that I will invite nominations for Deputy Doublet's replacement in accordance with Standing Order 121 at the next meeting of this Assembly on 30th January and that in the meantime the vice-chairman, Deputy Maçon, will chair the panel until that date.

[11:00]

QUESTIONS - resumption

4. Oral Questions

4.1 Deputy C.F. Labey of Grouville of the Minister for Health and Social Services regarding social workers with British Sign Language signing skills and knowledge employed by the States of Jersey: [OQ.1/2018]

How many social workers with British Sign Language signing skills and knowledge and expertise of the deaf community in the Island are currently employed by the States of Jersey; and what arrangements are in place to deal with the absence from work of such social workers?

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

I thank the Deputy of Grouville for her question. There is currently one social worker employed by the States of Jersey, who is a trained British Sign Language person. However, there are a number of staff employed across the community and in Health and Social Services and in Education who have significant knowledge and experience in the deaf community whose skills are used when required.

4.1.1 The Deputy of Grouville:

Does the Minister consider that one female interpreter - who is excellent by the way, and has probably far too much work to do - for the entire Island is appropriate? If there are male members of the deaf community who need to go for a medical appointment, for example, does he feel it is entirely appropriate that there is just the one female social worker?

Senator A.K.F. Green:

Until the Deputy asked this question - and I am still not aware there is a problem, it works - I am not aware of any issues. If the Deputy knows that there is a problem then I am happy to talk about it and review it. But as of now, I am not aware that there is a problem. It does work with the support from the other departments within the community, Social Services and Education.

4.1.2 Deputy M. Tadier of St. Brelade:

What steps has the Minister taken to ascertain what latent demand there might be?

Senator A.K.F. Green:

None, because I am not aware that there is a problem. If there is a problem please tell me and I will look at it.

4.1.3 Deputy M. Tadier:

I think by definition, that is the problem with "latent demand", that you do not know about it until you do some research to find out what the demand might be. So would the Minister, in the light of the Deputy of Grouville's question, ascertain to see if there is any latent demand for these services and whether they could be enhanced?

Senator A.K.F. Green:

Clearly, the Deputy does not listen to my answer. I did say to the Deputy of Grouville, if there is a problem I am happy to discuss it with her and look for the answer.

4.1.4 The Deputy of Grouville:

Well, there most certainly are issues. The one interpreter has been off work with stress for quite a few weeks because she has too much to do. There are issues. I mean if somebody needs to attend a doctor and the doctor does not understand sign language then clearly there are issues. The hospital appointments, for example, are sent out by letter asking the member of the deaf community to telephone to confirm. There are many issues. Can he look into this because one female interpreter for the entire Island is not enough?

Senator A.K.F. Green:

I get the gender challenge and I am happy to look at the problems. I will speak to the Deputy of Grouville and get officers to look into it.

4.2 Deputy M.R. Higgins of St. Helier of H.M. (Her Majesty's) Attorney General regarding the legal duties of Members in respect of reporting alleged corruption in the public sector: [OQ.8/2018]

Will the Attorney General advise what Members' legal duties are with respect to the reporting of alleged corruption in the public sector, and in particular, whether failing to report such allegations would be a breach of their oath; and whether a failure by Ministers, Assistant Ministers, officers or civil servants to act on such information would be a breach of their oaths of office and codes of conduct?

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

In the first instance, an individual, whether a Member or an officer who suspects a criminal offence may have taken place, should report it to the States of Jersey Police, then the States of Jersey Police will decide whether or not to investigate the matter. The Corruption (Jersey) Law 2006 provides for specific offences in relation to corruption concerning a public body and corruption by a public official. Any such concerns may also be raised by individuals under the Ministerial Code of Conduct, the Code of Conduct for Elected Members, the anti-fraud and corruption policy and the reporting of serious concerns or whistleblowing policy. For example, in relation to the anti-fraud policy, it is specifically provided that all States Members and employees must help to apply this policy. They do this by maintaining high personal and professional standards and helping to discourage, prevent and punish fraud and corruption by others. That includes providing all instances of suspected fraud or corruption must be reported immediately in the way described in the policy. Reporting arrangements are in place to ensure that those who complain are treated responsibly, openly and consistently and anyone who does complain is protected from victimisation or reprisal. The Ministerial Code of Conduct for Ministers and Assistant Ministers, the Code of Conduct for Elected Members and the relevant oaths of office for each Member *inter alia* require them to uphold and maintain the laws of Jersey and to maintain the general principles of conduct for holders of public office. The code in respect of States Employees stipulates it is incumbent on all staff to report concerns without delay. In answer to the question, which of course any answer is heavily fact dependent, in summary, a failure to report and/or failure to act in such circumstances could amount to a breach of oath and/or contravention of the relevant code of conduct.

4.2.1 Deputy M.R. Higgins:

I thank the Attorney General for that. Can he tell me whether he has had or how many cases of alleged corruption have been brought to his attention since he has been in office?

The Attorney General:

I do not have a figure to hand, I am afraid to say.

The Deputy Bailiff:

If no one else asks a question this will be your final supplementary. No, you can ask a final supplementary. Very well, this is the final supplementary.

Senator S.C. Ferguson:

I have not asked my question yet, Sir.

The Deputy Bailiff:

I am sorry, your name has not appeared. I do apologise. I am relying on the screen and the name just has not come up. I apologise, Senator.

Senator S.C. Ferguson:

Happy New Year to you too. [Laughter]

The Deputy Bailiff:

I think it is a lesson to me that I must look up from the screen now and again and look at the lights on in the Assembly.

4.2.2 Senator S.C. Ferguson:

Is the Attorney General aware that a previous chief internal auditor commented ... not the current one, one a couple of appointments ago, commented on the fact that in his experience for an organisation of 5,000 to 6,000 people to never have any cases of corruption, fraud or malfeasance was totally unbelievable?

The Attorney General:

Sorry, I was not aware of that expression of opinion.

4.2.3 Deputy M.R. Higgins:

I just want to take this a stage further. Would the Attorney General confirm that as the sole prosecuting authority in the Island that any allegations of corruption would be considered by him and that he would apply a public interest test and an evidential test, and that as corruption could never be in the public interest, if there was credible evidence that he would prosecute the alleged offender?

The Attorney General:

In summary, yes, I think that is right. Certainly if there is evidence of corruption in a particular case or the evidential test was passed, the Deputy is quite right, that the public interest test would almost certainly pass as well. It would generally be in the public interest of prosecuting in those circumstances.

4.3 Deputy S.Y. Mézec of St. Helier of the Minister for Treasury and Resources regarding the funding of proposals to increase higher education grants: [OQ.10/2018]

Following the announcement of the plans to increase higher education grants offered by the States, what proposals, if any, will the Minister be bringing forward to fund this change?

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

As I have already announced, alongside the Budget Statement, the extra investment in our students wishing to access higher education will be found from within existing resources for the remainder of this Medium Term Financial Plan period. Furthermore, there is a commitment to propose the removal of the higher rate child allowance in next year's Budget. This tax allowance is currently worth approximately £3.5 million *per annum* and should be targeted directly towards funding student grants. On an ongoing basis, additional funding will have to be identified of up to £4 million *per annum* from 2020. This funding could only be agreed by the next States Assembly within all expenditure plans in the next Medium Term Financial Plan period 2020 to 2023. It cannot be a stand-alone measure but as, in the current Medium Term Financial Plan, education is a priority and I strongly believe that it should, and will remain so.

4.3.1 Deputy S.Y. Mézec:

Can the Minister confirm exactly how much of this policy, as it currently stands, is not funded, from when and where would he anticipate that the funding for that would come from?

Senator A.J.H. Maclean:

I think I made that clear in my opening answer. That is the estimate of up to - and I use “up to” advisedly - £4 million *per annum* will need to be found in the next Medium Term Financial Plan period from 2020. I say “up to” because that is on the assumption that all qualifying students decide to take up the option of higher education in the U.K. (United Kingdom) and so the model has included, based upon figures provided by the Education Department, modelling on that assumption.

4.3.2 Deputy G.P. Southern:

When Reform Jersey did its own calculations on this particular issue and came up with proposals we arrived at the figure of £4.5 million needed to cover the grant system current take-up rates and up to £6 million possibly if we were to result in greater numbers applying to higher education because of this change. Does the Minister accept that funding of this size of bill through underspends is a poor example to set to us poor Back-Benchers and to the public in general?

Senator A.J.H. Maclean:

No, I do not, despite the fact that the Reform Party on the Back-Benches seem to think that it is. I do not. I think it is perfectly appropriate to use, for example, underspends largely from the Education Department in relation to the lack of take up of the higher education funding that is in place for the current M.T.F.P. (Medium Term Financial Plan) period. I think that is right to redirect that money appropriately, as I have stated in my earlier answer.

4.3.3 Deputy G.P. Southern:

Can the Minister at this stage confirm that he will establish a new funding mechanism stream in order that he does not take money already dedicated for education elsewhere and use it for these higher education changes?

Senator A.J.H. Maclean:

I think it has also been made clear that underspends from Education deal with the majority of the requirement for the period stated. There is just short of £1.7 million. I think it is £1.68 million in fact. By 2019 there will need to be found from general underspends, and I cannot identify exactly where that is going to be, but as the Deputy will know and Members will be well aware, as an example last year there was in excess of £30 million of underspends across all departments. This is a priority and it will be treated as such when considering the use of those underspends for that period.

4.3.4 Senator S.C. Ferguson:

What difference does it make to the funding requirements if the upper limit is reduced?

Senator A.J.H. Maclean:

If the Senator is referring to the £150,000, then it would depend on the amount that it is reduced by. There is some modelling that has been undertaken looking at each £10,000 that is reduced. If it came down I think by £20,000 or so then that would be the impact per increment.

4.3.5 Senator S.C. Ferguson:

What other funding suggestions has he considered because underspends is really a bit hit and miss, is it not?

Senator A.J.H. Maclean:

As I said in my answer, the proposal will be for the next Budget to remove the higher rate tax allowance and that accounts for £3.5 million per annum.

[11:15]

That will be targeted into this particular scheme, which is, I believe, a most appropriate way forward. Beyond that, the additional funding that is likely to be required of up to £4 million from 2020 will be a matter for the next Medium Term Financial Plan and indeed for this Assembly to prioritise.

Senator S.C. Ferguson:

He has not answered the question. What about the long term?

The Deputy Bailiff:

I am sorry, Senator, that was your second supplemental and the Minister has answered it in the way that he has.

4.3.6 Deputy M. Tadier:

What I know is that if any opposition party came forward with the proposals that the Minister for Treasury and Resources is doing it would quite rightly be shot down in flames. Luckily our proposals are done properly. In the light of that, could I ask the Minister: does he think that it is important that there be a sustainable funding plan put in place for this particular policy; if it is not to be seen by the public and politicians... it is just a cynical election ploy with no sustainable funding?

Senator A.J.H. Maclean:

Everything the Council of Minister has done has sought to have a sustainable funding mechanism. At the beginning of this Government's term there was additional funding identified for Health £40 million; for Education £11 million; and for Infrastructure £168 million of capital. That funding was found by this Council of Ministers to improve the quality of services that Islanders enjoy in the Island. At the end of the period 2019, we are forecasting still to have balanced budgets. Members will be aware that we have also seen an improvement in public finances. We have seen income rising, tax receipts are up, expenditure levels have been constrained and are down in real terms, and as such, it is fair to say that this is a responsible way to deal with public finances and that is why, I believe, that the proposal that is out for consultation - although Members will be aware that consultation ended on Friday, and I am pleased to say there were more than 3,000 responses - that particular process will lead us to lodge a proposition, which Members will be able to consider with all the relevant details having properly been consulted upon.

4.3.7 Deputy M. Tadier:

Is it not the fact that this Council of Ministers are not investing in real terms after inflation in our key services, be it in Education or elsewhere? Their trick is simply to, yes, have a Pupil Premium for example in Education but after - and only after - having taken £10 million from the most vulnerable in our society in Social Security, and that they are doing exactly the same with this? They are cutting down on allowances, not putting in a sustainable funding plan and just redistributing money with very poor sleight of hand.

Senator A.J.H. Maclean:

I think it was the Reform Party that suggested raising the basic rate of tax, which Members considered at the Budget last year. **[Interruption]**

Deputy G.P. Southern of St. Helier:

Reducing the level of tax for most people.

Senator A.J.H. Maclean:

Raising the basic rate of tax to 25 per cent and the plan was to fund student education from that particular source of revenue. I would call that irresponsible without undertaking the proper work to ensure what the impacts might be on the economy and on the Island of Jersey and, particularly, the quality of life of Islanders. I believe that the proposals put forward by this Government in relation to dealing with an exceptionally important issue of ensuring as many of our students as possible can reach a higher education, or attain a higher education, is the right approach. We have funding in place until 2019. It will be a matter for this Assembly and a future Council of Ministers to identify the additional up to £4 million that will be required. I believe that is perfectly manageable based upon the current position with public finances.

Deputy G.P. Southern:

Point of clarification, if I may.

The Deputy Bailiff:

There is no position to ask for a point of clarification. I can call upon you to ask a supplemental question, which I will do in due order, Deputy.

Deputy G.P. Southern:

It is not my question, Sir.

The Deputy Bailiff:

You can ask a question ...

Deputy G.P. Southern:

I can ask a supplementary question on the basis of what has been ...

The Deputy Bailiff:

Yes, but not yet. There are Members who are on my list before you, and I will call you in due course.

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

As you can imagine, the public that are most interested in the subject were delighted with the Minister's announcement in the Budget. However, what concerns the most is not where the money is going to come from but when it is going to happen. Can the Minister absolutely assure those that are listening today that this money will be in place in 2019 and for the remaining period that those students will be taking a course that is going to be 3 or 4 years long? People do not want to embark on a university education not knowing that it is fully funded for the next 3 and 4 years. What assurance can he give today that that will happen?

Senator A.J.H. Maclean:

It is an interesting point; the first part of the question from the Deputy. That is that the consideration that was being given to a loan scheme would have meant that the ability to have such a scheme in place for September 2018 would have been nigh on impossible. That in itself was a factor that was taken into consideration. There are many others that I will not go into at this particular point. I can say to the Deputy that the commitment that I have given is that this funding proposal, albeit that it may be adapted somewhat as a result of the consultation, but the principle of this funding proposal has in place funding for the period through this M.T.F.P. period. To give commitments beyond that is not within my gift because quite simply it will be a matter for this Assembly to agree the priority of funding, which I believe they will do. I would be surprised if a future Assembly did not prioritise Education as one of its areas, and as such, I believe there is a sensible and balanced and affordable way forward that is fair that will ensure that this proposal or however it is finally cast - the Members

will consider it following the consultation - will be funded into the future, as indeed I believe it should be.

4.3.9 Deputy A.D. Lewis:

Does that mean the Minister cannot give a categorical assurance that somebody embarking on a 3-year course next year will not know whether that is funded for the endurance of that course. That is simply not acceptable for most families when they are planning their finances. The Minister needs to give categorical assurance that it can be funded for the full length of that course. Otherwise people simply will not commit to that huge financial commitment of higher education.

Senator A.J.H. Maclean:

I believe it can be funded but we have got to be realistic. When there were annual budgets there was no certainty beyond the annual budgets that the Education Department was going to have the funding available, as it did at the time, for higher education and other areas that needed to be funded. When we moved to a Medium Term Financial Plan period it was that period that could be guaranteed because the funding was in place and agreed by this Assembly. It is a function of the way in which the public finances are managed and the Medium Term Financial Plan. It is impossible to give guarantees long into the future, although I understand entirely the point the Deputy is making. But I do not believe once embarking on this particular route that this Assembly, or an Assembly of the future, would not honour a priority of that nature.

4.3.10 Connétable J. Gallichan of St. Mary:

I think for transparency I should mention at this point that I do have a child at university at the moment who will be finished by the time this comes into account. I was going to ask a question very similar to the previous speaker but if I just take it a bit further. Certainty is a very, very big issue. The Minister must appreciate that any underspends in university funding budgets that exist at the moment, which can be carried forward, are simply down to the fact that youngsters have not taken the advantage of ... have not been able to go to university because of the funding worries that have constrained them. It is very interesting that we find ourselves going from a position, and speaking from experience, when one might have benefited from zero per cent assistance to going to 100 per cent assistance under the new scheme, which is a staggering thing. I just wonder if the priority that is placed on education here ... we have had this priority for education for a long time but the funding issue has gone on for a long time ...

The Deputy Bailiff:

Connétable, I have to ask you to address a precise question.

The Connétable of St. Mary:

I am sorry, but this is such a big issue for parents.

The Deputy Bailiff:

But it still has to be a question.

The Connétable of St. Mary:

Yes, it is going to be a question. Does the Minister really believe that this funding proposal that he has got forward can be sustainable? Does he really believe that when in the past we have been unable to offer anything at all to the majority of these parents?

Senator A.J.H. Maclean:

Let me be clear to the Constable, and hopefully others. I do believe that this can be delivered and I do believe it can be sustainable. We have strong public finances. We have put together a plan which

I believe is a realistic, fair and affordable plan, and I believe it will be delivered on. I was of the belief that the problems or challenges for higher education or attaining higher education for students, and I am sorry that the Constable's own experience has meant that she has not been able to benefit in the same way. There are many, many others in this Island that have been in a similar position. So it is not unique. We put additional funding in through the M.T.F.P. Addition, an extra £2 million per annum by 2019 thinking that was going to help solve the problem. The problem was far bigger than that. The structure was meaning that too few people were able to attain this funding. That is why there are underspends available within Education because they were not able to get the money out. I believe, therefore, that this new system is going to be a massive improvement.

4.3.11 The Connétable of St. Mary:

If the Minister acknowledges that the system was faulty before because people could not access it, will he apologise to those people who have not been able to access higher education as a result of the system that has been in place for so long?

Senator A.J.H. Maclean:

I do not think it is for me to apologise. There was a significant amount of funding, £10 million, £10.5 million worth of funding is in the Budget for higher education purposes with the Education Department. That is a significant investment. I think the fact that some have found it more difficult to access it than others is, without doubt, regrettable. I think what we need to do is focus, as Treasury have done, together with colleagues in Education, on improving what was there. Many people do access higher education funding. I think the number is something like 1,100 or 1,200 *per annum*. We want to see more going. That is why these changes are being put in place to improve the position over what is currently in place.

4.3.12 Deputy S.M. Wickenden of St. Helier:

It does sound like the Minister for Treasury and Resources is saying that it is not possible to create a sustainable funding mechanism beyond the term of the Medium Term Financial Plan. But my question would be - I would just like clarification - the Minister is not going to bring forward a sustainable funding mechanism therefore leaving it to the next Minister for Treasury and Resources to bring forward the plans to keep this funding mechanism sustainable and if it is not possible or it is not chosen to be possible, then this funding mechanism will only be up until the end of 2019, and that is a poor show for the people of Jersey.

The Deputy Bailiff:

I am not sure there was a question there, Deputy.

Deputy S.M. Wickenden:

Can the Minister clarify that he is not bringing forward a sustainable funding mechanism therefore leaving it to the next Minister for Treasury and Resources to bring forward a sustainable funding mechanism, and if they cannot then this will stop?

Senator A.J.H. Maclean:

This is the function of public finances, full stop. It is not just in relation to this particular issue. This Minister for Treasury and Resources and this Government and this Assembly cannot commit a future Minister for Treasury and Resources, Government or Assembly to expenditure. I am not saying that there is not a sustainable option available. I have absolute confidence that sustainable options for prioritising education, as has been the case in the current Medium Term Financial Plan, will be the case in the future. I do believe that this level of funding, it is both affordable and a sustainable solution, is going to be put in place. But it is not within my gift, this Government's gift, or this Assembly's gift, to tie the hands of a future Assembly.

4.3.13 Deputy G.P. Southern:

I would just like to ask the Minister for Treasury and Resources to revise his view of what he says is our proposal of a reduction of the marginal rate of income tax from 26 per cent to 25 per cent - 26 to 25 - he has just said is an increase, I believe. Would he like to revisit that definition of increase or decrease?

Senator A.J.H. Maclean:

I referred to the fact that Reform Jersey's policy was talking about increasing the basic rate of income tax from 20 per cent to 25 per cent.

4.3.14 Deputy G.P. Southern:

Which it is not. It is decreasing the marginal rate of tax, which most people pay, from 26 per cent to 25 per cent. Can I correct him?

Senator A.J.H. Maclean:

Indeed, the marginal rate would have reduced by 1 per cent, I accept that. But there would have been a basic rate of tax of 25 per cent, which would have been an entirely significant change to the tax system.

4.3.15 Deputy S.Y. Mézec:

If you spend an underspend it is not an underspend. Would the Minister confirm with a yes or no whether or not the proposal that he has outlined on increasing higher education grants beyond 2019 produces a deficit of £4 million a year? It is a yes or no question there. I apologise for getting all academic about this, but is he aware of the principle of parliamentary sovereignty, which means that this Assembly cannot bind future Assemblies?

[11:30]

Does he therefore acknowledge that it is entirely possible that when the next Assembly revisits this for the M.T.F.P. and suddenly discovers that it has inherited a scheme that produces a £4 million deficit without any proposed sustainable funding mechanism, that it may well have to increase taxes? I mean real increases, not what the Minister has portrayed as increases in taxes on ordinary people. It could result in drastic spending cuts to deliver that or it could just be scrapped all together. Does he consider that to be responsible politics when you are getting the hopes and dreams of young people put up like that, only to potentially be shot down in flames afterwards? Is that a responsible way for a Government to behave?

Senator A.J.H. Maclean:

Deputy Mézec - and it was my New Year's resolution to make sure that I get the pronunciation correct so that everybody listening knows exactly who I am referring to - has raised a point, and I am pleased he talks about, in a sense, parliamentary sovereignty because that was a point that I was making on several occasions earlier on, about the ability for this Minister, this Government, and this Assembly to tie the hands in the future. I think the important point though to bear in mind is the priority of funding this Government has had, and I believe a future Government have, with regard to health and education. They have been priorities. They will, in my view, remain priorities. There is no guarantee for future funding of any future funding, whether it is Education or anywhere else, as the Deputy well knows and as other Members well know because any Government and any future Assembly can make their own decisions. That is a matter for them. But I do believe that the proposal that has been put forward, that has been consulted on, and that will be lodged as a proposition for Members to consider shortly, is a good proposal. It is fair and it is affordable, and it will ensure that our students have the opportunity... many more of our students have the opportunity of a higher education, which I think

is in the interests of this Island as well as the individuals concerned. Yes, is the one-word answer that the Deputy wanted and I hope he is pleased that he has got exactly that. I have made the point in my earlier answer, so hopefully that is all that is required.

4.4 Deputy J.M. Maçon of St. Saviour of the Minister for Health and Social Services regarding the capacity of the Jersey Women's Refuge: [OQ.7/2018]

In light of comments at a recent Women in Politics event that the Jersey Women's Refuge - on a side note, who do phenomenal work on behalf of the women on the Island - is over-capacity, what analysis, if any, occurs in assessing the capacity of the Refuge and the need to provide extra capacity?

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

I thank the Deputy for his question and also would like to align with the comment about the phenomenal work that they do. They do a fantastic job. As at Friday, 12th January, 5 out of the 7 bedrooms were available. My department has a contract with the Women's Refuge to provide a walk-in temporary safe place and 7 bedrooms, some of which accommodate children as well, along with communal areas such as kitchen, laundry, sitting rooms, outside and inside children's play areas. Officers regularly meet with the Women's Refuge and receive quarterly reports, which details the demands on the service. There were a small number of instances in 2017 where the Refuge was relatively busy. However, the Refuge management have confirmed that during these periods no lady who met their criteria was turned away. They have also confirmed that additional rooms, if needed, could be made available at these busy times, such as emergency beds in sitting rooms.

4.4.1 Deputy J.M. Maçon:

That is good. If there is a situation whereby there is over-capacity, how will this demand be met exactly?

Senator A.K.F. Green:

Initially, and it was not done last year, but initially over-demand would be met by converting the 2 sitting rooms into spare bedrooms.

Deputy J.M. Maçon:

I thank the Minister for his response.

4.5 Deputy R.J. Renouf of St. Ouen of the Minister for Health and Social Services regarding the feasibility study examining the requirements of the Island's mental health estate: [OQ.4/2018]

Further to the answer given to oral question number 548 on 10th October 2017, will the Minister explain why there has been further delay in releasing the results of a feasibility study examining the requirements for the Island's mental health estate, despite his Assistant Minister's statement that they would be so available by the end of October?

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

At a meeting last week the H. and S.S.D. (Health and Social Services Department) corporate directors considered a report on mental health services and the estate they use. This report was based on a full feasibility study completed by Jersey Property Holdings. It is now to be presented to myself and my Assistant Minister shortly. I will then ask the officers to work with Jersey Property Holdings and Treasury to formalise the Outline Business Case.

4.5.1 The Deputy of St. Ouen:

Very interesting, but it does not answer the question. Why has there been that delay when this was promised at the end of October and there has only been a meeting this week, I think the Minister said? Is the Mental Health Service being treated as a Cinderella service? What is the Minister doing to prioritise and get this back on track?

Senator A.K.F. Green:

That is totally unfair to make that comment about Cinderella services. There have been huge investments over the years, as well the Deputy knows, of Clinique Pinel where the dementia unit was completely upgraded. There is investment in C.A.M.H.S. (Child and Adolescent Mental Health Services), which hopefully will be opening into its new premises at the end of this month or, at the very outside, the beginning of next month. But that is piecemeal work. We needed a full strategy. Full strategies take time to prepare. Property Holdings have prepared one and I will see it next week.

The Deputy of St. Ouen:

I first need an answer to my question relating to that.

The Deputy Bailiff:

You will have a final supplementary, Deputy, so we will come to it at that point, if that is what you wish.

4.5.2 Senator S.C. Ferguson:

The Mental Health Service has not got the... surely the Minister agrees that the Mental Health Service has not got the resources. He will recall a case I referred to him. I know we cannot talk about individual cases in the States. But I have sent a follow-up email about this particular case where treatment is not available because it appears to be lack of resources within the Mental Health setup. Surely it is a matter of urgency, to the Minister, that we get our ducks in row on this. It really is not good enough.

The Deputy Bailiff:

I am sorry, could you ask what the question is?

Senator S.C. Ferguson:

Could the Minister agree that it is time we got our ducks in a row?

Senator A.K.F. Green:

We must get our ducks in a row but we must get the right ducks in a row. We must provide the right facilities for people with mental health. I am not a clinician so it is not for me to judge whether someone gets appropriate treatment or not. My role is to provide the resources and ensure that we have the right infrastructure in terms of accommodation. Jersey Property Holdings have worked very hard with my officers in producing a plan. I will see that plan next week and I will bring it forward.

4.5.3 Deputy M. Tadier:

The Minister seems to have a pedigree now of not being able to meet deadlines. At the beginning of his term he promised to solve the hospital issue within 100 days into his office. Last May he promised to give medicinal cannabis to those who needed it by the end of last year. Now we see that a promise made on mental health to deliver in October has yet to be delivered on. Is it a hallmark of this Minister's ministry to over-promise and under-deliver?

Senator A.K.F. Green:

As usual, the Deputy has distorted the words. What I promised in the election - it is a pity other people do not look at their promises and compare it - what I promised in the election, is I would

review the plans for the new hospital and report back within 100 days. I reported back in just over 100 days that the plans as outlined were not appropriate. Unfortunately it has taken a bit longer to find a new site, but I reported back. With medical cannabis we are going to answer that question later. But I will not be party to window-dressing and giving a list of things that I cannot provide because borders control will not allow it to enter or is not produced safely. So we will talk about that later. With regard to the mental health estate, there has been some piecemeal development. I want a proper plan. That plan is in the throes of being developed and will be shortly.

4.5.4 Deputy G.P. Southern:

As the Minister will be fully aware, resourcing of any service depends very much on staffing. Is he content that he has now achieved the right staffing ratios for the Mental Health Service in addition to the right places in which that could be delivered?

Senator A.K.F. Green:

I am not. We know that we still have vacancies with mental health nurses, although the situation is slightly better. We know we still have vacancies for social workers. But that is not an active decision of this Minister or anybody else not to fill those posts. They have to be filled appropriately with the right people. But we are not fully resourced, but that is not for want of trying.

4.5.5 Deputy G.P. Southern:

Does the Minister not agree that the requirement to fully staff any particular service is largely dependent upon the fact that you need to pay the right sum of money to recruit those people and then to retain them in an Island which is increasingly expensive to live in? With his second hat on, as a member of the S.E.B. (States Employment Board), will he advocate increasing the amounts which are paid to staff beyond the cap in order to recruit successfully?

Senator A.K.F. Green:

I think a bit wider than this question. But workforce modernisation is about reflected equal value for equal pay, but the fact remains that we have difficulties recruiting and we are fishing in a very small pool in the U.K. It is a worldwide problem. We are doing quite well. I would like us to do better.

4.5.6 The Deputy of St. Ouen:

Would the Minister be precise with the Assembly and would he confirm that he will release the results of the feasibility study when he has seen it, release it to this Assembly and to the public? Will he give us a date for the completion of the business plan? If he cannot give that immediately will he undertake to give it within a short time? Can he say when this whole matter is planned to be brought to this Assembly?

Senator A.K.F. Green:

Dealing with the last bit first. I need to see the plan that has been produced, that is going to be brought to me where I need to make sure I am happy with it. It needs to go to the Council of Ministers and then it will come to this Assembly. It is not possible to put a timetable on it at the moment, but it is something I regard as a priority.

4.6 Deputy M. Tadier of the Minister for Health and Social Services regarding the approval of cannabis products for medicinal use: [OQ.12/2018]

What cannabis products, if any, have been approved or shortlisted for approval for medicinal use and what criteria must a medicinal cannabis product meet in order to be put on the list?

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

Bedrocan and other associated similar products produced by Bedrocan company in Holland under licence from the Dutch Government for medicinal cannabis is going to be approved. An importation will come from Holland. Tilray oral solutions containing various strengths of T.H.C. (tetrahydrocannabinol) and C.B.D. (cannabidiol) produced by a Canadian company, currently importation would be from Canada, however we do know that there is a European country setting up under good manufacturing practices in Portugal. If they come online we may be able to get those products from there. A key recommendation of the Misuse of Drugs Advisory Council was that if cannabis-based products were going to be used for medicinal purposes, that they should be quality assured and to the same degree as other licensed medicines. In practice, this means, as I have referred to before, that they must be produced to good manufacturing practice and must be certified producers. The product must meet those standards consistently. Any manufacturer who is not G.M.P. (Good Manufacturing Practice) certified, or any other product from any other manufacturer that cannot demonstrate G.M.P. standards has been discounted.

4.6.1 Deputy M. Tadier:

The question then has to be when will this come into place. We have known about Bedrocan for years. I brought a proposition to the States and to the Minister asking him to licence Bedrocan for somebody who needed it. We have known that it is a pre-authorised and credible medication in other places. Can the Minister explain why it has taken so long to source these and when he expects these to be able to come into the Island to be prescribed for those in great medical need?

Senator A.K.F. Green:

The Deputy is right inasmuch as he brought this to us before. But what he fails to mention is that there was not the medical evidence to support what he wanted to do. There was not medical support. The Barnes report last year for the first time showed that there was evidence to support some of these people, and I have met some of them, so I understand the suffering that they are going through. I am keen to do this but I want to get it done right. I do not want to just produce a list of things that might be available that we cannot either get across the borders or we cannot source in a clinically safe way.

[11:45]

What I can say, is that from next week - and I know Sativex has been available for some time on private prescription - but from next week Sativex will be available from consultants only; consulted in the hospital-only prescription at no charge.

4.6.2 Deputy M.R. Higgins:

Is the Minister aware that one of his ministerial colleagues has been having discussions with some local businessmen who wish to produce cannabis in the Island?

Senator A.K.F. Green:

I am aware of that. It is something that I support, providing it is done to good standards and clinically safe. It is something I would welcome. I read somewhere recently of a place in Europe where they are using an old bunker because they need to have a secure place to grow clinically produced cannabis. If someone wants to come up with such a plan I would support it.

4.6.3 Deputy G.P. Southern:

I rise to my feet on hearing 2 European countries, Holland and Portugal, being described as a source of safe supply of these sort of materials. I wonder to what extent we are dependent on a U.K. list of approved drugs and not an E.U. (European Union) list and whether that approval will be affected by Brexit, in whatever shape or form that occurs to us. Especially if it is crashing out of Brexit, of Europe, whether supply of drugs might be affected.

Senator A.K.F. Green:

If we were dependent on the U.K. list it is very simple to say none of these products would be available apart from Sativex because the U.K. do not intend to acknowledge the Barnes report. I have spoken to the Minister directly on that. What we need to do is to ensure that we can get clinically produced product over borders into Jersey so that consultants can prescribe it, if appropriate to do so, to help those people who genuinely have long-term pain and I am keen to help, as I know the Members are.

4.6.4 Deputy G.P. Southern:

Can I just push the Minister slightly and say, in a general sense, will Brexit, does he believe, affect our supply of what is acceptable drugs in Jersey especially if we crash out of Europe?

Senator A.K.F. Green:

Difficult for me to answer that one completely, but I will have a shot at it inasmuch as in some jurisdictions now the use of cannabinoid products is still illegal and therefore it has been difficult to find companies that were prepared to come through those countries to deliver the product to us. So it is difficult to answer whether Brexit will make a difference. I do not think it will but I cannot say definitively.

4.6.5 Deputy L.M.C. Doublet:

I think the Minister touched on this briefly. I just wanted to confirm about prescription charges. Will there be any prescription charges applied to any of these products?

Senator A.K.F. Green:

The plan is at the moment that they be available only by hospital consultant but there will be no charge.

4.6.6 The Deputy of Grouville:

As the Minister knows, constituents of mine have been holding out for medicinal cannabis, as he has met them, and it has been a great disappointment that it was not available by Christmas as promised. If the issue is bringing it into the Island, which I can understand, then surely it should be something that this Council of Ministers should be pushing to have it grown on Island, albeit securely. What sort of backing has he got from the Council of Ministers?

Senator A.K.F. Green:

The manufacture of any medicinal products, whether it cannabinoid or any other medicinal products, requires investment of millions and millions of pounds. I am aware that one of my ministerial colleagues is in discussion with someone who is looking at the possibility of putting that investment in and I support that. I have had a lot of support, including support from officers who have met with the Ministry of Justice to discuss our challenge in getting this product into Jersey. I think we have solved the problem now. As I say, Sativex, which was available before only private prescription, will now be available from next week free but only prescribed by hospital consultants.

4.6.7 Deputy M. Tadier:

I will want to follow up personally with the Minister on why these products, if they will be prescribed, are not available on free prescription, only available at the hospital. That seems illogical to me. I will ask the Minister whether he knows that in the U.K. currently and since 2016 a pharmaceutical company called CW Pharmaceuticals have been growing and do grow 30,000 cannabis plants for medicinal use in Kent. It seems to me that there is some scope for the U.K. who already have these products growing on their land. Will the Minister confirm that in fact when it comes to importation

it is just as simple as getting a plane from Holland, putting the medicinal cannabis on that plane, flying it directly to Jersey, unloading the medicinal cannabis and that is the issue solved?

Senator A.K.F. Green:

I totally understand where the Deputy is coming from because until I got involved in this I might have had that view, but it is not as simple as that. It has taken a long time to even get companies that are clinically safe - so we know consistently what we are getting - to even speak to Jersey, but we are nearly there.

4.7 Senator S.C. Ferguson of the Minister for Health and Social Services regarding the proposed diabetes system: [OQ.6/2018]

How much will the proposed new diabetes system save the Health and Social Services budget; what will be the charge per visit to patients attending the clinics; and who will pay for the training of staff working in the clinics?

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

The diabetes pilot is one of 3 services being trialled as part of the sustainable primary care strategy. It aims to provide a full integrated care service for patients delivered in their G.P. (general practitioner) surgery by a combination of G.P., practice nurse and in this case diabetic specialist nurse. As the pilot scheme develops the service will be evaluated. This will include the cost effectiveness as well as the outcomes it achieves and the views of the patients and staff. The pilot has only started so it is not yet possible to even give an interim report on the evaluation. The pilot is designed in principle that patients should not be financially disadvantaged and that they will pay broadly the same as they do now. The funding from Health and Social Services is being used to pay for training and this is included in the year of care training and funding specialists from the diabetic centre to upskill staff in general practice.

4.7.1 Senator S.C. Ferguson:

It seems to me that this is an opportunity to outsource services because at the moment patients going to the diabetic clinic do not pay, so is the Minister saying that patients going to the G.P. diabetic clinic will not be paying?

Senator A.K.F. Green:

That is what I have said. During the period there will be no extra cost to patients who are part of this trial. The plan is not to outsource, as the Senator says, the plan is first of all to treat the whole patient with complex issues rather than just one part of them and the G.P. is the best place to do that. But the plan is also then to release specialist time for the more complicated diabetic cases.

4.7.2 Deputy G.P. Southern:

My reading of the proposal was that it was designed not to cost any extra than current use and, in fact, was estimated as £2 per year cheaper to do this new pilot. What consideration was given to the possibility of attempting to cover the whole of the problem by offering to subsidise completely this pilot in order that we should make sure that we get every diabetes sufferer that we could rather than have some, although it might not be many, put off by the continued cost? What consideration was given to the provision of a free service rather than a slightly cheaper service?

Senator A.K.F. Green:

It was important in this trial ... this trial was a trial that was a bid from general practice when we asked them to look at ways that we might do things differently. It was important in this trial that nobody was disadvantaged, and the Deputy is absolutely right, it is just under £2 saving on the year,

for which they receive considerably more background support and care. Now, where this is going to go - this is about the first or second week of the pilot scheme - I do not know but I do know that it is worth looking at supporting the whole patient with particular needs around their diabetes. If it works then we will be looking at rolling that out to others as well. The Deputy has a point: why should others not experience it if it works? But this is about the second week of the trial at the present time.

4.7.3 Deputy G.P. Southern:

Nonetheless, I believe the question is still valid and was not answered, what consideration was given at the time as to the total cost of this particular scheme being developed and the possibility of it being a free service to make sure we got everybody in the pilot. Will he answer the question: what consideration was given to that and what are the current costs and potential costs of delivering this service?

Senator A.K.F. Green:

The current cost, from memory, is about £82,000 going into this development. I understand where the Deputy is coming from but this is a trial. Let us see if the trial works, let us iron out the wrinkles and then look at whether we could expand it or whether we could reduce the charge or what that might be. Let us do the trial first.

Deputy G.P. Southern:

It could have been a trial with ... it could have been a trial where they know the cost, albeit ...

The Deputy Bailiff:

Deputy, that was a further supplementary to the supplemental. Final supplementary, Senator Ferguson?

4.7.4 Senator S.C. Ferguson:

Yes, the Minister has not answered the question. He says it is a £2 saving. Well, if they are not paying anything at the moment are they going to be given £2 as they go through the G.P.'s door? Has he got a proper, business-like economic impact assessment for H. and S.S. and an economic impact assessment for the consumer. Is he intending that the consumer should be paying their usual fee to go the G.P. less a couple of pounds? He has not answered any of the questions. Will he now answer them or come back to the States with an answer?

Senator A.K.F. Green:

It is clear that Deputy Southern has read the paper properly and the Senator has just brushed over it because you can very clearly see that the cost to patients is not a saving of £2 per visit, the cost to the patient, because we have subsidised the service to the tune of £80,000, is very similar to the cost of their visits to G.P.s now. I do not mean the charge that the G.P. makes, I mean the cost for their treatment over the year. It is £2 cheaper than it would have been for them in this trial. You cannot do right for doing wrong. Here we are trying to involve patients and their G.P.s and specialist nurses in providing a wrap-around service for them to improve the care within the community and their general health, we have this exciting project and that is wrong. But anyway I stand by it, it is a good investment of £80,000 and I look forward to seeing the results.

4.8 Deputy G.P. Southern of the Chief Minister regarding the progress made in addressing the E.U. Code Group's reservations regarding the Island's corporate tax regime: [OQ.3/2018]

I believe I am due a whole series of when questions here since the Minister in response to 3 detailed written questions has said: "I could tell you about what our plans are but I would have to shoot you

immediately afterwards.” So can we get some detail or some potential detail at all? Following his statement to the Assembly on 12th December 2017, will the Chief Minister inform Members what progress, if any, has been made on addressing the E.U. Code Group's reservations regarding the declaration of company tax and profits without real economic activity and, if none, when does he expect to make some progress and to inform this House?

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

It is nice to have the question extended. Officials, of course, are working on a wide range of matters relating to the E.U. Code Group process ahead of forthcoming dialogue. I have, during my time as Chief Minister, committed Jersey to a range of new standards on tax and transparency that reflect changing times and new expectations. In 2017 alone the Government of Jersey signed the O.E.C.D. (Organisation for Economic Co-operation and Development) multilateral convention on the prevention of base erosion and profit shifting and also delivered on our separate commitment to the United Kingdom for exchange of beneficial ownership information. I will ensure that we adopt a similarly constructive approach towards satisfying concerns of the E.U. Code Group. It is important, however, that I highlight the commitment from the Code Group and this Government to a process of dialogue. It would be inappropriate for me to set out Jersey's position in any great depth ahead of that dialogue getting underway.

[12:00]

4.8.1 Deputy G.P. Southern:

Will the Minister at least state when he will come to this House with a working definition of “without economic substance” and his response or his department's response to the reservations of the E.U. Code Group?

Senator I.J. Gorst:

The Deputy knows that there is no universally accepted definition of economic substance. He knows, or I hope he knows, that the O.E.C.D. are thinking about these issues and they themselves are in dialogue with the members of the O.E.C.D. The European Union and the Code Group and E.C.O.F.I.N. (The Council of Economics and Finance Ministers of the European Union) have not agreed on economic substance and therefore the dialogue is important and until that dialogue takes place, while we are thinking about how we may give confidence to the E.U. around the concerns that they have, it would be premature for me to make such commitments.

Deputy G.P. Southern:

He did not answer the question again. When would he consider he is likely to know something about what the definition is and bring it to the House?

The Deputy Bailiff:

Deputy, I cannot give you a further supplementary at this point but there may be time for you to go into the list for a further supplementary later on if you would like.

4.8.2 Deputy M.R. Higgins:

Can the Chief Minister clarify something for me? When the E.U. Code Group are going on about economic substance and so on, are they only referring to regulated companies that are within the Island or are they also referring to the 30,000-odd companies that are registered in the Island, that are essentially investment holdings or property holdings where there is no economic substance to it? Would he please clarify what the situation is?

Senator I.J. Gorst:

The Deputy knows that there are differing companies, either Jersey registered companies or administered companies here, and they are created for differing purposes. We are gathering further information to help us to think about the issues and the concerns that the European Union Code Group have but they themselves have not yet clarified what processes might be acceptable for those different forms of company. Let us be quite clear, we are right at the forefront here of developing international standards and it may be frustrating for Members of this Assembly but this is where we are. We are taking our place, we are working constructively with the E.U. and the O.E.C.D. in developing these standards together with those bodies so that they can ultimately, and we hope quickly, become international and therefore offer a level playing field. But they are developing and therefore the certainty that Members are asking for at this point is not available.

4.8.3 Deputy M. Tadier:

In particular, in relation to written question and answer (e), which relates to providing an estimate of any revenue loss, or as the Chief Minister calls it deferred, from local companies, can he give a timeline as to when he will be able to provide that estimate?

Senator I.J. Gorst:

I do not have the written questions directly in front of me because I am answering oral questions. I can certainly revert back to the Deputy in due course with an answer to his question.

4.8.4 Deputy M. Tadier:

May I ask a question which relates in general terms about the substance test? The Chief Minister said earlier that there is not a universal substance test, but what is the substance test that his department uses and applies when looking at these issues?

Senator I.J. Gorst:

The Deputy should know that the J.F.S.C. (Jersey Financial Services Commission) uses a myriad of different types of tests for regulated entities, which is part of the question that Deputy Higgins was asking me earlier, and the Code Group in the questions and answers that we have provided to them seem satisfied with that.

4.8.5 Deputy G.P. Southern:

I have 2 here but I will try one to start with.

The Deputy Bailiff:

There can only be one final supplementary so I think it is a question of choosing your best shot.

Deputy G.P. Southern:

I heed your advice, Sir. Is it not the case that in general, in terms of companies in Jersey, if the authorities do not ask what profits are occurring and what tax is paid upon those profits then it does not have the information to share with the rest of Europe about what is going on in the Island? Further, on an area where he does have full control he says that it is not possible at the current time to provide a full analysis of the profit of the 6,000 companies split between companies that are incorporated in Jersey and companies which are incorporated elsewhere. When - it is that "when" question - does he think he will have a picture, albeit not necessarily the full analysis, of the 6,000 companies in which that refers to?

Senator I.J. Gorst:

I cannot be precise on exactly what information will be available when. We are engaged with some of the best minds in our community, some of the best minds in Government, working together with our colleague Crown Dependencies. I understand some Members' frustration but, as I said earlier,

we are gathering more information, we are right at the forefront of evolving and changing international standards where there is currently, as I stand, no consensus and we are working together with these international standard setting bodies and the E.U. to try and deliver consensus. I believe that we are in a very good position. I believe that for many years we have been a jurisdiction of substance, for all the reasons that I have explained previously, and that we will navigate through and be able to give satisfaction to the European Union around the concerns that they have. We may, of course, need legislative change and policy change and that is what we are looking and considering now. If there are legislative changes required then of course they will come to this Assembly in due course appropriately for Members to agree or not.

Deputy G.P. Southern:

Given that the Chief Minister has not revealed any information whatsoever I am relieved not to be shot.

4.9 Connétable C.H. Taylor of St. John of the Minister for Infrastructure regarding the prospect that Jersey Property Holdings would lease the first floor of the building known as IFC 1: [OQ.2/2018]

Will the Minister confirm whether Jersey Property Holdings are in negotiations with the States of Jersey Development Company to lease the first floor of the building known as IFC 1?

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

Jersey Property Holdings are not and have never been in negotiations with the States of Jersey Development Company to lease the first floor of the building known as IFC 1. Further, I am advised that there is no expectation that the States will take space within the existing or future IFC (International Finance Centre) buildings.

The Deputy Bailiff:

Any supplementary to that, Connétable? Very well.

4.10 Deputy M.R. Higgins of the Minister for Health and Social Services regarding the Minister's assessment of the independent Planning Inspector's report on the plans for the proposed new hospital: [OQ.9/2018]

Given the Minister has stated publicly that, although the Planning Inspector recommended to the Minister for the Environment to reject the plans submitted for the proposed new hospital, the inspector has indicated the site is nevertheless appropriate for the new hospital, will the Minister explain how he has made that assessment of the inspector's findings?

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

The inspector said in his report, and I am paraphrasing because he says it in more than one place: "I assess that in broad spatial terms, the application proposal would be a sustainable and accessible location." The Minister for the Environment said in his ministerial decision that he accepted the case made by the applicant on the grounds of need and that the points made by the independent inspector's public inquiry report about the existing site being a suitable location for the hospital.

4.10.1 Deputy M.R. Higgins:

Supplementary? The Planning Inspector said, among his evidence: "In terms of the overall planning balance I consider that the spatial and locational factors that weigh in the proposal's favour are heavily outweighed by the significant negative impacts that arise in terms of townscape, visual

amenity, the settings of heritage assets, and the amenities of existing residential properties.” So he was basically saying that the site was not appropriate with the plans being put forward. As he was told within his terms of reference he was not to look at any other sites, how can you still say it was acceptable after that statement and other statements he has made in his report?

The Deputy Bailiff:

Through the Chair, please.

Senator A.K.F. Green:

I read the report and I do not put my own slant on it. Very clearly, the inspector says that this is an appropriate location. He did go on to say that the plan before him, the Rochdale profile presented to him, was not one that he would want to see on the site within that location but he did say this was the appropriate location for the new hospital.

4.10.2 Senator S.C. Ferguson:

Why does the Minister keep saying that the Gloucester Street site has been agreed by the inspector when the inspector’s report says, on page 2, put simply: “The application site area is far too small to accommodate successfully the amount of floor space proposed”?

Senator A.K.F. Green:

It does, but again the Senator has failed to read the report correctly. What it says is the application site, the site on which we were basing the footprint of the proposal of the Rochdale profile. But he is saying the location ... in other words, if you were to use more of that location and expand your building site, the location is right.

4.10.3 Senator S.C. Ferguson:

Yes, but surely the Minister understands that if he uses more of the location site there is not any room for patients?

Senator A.K.F. Green:

I wish I was an expert on everything. I have my officers working on plans to look at how we might use the rest of that site. One of the things that we absolutely worked to avoid, we wanted to be 50 metres or so away from the current building. We might have to review that.

4.10.4 Deputy G.P. Southern:

I suppose it is a very general one since the Minister is not an expert on anything. Where does the Minister believe he now is and what proposals does he have to resolve what is becoming a crisis rather than any other description?

Senator A.K.F. Green:

What I would say, generally - and I will answer specifically the question in a second - if we put as much effort into trying to make this work on the site that we have, the site that was approved by the public, the location that was approved by this Assembly, if we put as much effort into developing that location, we would be on the way. Where I intend to go is I have asked officers to look at ... because it is quite clear the inspector has said that he feels the height, despite advice from officers in Planning, is not right for that part of the site. It seems to me that if we go sideways then you lower the height. So we are looking at our options around that. It may be that we will have to phase ... and I do not know this because I have not received advice yet, it may be therefore that we might have to phase the development. I do not know the answer to that. I am going to get some ideas from officers, from experts, from people who know what they are doing, who have worked very hard to develop a scheme for Jersey. I am getting that advice next week.

4.10.5 Deputy G.P. Southern:

We are back to the “when” questions and the 100 days. The Minister may not know where he is going but what is the process by which he intends to arrive there and when does he expect to come back with some sort of further answers or solutions to this House in order that we can accept what the compromise is that he suggests?

Senator A.K.F. Green:

I cannot answer that question. What I have told Members is that I am expecting to receive some advice next week about how we might make that location work differently for us. I have to get that advice first. It is very clear both the inspector and the Minister said this is the right location. It is very interesting that they failed to acknowledge that the inspector also said in terms of transport and infrastructure links it was also the right location.

[12:15]

4.10.6 The Connétable of St. John:

Does the Minister not admit that what the inspector said is it is an appropriate location, he did not say it was the only location and that there are other locations that are probably more appropriate but that was not for the Building Inspector to say? However, his own advisers, Gleeds, in their original forms, did identify other locations that scored significantly better than the current hospital location. When is he going to stop flogging a dead horse?

Senator A.K.F. Green:

I am never going to stop. I promised to deliver a hospital and I am going to deliver it. I am going to deliver the right hospital in the right place at the right price. Right, to answer the question, I did not see anywhere in the report where the inspector made comment about other sites. What he did very usefully though is give us a whole host of principles that we need to work to. If you were to apply those principles - the inspector did not - to the other sites they all fall, but they all fall for other reasons. Let us be quite clear, nobody wants to hear this but the sort of building that you would need to ... if you complied with the planning, going outside of town, the inspector says that the maximum height for building outside of town is 18 metres. So if you apply that to any site outside of town you would need to develop a hospital that is the size of 5 Asda superstores with 2 Patriotic Street car parks alongside. If you comply with the sort of building that we would want to put on those sites ... no, sorry not want, would need to put on those sites to provide a good hospital you would be able to see it all over the Island at Overdale, which is against the Planning Inspector’s guidance in relation to the current site. If you went to Warwick Farm we joked about having to need to change the flight path, they were jokes, but it would not comply with either the planning policy on Green Zones or on height. If you went to the Waterfront, it was made quite clear to me by Planning that we would have nothing that would interfere with the view of Elizabeth Castle from Gloucester Street. Now, the Planning Inspector made a big play of the influence of the current Rochdale proposal, which has been rejected, and its influence in relation to Elizabeth Castle. So you can see putting something right across the Waterfront would shoot holes in that policy as well. The advice from Planning has always been ...

The Deputy Bailiff:

Minister ...

Senator A.K.F. Green:

Sorry, Sir, but this is a big subject.

The Deputy Bailiff:

But there are still time limits that have to apply. If you could bring your answer to a close.

Senator A.K.F. Green:

Perhaps you could add a couple of minutes on then, Sir. The advice has always been that Overdale could not produce the sort of hospital that we need to produce. Warwick Farm could not produce the sort of hospital that we need to produce. They would not consider - I do not want it anyway - the Waterfront. Here we have a planning inspector that does say that this is a good location. This would work, but not this particular planning application.

4.10.7 Deputy J.M. Maçon:

Arising from the Minister's previous answer, where he says they are going to have to go back, look at possible new phased processes going forward on a new application, can I ask the Minister, before a new application is lodged, will the Minister present to the States Assembly the cost implications of any new phased processes that may be desired in order to achieve the new application?

Senator A.K.F. Green:

Only if it exceeds the envelope agreed by this Assembly.

4.10.8 The Deputy of St. Ouen:

This question and the issue of potential delays is really far too important it seems to me to have 2 warring camps shouting at each other from the top of their ramparts on respective castles. Does the Minister recall the very helpful sessions that most of us spent at Jersey Hospice Care in which we as States Members examined in detail the case for building a hospital and what was required in a new hospital, and risks and benefits associated with that? I think we all felt after that, we came away with a much greater understanding. Now the Minister is beginning to talk of phasing a construction. I believe Members would like to understand exactly what he means by that, what is the impact going to be if this might even go ahead. So rather than have the sort of public slanging matches, would the Minister hold the sort of sessions that we had at Jersey Hospice Care so that again we can get, let us say, down and dirty into the detail of it all and we can begin to understand his plans? Then if we have to criticise them we can criticise them on an informed basis. Will the Minister respond?

Senator A.K.F. Green:

Let us be clear, I do not have a plan at the moment, I just gave that as a possibility. That is not a recommendation, the phasing is not a recommendation at this stage from officers. I am just thinking logically. I welcome the question from the Deputy and, in fact, I had already discussed with the Chief Minister that we needed to, in the light of the inspector's report, just remind people how that fitted with the sites that we have rejected. On that basis, once I have something to share with Members I am happy to do that and talk about previous sites just so Members know exactly where we are. It is a very good suggestion, one I welcome and one I will proceed with.

4.10.9 Deputy M.R. Higgins:

Can the Minister tell us how much has been spent on planning for the hospital to date, what additional sums he expects to be spent trying to sort out the current mess and, thirdly, does he agree with the Minister for Treasury and Resources that because we have a £70 million contingency fund it is no problem because we can do it, rather than the money being invested in other things in the Island which are more pressing, or equally pressing?

The Deputy Bailiff:

That is unfair, extending the question too far out from the parameters of the original question, Deputy. If you want to ask a more tailored question relating to the original subject, bearing in mind this Minister faces questions without notice as well.

Deputy M.R. Higgins:

Could I just ask the Minister for an estimate then of when he thinks it is going to be before he can come back with a new proposal and also, again, does he regret that he did not listen to this House and wait for the Planning Inspector's report before making a decision?

Senator A.K.F. Green:

Two questions there, but the first one I cannot answer because I do not know how long it is going to be yet, but I will be as quick as I possibly can. No, I do not regret it because look where we are. We have an Outline Business Case agreed, we have a location agreed. We have funding agreed and we have had the location confirmed by the independent inspector and the Minister for the Environment. Often when you make planning applications they are rejected. You refine them, you put them back. In fact I have been approached by many developers on the Island and they have just said, tongue in cheek and in a jestful way: "Welcome to our world." This is the cut and thrust of planning applications and we will come up with something that will work in that location, of that I am confident. The right hospital at the right price for the people of Jersey.

Deputy M.R. Higgins:

Sir, the Minister may be misleading the House. The inspector did not ...

The Deputy Bailiff:

Is it a point of order?

Deputy M.R. Higgins:

It is a point that he is misleading the House. The Planning Inspector was not tasked under his terms of reference to determine location, he was told to exclude the fact that other locations had been put forward.

The Deputy Bailiff:

I am sure, Deputy, if you wish you could ask that as a question in questions without notice which comes on very shortly. We now come on to question 11.

4.11 Deputy G.P. Southern of the Minister for Social Security regarding the Access to Work scheme: [OQ.5/2018]

Will the Minister inform Members what total sum has been allocated for the first year of operation of the new Access to Work scheme for the disabled and state what the source of this funding is?

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

£100,000 has been allocated to the Access to Work pilot for 2018. The funding has come from the Back to Work budget. Helping people to move into and stay in work is so important and I am proud of the progress made to date by my department, including supporting those with long-term health conditions. This new grant will, however, help more people with a disability and it is absolutely right that we pilot this to develop something that is appropriate for Jersey.

4.11.1 Deputy G.P. Southern:

If I may? While obviously welcoming any new initiative that will help people get back into work and live a normal life, can the Minister be more specific and state whether this funding of £100,000 has come from the affected £10 million that she cut from the benefit system, and income support in particular, and would be swamped by the £350,000 that has been saved by changing the disregard on long-term incapacity? Is she not giving with one hand and taking with the other?

Deputy S.J. Pinel:

I thank the Deputy for his welcome to the initiative and the answer is no, the budget has come from the existing budget within Back to Work that was used for employment incentives. As part of the M.T.F.P. savings Back to Work have committed to reducing their funding by £2 million. This is part of that funding that is being reduced and will only be for a pilot for this initiative for a year, after which it will be reassessed. It has not interrupted any other budget funding whatsoever.

4.11.2 Deputy G.P. Southern:

Does she then categorically deny that there is any relationship with the £350,000 she saved from changing the disregard to long-term incapacity, talking about those with a disability, and this pales into insignificance when compared to that sum, £100,000 is neither here nor there?

Deputy S.J. Pinel:

I am not quite convinced that the Deputy understands the budget allocations. I think I have made it quite clear that it is from an existing budget within Back to Work, it is nothing to do with any long-term incapacity funding whatsoever.

4.12 Deputy S.Y. Mézec of the Chief Minister regarding the length of time taken to produce the Draft Marriage and Civil Status (Amendment No. 4) (Jersey) Law 201-: [OQ.11/2018]

What explanation can the Chief Minister give for the length of time it took to produce the Draft Marriage and Civil Status Law and is it his assessment that the law, as proposed, does not contain measures which discriminate between same-sex couples and different-sex couples?

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

As per my answer in September 2017, it took longer than I would have wished because of the extent of the changes required. The proposed law treats all couples equally except with regard to the protections provided for religious organisations and religious officials who cannot be compelled to solemnise a same sex marriage or allow their churches to be used for same sex marriage.

4.12.1 Deputy S.Y. Mézec:

The Chief Minister I am sure will be aware of the statements which are made in the Care Inquiry report which spoke about the difficulty the Island has often had pursuing social legislation. This is clearly one of those items that has taken us significantly longer than it has the other Crown Dependencies. What is the Chief Minister's assessment of the situation, how this seems to be a problem we encounter relatively frequently and what does he think needs to change to enable the Island, when it comes to important bits of social legislation like this, to be able to tackle them more quickly like other jurisdictions seem to be able to do?

Senator I.J. Gorst:

I do not accept the premise of the Deputy's question. As I said to the Care Inquiry when they asked me that same question, perhaps in the past that would have been a fair accusation. This Government and the one preceding it has spent more money on bringing forward social legislation than previous ones. The reason for the delay, as the Deputy knows, because I answered his question last September, was that rather than simply grafting the change that the U.K. brought forward to their law, as Guernsey and the Isle of Man did, we opted for an overhaul of our broader marriage law and covered open air marriage, covered more choice over the content of the ceremony and the wedding celebrant, it included improved safeguards against sham and forced marriages. That is why it took longer because it was an overhaul of the entire law rather than a simple grafting on of someone else's law.

4.12.2 Deputy M. Tadier:

Does the Chief Minister agree that you cannot have equal marriage without having equal dissolution of marriage? Can he confirm that the rules regarding divorce are not equal for same sex couples versus non-same sex couples?

Senator I.J. Gorst:

We had proposed to bring forward wholesale reform as well to the divorce law. Of course, Members will know there is a consequential amendment to that law included in the law as lodged. I took the decision when it became apparent to me - I think it was post the summer recess - that if we continued to reform that law at the same time it would take even longer than the lodging that we currently find ourselves in.

[12:30]

So, yes, there will be difference of treatment in that law as well and that is a piece of work that I understand the Minister for Home Affairs is determined to take forward during 2018.

4.12.3 Deputy M. Tadier:

It should not need to take longer. If the work had been done concurrently by Ministers in different departments as opposed to the silo mentality that we continue to see, there is no reason that the divorce laws and the new marriage laws should not have been ready at the same time. But will the Minister comment specifically on one example which will apply to heterosexual couples but not to same sex couples, which is the non-consummation of a relationship for grounds of divorce, which will not apply to same sex couples but which still applies to heterosexual couples? Is it not completely anachronistic, perverse and voyeuristic to keep this provision in the law and should it not be removed immediately so it is in line with those for same sex marriage?

The Deputy Bailiff:

It does not seem to me that this deals directly with measures to discriminate between same sex couples and different sex couples but ...

Deputy M. Tadier:

I think it does, Sir, because ...

The Deputy Bailiff:

... I am conscious that also the Chief Minister is facing questions without notice in any event. Do you wish to answer this question?

Senator I.J. Gorst:

I am happy to so do. It is unfair of the Deputy to suggest that these laws have been brought forward in silos. The officials dealing with all of these changes briefed myself and the Deputy Chief Minister and said if we continued down this route it would take even longer and we took the decision that we would separate out ... that piece of work continues. As I said, the same officers who have done the Equal Marriage Law are the same officers that will be supporting the Minister for Home Affairs in the greater reform of divorce law. So the problems that the Deputy is referring to continue, but that reform, that change, is being delivered and will be delivered.

4.12.4 The Deputy of St. Ouen:

Does the Chief Minister agree that there is a further measure which discriminates against different sex couples in the law, and that is the fact that the option of civil partnerships is not available to different sex couples? Why has the law been drafted in such a way and why could it not have been drafted either to remove the option of civil partnerships or to make it available to all couples?

Senator I.J. Gorst:

The Deputy is right, that does remain. That was not our initial intention. But he will also be aware that there is a case going through the United Kingdom Supreme Court now and the view was taken that we should await the outcome of that particular consideration before we made a decision one way or the other about which of those routes to take.

4.12.5 Deputy S.M. Brée of St. Clement:

These areas of question have been touched on by other Members before but I fear that the Chief Minister may have inadvertently mislead this Assembly by saying that this draft law and the consequential amendments treats all couples the same. It does not. Heterosexual couples are not allowed to enter into civil partnerships and same sex couples are not allowed to sue for adultery. So could the Chief Minister kindly explain why he said this treats all couples the same?

Senator I.J. Gorst:

I think what the Deputy is referring to is other laws where there remain differential treatments. I was quite clear on that. I have just answered a question from the Deputy of St. Ouen saying just that. The Deputy and Deputy Tadier have referred to the divorce law where there is difference of treatment as well. I have been absolutely clear about that.

4.12.6 Deputy S.M. Brée:

Is the Chief Minister therefore agreeing that the draft Marriage and Civil Status Law and its consequential amendments do create areas of discrimination between heterosexual couples and same sex couples? I cannot quite understand how he can say it does treat all couples the same. If he could clarify exactly what he means by that statement. Thank you.

Senator I.J. Gorst:

We have been quite clear that the introduction of the quadruple lock in this particular piece of legislation creates a difference of approach. Absolutely clear. But there is already a difference of approach in other pieces of legislation. The subsequential amendments in this law addresses some of those. Some of them remain for the reasons that I have just explained.

4.12.7 Deputy S.Y. Mézec:

The Chief Minister said that this law took the length of time it did because it had other aspects latched on to it. Let us be clear, some of those aspects were also out of date as well. It was ridiculous that we have not had open air weddings in Jersey up until now. So I guess the point I was trying to make with my question was: why does it seem like we wait for a whole bunch of out of date things to be identified and then sort them all out at once and then end up with a piece of law in front of us that contains clauses which are inconsistent and even has typos in it? The question I am asking really is would there not be a better way of doing things where we did not have to wait for laws to be out of date by sometimes hundreds of years, for us to be decades behind other jurisdictions on things and then end up with a piece of work in front of us that is not that good and it should be better, given the subjects that it covers. Is there not a better way of doing things is what I am asking him?

Senator I.J. Gorst:

I know Members of this Assembly like to hold me to account but sometimes it is a little bit tricky to take it seriously when they are trying to hold at my door laws which are hundreds of years and decades out of date. This Government has brought forward these changes as it has brought forward a myriad of changes to social legislation, not least of which is the great overhaul of Mental Health Law. Something which, again, was decades out of date but we have made those changes. I have made it absolutely clear the law was delivered ultimately at great pace by the officials and I find it disappointing that the Deputy wishes to make ... of course he can make a cheap point against me, that is politics, but those officials who have been working on this law, some of them have worked

solidly over weekends, got very little sleep but that still meant that there were areas that needed amending and small areas and changes that needed to be changed. Typos, for example. I do not think we should criticise those officials for that. They have put a herculean effort into getting this law lodged so that this Assembly could debate it and this legislation could be put on the statute books. I congratulate them for that.

Deputy S.Y. Mézec:

Just to be clear, in that question I am making no statement about the officers, it is about the process.

The Deputy Bailiff:

If you would sit down. Chief Minister, would you withdraw the suggestion it was a cheap point?

Senator I.J. Gorst:

I am not quite sure why you are asking me, Sir, but of course I am always willing to oblige the Chair if you wish me to do so.

4.13 Deputy M. Tadier of the Minister for Infrastructure regarding the future use of Les Quennevais School site: [OQ.13/2018]

What consideration, if any, has been given to the future use of Les Quennevais School site and what public consultation, especially with Les Quennevais residents, will there be on any future uses of the site?

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

No detailed consideration has yet been given to the future use of the current Les Quennevais School site. Having obtained planning permission for the new school, the project team is finalising the acquisition of the site and has commenced the procurement process for a main contractor. Once these stages are concluded a more definite timeline for the completion of the new school and the vacation of the existing school can therefore be determined. Proposals for the future use of the existing school site will then be developed in conjunction with the planning authority and shared publicly. The department and I welcome receiving the views of the Parish authority, the public and in particular those in the immediate vicinity of the existing school site on any proposals brought forward.

4.13.1 Deputy M. Tadier:

I am not suggesting that the current site in its current form could be of any use, but has the Minister given consideration before clearing and razing the site, as has certainly been suggested to me by some constituents, that use of the existing buildings or part of the existing buildings could be put to some use before it is completely razed. If not, why not?

Deputy E.J. Noel:

That is exactly what I said to the Deputy's original question. We will look at the various options for that site and what is the best blend, mixture, for that site, be there some community activity on it. There has been in the past some mention that a Parish administration facility would be there but the site does lend itself to residential development, in keeping with its surroundings.

4.13.2 Deputy M. Tadier:

Could the Minister perhaps give an indication of whether he would support a general masterplan for the Les Quennevais area, not limited exclusively to the area of Les Quennevais School, Clos des Sables and Les Quennevais Park but also to consider the wider impact that any development might have including on the Les Quennevais Precinct area, which has a mixture of commercial and

residential? Would he give his wisdom as to whether that might be something for the area to be considered?

Deputy E.J. Noel:

My own personal view is that that site is not large enough to warrant a masterplan for that site but I advise the Deputy not to forget that the whole of the St. Brelade and Les Quennevais area that is within it is subject to the Island Plan. Any proposals that are brought forward would already be covered by the Island Plan. But that is a long way off, we are at least 2½ years away before site will be vacated and there is plenty of time to have a dialogue and discussion with both the residents in the area and the wider public about what is the best use of that site for the public going forward.

The Deputy Bailiff:

Very well, that concludes questions with notice.

LUNCHEON ADJOURNMENT PROPOSED

Senator L.J. Farnham:

It is not quite quarter to but we have a presentation at lunch time so I might propose the adjournment.

The Deputy Bailiff:

Yes, the adjournment is proposed. The States will resume at 2.15 p.m. to deal then with Questions to Ministers without notice.

[12:42]

LUNCHEON ADJOURNMENT

[14:17]

The Deputy Bailiff:

Senator Ferguson, you have a matter to bring to our attention by way of petition, I believe?

PETITIONS

5. Senator S.C. Ferguson – presentation of a petition on behalf of the Jersey Independent Lifeboat Service Committee:

5.1 Senator S.C. Ferguson:

I have a petition brought on behalf of the Jersey Independent Lifeboat Service Committee and a petition from the public of Jersey to ask for States support - not money, support - for an independent lifeboat station in Jersey which we are in the process of setting up. We have at the moment 6,720 signatures, all of whom are very enthusiastic about the lifeboat and I have asked the Chief Minister, for the Council of Ministers, whether they will be able to truncate the consideration period and bring it back to the States before the 8 weeks.

The Deputy Bailiff:

That is a matter, of course, for the Chief Minister but we note that the petition is tabled and it will be referred to the appropriate department, in this case the Chief Minister's Department, for a response.

Senator S.C. Ferguson:

Due to the wonderful service of the Greffier and his acolytes ...

The Deputy Bailiff:

I am not sure acolytes is quite the technical term for those within the ...

Senator S.C. Ferguson:

... all the micky mice have been removed. All the people who signed incorrectly.

The Deputy Bailiff:

I see, thank you very much.

QUESTIONS - resumption

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

The Deputy Bailiff:

Very well, we resume now with Questions without notice. The first question period of 15 minutes is for the Minister for Health and Social Services. If we could reset the system, Greffier, so people's lights will come up on the screen. Members wishing to ask questions, kindly show.

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

This morning the Minister for Health and Social Services was referring to the hospital site or location and made reference to the Waterfront. I believe he said they would not agree to it. Would the Minister state who "they" were?

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

I may have said that but what I meant was within the planning guidelines Planning would not agree to it. It is quite clear that if you could not see Elizabeth Castle from Gloucester Street then they would not agree to any development that blocked that. That complies with the report that the inspector wrote in relation to he felt the size of the building, the profile that we had presented, would also have a detrimental effect on Almorah Crescent and the hospital, and I think Noirmont Point as well. So the advice fits with the comments of the inspector.

6.2 Deputy M.R. Higgins:

Can the Minister give an estimate of the additional costs that are going to be caused by having to re-evaluate a new hospital building on that site? Does he agree with the Minister for Treasury and Resources who said: "We have a £70 million contingency, we can cover it all" as if that is okay? Surely that money could be used for other things if you got it right the first time.

Senator A.K.F. Green:

I think the Deputy has been a bit unkind to the Minister for Treasury and Resources and quoted him out of context. He did refer - because I heard the interview - to the contingency fund by way of demonstration that there is some leeway. He did not say that we had to spend it. So the brief to the team is to come up with a new plan on that location so it is a reconfiguration on the location within the current budget.

6.3 Deputy J.M. Maçon:

Many of my constituents have contacted me expressing grave concern about the cost of the hospital project. Can the Minister please inform the Assembly what the cost is to date, how robust the financial controls are, and whether this area needs to be reviewed?

Senator A.K.F. Green:

The costs as of Friday before last was about £23 million. Some of that included temporary works that we needed to put in place to ensure that we maintain a safe hospital during the period that we are

planning and building. For example, extra beds were put in at Overdale, C.A.M.H.S. was part of the funding of that as well, so to ensure that we had new theatres so that we could comply with current guidelines and so we got a safe hospital, it may not be one that is as dignified as we would like because of the curtains, but so that we have a safe hospital during that time. I am advised - and I have to be advised, I am not an expert in this - but I am advised at this stage of the scheme, if you were to benchmark us against similar schemes in the U.K. that we would be on the medium or low side of expenditure at this time in the scheme.

6.4 Deputy R. Labey of St. Helier:

What can I say to the Minister, I was asked by the media for my opinion and I did not hold back. I believe that to take the last application as far as he did was a grave error of political judgment. But, if he is to cling on to his role, will he at least give the Assembly this assurance that he will no longer employ the Rochdale envelope for a future application for the hospital because the public of this Island, this Assembly, planners, deserve to see what they are going to get.

Senator A.K.F. Green:

I give an absolute assurance that I will use the Rochdale profile in the next application because the inspector says in his report that it is an appropriate way of receiving outline planning permission. We could spend hundreds of thousands of pounds designing something in detail, which needs to be changed. The Rochdale profile sets out the density of the building, the height for the building; the inspector does say it is an appropriate way forward and so we will be coming forward again with a different approach but using the Rochdale profile.

6.4.1 Deputy R. Labey:

Supplementary. The Rochdale has only been used once before on this Island for the Energy from Waste plant and we all know how that ended up. It is quite wrong to use outline planning permission, planning by the back door, the outline planning permission, the neighbours' enemy and the developer's friend, it is quite wrong and will he reconsider that to use it for this development?

Senator A.K.F. Green:

No, it is quite clearly the right way to go, the inspector says so, the independent inspector. We can all pretend we are experts in planning, as most Members seem to be an expert at everything, but we can all pretend we are an expert, but an expert has said that it is appropriate.

6.5 The Connétable of St. John:

In paragraph 264 of the inspector's report he says: "My comments here are not intended as any undue criticism of the applicant's team." Will the Minister accept that his team have worked tirelessly and in a completely appropriate manner and that the fault lies with the incorrect guidance from ministerial level?

Senator A.K.F. Green:

I agree with the first part that the team has worked very hard in delivering a hospital despite pitfalls that have been put in their way and I do not agree with the second bit about inappropriate ministerial guidance.

6.5.1 The Connétable of St. John:

Further to that, on page 54, paragraph 294, and I am quoting from the report: "The critical issue here is not the need for a new hospital but whether the application proposal represents the one and only vehicle that could deliver it. This raises questions about 2 matters that are beyond the scope of the inquiry, the first concerns the site selection and the comparative merits of alternative sites." Will the Minister re-examine the merits of alternative sites?

Senator A.K.F. Green:

In a word, no, but I will explain why. We have done that work. It has been done twice by 2 Ministers. Let us be quite clear, there are a whole host of infrastructure and logistical reasons why Overdale does not work. I started with wanting Overdale; I even looked at whether we could have some creative approach from St. Aubin's Road, but Planning made it quite clear that you cannot get the sort of building that you would need to build for a hospital on that site. If you are going to comply with the planning guidelines for that site it is 18 metres high; that would be 5 Asda superstores plus car parking, so it does not work. With Warwick Farm, not only is the site not big enough, and you would have to rezone green land, you have that same problem. As I said this morning, you would have to have a building 5 times the size of an Asda superstore plus 2 car parks and it would be 18 metres above the skyline. People joked about having to change the flight path, but it would be visible from the whole site. There is a whole host of logistical and transport reasons why it does not work. St. Saviour's has, not only a listed building, it has a listed lawn, the site is not big enough. Can you imagine the sort of profile that I have described at St. Saviour's? Apart from the fact that it is so far away from the population, and I know Members are going to say that there are many hospitals out of town in the U.K. and I will come back to that in a minute, it is so far from the population that you would have to provide even more car parking. The 44 per cent or thereabouts - it might be 40 per cent - of people that visit the hospital at the moment walk in and the independent inspector acknowledged that. I have already made comments about the Waterfront. There is no point in spending more money looking at the same thing in the hope that looking at the same information will give a different answer, it will not.

6.6 Deputy M. Tadier:

I am not sure if the reference to Asda, which we do not have in Jersey, is appropriate given that their slogan is "Every little helps" or "Save money. Live better". I am not sure where the money is being saved on this project. My question is to do however with medicinal cannabis. Will the Minister explain why he is seeking to treat medicinal cannabis differently to other forms of medication that G.P.s might prescribe such as opiates, which are currently available to be prescribed by G.P.s and free, not exclusively by the pharmacy at the hospital?

[14:30]

Senator A.K.F. Green:

It is a really good question and it is not unusual when new medicines to us come initially online that they come online in Health and then the case has to be made for them to go on the approved list for Social Security if that is felt appropriate. But it is a good question, but this is part of the normal process.

6.6.1 Deputy M. Tadier:

Would the Minister make sure that those products, once they are approved, do go on the Social Security list so that there is a level playing field for people who need to access this vital medicine?

Senator A.K.F. Green:

We have to wait and see how the introduction of it goes with the consultants. I will seek clinical and medical advice and if that is what they recommend and M.D.A.C. (Misuse of Drugs Advisory Council) recommend then certainly I will be talking to the Minister for Social Security.

6.7 Senator S.C. Ferguson:

The Minister has not mentioned noise at the moment. There will have to be a lot of piling in the area and, having lived next door to a whole load of piling for 2 years, which reverberated around St. Brelade's Bay - Deputy Rondel has already complained about noise at the hospital - does the Minister

not realise that the noise from the piling work from the new hospital plus other work will last for the best part of 8 years, is that really the best thing for the patient?

Senator A.K.F. Green:

A number of questions there, first of all piling. Piling was happening yesterday outside the hospital in order to do some ground tests, it had an eco-screening around it and nobody, apart from those in the know, knew it was happening. Piling has to be done in a considerate way. I cannot answer for the inconsiderate development in St. Brelade next to the Senator, but I can answer for our scheme. Piling, as the Senator full well knows, is at the very beginning of the scheme, we would do it considerately, we would cover it with this eco-protection, it does not go on for 8 years. By the way, most of the piling we do these days, we are doing some test piling, but most of the piles these days are drilled, not hammered, and that is the norm. On the Waterfront where they have been building the International Finance Centre, I was 2 yards away from where they were building and I did not even know anything was happening next door.

6.8 Deputy G.P. Southern:

Change of topic again: could the Minister agree to bring the end-of-year vacancy rates for nurses in the hospital to the attention of the States in a directly comparable way with this time last year?

Senator A.K.F. Green:

The Deputy has caught me out; I do have the end of last year, I do not have the end of 2016 to compare it with, but I was advised this morning that the overall vacancy rate in the Health and Social Services Department is approximately 6 per cent, 42 posts.

Deputy G.P. Southern:

Will the Minister agree to circulate those figures?

Senator A.K.F. Green:

Certainly.

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

In a previous answer to a question, the sum of £23 million was mentioned I believe as the expenditure to date for the hospital. Can the Minister tell Members whether or how many properties that includes that the States of Jersey have purchased on Kensington Place?

Senator A.K.F. Green:

Really a question for the Minister for Infrastructure but I will try to be helpful, do not hold me to it, I believe it is one that has been purchased at the present time. But that £23 million was recently published when it was £17 million under a Freedom of Information answer, so you have most of it there. If you would like more detail, if the Deputy would like more detail, I would be happy to provide it.

6.10 Deputy L.M.C. Doublet:

I want to ask the Minister about appointment waiting times for those with mental health issues. Could the Minister speak to appointment waiting times until people get treatment rather than just the initial assessment? I think the Minister mentioned in a previous answer to me that he was employing or training some additional staff. Can he update the Assembly on those measures and whether the waiting times have improved recently?

Senator A.K.F. Green:

This is one I am going to have to come back to the Deputy. I thank the Deputy for her interest in this, it is something I am interested in as well, and we recently released the mental health dashboard as of the end of last year, the end of 2017, which does show substantial improvement. But what that looks like and the detail I cannot remember. I will make sure that dashboard goes out to Members again to see.

6.10.1 Deputy L.M.C. Doublet:

Could I ask a brief supplementary: could the Minister let the Assembly know what target he is working towards?

Senator A.K.F. Green:

Most certainly.

7. Questions to Ministers without notice - The Chief Minister

The Deputy Bailiff:

I am afraid this brings the time available for questions to this Minister to an end. The next question heard is that of the Chief Minister. Questions for the Chief Minister, Senator Ozouf?

7.1 Senator P.F.C. Ozouf:

Last week the Royal Court issued a judgment against C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities) in respect of a competition case. Ministers were told they were not permitted, rightly under the law, to intervene in that case during it, nevertheless Ministers at the time had concerns about it. The case was extremely critical of C.I.C.R.A. and seems to indicate that there is a systemic problem with C.I.C.R.A., which was underlined by the Competition Report overseen by Sir John Vickers. Will the Chief Minister explain to the Assembly what action he is taking to deal with the consequences of this judgment and whether or not C.I.C.R.A., in his view, as a result of this judgment still is fit for purpose for the task that it has?

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

Of course we have been made aware of the judgment handed down from the Royal Court and the contents thereof. There is now a discussion between Ministers and officials about the next steps that are required to be taken. We need to have legal advice around the implications for the judgment. The Senator is right that the outcome was not the outcome that was expected, nor communicated to Ministers. It is right that Ministers do not interfere with the regulator and the regulator's decisions, but in light of court judgments and decisions of the court, Ministers must consider what the implications are, not only for any regulator, but for also the "fit for purposeness" - I am not sure that is the correct phrase - of the law going forward and what the implications are and I expect that Ministers will be agreeing to a number of reviews in that regard because competition is, as we know, critically important to communities like ours.

7.1.1 Senator P.F.C. Ozouf:

To cut to the chase: does the Chief Minister and the Ministers involved, do they think that there is a case of questioning whether or not they still have confidence in C.I.C.R.A. after reading what is effectively a complete and utter damnation of virtually every single argument put forward by C.I.C.R.A. by the Royal Court in a well-argued judgment? Is it possible that Ministers can still have confidence in such an organisation?

Senator I.J. Gorst:

The Senator knows that I am not going to pass judgment in this arena in such a regard but he also knows that there are implications for decisions, which Ministers need to make in the future, about changes that it would appear are now required and it is too early yet to say all of what those changes might be and the implications that there might be thereof. But that is work that will be ongoing because Ministers are absolutely committed, he knows one of the reasons I gave him that portfolio 3 years ago was because we need to ensure that markets are working in our community. The reports that he commissioned showed that they are not working as well as they should be and that there is a lot more work to do. It would appear on the surface that here is a judgment that reinforces that.

7.2 Deputy L.M.C. Doublet:

In response to a question I asked the Chief Minister nearly 2 years ago, he committed to researching whether there was a gender pay gap in Jersey. Can the Chief Minister update the Assembly on whether this work has been carried out and, if so, what he has found?

Senator I.J. Gorst:

I do not have those details with me but I shall go back to the department. I do not want to give the Deputy any undue hope but I will find out what has happened to that piece of work and update her accordingly.

7.3 Deputy R. Labey:

If things had gone differently with the planning inquiry, perhaps a different inspector or the Minister, perhaps a different Minister, we could well be sitting here now with the terrifying monolith application for the hospital having gained planning approval. I was right in the debates before Christmas on the funding that that application would no longer come before Members of this Assembly or the Planning Committee. That is what the department tell me. The Chief Minister was adamant that it could be called in by the Planning Committee. The Chief Minister was also adamant that the Minister would need 3 or 5 weeks to consider the application. In fact he just took a few days. Is it not important, because the Chief Minister does hold sway, that we do not lose touch with the facts in debates?

The Deputy Bailiff:

What is the question, Deputy?

Deputy R. Labey:

Just that; we have to be careful, especially responsibility that the Chief Minister carries and his ability to sway opinion in debates, that we do not lose touch with reality and misrepresent the facts.

The Deputy Bailiff:

So the question is, Chief Minister, is it right that we should not lose touch with reality and misrepresent facts?

Senator I.J. Gorst:

Of course the Deputy is absolutely right. I recall listening to his speech on that occasion and in my remarks congratulating him for his passion and recognising I think where we disagreed was that he said that he did not think it was necessary for the future design to come in to the Planning Committee; I said I thought it would be absolutely necessary and that I had confidence in him, in his role on that committee, to deal with those issues. It was relayed to Ministers that the Minister would take some time to consider the planning inspector's report. As it happened, that report was so clear cut, and it was so obvious from reading that report that the Minister could only make one decision, that as he says it did not take very long at all for the Minister to reach that decision. I do not think that many

Members, while accepting some of the concerns the Deputy raised, thought it would be quite that clear cut.

7.4 Deputy G.P. Southern:

Will the Chief Minister agree, when he has agreed a definition of what the concerns of the E.U. Code Group on the attraction of profits without real economic activity is that he will bring that definition along with the regulatory legal framework and additional accounting and reporting obligations he may have under consideration to respond to that definition to this House before he takes action on it?

Senator I.J. Gorst:

There is a reasonably tight timeframe about making any necessary changes in regard to what might be an economic substance test. The Deputy, from his question, appears already to have made a judgment on what may or may not be acceptable with regards to profits where they are booked and he should know that rightly there should be a differential between trading companies, between property holding companies, and investment companies more generally, as we see right across the jurisdictions and countries of the European Union. This work will be ongoing throughout 2018. I will, when decisions are being made or been made, inform Members, but we will need to work quickly through this process. But I am not going to second-guess that, as I said in an oral question, because the dialogue process that the E.U. and this Government has committed to has not yet begun.

7.4.1 Deputy G.P. Southern:

Once again the Chief Minister carefully avoids answering the question, which was simply: will you bring those concerns to this House?

Senator I.J. Gorst:

What concerns is the Deputy referring to?

Deputy G.P. Southern:

The concerns contained in the E.U. Code Group's reservations about our trading without real economic value.

Senator I.J. Gorst:

I think the Deputy is talking about substance and how we are going to prove and deal with what is a phrase "concerns". The dialogue needs to determine in more detail what those concerns are. But the Deputy must remember, as I said earlier, this is an emerging international standard. He seems to want clarity in a tick-box approach. That is not where we are. This is an emerging international standard and I am sorry but we cannot give at this point the detail that he is requesting because all of the parties involved are not yet clear on exactly what criteria will need to be met in what particular type of companies.

[14:45]

Deputy G.P. Southern:

Again my question is: when he has reached agreement with the E.U. Code Group on what we are looking at, will he bring that definition to this House? It is simple. I am not asking you to bring it now, I am saying will you bring it.

The Deputy Bailiff:

You have had a second supplemental question to your original question. I will put you on the list if you wish me to again, if there is time, but we will move on. Deputy Tadier.

7.5 Deputy M. Tadier:

On 13th July last year a press release was sent out by the Comms Unit saying that the Chief Minister would be working to establish a Diversity Forum. It noted that there needs to be more done to include people in Jersey's Parliament, that there were no Members from Jersey's Portuguese or Polish communities, and that they wanted to make connections with Jersey's Portuguese and Polish communities to encourage greater participation in 2018. On that basis, will the Chief Minister be robustly opposing the moves from the Privileges and Procedures Committee in P.112 later today or later in this session to further restrict the participation of those communities in our Assembly by including a requirement for them to be a British citizen, which does not currently exist at this time?

Senator I.J. Gorst:

I have many issues to deal with in any given day and I cannot say quite with certainty. I am on the public record of saying that I think there are some traditions in our community that we must respect and maintain. As I understand it, the proposal is to deliver equality with other classes of States Members to put that criteria in place, but of course I will listen, as Members would expect me to, very carefully to the debate.

7.5.1 Deputy M. Tadier:

As a traditionalist, surely the Chief Minister should be supporting the long centuries' old tradition of there being no restriction on non-British nationals to stand for the ancient role of Constables, but we could of course change it 3 months before nomination day if we wanted to. But I will ask rather whether or not there exists some cognitive dissonance between, on the one hand, the Chief Minister standing up saying he wants a more inclusive Assembly, and what other people of course outside the Assembly might commonly call his hypocrisy in holding the view that we want to make this Assembly more inclusive but saying we do not want any Portuguese or Polish non-British nationals to be able to ever get a seat in this Assembly, thank you very much. Would the Chief Minister take this opportunity in question time to stand up and robustly oppose that kind of sentiment and to issue his support against these changes?

Senator I.J. Gorst:

I do not necessarily accept the premise of what the Deputy is suggesting. We have, for centuries, welcomed people into our community, recognise their vitally important part to not only our economy but also our community and our future. I believe we should continue to do so. We want people to be part of our community, we want them to feel that they have a future here when they move to our Island. That does not mean to say that there should not be some barriers to rightly being elected to a legislature. But, as I say, I shall listen to the debate with interest.

7.6 Deputy J.A. Hilton:

I am asking this question of the Chief Minister because the access of justice comes under his remit. So my question is about the audio system in the Royal Court. For anybody who has sat in the Royal Court and attempted to listen to the proceedings, especially when they are back in the public seating area, it is extremely difficult. I was wondering whether the Chief Minister would look at this matter with a view to addressing it because I think it does act as an impediment to people, especially people who are hard of hearing, to listen to what is going on in the Royal Court.

Senator I.J. Gorst:

It is a good job there are not very many politicians in the Royal Court because we seem to be able to make ourselves heard. But it is a serious question. Justice in this Island is carried out in public and rightly so and those attending upon or into court should be able to understand and hear the proceedings that are taking place. I shall relay those concerns and of course have a conversation with the Bailiff and the Court Service because I am sure that if it was brought to their attention that there were such concerns they too would seek to wish to address them. There are many wonderful things

about the Royal Court building but modernity and how justice should rightly operate and various protections and communications is not one of the good things about that building and I know that it is something that the Court Service constantly thinks about and challenges itself about whether that particular building is the best building for the future.

PUBLIC BUSINESS

The Deputy Bailiff:

I am afraid that brings the time allocated to questions to the Chief Minister to an end. There is nothing under J and K so we come on to L, which is Public Business.

8. Draft Road Traffic (No. 63) (Jersey) Regulations 201- (P.67/2017)

The Deputy Bailiff:

The first item of Public Business is the Draft Road Traffic (No. 63) (Jersey) Regulations lodged by the Minister for Infrastructure. I ask the Greffier to read the citation.

The Greffier of the States:

Draft Road Traffic (No. 63) (Jersey) Regulations 201-. The States, in pursuance of the Order in Council of 26th December 1851 and Article 92 of the Road Traffic (Jersey) Law 1956, have made the following Regulations.

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

The Draft Regulations before us today would amend the Road Traffic (Jersey) Law 1956 mainly to rectify a number of anomalies and inconsistencies, which have come to light since the 1956 law was amended by the Road Traffic (No. 62) (Jersey) Regulations 2015 and - Members will be pleased to say - which I will now refer to as the 2015 regulations. As you maybe recall, the 2015 regulations introduced a number of new serious road traffic offences, namely, causing serious injury by dangerous driving, causing death by careless driving, causing serious injury by careless driving and finally causing serious injury by careless driving while under the influence of drink or drugs. In summary, the draft Regulations would make the following changes, disqualification from driving will become discretionary instead of mandatory for an offence of causing serious injury by careless driving. This would be done by an amendment made by Regulation 3 and the reason for it is to give the court the option of not disqualifying a person where, despite the consequences, the degree of carelessness involved was minor enough not to warrant that the driver be taken off the road. The definition of what constitutes a serious injury will be changed to allow the courts wider scope to decide whether an injury is a serious injury. This would be done by the amendment made by Regulation 4 and it would enable the courts to avoid a possible injustice where for example the injury turns out to be more or less serious than at first thought. The maximum term of imprisonment for the offences of driving or being in charge of a motor vehicle with an alcohol concentration above the prescribed limit, failing to provide a specimen for analysis and refusing to consent to analysis of a specimen of blood will be increased from 6 months to 12 months, so that it is the same as for the offence of driving while unfit through drink or drugs. This would be affected by the amendment made by Regulation 5 and they would correct an anomaly in the maximum sentencing for the similar offences, which existed since the 2015 regulations were adopted. The courts will be given the power to order an offender, following disqualification for any of the offences introduced in the 2015 regulations, other than causing serious injury by careless driving, to remain disqualified until he or she has passed a new driving test. This would be done by the amendment contained in Regulation 6 and it would correct another anomaly by giving the courts the ability to deal with offenders convicted of serious driving offences of broadly similar degrees of seriousness. The alternative offences for

which a person may be convicted on a charge of driving or attempting to drive, or being in charge of a motor vehicle when under the influence of drink or drugs, and driving or attempting to drive or being in charge of a motor vehicle while having an alcohol concentration above the prescribed limit would also be amended. This would be affected by the amendment made under Regulation 7 and it would give the courts wider powers to convict a defendant for an alternative offence where the original offence charged is not proved on evidence but one of the other alternatives is made out. The offences introduced by the 2015 regulations will be added to those for which disqualification from driving and endorsement of driving licences may be ordered and this would be done by changes made by Regulation 8 and would clear up the possible uncertainty as to the powers to order disqualification and so on from these offences. Finally, the offences introduced by the 2015 regulations will be added to those which cannot be dealt with by a Parish Hall Inquiry. This would in effect be affected by Regulation 9 and is necessary because the new offences are too serious in nature to be dealt with solely at a Parish Hall Inquiry. As with the 2015 regulations, the Attorney General has been asked to advise upon and has approved then changes to the penalties for offences which would be made by the draft Regulations and it is not anticipated that there would be any financial or manpower implications from the adoption of the draft Regulations, which also have the backing of the Magistrate. I propose the principles of the Regulations.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? No Member wishes to speak. I ask those Members in favour of adopting the principles kindly to show. Those against? The principles are adopted. Does the Environment, Housing and Infrastructure, Scrutiny Panel wish to scrutinise this matter?

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

No.

The Deputy Bailiff:

How do you wish to propose the Regulations, Minister, in Second Reading?

8.2 Deputy E.J. Noel:

As in proposing the principles, I outlined the Regulations in some detail, so I would like to take them *en bloc*.

The Deputy Bailiff:

Are the Regulations seconded? **[Seconded]** Does any Member wish to speak on the Regulations in Second Reading? If not then all those in favour of adopting the Regulations *en bloc* kindly show. Those against? Those Regulations are then adopted in Second Reading. Do you wish to propose the matter in Third Reading, Minister?

8.3 Deputy E.J. Noel:

I do and I would like to take this opportunity of thanking the Law Officers' Department, the Magistrate and indeed my own officers, but one individual who is a retired Law Officers' official who came back from retirement to help us make these changes and I would just like to thank them and I maintain the Third Reading.

The Deputy Bailiff:

Seconded in the Third Reading? **[Seconded]** Very well, does any Member wish to speak on the Regulations in Third Reading? The appel is called for. I ask Members to return to their seats. Mebers have had the opportunity of returning to their seats. I ask the Greffier to open the voting.

Connétable D.W. Mezbourian of St. Lawrence:

If I may, I have tried to vote and it is not accepting that.

The Deputy Bailiff:

Yes, I have to say that I do not appear to have anything on my screen again. I wonder if we can seek to reset. If we cancel the vote and reset the voting if that is possible? Very well, we have reset the voting machine and therefore the appel has been called for and I ask the Greffier to open the voting.

POUR: 36		CONTRE: 0		ABSTAIN: 0
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. Peter				
Connétable of St. Lawrence				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy G.P. Southern (H)				
Deputy of Grouville				
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 S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

[15:00]

Deputy G.P. Southern:

If I may, just before we move on to the next item, which I think might prove lengthy, could I apologise to the House and state that I wish to defer my P.102/2017 Short-term incapacity allowance lower threshold. I hope nobody has a massive speech ready for it. **[Laughter]** In which case they will have to save it for a further opportunity because I wish to defer it to a further date.

The Deputy Bailiff:

So this is P.102?

Deputy G.P. Southern:

P.102.

The Deputy Bailiff:

P.102, very well.

9. JT Group Limited: restructuring of enterprise (P.96/2017) - as amended

The Deputy Bailiff:

We now move on to JT Group Limited: restructuring of enterprise (P.96/2017) lodged by Senator Ferguson. Senator, you have lodged an amendment, do you wish for the amendment to be taken with the proposition; for the proposition to be read as amended?

Senator S.C. Ferguson:

It is my amendment, so can we just put it all together?

The Deputy Bailiff:

Yes, we will put the matter as amended unless the Assembly has a difficulty with that. Very well, Greffier, I would ask you to read the proposition as amended.

The Greffier of the States:

The States are asked to decide whether they are of the opinion - (a) to agree that the enterprise of JT Group Limited, "JT", should be restructured into 2 separate entities, JT Retail Limited and JT Infrastructure Limited, both initially to be wholly owned by the States; (b) to request the Minister for Treasury and Resources as shareholder representative to bring forward the necessary legislation required to implement the division of JT into 2 separate entities for approval by the Assembly; (c) to request the Chief Minister to use the Telecommunications Strategy detailed in the attached schedule as a foundation for developing the States Telecommunications Strategy; (d) to request the Minister for Treasury and Resources as shareholder representative to request the board of JT Group Limited to conduct a detailed review of the off-Island businesses controlled by JT Telecom to evaluate their long-term benefit to the company.

9.1 Senator S.C. Ferguson:

First of all I am grateful to the Council of Ministers for bringing the strategy forward before this debate. Should be careful before you take credit for it, Members, it just means that I can make full reference to the £110,000 worth or so of Oxera report without having to comply with the confidentiality agreement that I signed. Thank you, Council of Ministers. There needs to be a bit of housekeeping before I get into the substance of the debate. Firstly, Members may have noticed that there was a recent advertisement for an officer in the Policy Department with telecoms experience and knowledge. But, as I recall, this was after the strategy had been developed, so stables and doors spring to mind. Perhaps the Council of Ministers would like to confirm whether in fact JT have dictated strategy because what Members will not know is that the comments on my proposition, well certainly the first one, the main one, were written by JT. I will not name the perpetrator but sufficient to say that they occupy a senior position at JT and I think there might be a tiny morsel of conflict of interest there because it does worry me that the Strategy is being based on advice from an interested party. Thirdly, we are told that JT get 60 per cent of its funds from off-Island sources. As I have said, is this gross, net, pre-tax or after-tax? It could be £108 million, it could be £54 million, it could

be £6.6 million, or it could be £3.6 million. Looking at the various companies as listed in the back of the 2016 accounts, I think the only question is where does this 60 per cent of its funds come from, how much is it, which particular parameter, and is it sustainable? This is the crunch of the matter. JT is steaming along quite nicely at the moment but, given the speed at which technology is changing, can its position be maintained? Moore's Law states that chip performance will double every 18 months. This could affect JT performance significantly. After all, we do not want to be holding the equivalent of buggy whips on behalf of the taxpayer, do we? But this proposition is as much about basic economics and psychology as about technology, with a dash of common sense thrown in. A further piece of housekeeping, when I refer to F.R.A.N.D. it means fair, reasonable, and non-discriminatory and it is usually with reference to JT allowing other telecoms operators access to JT's infrastructure at a fair price. Effectively it is really almost requiring a gentlemen's agreement. BitStream access just means access to the JT network or fibre. Choke means setting your router to a level that allows JT to get more customers on to the circuit. It is a bit like, when I was a student, setting your petrol feed on "lean" to try to use less petrol, which was one way of trying to stretch one's budget. Turning to the Oxera strategy for Jersey, the latest Oxera report mentions the 2015 Oxera report and indicates there has been no action taken by the Jersey Government. The present situation is that JT is the dominant operator of the infrastructure, especially fibre. The other Jersey telecommunications operators have built some infrastructure but this only caters to their business. The result is higher infrastructure costs for everybody and a less robust service. JT has stated that it has 94 per cent of the fibre installed. The question is whether this means that 94 per cent of all households are connected to fibre or is it only 94 per cent of broadband users? It would be extremely useful to have the cost to date certified by Deloitte - who are the auditors - of the fibre installation to date and the future costs to provide fibre to every Jersey household. I have already mentioned the question of the 60 per cent of funding coming from overseas operations. JT should be asked to have their accountants, Deloitte, certify the breakdown of this funding for each of the off-Island entities so the States Members have up-to-date information. I understand the Minister for Treasury and Resources has just been given the figures but he will not let me have a look at it, he is saving them for his speech. I shall be very interested. I would like to know. The comments on the original proposition stated that overseas revenue would be lost if the proposed proposition was passed. If Members would not forget that this was written by JT. This is not the case. The splitting of the JT infrastructure into a separate infrastructure company, as proposed, would not result in lost income since, at the beginning, the Jersey Government would own 100 per cent of both retail and infrastructure and in fact JT Infrastructure should be considered to be a utility and I think it is quite possible it should be therefore in the 20 per cent tax class, which should be music to the Minister for Treasury and Resources' ears. Basically the fibre installation is already being superseded by mobile hotspot communications for all but heavy business users. Wireless data connections are already bypassing the fibre. There has been little take-up for fibre broadband by the other users. Most likely the present JT retail pricelist 20 per cent cost to the other operators is not profitable for them. The question is whether the fibre will ever return its installation costs and whether the JT fibre will ever cease to be an 80 per cent plus monopoly. The Oxera report acknowledges the regulator, C.I.C.R.A., needs more power to make the Jersey telecommunications market more competitive. The fact that all the price plans are nearly the same confirms this fact and the conclusion must be that there is presently little or no competition in Jersey telecommunications. I am informed that Jersey prices are higher than those of Guernsey. Apparently, the throughput for Jersey is only about two-thirds of that in Guernsey and Jersey prices are around 10 per cent higher. In paragraph 4.2 of the Oxera report it states: "As an option open to the States that promoting retail competition, not network competition, as the most effective way of delivering the benefits of the next generation connectivity to consumers and businesses." This is the basis of the report's suggestions for change. However, retail competition does require fair wholesale pricing. This does not exist at present. The Oxera recommendation is a F.R.A.N.D. access to allow the retail operators to operate on a level playing field. The problem here

is the pricing. In the past, JT, the dominant operator, has not allowed nor agreed to F.R.A.N.D. The question then becomes how to provide F.R.A.N.D. - fair, reasonable and non-discriminatory - access to the JT infrastructure at a reasonable profit and terms for all operators. The present Jersey structure will only lead to another 5 to 10 years of negotiations as a F.R.A.N.D. agreement requires a framework agreed by all parties. This has not occurred to date as JT has no reason to make it easier for a competing operator to take away JT revenue. That is basic economics. If you have a monopoly in the market you will hang on to it for grim death. The logical solution would be just to separate the infrastructure as this will be less open to any disagreement. The infrastructure company will be treated as a utility, 20 per cent tax, and the regulator would determine the new infrastructure company's rate of return based on parameters such as borrowing costs, equivalent rates of return for the new infrastructure company's return on its investment. In paragraph 4.2 it mentions that fibre backhaul for mobile services should be on a F.R.A.N.D. basis. The Oxera report is silent on the fact that only JT has fibre connections to its mobile towers. The current pricing is questionable about the access cost and favours JT. Why would the other operators agree to pay JT what they consider a cost that is too expensive and not profitable for them? Common sense, they will not agree. The Oxera report states that accounting would have to be separated - recommendation one - to allow this. This means that Oxera is recommending a separation of the infrastructure accounting but this does not solve the problem of separating the overheads and other such costs. In effect, if one follows the Oxera suggestion, the separation of the infrastructure from JT will be the only way to deal with the charging fairness, which should attract use by the other operators if it is fair. Oxera states that a separation of the JT infrastructure will be costly but does not back up its statement. Oxera ignores such items such as the loss of potentially increased revenue due to lower operating costs. Oxera admits F.R.A.N.D. requires split accounting. So what are the other costs? Savings will be made since additional personnel would not have to be hired by the regulator. This would have to be the case as JT has never agreed to any pricing changes and has threatened many times to go to court, which is another cost.

[15:00]

The B.S.C. (BitStream Capital), which is BitStream access, which I have mentioned before, the access to the fibre network situation, which is far less onerous than the suggested F.R.A.N.D., has been ongoing for 5 years with no clear resolution in sight. JT assumes a hysterical approach if they are ever criticised. The only method of achieving a F.R.A.N.D. situation is through a new infrastructure, which will charge all operators the same fair price. Box 4.2 offers 4 models of vertical separation. The first, accounting separation, must be the minimum the Oxera report is suggesting. Therefore extra accounting costs are deemed by Oxera as required and most likely not a significant additional cost. The report is silent on other extra costs. Fair costs to the other operators are still arguable and will never be implemented any time soon. What is the Jersey Government going to do to implement F.R.A.N.D.? Impossible if JT's reaction to anything it does not like is to go to court with taxpayers' money. The second - Chinese walls - leaves a set of rules the incumbent JT must operate. This again requires the regulator to be a referee where there is a dominant operator. No non-dominant operator will agree to a F.R.A.N.D. solution as outlined above. Such an agreement would lead to constant bickering and frequent costly court appearances. The third - functional - separation, is certainly better than the first and second models but the problem here is a functionally operated infrastructure company owned by the dominant operator and it is never going to be trusted by the other operators. Past experience has proved this, there must be independence. For example, in the B.T. (British Telecom) OpenReach situation in the U.K. the management and directors of the separated companies are different, enabling the Chinese wall to operate more effectively than what is proposed as the solution here. However, having said this, the U.K. regulator has found that this is not working and recently gave a 6-month notice of formal separation if the situation has not improved by then. The fourth - structural separation - provides a far more trusted entity. There is a better

chance of the other operators agreeing to such a solution. It is net neutral and totally separate from JT and would provide infrastructure services to all retail operators, including JT, on an equal service and pricing basis. This is the best foundation to provide the basis of co-operation on the infrastructure, frequencies, and reducing infrastructure costs. This in return will result in a more competitive retail market, it is fairer to the consumer, as suggested as the objective in the Oxera report. In other words, because of the past history, structural separation is necessary. The proposals in the Oxera report do not really recommend a particular option. In fact they state that the Jersey Government has to decide which option is to be pursued. The real question is, what will encourage the other retail operators to use all of the Island infrastructure while contributing their own infrastructures into a new entity. The structure must charge everyone the same. It should be fair and equal to all telecommunications retailers. We want proper competition, as Senator Ozouf is always telling us, we want genuine competition in the Island for all of our services. What are some of the benefits that can be offered? There will be cost savings on the mobile towers, only one tower needs to be constructed in each area, not 3 or 4. The excess towers could be used for 5G where possible, cutting future costs by a third or more. Working together will decrease significantly the number of towers required for 5G, one tower instead of 3 or 4, for each new 5G siting. Rental payments for the towers will decrease significantly with the tower decrease. Backhaul, getting data to a point from which it can be distributed over a network, backhaul costs will be lower because all the JT towers already have fibre and it is anticipated that the other operator towers would also be fibre connected and become an infrastructure cost paid for by all the telecommunications operators. This would speed up telecommunications resulting from a larger infrastructure and then this in turn would help resolve the backhaul problems and make the total network more resilient. Twenty-five per cent of the frequencies allocated to Jersey are unallocated, they are being held by Ofcom in case another operator enters the market. The unallocated frequencies should be allocated to the new infrastructure company. JT and the other operators would then contribute their frequencies to the new infrastructure company and all the retail operators, and especially their users, would then have the best frequencies in every area, which is not the case now. You go to Grouville and 9 times out of 10 you are on the French circuit. If you go to Rozel then you have to use the hotspot technique because the JT frequency just does not get down there. Savings can be made by converting each tower to use the least equipment possible. Excess equipment can be held for future use, lowering future costs. Land lease costs will be dramatically reduced as unneeded towers would be taken away and less 5G towers will be needed, so all the telecoms operators will be making more profit. The income from the existing non-backhaul fibre could be used between towers to increase the backhaul capability and the robustness of the network, which in turn will increase the in-the-ground fibre revenue and shorten the payback period. In the longer term, lower-cost on/off-Island rates could be achieved as acting together with increased traffic will decrease unit costs. If a new infrastructure company solution is chosen, then JT Retail would no longer have its market-dominant position and either could be sold to other, than the present operators, probably having to use a golden share to prevent a sale to an existing operator or a portion or all of JT Retail could be floated on the Channel Islands Stock Exchange and both could return funds to the Strategic Reserve. As it stands, JT could not be sold in its entirety, as it is a monopoly and such a sale will be prevented by the regulator. The new infrastructure will be bigger and stronger-acting as a utility, which, in turn, will allow more borrowing at better rates than acting singly and do not forget pays tax at 20 per cent. It also means a unit that could concentrate on innovation. Senator Ozouf has just told us he has been to this technological exhibition in America. I am all in favour of innovation but if you have got an infrastructure company, which is going along very nicely, they will be able to concentrate on innovation, instead of all the time competing with the other operators. While the Oxera report states that a separate entity will decrease the incentive to invest, it is a result of not appreciating the present Jersey situation. Other than the JT investment in fibre, little other investment has occurred. In other words, the other operators are not contributing to the cost of fibre, as none of their mobile towers is connected to fibre.

Fibre broadband is the primary use for individual users; the other operators are mainly using wireless means of furnishing broadband. The result is a much-reduced income for the JT-installed fibre and the other use of fibre is for back wall from wireless towers. But, as stated by JT: “No company is using fibre for this purpose. The advent of 5G will make this situation worse. The alternative is for the Jersey Government to provide more finance and never to solve the competition problem, as it exists today.” The strategy, which we were given at the presentation, has ambitious plans for the future. No details were given. We do not know what the plans are. We do not even know what the timeline of the proposals are. 5G is already throughout South Korea. Sure has asked in the *J.E.P. (Jersey Evening Post)* how 5G will be funded, indicating that it is open to discussion. None of the other Jersey operators has really made any investment in Jersey infrastructure. How can we change the situation? My proposal is that we split JT into Retail and Infrastructure. We have a new board and managing director for the Infrastructure company consisting wholly of individuals not employed by or connected to the new Retail company. The board must have representatives who will champion the broader interests of consumers and not just wholesale and O.T.T. (over-the-top) service providers. The Infrastructure would earn, maintain and invest in the Jersey telecoms’ infrastructure on and off Jersey. The unused frequencies would be transferred to the Infrastructure company. The terms of the other operators’ licences will require the other operators to transfer ownership of their frequency allocation to the new Infrastructure company, as part of their infrastructure sharing agreement. The 5G frequency allocation will be transferred 100 per cent to the new Infrastructure company. The Infrastructure company must reproduce 3 years of separate audited accounts for the previous 3 years relating to that company without overheads. Overheads shall be agreed with the regulator and, if necessary, use arbitration to agree overheads. JT Retail will retain all Channel Islands’ non-infrastructure, personnel and services. Past pension liabilities will be determined by the calculation of the pension rights of each retained person. The new Infrastructure company will negotiate the new infrastructure charges with the regulator, which will be based on the infrastructure costs and agreed rate of return. As a final couple of thoughts, it has been put to me quite forcibly that an independent wholesale company will have more scope for innovation, genuine innovation, which is absolutely essential for us and, therefore, I totally support Senator Ozouf’s enthusiasm about technology and the take-up in Jersey. I am convinced that we can have a better utilisation of advanced technology if my proposition is adopted. Those people who attended the Oxera briefing will have noted that the consultant admitted that we probably will have to make a physical separation of the wholesale and retail parts of JT. I am anxious that we should not carry on with our cottage industry and be left behind. It is for this reason I ask Members to support this proposition.

The Deputy Bailiff:

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

Deputy S.Y. Mézec:

Sir, just before that, just could I raise it? I am sure it is not a conflict that would cause any problems for me but I just wanted to be open and transparent at the start and say that my sister works for JT and obviously, therefore, I am connected to her, she is connected to JT, so just to be open about that.

The Deputy Bailiff:

I do not think that gives you a conflict that causes a difficulty but you are right to declare that, of course.

Senator S.C. Ferguson:

I think I should add that the Deputy will have noticed that in my final comments everybody would be shifted across at the beginning, if he votes for this proposition his sister will not be out of a job.

The Deputy Bailiff:

I have just asked if any Member wished to speak. I notice the Connétable of St. Peter's light is on but does not show on my screen, so I am wondering if we can reset the screen once again, Deputy, if at all possible.

[15:30]

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

It can be expected, on behalf of Treasury, that I have prepared a fairly extensive speech for Members this afternoon. However, before I start on the speech, I would like to comment on some of the statements that the good Senator has made in making her proposition. I think the first comment I wanted to pick up was the comment about a position being made available to an officer to assist in the delivery of the strategy, that is because the strategy action plan contained within the Oxera report requires there to be a dedicated officer to ensure that all the recommendations in their strategy are brought to book. It is not a case of the horse has bolted, it is a case of reacting to the strategy that has now been published, which all Members have had the opportunity to see. The second point is the good Senator stated that the strategy was based on advice from an interested party. She is right except there were 3 parties; JT, Sure and Airtel. They all had an opportunity to inform and were visited by the Oxera team in developing the strategy. The next point I want to pick up, the Senator said that there was 94 per cent of properties that were connected to fibre; this is 96 per cent. 100 per cent of all residential properties have been passed, 96 per cent are connected now today to the fibre network. I think another point that the Senator made that fibre is being overtaken by Wi-Fi hotspots and, in a way, she is correct. Then she goes on to say that JT Infrastructure will pay more tax but if fibre is not being used, how are they going to be paying more tax if the hotspots are taking over from fibre? There is a duality there that I do not understand. There are other examples, which I will come to later, where the Senator talks about Chinese walls being operated by the regulator, C.I.C.R.A. If Members read the report to the proposition, there are a number of tasks being set for C.I.C.R.A. to become the regulator for the JT Infrastructure and whatever else. Again, there was a comment about B.T. and OpenReach, entirely different entities to what we have here in Jersey; we are a minnow compared to them but then both of those have separate management in admin sections, all of which cost money and separate boards as well. There is one other point there right at the bottom, I cannot really read my own scribble, basically that the Infrastructure section could concentrate on innovation, that is why the Senator, who circulated this to all Members by email, finds so many different companies on here because they are all involved in innovation assisting the JT to deliver the best level of services they can to the population of Jersey.

The Deputy Bailiff:

Thank you, Connétable.

The Connétable of St. Peter:

I think that is JT briefing me, Sir. **[Laughter]**

The Deputy Bailiff:

Nonetheless, it is still a financial contribution to the Greffier's fighting fund, Connétable.

The Connétable of St. Peter:

I think that is the maiden fine for 2018, is it, Sir?

The Deputy Bailiff:

Yes, as far as I am aware it is, as this is the first day of sitting.

The Connétable of St. Peter:

Coming to my speech now. I speak strongly to oppose this proposition for a number of reasons, many of which have been set out in both the previous and current formal comments lodged by the Chief Minister's Department. Firstly, I would like to thank those Members who attended the briefing held in the Town Hall last November prior to the originally scheduled debate and trust that they found it very useful and are more informed about the scale of and the implications arising from what is being proposed here today. Furthermore, may I also commend the Chief Officer of Digital Jersey, the Chief Engineer of Jersey Telecom and the Director of Digital and Telecom's policy from the Chief Minister's Department who made themselves available at that meeting to answer all Members' questions? This Assembly needs to be in no doubt that what is proposed is radical and would result in the most fundamental and far-reaching changes to the structure of Jersey's telecommunications industry in this Island's history. Of principal concern is the limited information provided to us in support of the good Senator's proposition. But what we do have is a very prescriptive and highly technical proposal, as set out in the schedule of the Senator's proposition titled the *Proposed Telecom Strategy*. But what we do not have is a case for why such a radical case is justified. The report of the proposition offers no evidence of a proper analysis of the local telecom industry and the marketplace within which it operates. What are its failings? Where is the evidence that change is needed? Where is the evidence that the proposed solution is right or even deliverable? Where is the quantification of the risks involved in such radical change? How will they be addressed and what is the final objective? Where is the detailed cost benefit analysis that we should expect to receive to support our decision of making such a dramatic change? I could go on but I hope Members will agree with the points I am making and share my concern for what is appropriate for the U.K. with a significantly larger economy and privately-owned B.T. is not automatically right for Jersey with a smaller economy and wholly different dynamics. With B.T. there has been a legal separation of network subsidiary, i.e. OpenReach, from its parent. This arose principally out of a lack of investment in fibre, which is clearly not an issue that we have in Jersey, a process which has taken B.T. tens of years and still embryonic in its delivery in the United Kingdom, especially to the home, whereas JT, as I said earlier, has 100 per cent of all properties passed, that is residential as well as commercial, 96 per cent of which are connected with fibre. Before I go too far I would like to ensure Members are clear on the concept of structural separation. In the Senator's proposition it is the restructuring of JT Group into 2 separate entities, one that looked after the retail customer-facing part of the business and one that looks after the infrastructure, the nuts and bolts that support these retail services. If I can just share with Members a little analogy that came to me earlier this morning, I am going to use a motor car for my analogy. We have here a highly technical car with all the latest gizmos and things in it and that is what we have today; that is our JT model. What the Senator is proposing is we take the nuts and bolts out, we take the engine and gear box out and send it off to another place. We have a car with no engine and gear box, with all the latest gizmos and everything within it for the user to use and handle but then all the other parts that enable all of that are held in another company elsewhere. This is where we have now, as has happened within B.T. and OpenReach and others, a separate company, separate accounts, separate management structure, separate boards and we have another one looking after the car itself, so we now have 2 cost centres now, where we only originally had one. By the way, when you want to use your car you can rent the engine and gear box from the other company but so can all the other car providers, they can use that same space as well. What we end up with, we have a value for a car with no engine and gear box, we have a different value for the engine and gear box. Both of those, when you add those 2 numbers together, do not come up to the value of Jersey Telecoms when it is delivered as a total functioning entity. This is of fundamental importance to us; as shareholder, we do not wish to undermine the value of the shareholding of Jersey Telecoms to the people of Jersey. I will continue reading my report. In the opening paragraph of her report Senator Ferguson links her proposition to Council of Ministers contemplating the sale of JT and it appears that it is a key driving force behind bringing it forward now. Let me be clear, any decision to sell whole or part of JT will be a decision of this

Assembly and then only after a full debate and armed with all the facts. We are not at that stage, as was evidenced by the recent approach by the owner of Airtel for a partial sale of JT. This did not progress, in part, because we did not have a clear rationale around our desire to or the reasons for continuing to remain in ownership of JT. Some Members may recall that it had been agreed, as part of the action plan produced in response to the regulatory and competition framework review, that a telecom strategy would be produced by the Chief Minister's Department. This was seen as a critical step in helping us to determine and implement a coherent policy on the sector's future, which, in turn, will inform any discussion and decision about our future ownership. This important work has now been completed and the strategy launched, along with an action plan to deliver it. Indeed, all Members were invited just over a week ago to the launch of the now-produced telecom strategy. This work has been undertaken with Oxera and appropriate representatives of States departments and Digital Jersey through a telecom strategy steering group and C.I.C.R.A. As stated in the comments that the Council of Ministers have lodged, this strategy is evidence-based, fully consulted upon and the financial implications will be understood and fully evidenced. Senator Ferguson in her report that a particular individual with independent entrepreneurial expertise has been involved in the preparation of her proposed strategy and asks us to support P.96/2017 without any idea of who, why or what are the motivations and of the expertise of her independent entrepreneurial adviser. P.96/2017 contains no evidence whatsoever of any consultation and/or discussion that supports her proposed strategy with the main parties affected, for example, JT, Sure or Airtel. Striking contrast, these main parties have been fully consulted with by Oxera and the telecom strategy group. Additionally, my officers in Treasury and I have taken the opportunity to go out and meet those companies to take their views on the Senator's proposition. In summary, while they are supportive of constructive debates on the shape and future of the Island's telecom industry, they believe the proposition, as presented, does not provide the basis for this consideration. Furthermore and in common voice they state that they believe P.96 lacks a clarity of detail needed to fully understand its scope and the commercial impacts it will give rise to. They further state that it does not provide an indication of timeframes or resources required to fulfil the aim of the proposition. They believe that these issues raised should be consulted on with stakeholders, including other operators, customers and the regulator. The fundamental and key issue raised by the main companies has been the element of the proposed telecom strategy contained in a schedule to the Senator's proposition, which is and I quote: "The other O.L.O.s (Other Licensed Operators) should be ordered by C.I.C.R.A. to transfer their towers and tower equipment to JT Infrastructure." Their response is clear: "Leaving aside the technicalities, both legal and commercial involved in doing so, any suggestion that any of their assets, both current and future, could be subjected to an order to transfer to JT would involve a long and drawn-out legal process of ownership and is, by virtue of this proposition, of serious concern." Furthermore, such a step would lead it to take careful consideration in its propensity to continue to substantially invest in the infrastructure in Jersey. What sort of message does this send out? Come and invest in Jersey but if we feel it appropriate we will sequester your infrastructure into our ownership. The reputational damage alone resulting from such an action or even the potential of such an action seems not to have been recognised nor appreciated by the Senator in her proposition, neither have the potential substantial costs, acquisition and legal of such an action been identified in the financial and manpower implications. I so far refer to the issues of the timing of this proposition, given that the telecom strategy is now completed, a strategy that has been thoroughly researched and consulted upon. I have also referred to the lack of rationale provided for such a radical change and the lack of any supporting evidence. Additionally, I am seriously concerned that the financial implications, as set out in the report, supporting the proposition are woefully underestimated. The report in the Senator's proposition indicates that and I quote: "It will be necessary to produce separate accounts for the retail and infrastructure businesses. Since the accounts are audited, this should present minimal problems and the resources required should be catered for from the budget already allocated for telecoms policy." The £110,000 already been spent. This seriously underestimates

what are likely to be the actual financial and manpower implications. Where are the significant costs that would be involved in acquiring infrastructure from the other companies and associated legal costs are going to come from?

[15:45]

Where are the costs for an integration of these multiple distinct networks into one? Furthermore, the purchase of new networks and equipment from suppliers, not currently used by JT, is proposed in the schedule to this proposition. Are we expected to take all of our equipment down to the recycling plant at La Collette and dump it, so we have to go out and buy new equipment, based on the recommendation in the report contained in the proposition? Why is this needed and what are the complex transactions that will be needed to take place to make this change? It is inconceivable that the creation of a new company known as JT Infrastructure could be achieved at no cost. It is not realistic to assume that both companies would be able to operate with the same management teams and boards once split in a manner envisaged by the proposition. There would also need to be a separate accounting, administration, I.T. (information technology), potentially a combination, these will inevitably add to the cost of running the 2 entities. The formal comments submitted highlighted that these proposals and the additional cost that would result would adversely impact on the value of the company, the dividend being received and the efficiency of the current operation. I would like to turn to the issue of the off-Island businesses and the request to conduct a detailed review to evaluate the long-term benefits to the company. Over the weekend the Senator sent to all States Members a large amount of information, including the financial accounts from several of these companies within the JT Group. She also added comments about amounts owed and going-concern notes. I am not sure what the purpose of this was, beyond trying to raise uncertainty and doubt in Members' minds about JT operations. This is just not right. All of these accounts have been fully audited and signed off as providing a fair and true view. There are no going-concern issues. Many of the amounts owed are proper intercompany transactions backed up by other side-by-side assets. All States Members have received and do receive every year in every pigeon hole of every States Member the audit reports and the consolidated financial statements 31st December 2016 and a general overview of the company and the quality of the Board of Directors ...

The Deputy Bailiff:

Connétable, I have just noticed I do not think we are quorate, if I can just do a ... No, we are not quorate. Could I invite Members to return to the Chamber, please?

Deputy A.D. Lewis:

Sir, it is partly because it is so hot in here. I do not know whether the Usher has been able to adjust the heating but we are sort of melting here at the moment.

The Deputy Bailiff:

No Members have returned to the Chamber. We are no longer quorate. I will, therefore, ask the Greffier to call the roll electronically. If you would please do so, Greffier, and if Members could signify their presence with the press of a button. Yes, any button to recognise ... I suppose red if you are too hot.

Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator S.C. Ferguson				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				

Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Trinity				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

The Deputy Bailiff:

Very, well, we are inquorate. I suspend the sitting for a period of 10 minutes.

[15:49]

ADJOURNMENT

[15:59]

The Deputy Bailiff:

I think it goes without saying that form requires that I ask Members to indicate their presence by the press of a button, please.

Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator A.K.F. Green				
Connétable of St. Helier				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy M.R. Higgins (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

Very well, 35 Members are now present. Connétable, if you would like to continue.

The Connétable of St. Peter:

Sir, I would like to take your direction. As we were not quorate and a number of Members were not here for the first part of my speech, would they like me to start from the start? **[Laughter]** Sir, I think I have tested the mood of the Assembly and they are quite clear for an extension.

[16:00]

The Deputy Bailiff:

Yes, I think the prospect was welcomed with joy, as far as I could tell, yes.

Senator L.J. Farnham:

Members were listening intently in the coffee room.

The Connétable of St. Peter:

Just really to reiterate, the last final point, every Member has had a copy of these accounts, so have been able to see for themselves exactly the value of JT to the Jersey economy and the profits they return to us, which I will come to in a moment. Carrying on, JT also ensure they present these group accounts to States Members in a separate meeting and have senior directors available to answer any questions. Members may remember the very successful and well-attended meeting we had here in this building last June for this very purpose. These accounts demonstrate some of the value that JT have brought to our local economy. Since 2010 the company has paid £15.3 million in income tax, more than £40 million in dividends to the States and delivered capital expenditure of £168 million, approximately £150 million of which was spent here in Jersey. What point is the Senator trying to make? In terms of the off-Island businesses I believe there are 2 issues we need to consider: firstly, the rationale and strategy behind the need for investment in off-Island businesses; and, secondly, the actual businesses invested in, the tactical policy behind those decisions and their performance. Taking the first issue - the need for investment in off-Island businesses - why do we need it? The challenges for JT in terms of managing the issues on this scale have been well explained and consistently communicated to States Members as part of its annual updates, most recently as a presentation to us in June of last year, 2017. Jersey is a small market in global telecommunication terms, which in simple business and financial terms would not support the level of investment and infrastructure that is needed to meet the demands of the local businesses and domestic customers only. In fact it has to generate sufficient turnover off-Island, currently approximately 64 per cent, to aid this investment in order to maintain the benefits to the local market. The balances from revenue generated in Guernsey, that is roughly 6 per cent, and on-Island around about 30 per cent of its income is generated on-Island. I trust all Members will agree that this policy of off-Island investment is

essential to maintaining the high quality that is received on-Island at reasonable prices, without it how will the significant on-Island investment be justified and paid for? Is the Senator really questioning whether this strategy is right? On the second issue, the actual investments made in businesses off-Island, decisions to invest in such businesses are a core responsibility of the JT board, as is the monitoring of their ongoing performance and, as disclosed earlier, forms the majority of revenue for Jersey Telecoms. I commend all Members to look at the C.V.s (curriculum vitae) of the board members, as set out in JT's annual review 2016/2017. We are truly fortunate to have such a highly skilled and experienced board. All investment decisions made are fully scrutinised, challenged and justified by the board. I am in no doubt whatsoever that the performance of these businesses is diligently reviewed on an ongoing basis by the executive officers and their board. This is what we have put the board in place to do. This is why we have ensured they have the skills and experience to run this business in the best possible way for the benefit of the people of Jersey, the shareholders. I am, therefore, not at all clear as to what the Senator is seeking to achieve in this regard. There is nothing specific in the report on this issue. What are her real concerns and on what are they based? I have no doubt that Senator Ferguson's motives are pure in bringing this proposition, however, the lack of vital and essential evidence and cost analysis, coupled with an unrealistic strategy, compels me to ask the Assembly to reject this proposition for the reasons outlined. I want to return just to one point that the Senator made as part of her opening speech, she is talking about the aerals. It is estimated with 5G and the speed that they would generate and amount of volume of work that goes through them, there could be an increase of approximately 30 per cent in the number of masts required. But I ask Members to consider, where have they seen the masts in St. Helier, where we have the best coverage whatsoever? You cannot because they are built into buildings, they are built into street furniture. There is one that was pointed out to me by a rival company, if you are at the traffic lights up at Red Houses looking at the Waitrose building, if you look up at the handrail around the top of the building, the handrail is a JT mast for digital communication. The model emerging now, I have seen a dish of approximately that size will have 1,000 connections leading to it or feeding back. This is the future. As we know, all this infrastructure is getting smaller and smaller as the intelligence gets bigger and bigger. While we are concerned about increased masts, those masts and the signals that they generate will be very much smaller. As the strategy does suggest and the action plan does account for, it asks all companies to work together to use the same hardware infrastructure, i.e. masts for their aerals, so there is not a proliferation of aerals around the Island.

The Deputy Bailiff:

Does any other Member wish to speak on the proposition? I call on Senator Ferguson to respond. I am sorry, I did not notice that your light was on. I looked around, there were no lights on and ... sorry, there were no lights on when I called upon Senator Ferguson ... when the Connétable of St. Peter sat down I asked if any other Member wished to speak, there were no lights put on and there was nothing on the screen and so I called upon Senator Ferguson to respond, that is the end of the debate. Nobody had, so Senator Ferguson.

9.1.2 Senator S.C. Ferguson:

Yes, the Connétable has made a few comments. I would like to say one thing first, I am aware that... or possibly that Senator Ozouf did not hear me but I did say that I was aware he had been to a technological exhibition out in America and, yes, I am all in favour of more technology but it has got to be put in place by people who know what they are talking about. The Connétable has commented on a number of things and so on, he seems to have forgotten that JT have written the comments to my proposition and he talks about fibre reaching 96 per cent of the people. According to the civil servants at the briefing, it is only 70 per cent but it depends what it is a percentage of. It could be households, it could be broadband or it just could be how many phases of the moon we have had. Under my system JT will pay more tax. The Chinese walls, I do not think perhaps the Connétable

understood what I was saying, that is part of the Oxera's bid option. Really, he is questioning why I have brought this proposition, it is basic economics. At the moment we have a muddled system; retail is straightforward, it is the infrastructure that is the clever part. Economics 101 - and that was one of the subjects I did rather well in - but from my business school days if you have got 100 per cent monopoly then you have the ability to charge within very small limits virtually what you want to. The Airtel takeover did not progress because there was a monopoly involved and the takeover was prevented by C.I.C.R.A., I understand. The action plan that we have is somewhat of a wish list and there were some rather scurrilous comments about the gentleman who gave a briefing to all States Members last year. Did the Connétable not come to the meeting? I have talked to the other operators and I have talked to the regulator. The Connétable must remember that we are voting on the proposition, not the report. My amendment made (c) more flexible and (d) brought in a review of the offshore companies. Basically, we are going to have reduced costs for all the companies and increased revenue. The Infrastructure company will receive more revenue from the other operators, who really are not contributing very much at all at the moment. I am trying to improve the competitive market for consumers, who seem to have been forgotten in all this. I also want innovation and improvement. The Constable has made all sorts of comments about needing off-Island investment to supply the revenue we need and he was rather dismissive of the comments about going-concern companies. Members will have received a copy of the Corporate Communications (Holdings) Limited, consolidated financial statements for 31st December 2016, in which it says: "The directors of the group consider that the group has sufficient resources to meet their obligations as they fall due and will continue in operation in the foreseeable future." The consolidated financial statements have been prepared on a going-concern basis. If you are an accountant that does not half make you wake up and think whoops. Please, I am speaking. Similarly, in one of the other companies, Ekit.com U.K. Limited, under the accounting policy at 1.2 it says similar matters and there is an intercompany loan and the creditors are not expected to be repaid within the current financial year. Yes, we need a review of the offshore companies, we need to know what we are investing in. The Connétable still has not said where the 60 per cent of funding comes from and what it represents. As for masts and so on, we have all seen all the imitation trees around the countryside. The Connétable talks about all companies working together, if you own the monopoly it will take a lot to get you to work together in a F.R.A.N.D. basis. I ask Members to think of the increased revenues for the States, which we are going to need for the student loans. I ask them to think of a fair deal for consumers, which are the taxpayers who pay for all this. I ask Members to support my proposition and I call for the appel.

The Bailiff:

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

POUR: 8	CONTRE: 0	ABSTAIN: 35
Senator S.C. Ferguson		Senator P.F.C. Ozouf
Deputy of Grouville		Senator A.J.H. Maclean
Deputy K.C. Lewis (S)		Senator I.J. Gorst
Deputy of St. John		Senator L.J. Farnham
Deputy M.R. Higgins (H)		Senator A.K.F. Green
Deputy J.M. Maçon (S)		Connétable of St. Helier
Deputy L.M.C. Doublet (S)		Connétable of St. Clement
Deputy R. Labey (H)		Connétable of St. Peter
		Connétable of St. Mary
		Connétable of St. Ouen
		Connétable of St. Breilade
		Connétable of St. Martin

			Connétable of St. Saviour
			Connétable of Grouville
			Connétable of St. John
			Connétable of Trinity
			Deputy G.P. Southern (H)
			Deputy J.A. Hilton (H)
			Deputy of Trinity
			Deputy M. Tadier (B)
			Deputy E.J. Noel (L)
			Deputy S.J. Pinel (C)
			Deputy of St. Martin
			Deputy R.G. Bryans (H)
			Deputy of St. Peter
			Deputy S.Y. Mézec (H)
			Deputy A.D. Lewis (H)
			Deputy of St. Ouen
			Deputy S.M. Wickenden (H)
			Deputy S.M. Bree (C)
			Deputy M.J. Norton (B)
			Deputy T.A. McDonald (S)
			Deputy of St. Mary
			Deputy G.J. Truscott (B)
			Deputy P.D. McLinton (S)
			Senator P.F.C. Ozouf

The Bailiff:

Greffier, my machine is showing the Connétable of St. Peter is speaking, which I am reasonably sure is not accurate.

Deputy A.D. Lewis:

Sir, I pressed the contre button but it seems to have come up pour.

The Bailiff:

I am sorry, I did not hear that.

Deputy A.D. Lewis:

I think I had a ring binder moment, but I thought I pressed the contre button and it seems to have come up pour.

[16:15]

The Bailiff:

The vote is recorded as it is recorded. You want me to change the vote, very well. Nothing turns on it.

Senator A.J.H. Maclean:

Sir, if I may, I have some concerns on this matter ... **[Laughter]** I have some experience on this matter, Sir.

The Bailiff:

My jurisdiction does not go back as far as that. **[Laughter]**

Senator A.J.H. Maclean:

I do object in the strongest possible terms.

Senator P.F.C. Ozouf:

On a point of order, the Minister for Treasury and Resources makes an important point in which you are perfectly entitled, just so that Members are aware of your ruling, is that a ruling which now effectively means that if somebody has made a mistake and the vote is then called and heard that you will then recast it. Just for the record, I think it is important that Members understand where they stand.

The Bailiff:

I will tell you where I stand on it, Senator, that is that it was a quick ruling in light of the fact that it makes no difference to the vote and, therefore, I will want to take at leisure any question of general principle, which I would want to consider with the Greffier about Standing Orders.

Connétable J.E. Le Maistre of Grouville:

Can I just point out the system has been playing up all afternoon? The Constable of St. Lawrence could not vote earlier because it just kept flashing, so there are problems with the system.

The Bailiff:

The Greffier tells me that that is so. I have just arrived but I can see that my own machine is not working and so I have some sympathy with that.

Senator P.F.C. Ozouf:

You will come back with a subsequent ruling then?

The Bailiff:

If it becomes necessary. I am not expecting Members to use their ring binders regularly.

Senator I.J. Gorst:

I am grateful for your confirmation that you will consider the matter, because a Member has just been able to change their vote, let alone that the system is playing up, and I think it is an important matter that should have a proper consideration and I am grateful that you said you would do so.

The Bailiff:

Members clearly would like me to come up with a reasoned ruling and I will do, when convenient.

10. Draft Connétables (Amendment No. 2) (Jersey) Law 201- (P.112/2017)

The Bailiff:

Very well, we come to the Draft Connétables (Amendment No. 2) (Jersey) Law 201-, P.112, and I ask the Greffier to read the proposition.

The Greffier of the States:

Draft Connétables (Amendment No. 2) (Jersey) Law 201-. A Law to amend further the Connétables (Jersey) Law 2008, the Bankruptcy (Désastre) (Jersey) Law 1990 and the States of Jersey Law 2005.

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

We have brought forward this draft law to amend the Connétables Law following the Assembly's decision last year to adopt the proposition of Deputy Higgins which sought to standardise the requirements relating to qualification and disqualification for election to the Assembly so that Members - Senators, Constables and Deputies - will be subject to the same requirements. This amendment achieves that and I propose the principles.

The Bailiff:

Are the principles seconded? **[Seconded]** There is an amendment lodged by Deputy Tadier. Deputy, I saw your email, you were expecting not to move amendment number 3, is that still correct?

Deputy M. Tadier:

That is right. That should be the one relating to the residency requirement within a Parish for Constables. I am not seeking to amend that.

The Bailiff:

You are not seeking to amend that?

Deputy M. Tadier:

No, just the nationality requirement.

The Bailiff:

So it is only 1 and 2?

Deputy M. Tadier:

That is right.

The Bailiff:

Very well, then before we get to that we have the principles of the first law. Does any Member wish to speak on the principles?

10.1.1 Deputy M.R. Higgins:

Now, I am pleased to see that P.P.C. (Privileges and Procedures Committee) did forward the changes so that we are all treated in a consistent way. However, I will raise again the issue of bankruptcy and the bankruptcy requirement that means that anyone who is thinking of standing for the States, or is a Member of the States, if they become bankrupt they not only have to have the 4 years that the Bankruptcy Law serves you to try and clear your debts, but you have an extra 5 years. I might be bringing a proposition to the States on this because I have researched it with the other Parliaments around Britain, including Westminster and further, and none of them have such a draconian measure. In fact I still question whether it would be human rights compatible, especially as no one can explain how the law came in, in the first place. It was 1948. The response I had from one of the Parliaments was: "They must have wanted to stop someone getting into the States." In other words they had someone way back in 1948 they did not want to get in. But I can tell you no other Parliament has such a draconian requirement, and in fact most of the Parliaments have no requirement whatsoever. I am just highlighting this, that what we have done is incorporate it into the requirement for Constables, the same weakness that is in the one for Deputies and Senators. Obviously, I will be supporting the proposition itself because I want to see it go through.

The Bailiff:

Can I just say that my machine is not working so I will not pick up those who put their lights on?

10.1.2 Deputy M. Tadier:

I think that Deputy Higgins highlights the same issue which I will be exploring further in the nationality debate, which is that we have got an option here to level up or to level down, and the basic principle of democracy, in my opinion, is that there should be as few barriers as possible to elected office, given the fact that there is one sufficiently high barrier already which is called the election process. If you are put before the electorate and they choose you to be in office then you are there, and even sometimes to their own chagrin you are there for the full 4-year period and there is no way to remove you during that time, even though many have talked about recall mechanisms. The committee could have gone 2 ways with this, they could have said: “We realise that the *en désastre* mechanism does not really serve any purpose and, therefore, we will remove it completely, levelling up rather than levelling down” and that has not been done. The similar arguments can and will also be made when it comes to the nationality requirement. We have seen in the past - and I do not want to make too much of a point of it - but when somebody is elected, even if the due process, albeit in good faith, has not necessarily gone through correctly, once that election has taken place the election stands. So one would have to question what would happen if somebody unwittingly stood for election who, for example, was not British or who had been made *en désastre* but it was not declared for whatever good reason and they were then elected. Presumably that position would then stand. I am just asking why are we putting barriers in place when it is ultimately the public who choose who they wish to represent them.

10.1.3 The Connétable of St. John:

I think it is important to remember that Constables are not politicians - we sit in this Assembly by virtue of our office - and that we do have the additional responsibilities of a Parish. It is that bar of being Constable of a Parish that should be higher than that for those sitting in this Assembly. We have the responsibility of Parish accounts and, therefore, to have someone who has been declared bankrupt to then be a Constable and in charge of the Parish’s accounts I think is questionable. As for the matter of residency, should I speak now or when we have the Article?

The Bailiff:

It is probably something that you can tackle when we come to the detailed Articles, Connétable, I would have thought.

The Connétable of St. John:

All right, I will wait until then, thank you.

10.1.4 Senator P.F.C. Ozouf:

I just rise to make the brief point that I could not disagree with the Constable of St. John, outwith any other consideration to say that the Constables are not politicians. His point may well have force in the issue of bankruptcy, but I make no observation about that. But to suggest for one moment to this Assembly that the Constables are not politicians ... the dictionary definition of a politician is a person who seeks or holder of public office, who is more concerned about principles, who holds political office, skilled in political government or administration, statesman, an expert in politics or political government, a person who gains power or an advancement within an organisation that are generally accepted. It cannot be said that Constables are not politicians and somebody needs to just say it because there are as equally politicians as a Deputy or a Senator and I am astonished to hear that the Constable of St. John wishes to make a differentiation to what has been a long-held convention that we are all equal in this place as politicians making decisions, albeit with different responsibilities in that word of politics.

The Bailiff:

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

10.1.5 The Connétable of St. Clement:

Yes, it has come as quite a surprise as after 35 years in this place I am no longer a politician. [Approbation] Really not much to say but I would say to Deputy Higgins that in his proposition last year not only did he propose that the qualifications for all Members should be the same and that was adopted, but he also did bring a proposition about bankruptcy *en désastre* which was not adopted by the Assembly and, therefore, naturally of course P.P.C. did not consider that matter. So the matter that Deputy Tadier referred to about non-British citizens being able to seek office, we will debate no doubt when we get to the principles, but I maintain the principles.

The Bailiff:

All those in favour of adopting the principles kindly show. The appel is called for. I invite Members to return to their seats. The vote is on the adoption of the principles of the Connétables (Amendment No. 2) (Jersey) Law. I ask the Greffier to open the voting.

POUR: 35

Senator P.F.C. Ozouf
Senator I.J. Gorst
Senator L.J. Farnham
Senator A.K.F. Green
Senator S.C. Ferguson
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 of Grouville
Deputy J.A. Hilton (H)
Deputy of Trinity
Deputy K.C. Lewis (S)
Deputy E.J. Noel (L)
Deputy of St. John
Deputy M.R. Higgins (H)
Deputy J.M. Maçon (S)
Deputy S.J. Pinel (C)
Deputy of St. Peter
Deputy A.D. Lewis (H)
Deputy of St. Ouen
Deputy L.M.C. Doublet (S)
Deputy S.M. Wickenden (H)
Deputy S.M. Bree (C)
Deputy M.J. Norton (B)
Deputy T.A. McDonald (S)
Deputy G.J. Truscott (B)
Deputy P.D. McLinton (S)

CONTRE: 3

Deputy M. Tadier (B)
Deputy S.Y. Mézec (H)
Deputy of St. Mary

ABSTAIN: 0

The Bailiff:

Deputy Brée, does your panel wish to scrutinise this?

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

No, we do not, thank you.

The Bailiff:

We then come to the detail of them. There is an amendment to 4B, which is Article 1. Do you wish to propose Article 1, Chairman?

10.2 The Connétable of St. Clement:

Yes, please. What Article 1 does is to insert 3 new Articles into the Connétables (Jersey) Law 2008. The first is Article 4B which mirrors exactly the provisions of Article 7 of the States of Jersey Law, which is the qualifications for standing for office. For example, to be qualified for an election a person will, therefore, need to be of full age, be a British citizen, and will also need to be ordinarily resident for a period of 2 years up to and including the day of election, and so on; exactly the same as the Deputies and Senators. The new Article 4B also specifies that a paid officer in the service of the States or in the administration of the States is disqualified for election as a Connétable unless the Employment of States of Jersey Employees Law says that he can stand. New Article 4B also states a retiring Constable - and I do not mean those of us on these benches who are timid and shy - but a Constable at the end of their term is not disqualified from standing again. We will come to Deputy Tadier's amendment about British citizenship in due course. All I can say is that the new Article 4B will apply the same citizenship criteria to Constables as already exists for Senators and Deputies. That is exactly what the Assembly has asked P.P.C. to do. The current Connétables Law is silent on citizenship regarding a Constable. So it has never been tested but if someone of a foreign nationality was elected as a Constable we do not know if the Royal Court would swear them in under the current law. But we are trying to do is to equalize the situation between Constables, Deputies and Senators, and that is what this amendment does.

[16:30]

The new Article 4C mirrors exactly the provisions of Article 8 of the States of Jersey Law and sets out the criteria where a person is disqualified for election as Constable. New Article 4D retains the supervisory jurisdiction of the Royal Court in relation to the election of Constables, and will not otherwise be affected. That is Article 1, which I am pleased to propose.

The Bailiff:

Is that seconded? [**Seconded**]

10.3 Draft Connétables (Amendment No. 2) (Jersey) Law 201- (P.112/2017): amendment (P.112/2017 Amd.)

The Bailiff:

We come to the amendment of Deputy Tadier and I ask the Greffier to read the amendments; that is 1 and 2 only.

The Greffier of the States:

1. Page 11, Article 1 - in the inserted new Article 4B in paragraph (1)(b) omit the words "is a British citizen who". 2. Page 12, Article 1 - in the inserted new Article 4C, for paragraph (2) substitute the following paragraph - "(2) A person shall be disqualified from holding office as a Connétable by reason of not being resident in Jersey for a period of more than 6 months."

10.3.1 Deputy M. Tadier:

We had a kind of in principle debate on this already. I say “kind of” because P.1/2017 was lodged at this time more or less last year and we had a debate, I think it was in February last year. Much to my frustration it was a learning process, I think I tried to over-rationalise that particular argument. I used the argument about a 5-year rule saying that being a politician is a job, it is not necessarily a job that can equally be compared to any other job, it certainly is a vocation in many sense. I said that the test should be the 5-year residency requirement, changing it from a 2-year period to a 5-year period, but irrespective of the nationality. Of course much of the debate unfortunately - but understandably perhaps in hindsight - focused on what that 5-year residency meant, whether it was akin to being entitled to work, and it was not under my wording. What I have decided to do today with this amendment, and similarly with the lodging of P.3/2018 which would be consequential and which we could either debate subsequently irrespective of the outcome or certainly if we reject this today, would be to have a proper in principle debate on something which I think is controversial but is very much something close to my heart. It is one of those debates which is as much philosophical and ideological as it is to do with politics. It should, I hope, cross the political divide, although I think there is clearly a conservative stance and a progressive stance in this regard. The fundamental point I would ask is are British citizens the only ones with the requisite skills to be able to be politicians in Jersey. I think if we apply logic to that question we have to come down on the side of answering that as no. Clearly there is nothing inherent in being a British citizen which equips you or even gives you preferential knowledge or ability to serve in what effectively is the parliament of a relatively small, local democracy. I suspect that we all know people who are from a cross-range of society. There is an argument nowadays, especially including on social media, that we tend to stick to our own and that increasingly there are algorithms on social media which makes sure that we only see opinions with which we agree. Of course when we talk to our constituents, be it in the supermarket at the cheese counter or when we go to the Parish Hall, everybody agrees with our point of view and we never hear the opinion of anybody who disagrees with us. I say that slightly tongue in cheek. In reality I think we have all got friends, family, acquaintances, some of whom were born in Jersey, roughly 50 per cent of people were not born in the Island. On top of that we know people who are not British and who may be British, and often we do not actually know because we do not walk around with big labels or arrows pointing on our heads, we do not have armbands that say: “I am a British citizen. I am a dual national. I am French. I am a Portuguese national. I am a Polish national.” So why raise this issue at the moment? Well I think it has to be seen in the context. Let us look first of all at the specific context of this amendment before we look at the wider argument. The context is that at the last election in 2014, 11 of the 12 seats for Constable were not contested. One of the 12 seats was contested, and what we are seeking to do is to reduce further the number of eligible people who could potentially put themselves forward for that office. Currently the only way that a foreign national who is not a British national can get into this Assembly is through the role of Constable. So if somebody in any of the 12 Parishes decides that they want to stand for election there is nothing to stop them doing it. If they can get a nomination paper signed by 10 people in their Parish they can put themselves forward for the position of Constable. They may of course have already been serving as an Honorary Police member in their Parish. They may have served and, for example, have been retired from the States of Jersey Police because there is no requirement in law anymore for people to be a British citizen to serve as a police officer. Now, in the past I am sure we would have heard people saying: “Well of course you have to be a British citizen to be able to be a police officer, because you are enforcing the law. How on earth can you enforce the laws of our Island, which is a *de facto* British and Crown Dependency, if you are not even British yourself?” But of course the police decided: “No, we need to have a police force that represents the community that we live in. We need people who speak English of course but who also speak Polish, Portuguese, possibly French, from other backgrounds, and we do not care what your nationality is because what is more important is how you do the job, how you serve the community, and of course we have got a code of conduct, we have a legal framework under which you must serve.” That is exactly the same

for States Members. We can imagine arguments being made in 5, 10, 20 years' time saying: "What do you mean people said that you had to be British in order to serve the Jersey Assembly?" Surely it is more important what you are like, what your values are, and ultimately whether the people in your constituency - be that in a District, in a Parish or in the whole Island - decide they want you and decide that you are capable. Corrie Stein was a Senator in this Island. I am presuming that she had British nationality, she must have acquired it at some point, perhaps through marriage. I am sure she would have become naturalised at some point. But would she have been any less of a capable politician had she not had a piece of paper and a passport which said "I am a British citizen" on it? I do not think it would have made one jot of difference. The other argument is that why are we changing the rules for an election 3 months almost to the day before nomination day? I remember when a similar argument was made for changing the Bank Holiday and people said: "I can understand why you might want to make Liberation Day a Bank Holiday when it falls on a weekend, give people an extra day off, but it is too close, we have only got 6 or 9 months to implement this." I thought: "That is a compelling argument." I find it hard to argue against that because businesses need a long enough lead-in period. Why are we changing 3 months before an election who can change for an office which is barely even contested anyway? Are we saying that we would like to have all 12 seats uncontested in an ideal world and, therefore, let us reduce that? I can see one of the Constables smiling and I take that in good cheer as well, but I think ultimately that is not the position we want to be in. Another contextualisation is that we need to see it in the general zeitgeist and the policy basis which is being put forward by the Council of Ministers, which I think reflects the general move that we want as a society to be seen as a more outward-looking, globalised society where we do not question where are your roots, where you come from, we look to where people are going and their values. That press release I mentioned earlier in question time, 13th July: "A new forum is being established to try and ensure that the Members of the States Assembly reflect the Island's population." It then goes on to say: "Deputy Louise Doublet and the Chief Minister, Senator Ian Gorst, will work together to establish the States Assembly Diversity Forum." It names the other Members of the group, I will not embarrass them: "In the current States Assembly 12 out of the 49 elected Members are women and none are from Jersey's Portuguese or Polish communities. It is acknowledged that more needs to be done to make sure that the makeup of Jersey's Parliament represents all Island communities and interests." So what is the way we do that? Well we could say a way to achieve that is by restricting further who can stand for election. We found a loophole - is essentially the message going out - which we think needs to be closed, which would allow these undesirable types into our Assembly. I call them undesirable because that is the message that is going out there, you have to be British to be in this Assembly, it is a desirable quality that you are British, in fact we are going to put it in law so that unless you are willing to jump through the hoops of becoming nationalised with that difficult test that needs to be taken, and the not insignificant amount of money that needs to be paid for it, unless you can do that and presumably do that within the required time before an election, then and only then can you stand for election. How many of us decided months and years before coming into this Assembly that we wanted to be politicians? I think some may have had a long-term plan but others simply leave it to the last minute because they have not made their decision. People work, people have families, people have busy lives, and it might well be like me, you looked at the States Assembly at any one point and thinking: "Well, I do not really hear any of the voices speaking out on these particular issues" and if you want a job done well then you have got to do it yourself. I suspect that may well be the case for people in some of our communities to do with the nationalities that are not currently represented indirectly, and certainly not directly, in this Assembly. For me it is much more important that people are committed to Jersey and to the community than to some kind of dated and abstract sense of nationality and empire. We hear this talk about commitment, and that was something that came out in the last election. People need to show they are committed, not to Jersey incidentally, it does not matter whether you have lived here 10, 20, 30 years and you have served the community in various different ways. It is much

more important that you are British and you have been here for 2 years, then you can stand for election. I would say it is much more germane to Jersey's society to have somebody who has got a proven track record and who has put themselves before the electorate, irrespective of their birth and their nationality, than somebody who has taken a test, who can name all of the Queen's great grandchildren and can tell you what the contents of haggis are. I would prefer to have somebody who knows Jersey, has served in the community, served in the charitable sector, whatever, and has put themselves before the electorate and let the electorate choose. Why are we putting all these barriers in place? It simply does not go with that aim which is described in the Diversity Forum. I would like to know whether in fact the Diversity Forum ever discussed this. I am not really sure who chairs the Diversity Forum, I suspect it may be Deputy Doublet. I would like to know how many meetings they have had and whether these issues have ever come up. We are going to hear arguments being made, well, this is not anything different that other countries do not do already. It is true, there are some - even you might say the majority of countries - have some kind of nationality or even residency requirement in place. But I am not concerned about what other countries do. I am concerned about what we do in Jersey and I am concerned about what we get right in Jersey. We are not the U.K. although we are a British island, and I think it is great that we have people from the U.K. who come to make their home in our Island and who serve for political office and they put themselves forward. But at least they can do that. There are people in Jersey who would even close that loophole. When you ask around people say: "No, you should have to be born in Jersey to be able to serve in the Assembly." I do not know why, it is not rational, but then nor is the requirement for you to be a British national to be able to serve in Jersey's unique Assembly. Guernsey, incidentally, does not have that requirement. The Isle of Man has got much more relaxed requirements that relate to being able to stay permanently in the island, not related to being a British citizen. We know that even the U.K.'s National Parliament does not require you to be a British national but does allow for people from all over the Commonwealth to be able to stand in their Assembly. Surely we should be putting out a message of merit rather than an accident of birth. I do ask for this amendment and both the wider the debate to be had. I think it is too short a time before an election. I know that the Comité des Connétables and P.P.C. will understandably stand up and say: "Look, we are just doing what was asked for." Deputy Higgins, he said: "Make parity between the 2." My argument is that we need to level up, not level down. What are we so scared of in our unique Island? We do not need to follow what the rest of the world does. We make our own rules here.

[16:45]

Would it be so bad if somebody from one of those communities stood for election? They would be at a disadvantage anyway, I suspect, because they would have to overcome the kind of latent and inherent prejudice that we see surfacing during these kind of debates. So good luck to those people if they want to put themselves forward for election. If they can get their signatures and, more importantly, the vote on the day to represent their communities and the wider community, why should they not be able to do it? I ask Members to search their souls, reject this particular part, to vote for the amendment and then in the future, and it may well be that we cannot bring the changes in before this election but in the future let us talk about what kind of inclusive society that we want so we are not just making words when we talk about diversity, we will make it a reality in this Assembly.

The Bailiff:

Deputy you are proposing both amendments, are you not?

Deputy M. Tadier:

Yes, I think that would be wise because they follow on from each other.

The Bailiff:

So when Members come to the vote are they asked to vote on them together or separately, just so that we know?

Deputy M. Tadier:

I think together because they are interrelated.

The Bailiff:

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

10.3.2 Senator L.J. Farnham:

I do oppose this for a number of reasons but I just wanted to highlight one flaw in particular and that is although Deputy Tadier did mention qualification to stand in the U.K., and you can stand if you are a Commonwealth citizen or a citizen of any member state of the E.U., as I understand it, but there is an additional qualification and that is you must be a registered voter and there creates a problem there because to vote in Jersey you have to have been resident for 2 years. That is just an additional point I thought I would raise. In this case, if Deputy Tadier's amendment was successful, you could stand for election but not be a registered voter. I think that is slightly odd.

Deputy M. Tadier:

Can I ask for clarification from the speaker, and possibly a point of advice from the Attorney General? I do not think that is true what the Senator has just said. Nothing in this amendment changes the other requirements for one to be on the electoral role in order to stand for election. Perhaps the proposer can sum up when he talks in the main.

The Bailiff:

I understood the Senator to be making the point that it did not change the voting structure and, therefore, it was odd. That is what I understood the Senator to be saying.

10.3.3 The Connétable of St. Clement:

Just briefly, I would just like to remind Members that Deputy Higgins' proposition last year which this Assembly adopted was thought to standardise the requirements relating to qualification and disqualification for election to the Assembly, so that all Members - Senators, Deputies and Connétables - will be subject to the same requirements. This amendment drives a coach and horses through that proposition which this Assembly adopted. It does that because if it were adopted, at this coming election people standing for Deputy and standing for Senator would need to be British citizens, but those standing for Connétable would not. That clearly has got to be a nonsense. So as I said when proposing the principles, the current law is silent on the nationality or citizenship of candidates for Connétable. I do not believe we are changing the rules because, because of customary law, if a non-British citizen were elected as a Connétable there is no certainty under customary law that the court would administer the oath to that person. Our amendment makes it clear and equalises the qualifications with Senators and Deputies. If the States believe that non-British citizens should be able to be elected they should do it not just for Connétable but for Deputies and Senators, so it applies to all Members of this Assembly. This does not. This runs in the face of what we decided last year with Deputy Higgins' proposition and puts the Constables on a different footing than Senators and Deputies, which is not the object of the exercise. I would urge Members to reject this amendment.

10.3.4 Senator P.F.C. Ozouf:

I hold a British passport and I do not have a particular view about whether or not it is a blue one or a purple one, I am very proud to be a British citizen. I fully accept the arguments that are being forwarded by Deputy Tadier, and I agree with him and those other Members who want a more plural

and wider class of individuals that seek to be elected and are elected to this Assembly, that represent the diverse patchwork of communities that we have in Jersey. We have a fantastic number of formerly French, Portuguese, Polish, Romanian, and we celebrate one of the greatest things that we have in Jersey is the diversity of our community. For many, many decades our immigrant community - many of them Catholic - were regarded as aliens and they had alien cards and the census records go back to say that they were aliens. Well, the world has moved on. Now, I find it difficult, I feel I have to - out of some reasons of fundamental principle - not vote with Deputy Tadier, but I want to try and find a compromise. But this is not it. In the U.K. Deputy Tadier is right when he says that the eligibility in the U.K. Parliament is, for example, that you are a British citizen, that you are a number of other things, but in terms of being a Commonwealth citizen - which is obviously an evolution of Empire - that there is an additional restriction that it is not automatic that you are a member of the Commonwealth and that you hold a Commonwealth passport and, therefore, by definition, swear allegiance to Her Majesty the Queen and the laws that pertain to that country; but you also have indefinite leave to remain. In other words, it is almost a status, and not all Commonwealth members, you have to pass certain ... and obviously after Brexit we are going to have lots more people with indefinite leave to remain because of course what the British Commonwealth - formerly Empire - had prior to the Nationality Acts that were made was in a sense a free movement of people across the Empire. Now, in Jersey our nationalities and the people that made up this fantastic Island were from different places, and not necessarily from Empire but were from France, for example. Indeed my own family were aliens until the early 1900s and were not able to stand for elected office because in those terms - and while we have not made a decision to speak in Jèrriais yet - my great grandparents were *française en catholique*, notwithstanding the fact that they became British citizens, and were not welcome in their Parishes. Those days are long gone and we now have I think a non-discriminatory Island. But there is something fundamental, if you stand for elected office then you are standing to uphold the laws of the country and jurisdiction that you are resident in. Deputy Tadier himself spoke of a former Senator who I knew very well, who was originally Dutch and became naturalised and served in this Assembly with distinction and won a number of elections. I do not differentiate between people who were born here or not born here, I think it is fantastic if you come to Jersey and you are a resident and you pay your taxes you are as Jersey to me as you are if you have been here for 7 generations. I recall Senator Bailhache speaking on many occasions when he discharged the office of Bailiff, and you, Sir, have also spoken about the inclusive society in which we live and the fantastic nature of that patchwork community. But if you stand for office and choose to serve your Island and you pass laws in this jurisdiction, I think there has to be something that says that you should have the passport of the country, in this case the jurisdiction, in which you are passing those laws. It just simply seems to me obvious. This is not a Parish Council, this is akin to being a National Parliament in a subsection of what I describe as Greater Britain. It is an uncomfortable position and it is almost by omission rather than anything else. It was not done on purpose that this nationality issue was not inserted in the Constables provisions. They were forevermore in the Deputies, which I saw a tweet from the Société Jersiaise that the first Deputies were elected in 1856, just recently in terms of the anniversary that they did. I commend the Société Jersiaise for their evermore informative tweets about the history which teaches us where they come from. Senators were obviously only ever invented in the relatively near term of 1947, so we are obviously the first in and first out perhaps, or perhaps if constitutional reform had said ... but of course if you are not a politician then you should not be here either; but that is a story for another day. But what I do know is that you can have dual nationality, you can take nationality, and you can become a British citizen. Being a British citizen I think must be a requirement to be fulfilling the right to be a lawmaker, because that is what we do as a parliament. We are a lawmaker for our jurisdiction. It seems to me that you can hold dual nationality, and it would be great if there were people ... I do not know whether any Member is a Member that has got dual nationality. Some countries allow it and some countries do not allow it. But many countries do and increasing countries do allow dual

nationality. There is nothing, it seems to me, to prevent an individual from getting British nationality and from holding the passport. Because who are you swearing allegiance to? Are you a national of another state and, therefore, your domicile, your home is somewhere different from the place in which you are going to be passing laws? It just seems to me to be a complete oddity which does not sit comfortably with the concept of being a lawmaker for a jurisdiction. The United Kingdom does have a compromise which maybe is the compromise that we should consider, to say that if you have permanent leave to remain - which is the Commonwealth criteria which exists for the eligibility of the United Kingdom Parliament - you can stand for election. I also have looked up the issues that Deputy Higgins has said in bankruptcy, there are bankruptcy provisions in the U.K. Parliament for eligibility and they are not as onerous as the ones that we have here. Having failed and being a bankrupt, and having tried an enterprise and failed and become bankrupt because your idea has failed and you have had to deal with it and deal with it properly, when you have dealt with it, it does not seem to me a barrier to entry. But that is not the issue at hand. The issue is nationality. For me, to stand and to be a lawmaker I think you need to be a British citizen. Deputy Tadier is going to have to give me some pretty convincing arguments as to why we should be, I think, almost unique in the world in not allowing. This is not a Parish Council. We call ourselves an Assembly but we are akin to a National Parliament passing national laws. The Isle of Man uses that word regularly, "national"; we do not tend to use it here by custom and convention. But the fact is that we are akin to a Parliament in a nation under what I call Greater Britain. You have to have, in my view, a passport which is a Great Britain passport in order to be a lawmaker of this jurisdiction. It is, therefore, with a heavy heart that, but with a desire to find a solution that must be possible, there must be something which we can craft in our laws which is akin to this permanent leave to remain which reflects the permanent nature of the fact that somebody is stopping short of nationality but they are a permanent resident of Jersey.

[17:00]

Just simply opening up and saying you do not need to be a British citizen seems to be completely uncomfortable. The Commonwealth exists because it has a single individual as the head of state. That seems to work. It seems to me that you cannot have the 2 things and so I would commit to working with others to find a solution, but the binary option of passport, British nationality or not, to me simply does not work in terms of what the responsibilities when you take an oath of office ... how can you take an oath of office that effectively is to uphold the laws of Jersey, if you have a passport that does not mean that you have all that it takes to be a British citizen and all that is associated with it. You can have 2 if you want, but you have to have a British passport in order to be a lawmaker of this jurisdiction.

10.3.5 Deputy J.M. Maçon:

I appreciate that Deputy Tadier has brought this amendment in that he strongly believes that it is a point of principle for him. It is unfortunate that the points raised by myself and other Members during the past debates unfortunately have not been taken on board, because I see through the lens of the rights of a Jersey person. The points that we raised last time were about the issues of having reciprocal rights. The issue is I can, as a Jersey person, go to the U.K. and stand for a position in the Welsh Assembly, or in the Scottish Parliament. I, for example, cannot go to Portugal and stand to be a member of their parliamentary assemblies, and *vice versa*. It is about that reciprocal arrangement. I stood before and I said I think where you start is the best people to judge who should be in this Assembly are the electorate. But I do not think it is fair that a Jersey person should have the same rights as someone else who comes to the Island. That to me does not seem particularly fair. So in an attempt to make a level playing field it creates another un-level playing field. So if the situation were that we had reciprocal arrangements I would be able to support that, but that is not what is being asked for and I would like Deputy Tadier to explain why reciprocal arrangements, the

way forward, is not right. Because why should a foreign national come to Jersey and have greater rights than a person going to another country? Because if we went to another country we would have to take their citizen's test; I take the view that if that is the law of the land, that is what I have got to comply with, that is what I have got to do. I do not see why it should be different. I look forward to Deputy Tadier's response but that is my principle, that these matters for a Jersey person should be reciprocal.

10.3.6 Deputy R. Labey:

But we are not really talking about people rocking up here from other nations with a specific intention of standing for election to this Assembly, are we? We are talking about members of the community who have been here a while and performed a valuable role. I can think of the Polish Consul, for example, who has been here a while. She speaks better English than me, she runs a successful business, she put something back for her community but also for the community as a whole by being an excellent Polish Consul. If she decided - and I must not put ideas into her head because her business is in my district and she would be stiff competition - but if somebody like that felt they could help the community by standing for this Assembly, I cannot see what is wrong with that. I cannot see what is wrong with that just because she is a Polish national. She is naturalised Jersey because she has been here a long time, and she would be magnificent. If we take this to that sort of personal level, for me ... I understand what the Constable of St. Clement is saying, and some of what Senator Ozouf was saying, but if you just analyse it from individual perspectives then I feel that the arguments against fall away and that Deputy Tadier has a point. I mean, I know people are very proud to be British but British is not better, I mean, a lot of people after Brexit are searching their family trees for Irish relatives so that they can get Irish nationality so they can continue to work and travel through Europe. A lot of British people would consider themselves Europeans. That is my stance on it. I think it would be an incredibly positive statement to make for this Assembly if we found a way to make this work, what Deputy Tadier is proposing. So I am going to support him for those reasons.

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

The problem with the previous speaker's example is that of course this person would not be standing against the Deputy, she would be standing against a Constable. I did want to say a few things. Like Senator Ozouf I do feel uncomfortable in voting against Deputy Tadier because in some ways Deputy Tadier has been a bit naughty - to use one of Senator Ozouf's words - in trying to paint anyone who votes against this as being defensive. He implied that the Constables want a clean sweep of uncontested elections which is totally wrong. The Constables are as available as the Deputies and the Senators come election time, and I think it is wrong to suggest the Constables - just because they are not generally contested - means that they are trying to ... he said that the Constables would vote against his amendment because they want to reduce the number of potential opponents. That of course is nonsense. It is particularly nonsensical in a Parish where there are 18,000 or so potential opponents in my case. So I want to remove that consideration from this debate because I do not think it is very honourable and I do not think it is at all fair. The Constables, as I say, are up for elections and I am sure all my colleagues - those at least who have not already indicated they are going to go - are equally up for a contested election as I am. I am pleased to be able to say this and the Société Jersiaise has already been referred to, but this morning they reminded us that exactly 165 years ago in 1853 on this day the great Constable of St. Helier, Pierre Le Sueur, passed away. They said it was of exhaustion, I am not exactly sure the exact reasons why he died but he certainly worked very hard in his 14 years. I was wondering when Senator Ozouf was giving us his very thoughtful contribution what the great Pierre Le Sueur would have made of this proposition. Would he have accepted the chairman of the Comité des Connétables' argument that we should be seeking to be the same and not to be placed on a different footing, or would he be thinking in some way that we should be trailblazers, the Constables should be going out on a limb and saying: "We are quite happy for a foreign national

who has not got around to taking the citizenship test” ... and I do not really buy Deputy Tadier’s argument that you can decide you are going to be Constable sort of the night before the nomination meeting. There is, as we all know, quite a lot to do in running even the smallest Parish. But I think there are cases where a person has been so busy working to keep a roof over their heads, they have been so busy working in their community, so busy working in their church, that they have not got around to taking this nationality test and they would like to see whether they can persuade the electorate to vote for them. On that basis it seems a shame that they should have to wait another 4 years to do that. So I am, I must say, tempted to support the Deputy here because I think there is a point of principle that is worth thinking carefully about. My final point is that it is particularly true in St. Helier that we have a large number of foreign nationals committed to Jersey in our Honorary Police force. **[Approbation]** I would suspect that at least half of our officers in St. Helier are not only from Madeira and Portugal but from Romanian, from Poland, and we even have a member from Bulgaria. I do not want to send a message to them that I think in some way they do not have a right to stand for an election, so on that basis I am quite likely to support Deputy Tadier.

10.3.8 Deputy A.D. Lewis:

I just wanted to pick up on something that Senator Ozouf said. What is the compromise? What is the workaround? To me it is very simple: naturalisation. Whether you are that committed to the place that you live, whether it be here, Portugal, Belgium, wherever it might be, then surely naturalisation is the ultimate commitment to the place that you live. If you are going to pass laws, make laws, enforce laws - not that we are enforcement officers but you get my point - then to be a citizen of that jurisdiction is pretty important. So there is a perfectly reasonable process to go through and it is called naturalisation. I know of at least one candidate in the last election that did exactly that so she could stand for election. The Senator mentioned somebody else that was a successful politician in this Assembly for many years that did exactly the same. So there is a compromise, there is a workaround, it already exists. I would urge anybody that is interested in standing for this Assembly to think twice and then 3 times first but hopefully, yes, put yourself forward; if you are not British plan now for naturalisation. It is not that difficult a process, and if you are that committed then you will do it. That is the workaround, that is the compromise, and I firmly believe that is what you should do before you stand for a National Assembly - which effectively we are, which is what Senator Ozouf said - that is pretty important to be a member of the society you are in, you should be nationalised and have that British citizenship which is what we currently say you should have before you stand for election for this Assembly. That is the workaround, that is the compromise, and it already exists. So I would suggest to Members that you vote against this amendment.

10.3.9 Deputy S.M. Brée:

I will not have any concerns about voting against this amendment because I think there is fundamentally a point here. We are British. We here make laws and amend laws that affect all of the population. If any person wishes to join this Assembly then they should have British citizenship because that is who we are. There is nothing wrong with that. There is nothing to be sniggered at about that. In fact, it is something to be proud about. Now, if a member of the Polish community, the Portuguese community, whichever immigrant community has been here for a while and wants to join this Assembly then they can obtain dual nationality. We are not asking them to give up their birth right, but we are asking them to make a commitment to this society and this community. This is who we are. There is nothing wrong in requiring anybody who wishes to represent the public of the Island and pass laws that affect every member of the public of the Island to be British. It shows commitment. It shows a willingness to join what Jersey is. We are unique, yes, there is nothing wrong in that, and I think to somehow castigate people like myself who stand up and say: “No, I am sorry, there is a commitment, there is a barrier you have to pass” to then castigate people like myself as being somehow racist or xenophobic or ignorant is wrong. Everybody is entitled to their views.

That is my view. But to sit in this Assembly and to pass laws, it is a requirement that you have British citizenship. What we are going to see is that effectively the proposition is brought by Privileges and Procedures Committee as has been previously outlined by the Constable of St. Clement will bring all Members on the same level. Yes, it is a high bar; nothing wrong with having a high bar to say these are the requirements. What is wrong? Let us not be embarrassed about the fact that we do have tradition; we do have a history; and we do have a nationality. I am not ashamed of that. I think it should be celebrated. I think more people from the immigrant community who have been here a long time should be encouraged.

(17:15)

We want to hear your voice; we want to hear your view. But to do so you have to accept that you are in Jersey. This is what we are; this is who we are. I cannot support this amendment by Deputy Tadier because I think it is misplaced and completely wrong.

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

Just yesterday the O.E.C.D. published on their Twitter feed just a simple graph about migrant population and the changes that we have seen around the world in the last 15 years, and this struck a real chord with me, because you can see that the world is a very changing place and people are moving around the world at a rate of knots, and they have been doing so over the last 15 years. So considering this topic is very timely and poignant, and I am sure that many nations around the world will be having very similar conversations in their Legislature, and so perhaps it is time that we do so and consider being world leaders in this area. Sadly I will not be able to support this today because of the will of the Deputy to ask for all of the Articles to be considered together because I do think that a Parish Constable should reside in their own Parish; I think that is absolutely fundamental.

Deputy M. Tadier:

Just for clarification, if the Member would give way. I have withdrawn that part. I have been convinced by the arguments contained in the comments, so the debate today is only on the issue of nationality.

The Deputy of St. Peter:

That is a very good point, thank you. That had momentarily slipped my mind. So then I do not want to labour too much on this point because I am aware that we will also have a similar debate on P.3 when the Deputy brings it to the Assembly. But as diversity has been a great issue among us I have to share with Members I am very aware that I belong to not one but 2 minority groups in the Assembly: firstly as a woman; but also I am in a smaller minority group I think because I am one of the Members who are not born in Jersey. I came here 18 years ago, and fortunately by virtue of being a British citizen I am able to stand for election, and it has, having spoken to some members of other communities who have an interest in standing for election, become very pertinent to me that that I am fortunate to be a British citizen. But some other people who feel just as strongly about the Island as I do and are more committed than I am, they by virtue of their citizenship are not able to take that - or they have another hoop to jump through in terms of becoming naturalised. That was my reason last time for not supporting the Deputy in his desire for non-British citizens to be able to stand for election. I have to admit that on reflection my views changed and I shall support the Deputy.

10.3.11 Deputy S.M. Wickenden:**

I think what we are trying to do here in P.P.C. is try to make sure that there is parity between all the seats who are here. So I do not know if this is the right place, and I think what has been brought up here is the customary law. The Constable of St. Clement raised the idea that if this British citizen test is not here and somebody who does not have a British citizenship gets to be voted in as Constable, could they take the oath? I think what we need to do is correct the parity now and then look at how,

if we want to change this, we do it across the board at a later date maybe. Maybe today is not the right day to vote for this. Let us make sure that we have all our ducks lined up in customary law in every other place.

10.3.12 Senator I.J. Gorst:

I am pleased to follow the last speaker because that was my understanding of what the chairman said in his opening remarks, or his remarks in response to Deputy Tadier. So I think we find ourselves in a conundrum this afternoon where I understand why some Members feel that times are changing and that we do need to encourage members of our community who are not currently British citizens to stand for election and we know that there is a high financial barrier to becoming a British citizen which is around £1,000 and that does put people off, particularly with what I understand is a more stringent test which many born British citizens might themselves struggle to complete. So we do find ourselves in this difficult situation, and yet there must be surely a test or a barrier outside of the barrier which is an election which shows commitment to our community. But it is what the Connétable said that should a non-British citizen now stand it can be far from certain that that would be acceptable and that they would be sworn in. That colliding with the request of Deputy Higgins to equalise the criteria across the 3 classes is why P.P.C. have done the work that they have done. So I think that we can leave it as it is. But that will still mean that there is uncertainty in anyone coming forward to be nominated for the position of Connétable; that uncertainty would remain. I do not think that is fair on those individuals either because they might then be elected and then not be able to be sworn in; as the Connétable said, that is not a satisfactory situation for anyone. It would lead to even greater dissatisfaction and discontent with the system. But at the same time I think there is a general feeling that somehow that £1,000 barrier needs to be mitigated. So we know that this is not just unique to us. If you see what has been happening in recent months in Australia you see there that they are having difficulties with dual nationalities and I always think that dual nationality is a positive thing because it shows commitment to the community to which one has moved, but it also shows support to one's history and heritage and family. But they are finding that members of their Parliament are having to step down because they have unwittingly breached legislation and eligibility criteria for election. I think what I am saying is that whichever way Members vote this afternoon a problem will remain; it is not being solved. On top of that I think we are hearing that there is going to need to be change. Quite who is going to lead that change is to be naturally put to P.P.C., I think. The difficulty with that prior to an election and I am not sure whether it is deliverables, but P.P.C. will tell us that if it needs to be debated by this Assembly because there still remains good ground, as Deputy Bree said, about why one should be a British citizen to be elected to this Assembly for all the reasons that Senator Ozouf spoke about it in his speech as well.

Deputy M. Tadier:

At this point could I give notice that I would like to ask the Attorney General a question, and I suspect that it might be more appropriate for him to answer it tomorrow, given I think that the debate will conclude tomorrow. There have been several comments from speakers trying to guess what the lack of anything specific in the law relating to the nationality requirement of Constables would mean and the Chief Minister has just said ... I think he said it is likely that the court would rule against. I know it is possible for Members privately to seek an opinion of the Law Officers and that naturally remains a privilege unless otherwise stated. But it would be helpful for the Assembly to know the considered legal opinion of the Attorney General if this were to come before, and if I could also ask him in the context, and I do not want to embarrass any Members, but we do know I think it is germane to this debate, but the question is, given the fact at the last election somebody got elected with 9 signatures on their paper and that was not found out until after the election and that decision was allowed to stand. Is there any precedent for what might happen were a non-British national to stand for election

and get elected, given the fact that there is nothing in the law that talks to that issue. Where would the legal challenge likely come from? How successful is it likely to be?

Senator P.F.C. Ozouf:

May I also ask a question because I am finding this, like other Members, difficult? I wonder whether the Attorney General might address the Assembly on the legal question of what nationality and citizenship means from a legal sense, and is there any conflict particularly in nationality and the oath that one takes as being a citizen of a country in terms of being a law maker, and is there a conflict in any jurisprudence or legal sense. I think that is a legal question, but I agree with Deputy Tadier that it would be very, very helpful for the observations of the Attorney General on what is citizenship, nationality and is there a conflict in being a law maker? I make that question if you may permit that as a legal question.

The Bailiff:

The Attorney is busy writing. I am sure he has made a note of those things.

10.3.13 Senator S.C. Ferguson:

You know, my best friend's grandparents left Russia in one of the pogroms, and the first evening they arrived in New York the grandmother said: "We will now only speak American" and they took to the American culture. My sister spent many years living in France and she could participate in all aspects of French life, including subscribing to the Annual Pompier's Benefit Fund. "If you do not contribute to our fund your house may burn down." But in no way could they vote in the national elections. Members have talked of a commitment to the community and I think this is absolutely essential. If you have one nationality and you are trying to stand in the Parliament which is making laws for another nationality, you are going to - in the biblical sense - be serving God and mammon. No man can have 2 masters and you would have 2 masters. The oldest example of this I suppose is if you went to war with the other country, where would your allegiances lie? But be that as it may, that is a historical matter. You do have to have a commitment to the country and the community in which you are living, and if you are not prepared to take the nationality then I really do not feel that there is any argument. If I go and live in another country, I observe the rules, the laws of that country, and if I do not I would probably get thrown out. So as far as I am concerned this is a very simple argument. We do not support this proposition.

Senator P.F.C. Ozouf:

I propose the adjournment.

The Bailiff:

The adjournment is proposed.

The Attorney General:

I will respond to one of the questions I have been asked now to assist anyone who has further questions perhaps overnight in relation to that question. It is the question that Deputy Tadier asked, and I can give the answer because I was asked the same question a year ago in February, and I wanted to remind the Assembly if I may of the answer that I gave. I said on that occasion I would like to say a few words about the position of Constables because it had been suggested in the course of debate that because the law we had been looking at is silent in relation to the nationality, then it is the case that persons of any nationality can seek election to that role. That may be the case; the law is unsettled. It is a question of customary law. There is nothing in statute, and customary law used to draw a strong distinction between nationals and aliens and thus when the States of Jersey Law was passed in 1966 I have no doubt at that stage that the court would have held that Constables would have needed to have been British citizens. But of course things do change and it has been said in that

debate by Deputy Tadier: “Honorary police officers have been sworn in by the Royal Court from many other jurisdictions in the last few years” and the point remains that the position is unsettled. There would need to be, as the Constable of St. Clement has said, a ruling from the Royal Court if a non-British Constable was elected, it would depend whether or not he or she could take his seat or indeed even stand for election.

(17:30)

I hope that answers the question that Deputy Tadier raised. If there are further questions arising from that I will be pleased to answer them tomorrow and of course the question asked by Senator Ozouf.

Senator P.F.C. Ozouf:

Can I propose the adjournment now? Sir, do you wish to speak?

The Bailiff:

Mr. Attorney, as I think I am right in saying that the court always places some reliance on the conclusions of the Attorney. So when you come back tomorrow morning you may wish to advise Members what your conclusions have been in relation to this.

The Attorney General:

I shall do so.

The Bailiff:

Never let it be said this is a bad place to sit. I give notice to Members that there has been lodged an amendment to P.88/2017 – ‘Jersey Electricity plc: referral of stand-by charges to the Channel Islands Competition and Regulatory Authorities’, an amendment lodged by the Deputy of Grouville; P.7 – ‘Jersey Lifeboat Service: establishment of an independent lifeboat station – petition’, lodged by Senator Ferguson; and the Draft Postal Services (Transfer) (Amendment) (Jersey) Regulations - P.8 - lodged by the Minister for the Environment. The States now stand adjourned until 9.30 tomorrow.

ADJOURNMENT

(17:31)