

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 20th NOVEMBER 2018

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[9:31]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

The Deputy Bailiff:

1.1 Welcome to His Excellency the Lieutenant Governor

On behalf of Members, I would like to welcome His Excellency the Lieutenant Governor, to the Chamber this morning. **[Approbation]**

1.2 Tribute to Deputy R.J. Rondel of St Helier:

Members will, I know, have been deeply saddened to learn of the death of a friend and colleague, Deputy Richard Rondel. Deputy Rondel was from a farming family and was deeply involved in the farming community. But in this place, he is chiefly remembered as a courageous and committed Member, popular both within the Parish that he served and in the Assembly. He was first elected on 14th November 2011 and was subsequently re-elected to St. Helier 3 and 4 in 2014 and, again, in 2018, where he topped the poll. In his first term, he served as a member of the Public Accounts Committee and the Corporate Scrutiny Panel and after the 2014 elections he was appointed as Assistant Minister for Infrastructure and he also served on the Planning Applications Panel, latterly the Planning Committee, his involvement with which continued into the current term. In 2013, he represented Jersey in the 24th Commonwealth Parliamentary Association seminar in Singapore and was a discussion leader during the session entitled “Scrutiny of the Executive: Public Accounts Committee”. Deputy Rondel was truly committed to his Parish and he served his constituents diligently and always showed great compassion. He was active within the community and very supportive of various Parish events, particularly in the last 6 years the Fête de St Hélier, initiating a parade through town as part of the festivities celebrating our Island’s capital. Although in very poor health for the last 3 years, Deputy Rondel remained upbeat and committed to his role, attending planning and States meetings throughout October 2018. He will be remembered as much for his character and resilience, as for his undoubted contribution to the public life of the Island. Our thoughts are, today, with his family, especially his sons, James, Joshua and Jack, of whom he was immensely proud, as they should also be of him. He served his Parish and the Island with dedication and enthusiasm, and his unwaveringly positive attitude is an example to all. I would like to invite Members to stand for a minute in silence in tribute to him. **[Silence]** May he rest in peace.

1.3 Acknowledgement of workers on the celebration of the 100th anniversary of the Armistice

On a happier note, Members will know that we have just finished the celebration of the 100th anniversary of the Armistice, marking the end of the First World War. We have come together on a number of occasions to mark this event. The Bailiff’s Armistice concert, Remembrance Sunday, the lighting of the beacon and the repatriation of the Heart of the Guillemot Stone to the Royal Square and its postponed installation in the wall of the entrance steps to the Royal Court. I am sure that Members will readily acknowledge that all of those events have been a success and that that success depends on a number of people working behind the scenes and giving up their time outside of normal hours. I would like, on Members’ behalf, to acknowledge with thanks those efforts and, in particular, to thank the chief officer and members of the Bailiff’s Chambers and the ushers for their work in this respect. **[Approbation]**

[9:45]

QUESTIONS

2. Written Questions

2.1 THE CONNÉTABLE OF ST. MARTIN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING PEOPLE DETAINED UNDER MENTAL HEALTH LEGISLATION: [WQ.250/2018]

Question

Will the Minister advise how many people have been temporarily detained under Mental Health legislation in the last 12 months; and will he request confirmation from the Minister for Social Security of how many of these people were in receipt of benefits administered by her department and how many of any such people had their benefits stopped whilst they were so detained?

Answer

The total number of people detained under an Article of the Mental Health law between 1 November 2017 and 31 October 2018 is 130.

The period of time people are detained under Article varies according to the Article of Detention and can range from 6 hours (nurse holding powers), 72 hours (emergency holding powers), 28 days (assessment) and 6 months (treatment which is renewable every 6 months if required).

It is not possible to say how many of these individuals were in receipt of benefits administered by Social Security. As part of the process around their detention, there is an assessment of their social circumstances and health and social care needs and this would normally include discussion of their benefit arrangements.

As a general guide, most contributory benefits are unaffected by the claimant being detained. These include old age pension, long- and short-term incapacity allowance and maternity allowance.

The main Social Security benefits that might be affected in these situations are Income Support and Long-Term Care. Both have rules around stays in hospital or other health facilities but are designed not to affect people who have temporary stays of 28 days or less.

Income support claimants continue to receive their full benefit for the first 28 days of any hospital stay. The two Departments work together to ensure that the needs of vulnerable people are safeguarded if a longer stay is required and the patient's benefits may be affected.

In the case of longer stays, the Income Support benefit has procedures for people who enter hospital or another publically-funded facility on an in-patient basis. Their personal components, which are the parts of Income Support that pay for daily expenses such as food, will continue in payment for up to 28 days. After that point they are stopped until the person returns home, as their daily needs are being met by the hospital or other facility. Exceptions are made in some situations, such as people who still face expenses whilst in a facility in the UK. Support for rental costs can also continue to be paid for up to 12 weeks. For longer stays, claims are looked at on an individual basis and rental costs can continue to be provided in some cases.

For individuals living in a care home who have a stay in hospital, the Long-Term Care benefit will continue paying in full for the first two weeks of hospitalisation. Following the first two weeks, the

benefit is paid at 90% of the full rate for the following four weeks. Again, for longer stays, cases are considered on an individual basis.

A person receiving Home Carer's Allowance will temporarily stop receiving that benefit after 28 days in hospital in any 12-month period.

Any benefit that is suspended during a hospital stay is fully reinstated on the day that the individual leaves hospital.

2.2 DEPUTY S.M. AHIER OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING FIREARMS CERTIFICATES: [WQ.251/2018]

Question

Will the Minister advise the Assembly of –

- (a) the number of firearms certificates currently issued in the Island, broken down by Parish;
- (b) the number of firearms held by private citizens, broken down by Parish;
- (c) the amount of ammunition held by private citizens, broken down by Parish;
- (d) the number of firearms held by the States of Jersey Police;
- (e) the amount of ammunition held by the States of Jersey Police; and
- (f) how many States of Jersey Police Officers are trained in the use of firearms?

Answer

The information requested in (a) and (b) is set out in the table below.

<u>Parish</u>	<u>Firearm Certificates</u>	<u>Number of Firearms</u>
St Helier	179	1282
St Saviour	142	891
St Brelade	164	1392
St Clement	69	555
St Peter	112	700
St John	91	1123
Trinity	79	326
Grouville	87	513
St Ouen	152	1064
St Mary	45	268
St Martin	101	474
St Lawrence	101	574
<u>Total</u>	<u>1322</u>	<u>9162</u>

- (c) Article 3 (4) (b) and (c) of the Firearms (Jersey) Law 2000 requires that, when making a decision to grant a firearm certificate, the Connétable must be satisfied that an applicant has a good reason for possessing, purchasing or acquiring the firearm or ammunition in respect of an application, and that this can be held without danger to the public safety or to the peace.

As is set out in the Firearms (General Provisions) (Jersey) Order 2011, the maximum amount of ammunition that a person will ordinarily be permitted to possess at any time is 5,000 rounds. An applicant who wishes to possess a greater amount will need to show good reason why he or she should be permitted to do so, in accordance with the provisions of the 2000 Law as outlined above.

The questions asked in (d), (e) and (f) are operational matters for the States of Jersey Police. It would not be appropriate for the Minister to provide details of the full firearms capability of the States of Jersey Police. To do so could potentially jeopardise that capability during future operations.

2.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EXTERNAL RELATIONS REGRDING THE DRAFT TAXATION (COMPANIES – ECONOMIC SUBSTANCE) (JERSEY) LAW 201-: [WQ.252/2018]

Question

What is the Minister's assessment of the likelihood that, by restricting the new Taxation (Companies – Economic Substance) (Jersey) Law to Jersey-resident companies only, the test for economic substance will fail to address the concerns of the E.U. Code of Conduct Group that the Crown Dependencies (including Jersey) do not have a "legal substance requirement for entities doing business through the jurisdiction"?

Will the Minister confirm whether or not the Law will cover the majority of companies incorporated outside the Island but trading within (or through) Jersey and, if not, state whether such internationally-registered companies which are not covered will consequently be offered a level of tax which is lower than the general level of tax in Jersey, and will receive tax benefits reserved for non-resident owned companies; and will he further advise what risk there is that tax incentives will effectively be provided for activities which are isolated from the domestic economy and that there will be a granting of tax advantages to these companies even in the absence of any real economic activity in Jersey?

Answer

The draft Taxation (Companies – Economic Substance) (Jersey) Law (the **draft law**) law applies to 100% of Jersey tax resident companies, whether they are incorporated in Jersey or not. This is not a restriction and is the proper scope for this legislation. It correctly uses the tax residency test already established in Jersey under the Income Tax (Jersey) Law 1961. This is a test based on being managed and controlled in Jersey.

The draft law is designed to meet the specific concerns the E.U. Code of Conduct Group has in relation to Jersey and that includes with respect to the scope of companies caught by the test.

There are no tax benefits which are reserved for non-resident owned companies. Such companies are treated exactly the same as those owned wholly or in part by residents of Jersey.

2.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION REGARDING TEACHING VACANCIES: [WQ.253/2018]

Question

Will the Minister –

- (a) inform members how many teaching vacancies were unfilled by schools in September in each of the past 5 years, stating in which schools and in which subject or year-group specialism the vacancies occurred; and
- (b) state how many supply teachers were used to fill any such vacancies at the start of each academic year?

Answer

- (a) Further to answer to WQ.237/2018 we do not have a historical record of data to answer this but the figures for September 2018 are:

School	Subject / Year Group
d'Auvergne	Year 6
Haute Vallée	English
Le Rocquier	Music
Plat Douet	Deputy Head
Rouge Bouillon	Teacher with Managerial responsibilities
St Mary	Year 4
Springfield	Head Teacher

The Head Teacher for Plat Douet was appointed later in the summer which delayed the appointment to the Deputy Head role. This has now been filled.

The Head Teacher of Springfield has also now been filled.

- (b) Further to answer to WQ.206/2018 the provision of cover for absences, including vacancy absence, is not consistently recorded across all schools in a format that could provide an answer.

2.5 DEPUTY R.J. WARD OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE USE OF NURSING AGENCIES: [WQ.254/2018]

Question

Will the Minister advise how much has been paid to nursing agencies for temporary staff since January 2016, breaking the figures down to show –

- (a) how much of this cost was paid to the individuals employed; and
- (b) what sums were paid per each period of employment when the actual wage that was directly paid to individuals is removed (i.e. the proportion of the contract paid to the agency);

and will he further state how many of the agencies used were not based in Jersey?

Answer

The total agency spend for nursing agencies since January 2016 to 15 November 2018 is £5,963,007

- (a) It is not possible to provide information on what is paid to an individual nurse. The rate paid to an individual nurse is between the agency and the individual and is not disclosed to the department.
- (b) Please refer to the response provided in (a) above.

11 of the agencies used to source Registered Nurses are UK-based.

2.6 DEPUTY R.J. WARD OF ST. HELIER OF THE CHAIRMAN OF THE STATES EMPLOYMENT BOARD REGARDING THE RESPONSE TO THE HR LOUNGE REPORT ON BULLYING AND HARASSMENT: [WQ.255/2018]

Question

Further to the response to Written Question 202/2018, will the Chairman advise –

- (a) what changes, if any, have been made this year (ahead of the measures due to commence in January 2019) to protect staff employed by the States of Jersey following The HR Lounge report on bullying and harassment;
- (b) how the States Employment Board itself, as the employer, will monitor the situation to ensure that the failings identified do not continue; and
- (c) what action, if any, is being taken to review previous and current disciplinary cases to ensure that any poor outcomes are either corrected or avoided?

Answer

- (a) A number of changes have already taken effect ahead of the launch in January 2019 of the two newly re-written policies; namely Bullying and Harassment and Whistleblowing. These include;
 - A change in practice to accept anonymous concerns.
 - The introduction of additional supportive measures; access to 1:1 (face to face) counselling sessions for any individual who raises a bullying and harassment concern and ensuring provision is in place for all parties involved, including witness so that they have a point of contact for support if needed
 - Greater emphasis on resolution through informal measures and the use of mediation where appropriate, using impartial 3rd party mediators.
 - The two newly re-written policies to be launched in January 2019, will be supported with a series of management briefings covering all managers. The roll out of the Team Jersey culture workshops will further support the values and behaviour change which will mitigate the risk of Bullying and harassment concerns.
- (b) Policy effectiveness and the wider cultural changes will be monitored through quarterly reporting to the States Employment Board to ensure and assure that these issues remain visible at the highest level

- (c) There are no plans to retrospectively review previous disciplinary cases .Current cases will reflect our learning from the HR Lounge report and their outcomes will be determined by the panels based on the investigatory outcomes

2.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING SHIFTS UNDERTAKEN BY NURSES AND NURSING ASSISTANTS IN THE GENERAL HOSPITAL: [WQ.256/2018]

Question

Following the response to Written Question 239/2018, will the Minister inform members of the total number of nursing and nursing assistant shifts required to fully staff the general hospital on a weekly basis; and will he advise what is the average number of shifts cancelled each week in the last 12 months as well as the average number of shifts delivered by bank nurses on overtime and the average number of shifts delivered by agency staff?

Answer

The total number of nursing and nursing assistant shifts required to fully staff the General Hospital on a weekly basis is approximately 1,795.

The average number of shifts cancelled each week (in the last 12 months) is extremely difficult to capture over the period requested. However, on the basis of figures to hand, approximately 15 shifts are cancelled each week for various reasons.

The average number of shifts delivered by bank staff* is 17 shifts by Health Care Assistants on the nurse bank, 4 shifts by Registered Nurses on the nurse bank and 3 shifts by Agency Registered Nurses. Please note that bank nurses are not paid at overtime rates; they receive a flat-rate hourly rate of pay only.

* As no reference date range has been specified, the data captured is for the w/c 11/11/18

2.8 DEPUTY M.R. LE HEGARAT OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE IMPLEMENTATION OF THE TARGET OPERATING MODEL; [WQ.257/2018]

Question

When does the Chief Minister plan for the Target Operating Model to be fully implemented; and what staff and budget will be allocated in 2019 to each new department under the Target Operating Model?

Answer

The aim is for the structural elements of the new Target Operating Model to be complete by the end of March 2019, although internal and external recruitment into roles arising from the new structures is likely to continue beyond this date.

The final size of each new department will be determined by the Target Operating Model for each department. The budgets for the new departments will be contained within the overall spending limit

for 2019 established in the MTFP, as approved by the Assembly, although the underlying departmental budgets for 2019 will be realigned to match the new structures and any changes will be explained and reported in the Transition Report, which will be presented to the Assembly before the end of the year.

2.9 DEPUTY M.R. LE HEGARAT OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE PUBLIC PROTECTION UNIT: [WQ.258]

Question

Will the Minister advise –

- (a) how many officers are allocated to the Public Protection Unit;
- (b) what the Unit's budget is;
- (c) whether or not there are any vacancies in the Unit;
- (d) how many alleged crimes have been reported since January in relation to offences against children;
- (e) in how many such cases have charges been brought; and
- (f) how many such crimes have been successfully prosecuted?

Answer

- (a)** The current establishment set for the Public Protection Unit (PPU) is 11 officers. In addition, 2 officers are currently working as part of the PPU in response to the recommendations of the Independent Jersey Care Inquiry. The additional funding for these posts (£120,000) is in place until the end of 2019.
- (b)** The budget for the PPU is £1.5million.
- (c)** There are currently 2 vacancies in the PPU.
- (d)** The States of Jersey Police (SoJP) have recorded 278 complaints of crimes against children (under 18) this year to date. 33 of these are historic (more than 1 year old).
- (e) & (f)** 17 of these cases have been successfully prosecuted through the Courts. An additional 17 have been dealt with at Parish Hall Enquiries.

Other outcomes include:

- 14 cases assessed as not in the public interest to proceed.
- 85 cases where no complaint was forthcoming.
- 43 cases where there was insufficient evidence to proceed.
- 49 cases are the subject of an on-going investigation.

2.10 DEPUTY M.R. LE HEGARAT OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING CHILDREN'S HEALTH: [WQ.259/2018]

Question

Will the Minister advise –

- (a) how many staff are allocated to Children's Health;
- (b) how many of those staff are working in Mental Health;
- (c) what the budget for Children's Health is; and
- (d) what vacancies, if any, there are in Children's Health?

Answer

- (a) there are 183.73 WTE posts allocated to Children's Health*
- (b) there are 19.1 WTE posts within CAMHS
- (c) the budget for Children's Health is £22,342,273
- (d) there are a total of 8.34 vacancies in Children's Health**

* Children's Health includes the following:

Assisted Reproduction

Maternity

Paediatrics

SCBU (Special Care Baby Unit)

Obs & Gynae

CAMHS (Child and Adolescent Mental Health Services)

** There are 3 WTE vacancies in CAMHS, 3 WTE vacancies on Robin Ward and 2.34 vacancies in Maternity

2.11 DEPUTY M.R. LE HEGARAT OF ST. HELIER OF THE MINISTER FOR EDUCATION REGARDING THE YOUTH SERVICE: [WQ.260]

Question

Will the Minister advise –

- (a) how many staff there are in the Youth Service;
- (b) what the Service's budget is;
- (c) what vacancies, if any, there currently are in the Service; and
- (d) which of the Service's projects are currently being prioritised for delivery?

Answer

(a) how many staff there are in the Youth Service;

- 54 permanent and fixed term staff with a Full Time Equivalent (FTE) of 41.72
- 163 Zero hour youth workers, counsellors and keyworkers*
- 123 Volunteers

*92 of these staff also have a permanent or fixed term contract with the States of Jersey in other areas of business

(b) what the Service's budget is;

EXTERNAL FUNDING & INCOME

Parish Partnerships

£261,808

Princes Trust Programmes Partnership	£187,227
Charity Partnerships	£60,426
Building Hire, Activities & other Income	£117,738
Total	£627,199

STATES OF JERSEY FUNDING

Base funding	£1,438,682
One off Budget Addition – Equipment purchase & Building maintenance	£350,000
IJCI Budget Additions	£265,000
Total	£2,053,682

TOTAL FUNDING **£2,680,881**

(c) what vacancies, if any, there currently are in the Service

- 1 Training & Development Officer (starts on the 1st December 2018)
- 1 Youth Worker (appointment made last week)
- 2 Team Leaders
- 1 Counsellor

(d) which of the Service’s projects are currently being prioritised for delivery?

The Jersey Youth Service annual business plan has a number of development areas for the service. From talking with Officers some of the current priorities are:

- To investigate the possibility of a new youth centre in the north of St Helier
- Investigate the development of a Youth Voice Project – *Youth Parliament*
- Further development of Young Carers service
- Development of the LGBTQ offer for our young people
- Development of Targeted Interventions team to work with vulnerable and at risk young people.

2.12 DEPUTY M.R. LE HEGARAT OF ST. HELIER OF THE MINISTER FOR CHILDREN AND HOUSING REGARDING SOCIAL WORKERS EMPLOYED TO WORK WITH CHILDREN AND FAMILIES: [WQ.261/2018]

Question

Will the Minister advise –

- how many social workers are employed to work with children and families;
- what budget is assigned to this work; and
- what vacancies, if any, there currently are in this area?

Answer

- (a) The numbers (FTE) of social workers requiring a social work qualification employed to work with children and families are shown in the table below.

Designation	Establishment Numbers FTE
Social worker	48
Senior Practitioner	15
Team Manager	7
Independent Reviewing Officer	5
Senior Manager	6
Total	81 FTE

- (b) The total budget for Children's services is £20,686,055 with budget allocation for staff of £12,846,965 and a budget for the above staff of £5,703,260.
- (c) There are 36 FTE vacancies in posts which require a professional social work qualification and registration with the regulatory body. Posts which are vacant are not left unfilled and are backfilled by temporary staff to provide services to children and families.

2.13 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION REGARDING THE USE OF FIXED-TERM CONTRACTS AND ZERO-HOURS CONTRACTS IN HER DEPARTMENT: [WQ.262/2018]

Question

Further to the response to Written Question 239/2018, will the Minister break down the figures of 141 fixed-term contracts and 536 zero-hour contracts shown in relation to her department into teacher, teaching assistant and administrative posts?

Answer

Staff Group	Contract Type	
	Fixed Term	Zero Hours
Administrative	7	1
Lecturers	7	91
Other*	27	212
Teachers	58	161
Teaching Assistant (includes Keyworkers)	28	3
Youth Workers**	14	68
TOTALS	141	536

*Other fixed term staff are Manual Worker and Civil Service roles such as ICT Technicians, Breakfast/Lunchtime Supervisors, Skills Coaches and Careers Advisers.

*Other zero hours staff are Manual Worker and Civil Service roles such as Education Supply performing various roles, Counsellors, Welfare Officers and Parenting Facilitators.

**Specific role, not whole service. Zero hours figures only show staff whose only contract with the organisation is a zero hours one and does not include any permanent or fixed term contract staff who also have a zero hour contract.

Teachers on zero hours contracts are known as 'Supply teachers' i.e. vetting and cleared qualified teachers who chose to work 'on supply' as cover for planned teachers' training as well as sick cover.

2.14 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHAIRMAN OF THE STATES EMPLOYMENT BOARD REGARDING THE USE OF ZERO-HOURS CONTRACTS IN THE STATES OF JERSEY: [WQ.263/2018]

Question

Further to the response to Written Question 239/2018, in which the Chairman stated that all zero-hour contracts issued by the States of Jersey are "aligned to good practice", will the Chairman advise –

- (a) to what 'good practice' she referred;
- (b) whether zero-hours contracts are reviewed after 6 months and, if so, whether employees are consulted about a choice to convert the zero-hour contract to a permanent, or fixed-term, contract (as guidelines from the Jersey Advisory and Conciliation Service suggest); and
- (c) whether the fact that approximately 1 in 5 employees are not employed on permanent contracts arises from a policy of ensuring flexibility within the public sector and, if so, what the rationale is for such a policy; and what link such a policy has to any considerations of redundancy or downsizing within the public sector?

Answer

- a) States HR maintain a watching brief to ensure that the utilisation of zero hours contracts within the States of Jersey, as an employer, is both proportionate to need and is consistent with good practice. Sources of good practice are the CIPD, guidance from Jersey Advisory and Conciliation Service (JACS) and ACAS, legal cases etc.
- b) Guidance from HR is that if the working hours become regular, consideration should be given to fixed term or permanent contracts and this is consistent with JACS guidance. Regular reviews and advising staff of their outcome are also considered good practice by JACS and they give 6 months as an example of regularity. The regularity and consistency of review is likely to vary with over 1,000 zero hours contracts in place. I have asked for the matter to be reviewed and considered by SEB.
- c) It is appropriate for any organisation which is undergoing change, to use flexible working practices to maintain its capacity to deliver services and manage its headcount budgets through judicious control of its workforce management.

3. Oral Questions

3.1 Deputy J.M. Maçon of St. Saviour of the Chief Minister regarding the e-Gov programme: [OQ.185/2018]

Deputy J.M. Maçon:

Will the Chief Minister update Members on the progress of the e-Gov programme and provide the estimated completion and roll-out date; and will he confirm how long this programme has been ongoing?

Connétable R.A. Buchanan of St. Ouen (Assistant Chief Minister - rapporteur):

The programme started in 2013 and the first phase will finish this December with the delivery of the customer service platform. This will provide a single digital identity, access to online forms, online payments, a transaction history, and the underlying systems infrastructure. This is in addition to the work already delivered, including apps and mobile sites, such as Love Jersey, Active Jersey and, of course, the bus tracker. I have spent some time with the officers who are developing this programme and I have to say I am impressed with what they are delivering, and I have to say also that much of the work that has happened is very much down to the political oversight of Deputy Wickenden, and personally I would like to offer my congratulations for the work that has taken place. **[Approbation]** In January this year, we will start delivering the substantial new programme to further improve our digital offering to the public.

3.1.1 Deputy J.M. Maçon:

I thank the Assistant Minister for his answer. He did not quite answer it all. I did ask when the completion date was, and that is for the entirety of the programme. When exactly is the estimated completion date?

The Connétable of St. Ouen:

It is a slightly difficult question to answer because it depends on the completion date of what. The completion date of the underlying substantial platform, on which we can spin out services to the general public, will be completed this December. But then we start another phase of e-Government projects, which will deliver more apps to the general public, including things like income tax online.

3.1.2 Deputy G.P. Southern of St. Helier:

Rather than congratulations, is it not the case that commiserations are more in order because it has taken us the best part of 5 years to produce any form of reliable, basically, names and address register over this time?

The Connétable of St. Ouen:

I think my response would be there is a lot more that has to be done behind the scenes to produce a robust service than what one sees on the face of it. Given that we are a government site it has to be robust and it also has to have sufficient capacity to deal with any usage that may take place. My experience of these things is there is a lot of work that goes on behind the scenes before you can launch something like this. I accept that it has been a while but I think we would be happier if we delivered something that worked, was robust and was safe, than something that was perhaps less reliable.

3.1.3 Deputy G.P. Southern:

In the absence of a proper peopling of this register, is it not the case that we are going to once more be reliant on a census in 2021 rather than this particular list, which still, as far as I understand, from my sources, is nowhere near complete?

The Connétable of St. Ouen:

I cannot say, when I spoke to the officers, that I discussed the census. I would hope that at some stage we would be able to get the census online. Whether it will happen in 2021 I do not know. But certainly my discussions with the officers, there is robustness within the system to deliver such a piece of work.

3.1.4 Senator S.C. Ferguson:

Will the Minister reassure those who have no access to computers, particularly the elderly, that they will not be forgotten?

The Connétable of St. Ouen:

I think the short answer is yes. They will not be forgotten, and I think the Computer Services Department are acutely aware that there are people who do not have access to P.C.s (personal computers) or, in some cases, the willingness or the ability to use them. There will always be a paper-based alternative on offer. It is a question of education, as we all know, and the Parish Halls, for example, have laptops available for people to use. But, yes, I think the answer to that question, we will be cognisant of the needs of the elderly and those who are not particularly computer literate.

3.1.5 Senator S.W. Pallett:

A great deal of money has been spent on delivering the programme to date. Can the Assistant Chief Minister give the Assembly an update on what the programme has cost to date, and what financing is still required to complete the work?

The Connétable of St. Ouen:

I can answer the first part of that question. The total programme costs so far over the period is £10 million of which £3 million has been spent on staff costs. The balance has been spent on software and programming costs. As far as I am aware - and I did not particularly ask that question - I am not 100 per cent certain what the costs going forward will be, but I can undertake to provide the Senator with those figures once I have asked the question.

Senator S.W. Pallett:

Can you make that information available to all States Members please?

The Connétable of St. Ouen:

Yes, absolutely.

3.1.6 Deputy K.G. Pamplin of St. Saviour:

My question to the Assistant Minister is rather similar to Senator Ferguson's. As to the future planning for the roll-out of e-Gov, are there any contingencies, budgets, plans, to educate people in homes, especially the vulnerable and the elderly, how they can get connected and join in with this way forward?

The Connétable of St. Ouen:

I am not specifically aware of any budget for that going forward but I am aware that that is a consideration that they are thinking about, about expanding the use of I.T. (information technology) throughout the Island. As we have seen, we are now all on fibre, so those of us who have iPads work much quicker. But education is an important part of doing this and I will take those comments back to the team, and make sure they are borne in mind.

3.1.7 Deputy J.M. Maçon:

I wonder if the Assistant Minister could talk more about when the completion of the people directory will be ready? For example, it is holding up work on P.P.C. (Privileges and Procedures Committee) to sort out our central electoral register. It is holding up work with other government departments. I

wonder if the Assistant Minister could tell us when that will be ready and that way it will allow other committees and departments to better a lot of bureaucracy.

The Connétable of St. Ouen:

My understanding is that that should be ready in December, but I will check that, and if that is different I will come back to him and let him know.

Information subsequently provided by the Chief Minister:

1. What thought had the team given to ensuring paper based options will remain for non IT users when a government service such as Income tax returns goes on line?

New online services are built with offline alternatives. Much of the technology we are using to deliver services offers offline capability and staff will be available to support customers. This blog sets out our principles which remain the same. The approach to piloting has since developed.

[blog on approach to assisted digital](#)

2. What was the state of progress on the people directory and when was it expected to go fully live?

The People Directory is being deployed.

Customers will be able to access their records in People Directory through the one.gov.je portal in early December 2018 by using their digital ID (Yoti) and we can provide an update in December 2018 in relation to it being populated with customer records. Officers are also content to provide a demonstration so any Member can get a true sense of what we are delivering for customers, **and if any of you are interested, please contact Jonathan Williams.**

3. What is the budget for future developments in 2019 when the first phase ends?

Budgets are currently being determined as part of the assessment of business cases to support investment that will add to existing capability and capacity so we can deliver more online services. I will provide an update with numbers in January 2019.

3.2 Deputy M.R. Le Hegarat of St. Helier of the Minister for Home Affairs regarding the recent recruitment of police officers from the United Kingdom: [OQ.197/2018]

Will the Minister provide the rationale for the recent recruitment of police officers from the U.K. (United Kingdom)?

Connétable L. Norman of St. Clement (The Minister of Home Affairs):

I am sure Members will appreciate the recruitment of police officers is an operational matter to which the Minister should not be expected to become too involved. But having said that, I want to be as helpful as possible so will say this: Members may be aware that the States Police have recently introduced a new policing model, which aims to ensure that the force has the right numbers to meet current demand and that officers have the necessary skills to deal effectively with both current and future demands. As part of that work to introduce the new policing model, analysis was undertaken of the skills that would be required to deliver community policing. This resulted in the recruitment of 4 officers from the United Kingdom, all of whom had extensive community and neighbourhood policing experience and were able to help upskill existing officers, including the 5 new local recruits.

3.2.1 Deputy M.R. Le Hegarat:

Would the Minister please advise what policies and procedures are being implemented in relation to retaining the staff at the States of Jersey Police, as opposed to constant recruitment?

The Connétable of St. Clement:

As far as I am aware, there is no constant recruitment. I think the 9 officers who have been sworn-in or will be sworn-in, in the very near future, are the first for quite a considerable time. The Police Authority and senior management at the States of Jersey Police are well aware of the issues and are concentrating on retention and training. But as I say, the number of recruits has been very, very small in recent times.

3.3 Deputy K.F. Morel of St. Lawrence will ask of the Minister for Economic Development, Tourism, Sport and Culture regarding the funding for the Jersey Arts Centre: [OQ.193.2018]

Would the Minister explain what steps he is taking to address the issue of funding for the Arts Centre?

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

Deputy Tadier will be taking this on behalf of the department.

Deputy M. Tadier of St. Brelade (Assistant Minister for Economic Development, Tourism, Sport and Culture):

I thank the Deputy for his question and his interest in this area. The first thing I will say is that we are in a very unsatisfactory position as a States generally in the sense that we have had a Budget which has been lodged; the deadline for amendments has now passed. Many organisations, not just the Arts Centre, find themselves in a position of uncertainty as to whether and what funding they will be getting for the next year. Officers at my department have submitted to the investment appraisal board a case for additional stabilisation funding for the Arts Centre in 2019 in advance of the development of a full cultural arts and heritage strategy to be produced in 2019. That bid will be determined by the Minister for Treasury and Resources. I had hoped to be in a position to have the information today but that is not the case.

3.3.1 Deputy K.F. Morel:

Would the Assistant Minister be able to give us any information about the timeline for finding out about this?

Deputy M. Tadier:

As I said, I think the phrase is “suboptimal”. One would have hoped, whether on the Government side or on the Scrutiny side, that we would know where we are last Friday, so that we can consider the Budget with its full amendments. But that is not the case. What I am hoping is that within the next week or so we will know what growth bids or just general bids for funding have been accepted for the arts departments, including sports; I am looking across the Chamber to Senator Pallett. But I would go on to say that we know the Arts Centre is just one of several cultural arts and heritage organisations facing pressures at the moment. My predecessor in the role of Assistant Minister with responsibility for culture did commission a report by BOP Consultants, who are specialists in culture and creative economy. That report is now available and I have instructed my officers to make sure it is published this Thursday, so that we can all read that, and it confirms that there has been a sustained lack of funding in the area of culture for many years. That is something which needs to be urgently addressed.

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

I realise that the Assistant Minister may not be able to answer this question, which I had assumed would be answered by the Minister. Can the Assistant Minister tell us what is the proportion of funding that is being given to the Arts Centre, and indeed to the arts organisations, when compared to the funding being given to other sporting events? I am thinking particularly of the recent commitment, which I support, by the Minister to support the super-triathlon for the next several years?

[10:00]

Could he tell us what the funding for that is and how that compares with the funding that has been given to the Arts Centre, for example?

Deputy M. Tadier:

The Constable raises a very interesting question. I do not have that information to hand but I would ask that the officers, if they are listening, will pick that information up because it would be useful to have a comparison. If I can answer the underlying question perhaps, is to say that I am very supportive of money being given, whether it is the triathlon or other cultural events, because there really is a synergy between the sports sector, the well-being sector, and the arts. I think they all pull in the right direction. There is an economic driver as well as one of general well-being for our community in all of these issues. I am happy for more work to be done on that, hopefully not a disproportionate amount, but I think whether we are funding sports or culture, they all pull in the same direction in making our community more vibrant and more resilient.

3.3.3 The Connétable of St. Helier:

I accept the Deputy's argument, but is it not the case that when a project, like the super-triathlon, has guaranteed funding for the next 4 years, they are in a much stronger position than the Arts Centre, which does not have such funding guaranteed at all.

Deputy M. Tadier:

I think what the funding for the super-triathlon shows is that by having champions for the tourism and sport sector in Jersey, we can secure a really good deal for them. I am hoping that by having a champion for the arts and cultural sector as well, that we can make sure that we have the equivalent arrangements for the next 4 years and beyond, so that these organisations can no longer have the precarity that they have been living under for many years and concentrate on what they do best, which is producing an artistic programme for their punters.

3.3.4 Deputy K.F. Morel:

Given the uncertainty that surrounds funding for the Arts Centre, and many other cultured events, would the Assistant Minister agree that it would be a fair description of the Council of Ministers' attitude towards culture is that it is very much at the bottom of the pile?

Deputy M. Tadier:

I am hoping that I will be proven wrong when we hear back about which bids have been accepted. I like to think that there has been a sea change, if indeed there was one necessary. I think they have always been champions and promoters in the Assembly and in Government for culture and arts. But I think there has been a renewed understanding of the interplay between all of these factors. I hope that when the BOP report is published in the next few days it will add more knowledge and more discussion to this very important and underplayed area of our economy and our Island.

3.4. Senator K.L. Moore of the Chairman of the States Employment Board regarding the prospect of redundancies in the public sector: [OQ.191/2018]

Will the chairman tell the Assembly how many jobs, if any, are due to be made redundant in the public sector and from which departments?

The Connétable of St. Ouen (Vice-Chairman, States Assembly Board - rapporteur):

I would advise the details of the organisational structures with the new target operating model are expected to be complete by the end of March 2019. At that stage, the States Employment Board will review each of the directorates' plans as part of its assurance accountabilities prior to implementation. There will also be an extensive process of consultation with staff. The roll-out process thereafter will involve assessing all affected staff, then job matching where there is a match between an individual and the job in the new structure. Those unmatched staff will join a pool and will then join a recruitment process for those other available roles within the States, following the implementation. It is only at the end of this process that we will have a clear picture of those staff likely to be impacted by redundancy. In order to minimise any job losses, if there are to be any, we are already managing headcount by restricting new permanent hires prior to the outcome of the implementation of the target operating model, and this is likely to be up into quarter 4 2019. As an employer we have always tried to minimise redundancy wherever possible, and this process is no different. At this stage therefore - and I am sorry it has taken a while to get to the answer - it is not possible to determine how many, if any jobs, may be made redundant until the process I have described is complete.

3.4.1 Senator K.L. Moore:

I am presuming the rapporteur is the vice-chairman of the States Employment Board, I do not recall myself.

The Deputy Bailiff:

My understanding is you are the deputy chairman, are you not?

The Connétable of St. Ouen:

That is correct, and unfortunately the chairman has been taken unwell so that is a double reason why I have to answer this question.

Senator K.L. Moore:

My question to the vice-chairman is: why can no greater clarity be given on the answer due to the fact that on the Channel Islands tender portal there has been a contract advertised for the provision of an external out-placement services and career development portal? The contract, which is due to start on 31st October this year and end on 31st January next year, so it appears that there is indeed a plan in place to manage what is termed to be redundancy, I think in common parlance.

The Connétable of St. Ouen:

The Senator is indeed correct. We are engaging an out-placement service, which is all part of the process of delivering this. It does not mean to say that we know the numbers. We just suspect that there will be people who unfortunately will be made redundant, and it is ensuring that the out-placement services are there to cater for them, as and when they are identified.

3.4.2 Deputy G.P. Southern:

While I can accept that the Assistant Minister cannot give any definitive answers for March next year, the target operating model to produce this slimming down of the workforce has targets, does it not? What does the Assistant Minister have for targets in terms of what he expects to see over the coming year?

The Connétable of St. Ouen:

The targets are financial, not people targets. We know that the new structure will be slimmer but, as the Deputy I am sure is aware, there is also a very large amount of vacancies in the States and we are

hoping that we will be able to use at least some of these people to fill those vacancies. I fully accept, before he asks the question, that will not probably include nurses and firemen and policemen because some of the States employees will not be able to fit into those roles. Nevertheless, it is our intention to minimise redundancies by using up the vacancies that we have and also not filling any vacancies that come up between now and the implementation so that they are available to people who are displaced through this process.

3.4.3 Deputy G.P. Southern:

Did I hear or mishear the Assistant Minister say that a suspension of appointments would last until quarter 4 of next year? If so, does he not realise that that is a massive saving in itself if we do not appoint for a period of time?

The Connétable of St. Ouen:

I understand the Deputy's point and we are trying to juggle balls between keeping roles that are essential to the operation of the States manned and also not removing opportunities for people who might be displaced with this by appointing people permanently. We are using temporary cover where possible. It is just an unfortunate consequence that this is the way it has to happen, and it will be unfair to the current workforce if we were to employ permanent people and then have to make people who have been with us for a while redundant. So it is a balancing act. I accept that it is a drawn-out process but I can assure the Deputy that as and when a particular target model for a department is complete, and we have used up all the people in the pool that would be available, we will start recruiting.

3.4.4 Deputy K.F. Morel:

Can the Assistant Minister explain why the regime that you referred to as being one of minimising new permanent hires does not apply to the most senior levels of the civil service and the Communications Department?

The Connétable of St. Ouen:

The answer to that is quite simple. The hires that we made have been using an open selections process in which local people were able to apply and, indeed, a number did. But unfortunately, they did not make it through to the final selection process and therefore people from outside the Island were appointed into those roles.

Deputy K.F. Morel:

That was not an answer to my question.

The Deputy Bailiff:

Would you like to put your question ...

Deputy K.F. Morel:

I will restate the question. Can the Assistant Minister explain why this regime of minimising new permanent hires does not appear to apply to the most senior levels of the civil service, including the Communications Department?

The Connétable of St. Ouen:

I apologise to the Deputy. I perhaps missed his point. In essence, because those roles are essential to lead and develop the organisation as we go forward and therefore we have to recruit immediately. That criteria will apply to any role, which is absolutely essential to the running of the States.

3.4.5 Deputy M. Tadier:

Can the Assistant Minister provide clarity around his use of the phrase “temporary positions”? Does he mean zero hours contracts, which are perhaps being used for more longer-term contracts or short-term contracts?

The Connétable of St. Ouen:

It is quite difficult to be specific when one is describing a huge number of roles, but as the Deputy well knows, we have used zero-hours contracts in the past and for short-term cover they will be used again. The hires will largely be short-term contracts.

3.4.6 Senator K.L. Moore:

Yesterday, at a Public Accounts Committee hearing, the chief executive told the panel that in this important area it was important to be quick with this process. Would the vice-chair agree that engagement with staff on this important matter has been lacking at a time when it would be more productive to generate a positive approach to tackling and delivering public sector change?

The Connétable of St. Ouen:

The short answer is yes, I would totally agree with her point and it is a point I have made to the chief executive on a number of occasions, that there is room for improvement in the communication process.

3.5 Deputy M. Tadier of the Minister for Education regarding the teaching of French in post-14 education: [OQ.201.2018]

I think the Assistant Minister will take the answer, if that is okay, just to clarify. Does the Minister have any plans to make French a compulsory subject post-14 in provided schools and, if not, why not?

Deputy J.M. Maçon (Assistant Minister for Education - rapporteur):

Plans are not currently in place to make French a compulsory subject post-14 in provided schools. French has a priority in the primary curriculum, unlike in England where any modern foreign language can be taught. As a result, pupils are increasingly well-placed to extend their grasp of the subject where it continues to the end of key stage 3. The reason as to why not is because we believe that the pupil is best to decide what they should study at G.C.S.E. (General Certificate of Secondary Education) level.

3.5.1 Deputy M. Tadier:

Presumably, the students’ freedom of choice does not extend to maths and English or science or humanity, so I would ask: does the Assistant Minister believe that it is a trend, which we want to encourage, which is to say the trend of being monolingual increasingly in what used to be a bilingual or trilingual island.

Deputy J.M. Maçon:

The Deputy raises a very good point. What I would say is of course when it comes to modern languages it is not specifically French. There are other options which students do have within our schools: Spanish, German, and of course it makes sense if you come from a Portuguese or Polish heritage it is in those students interests to take those languages instead of French. So again it really has to be suited to what is good for the students in allowing them to best excel in their G.C.S.E. exam.

3.5.2 Deputy M. Tadier:

I thank the Assistant Minister for his answer. I completely agree that we should be encouraging all languages and where students have their own mother tongue it is important that that is recognised academically. In fact, we need to do more to make sure that they can sit their exams in that subject.

But I would ask the Assistant Minister to confirm that he will go back to the department and make the case for French specifically. We are still an Island, which is geographically and I hope culturally, very close to France. I have seen a trend... I think we have all seen the trend away from second languages generally, and away from French. I think the department should be doing as much as they can to make sure that French is followed through from a young age to exam level at G.C.S.E. So if the Minister can confirm that he would undertake to do that.

Deputy J.M. Maçon:

I can make 2 undertakings to the Member. First, you are right, we do need to do more to celebrate the cultural and diverse heritages within the Island. The second point on specifically French: there are initiatives already undertaken, such as the French Experience, which is currently going on with year 5 students, which has been piloted. We are making bids to Treasury to try and extend that so it will be an ongoing programme for all students, so it has not just been piloted in other schools. We are not worlds away from what the Deputy is trying to achieve. Of course the invitation to him is always there to come into the department and talk with us, should he want to pursue matters, but it is something which is on our radar and it is something the department is working on.

[10:15]

3.6 Connétable D.W. Mezbourian of St. Lawrence of the Minister for Home Affairs regarding the place of the Customs and Immigration Service within the Justice and Home Affairs Department: [OQ.187/2018]

Will the Minister explain why the target operating model for the Justice and Home Affairs Department has changed from that of June 2018, which included a customs and immigration service, to a new model in November 2018, which excludes a customs and immigration service?

The Connétable of St. Clement (The Minister for Home Affairs):

The target operating model published on Monday last week, is intended to be a starting point for discussions around the transition from the current Home Affairs operation to the new Justice and Home Affairs Department structure. This provides an opportunity to see if we can enhance the level of collaboration, co-operation and cohesiveness and, indeed, integration of our services where appropriate. I should make it absolutely clear that the functions of the customs and immigration service will, of course, continue to be carried out in the most efficient and effective way possible.

3.6.1 The Connétable of St. Lawrence:

I am concerned that the target operating model will reduce front line services in customs and immigration. How will this assimilation improve service delivery, in particular, the protection of our borders?

The Connétable of St. Clement:

I have made it very clear during the speech I made when I first bid for this job and subsequently that my line in the sand, as it were, is that whatever operational model we have, no reduction in the level of service to the public of Jersey will be tolerated. In fact, with a new operating model, new efficiencies and new co-operation, the removing of the silo mentality, I strongly expect an enhanced service through all the services that come under the Home Affairs Department.

3.6.2 Senator S.C. Ferguson:

What is the percentage of customs officers leaving between now and next June?

The Connétable of St. Clement:

I am sorry but I do not know and I really am not quite sure if I understand the question.

The Deputy Bailiff:

Well, I think, Senator, in fairness it is not a question that is within the area covered by moving from one target operating model to another, the specific numbers, but the Minister does not know the answer. Do you want to ask a different question or a differently phrased question?

3.6.3 Senator S.C. Ferguson:

Yes, if I might. The Minister has said that he does not want a reduction in the service provided by customs and immigration. It is alleged that 20 per cent of the officers will be leaving between now and next June and I wonder how he is going to maintain that service if this number of people leave.

The Connétable of St. Clement:

I really am not prepared to comment on rumours which have not yet reached my ears or to answer a hypothetical question.

3.6.4 The Connétable of St. Lawrence:

I am sure the Minister will know that basic level training for customs and immigration officers is, in fact, 3 years basic level. So really to try and follow up on the Senator's question, the Minister will know of resignations from the service. My question is: if he is asked to, will he approve recruitment to fill those vacancies within the service?

The Connétable of St. Clement:

The customs and immigration service, along with the police service, the fire service and the ambulance service, are essential for the well-being of the people of this Island, and I have made it absolutely clear I will take whatever steps are necessary to ensure that those services maintain at least the level of excellent service they offer and wherever possible to enhance it. I think it can be enhanced with increased co-operation and collaboration between all of those services.

3.7 Deputy S.M. Ahier of St. Helier of the Minister for Treasury and Resources regarding the proposal to restore marginal relief retrospectively to certain non-residents: [OQ.206/2018]

Will the Minister advise the Assembly if she will consider applying the Budget proposal restoring marginal relief to certain non-residents retrospectively in view of the limited cost to the Treasury?

Deputy L.B.E. Ash of St. Clement (Assistant Minister for Treasury and Resources - rapporteur):

I stand here for the Minister, who is absent. As a member of the Corporate Services Scrutiny Panel, the Deputy is no doubt aware of the representations that have been made by a number of non-resident individuals regarding the Minister's proposals to introduce targeted income tax relief in her Budget. In the representations that the Minister has received directly, the proposals have been largely welcomed. However, concerns have been raised that because these individuals pay their tax liability in the year after the relevant tax assessment, the proposed reliefs will not reduce the amount of tax that they will need to pay in 2019, that tax being the tax related to the 2018 year of assessment. Therefore, after careful consideration and acknowledging that tax changes in Budgets are normally made only in respect of future years of assessment, the Minister has lodged an amendment to her own Budget, which will make the targeted income tax reliefs effective from the year 2018 and this will have the effect of reducing the amount of tax payable in 2019 by those able to benefit from the targeted income tax reliefs.

3.7.1 Deputy S.M. Ahier:

I thank the Assistant Minister for informing the Assembly that there will be some relief in the 2019 Budget, but for this small group of people who have worked hard for Jersey - some have been front line States workers - they depend on these pensions. Will the Treasury, as a goodwill gesture, refund the punitive tax impositions from the previous years?

Deputy L.B.E. Ash:

No, we will not be refunding those from the previous years. The tax was brought in as a tax by the previous ministerial team and it was not an erroneous tax, although some harm was caused to people from that tax. The Minister and I have assessed it and we have decided to amend that for coming years. You cannot have taxes merely pegged back. If in the unlikely event that we reduced income tax to 15 per cent - and I stress that is a highly unlikely event - we would not refund people their income tax payments for the last 50 years. That is why we cannot be setting a principle of regressive taxation.

3.8 Deputy K.G. Pamplin of the Minister for Home Affairs regarding the government funding provided to tackle child sexual exploitation online: [OQ.195/2018]

Would the Minister provide a breakdown of any Government funding provided in the last 5 years to tackle child sexual exploitation online and state what funding is allocated for this purpose in 2019?

The Connétable of St. Clement (The Minister for Home Affairs):

Work to tackle child sexual exploitation both online and more broadly has been led by the Safeguarding Partnership Board since 2013. It remains a priority for the States of Jersey Police supported by other partners to keep children safe and bring perpetrators to justice. Education is key to safeguarding our children. Work in this regard has included the delivery in Jersey of “Chelsea’s Choice”, an applied theatre production delivered to 1,500 children in late 2017, and the ongoing N.S.P.C.C. (National Society for the Prevention of Cruelty to Children) ‘Pantosaurus’ campaign. “Prison! Me! No Way!” continues to work in all schools making our children better informed, including with regard to online child sexual exploitation. The “Get Safe” online initiative is also being delivered across the Crown Dependencies and encompasses the safeguarding of children. Furthermore, child sexual exploitation training continues to be delivered by the Safeguarding Partnership Board to all staff involved with children around combating child sexual exploitation in accordance with the 2016-18 action plan.

3.8.1 Deputy K.G. Pamplin:

I thank the Minister for his answer. Today is World Children’s Day and there seems to be a growing commitment across the Commonwealth and across the world to tackle what is a growing concern for parents, including myself, that we fully get behind this going forward. I welcome the Minister for Education and the Minister for Children and Housing to speak on this matter. The U.K. Government have shown their commitment recently, throwing up an extra £250,000 being made available to support new ideas on how to detect and disrupt the streaming of abuse. Is this something that the new Government will be looking to also support from a local level?

The Connétable of St. Clement:

I can confirm to the Deputy that that commitment that he spoke about throughout the Commonwealth is alive and well in Jersey, too. I am aware that some additional funding has been requested. The question is a very appropriate one and a live issue and, quite honestly, it reminds me that I need to have discussions with the Chief Minister and the Minister for Children and Housing to see how we can best take this matter forward even quicker and more appropriately.

3.8.2 Deputy K.G. Pamplin:

On the basis of the Minister’s last answer, would he be able to give a rough timeline when he could have those conversations and bring something back to the Assembly?

The Connétable of St. Clement:

I do not like putting too tight a timeline on it because it could be a hostage to fortune, but we will get together with the Minister for Children and Housing and the Chief Minister as soon as practicable.

3.9 Deputy M.R. Higgins of St. Helier of Her Majesty's Attorney General regarding instances in which a determination was made that their claims for costs payable to a defendant's advocate could be contested:[OQ.188/2018]

Further to written question 244/2018, will Her Majesty's Attorney General advise Members how his department determines whether the claim for costs payable to a defendant's advocate should be contested and what is the process for determining whether they are reasonable in amount in cases where the magistrate has ordered the defendant to be paid reasonable costs, including where the Crown has issued no evidence?

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

Where a defendant is acquitted in the Magistrate's Court, either because the prosecution has offered no evidence or he has been acquitted after a trial, the defence may apply to the magistrate for an order that they be paid their reasonable costs out of public funds. The application is made under Article 2.1(c) of the Costs in Criminal Cases (Jersey) Law 1961. If the court makes an order for payment of such costs, the defence sends a bill to my department. Usually the bill is not considered to be reasonable as it stands and is scrutinised, applying the principles outlined in practice directions issued by the Magistrate's Court and the Royal Court. Once the bill has been scrutinised in that way in my department, an offer is made to the defence of a sum thought to be a reasonable sum reasonably sufficient to compensate the defendant. There is then often a process of negotiation, which sometimes leads to an agreed sum. If a sum is agreed and the Magistrate's Court Greffier regards the sum as reasonable, then he will pay the bill. If he regards it as excessive, then he will order the bill to be taxed by him in that court. If there is not an agreement between the defence lawyers and my department, then the matter will be taxed by the magistrate and assessed by the Magistrate's Court Greffier in the usual way. In assessing the reasonability of the bill, both my department and, one would hope, the defence and certainly the Magistrate's Court Greffe apply the principles contained in a practice direction issued in 2005 in relation to taxation of costs in that court.

3.9.1 Deputy M.R. Higgins:

Can the Attorney General tell us what happens in circumstances where the lawyers do not feel that they are getting compensated for their efforts on behalf of their client? Are they entitled to claim it from their client?

The Attorney General:

If the defendant is not on legal aid - and most defendants are on legal aid - then if there is a gap between the sum which an acquitted defendant receives out of central funds and the sum which he has been invoiced by his lawyer, then he must bridge that gap himself by reference to his own funds.

3.9.2 Deputy M.R. Higgins:

Does the Attorney General feel that is just in the circumstances that when a person either has been charged with an offence and no evidence is put forward or they are found not guilty should end up paying money for something that they have not done or the court has judged they have not done? Is it reasonable that lawyers should be able to charge extra money in those circumstances? Because otherwise ...

The Deputy Bailiff:

Deputy, I am not sure you can ask the Attorney for an opinion on whether something is right or wrong. You can ask him what the law is and to provide information, but his view on whether it is just or not is neither here nor there. That is a political judgment, it seems to me.

Deputy M.R. Higgins:

Yes. Can I ask the Attorney General then whether he feels that lawyers' costs are excessive in many cases and leading to members of the public having to pay money themselves?

The Attorney General:

That is a difficult question for me to answer, but what I can inform the Deputy is that the statute is clear that the costs of the defence which are payable out of central funds, out of state funds, on an acquittal are limited to those which are reasonably sufficient to compensate the accused for expenses properly incurred.

[10:30]

If his lawyers have gone further than that and incurred greater expenses which are not reasonably sufficient to compensate the accused by taking a particular approach to the case and perhaps incurring costs unreasonably, then those costs are not to be met by the public pursuant to the 1961 law.

3.10 Deputy J.H. Perchard of St. Saviour of the Minister for Children and Housing regarding States policy on tackling homelessness; [OQ.199/2018]

Would the Minister inform Members whether there is a States policy on tackling homelessness and, if not, what plans does the Minister have to draw up and implement one?

Senator S.Y. Mézec (The Minister for Children and Housing):

I thank the Deputy for this question. This is something that I am particularly concerned about in Jersey, the issue of homelessness, and by that I do not just mean rough sleeping, I mean all forms of insecure tenure which can have a detrimental impact on people's lives, particularly young people. Since becoming Minister I have personally encountered individuals and families who, for a variety of reasons, have experienced homelessness or been placed at risk of homelessness. Frankly, I have found it very upsetting to see this because this is a prosperous society and I do not think it is right that we should be in a situation where there is a lack of provision or support for people who face that. I have made it one of my priorities to tackle the issue of homelessness and I can say that we have had an initial meeting with the Minister for Health and Social Services and the Minister for Social Security to talk about moving forward with a homelessness strategy. I can now reveal that there will be a stakeholder workshop on 13th December to explore the issues, including accommodation and support provision, from which Ministers will develop actions, including a homelessness strategy. I think that it is important to say that there are third sector organisations out there who do immensely good work, but there is more that can be done to support them and those people in housing need. I am absolutely confident that moving forward we will address this issue.

3.10.1 Deputy J.H. Perchard:

The Minister did allude to this already in his answer but I would just like a slightly more developed response. The Shelter Trust recorded 364 homeless cases last year, one in 6 of which were individuals aged between 16 and 25 years old, but only 2 to 3 cases were deemed as people who are rough sleeping. I know you did allude to this already, but could we just confirm that in any upcoming homelessness strategy that we will include definitions much broader than rough sleeping, including anyone who does not have a permanent residence, who may be staying in a refuge, for example, and so on? Could you just elaborate on that point, please?

Senator S.Y. Mézec:

I 100 per cent agree with the Deputy. This is much more than just about people sleeping rough. This is about sofa surfing. This is about people not having secure tenure or, even if they do acquire tenure, it is for such a short period of time that they are not enabled to begin living life and being secure and everything that goes with that. I can assure her that that absolutely will be part of the discussion, and the groups that we have invited to the stakeholder workshop in December are quite a wide variety of groups that deal with different types of people. So I am sure that there will be a lot that will come out of that discussion.

3.10.2 The Connétable of St. Lawrence:

The Minister referred to stakeholders in his first answer and he has just referred to the groups who have contact and are involved with those who are sofa surfing, those who do not have a roof over their heads. My concern is how he reaches out to those who do not have a roof over their heads, who are sleeping rough and who do not have any connection with a shelter, and particularly the sofa surfers, the couch surfers, who I think are probably in the younger age group and very often are care leavers. How does he reach those people to get them involved in the discussions to formulate a strategy that will work for them?

Senator S.Y. Mézec:

That is a very good question and the difficulty with this is that there are some people who are incredibly difficult to reach. When it comes to those that are sleeping rough, this is a very small number of people and the agencies that are looking after these people are always aware of them and sometimes it can be incredibly difficult to find solutions for them. Of the groups that have been invited to the stakeholder workshop in December, there are various charities, including Barnardo's, who I know work specifically with care leavers and have been leading on some work on providing care leavers with a voice and speaking to Government when they are coming up with policies that will affect them. So I am hoping that that will be very useful to hear directly from those people who have that experience.

3.10.3 Senator S.W. Pallett:

As much as I agree with the Minister that homelessness means many things, I do not agree that they are relatively small numbers. I think there are more people affected by this than we may think, as a trustee of one organisation that provides such accommodation. Has the Minister visited all those organisations who provide accommodation and support for homeless people so that he can get a real feeling for the damage homelessness causes? I do agree homelessness is very damaging.

Senator S.Y. Mézec:

I thank the Senator for his question. I have not visited every single organisation but it is my intention to do so certainly over the next year. I know that Sanctuary Trust have an open day coming up that I will be attending and I am looking forward to meeting people who benefit from those services and speaking to them directly.

3.10.4 The Connétable of St. Helier:

I absolutely agree with the Minister that it is a testimony to the work of the charities that we have relatively few people sleeping rough, certainly in St. Helier, when you compare us with towns in the U.K., even similar size towns, where you will see people in doorways under blankets. Clearly, that is not good for them and it is not good for the towns either. Could the Minister confirm that the Parish of St. Helier will be invited to be involved in his discussions? I note from my diary that we have not been as yet, as far as I can see... and I would obviously appreciate the chance to be involved in this working group.

Senator S.Y. Mézec:

I am grateful for the Constable saying that and if he believes that the Parish of St. Helier would add value to this stakeholder workshop, then I am more than happy to see that he gets an invite to it.

3.10.5 The Very Reverend M.R. Keirle, B.A., Dean of Jersey:

I think we all recognise that the third sector contribute enormously to alleviating the homelessness problem and I do note the States work in partnership with some of those groups; for example, Shelter Trust. I think the reality is, though, that due to cuts that in real terms that figure financially is decreasing while the number of people homeless is increasing, particularly, as you mentioned, Minister, the number of young people. Does the Minister recognise a need to review the financial support given and will that be part of the discussion taking place on 13th December?

Senator S.Y. Mézec:

I absolutely could not agree more with the Dean on this issue. In the last 4 years when I was speaking as a Back-Bencher I spoke very much about this issue. It was something that caused me a great deal of concern and distress in the last term and the directions we went there. That is why I am very pleased that this Government has made reducing income inequality one of its top priorities. I will certainly be one voice around the table that argues very strongly for increased support for the poor and vulnerable in our community, not just to be reactive when they face crisis but to make sure that there is early intervention to stop people falling into those situations in the first place. I welcome the Dean's intervention on that.

3.10.6 Deputy J.H. Perchard:

Of course, the final supplementary is: by when? When can we expect to see a homelessness strategy come together?

Senator S.Y. Mézec:

That is a good question, unfortunately not with an answer that I am sure the Deputy will be that satisfied by simply because when we have this stakeholder event in December this is not going to be an exercise of the Government imposing some sort of strategy. We genuinely want to take all of these agencies with us and have them contribute to what form that strategy will take. That does make it difficult to have a timeline for when a finalised strategy will be because at this point I am not dictating the terms of what that strategy will include. I genuinely want to listen to what they think is necessary and they may make wonderful suggestions that enable us to do this quickly or they may make valued suggestions that mean we have to put a lot of time and effort into it. So I cannot give her that guarantee at the moment but I am confident that the approach we are taking is the right one.

3.11 Senator S.C. Ferguson of the Minister for Health and Social Services regarding the insurance premiums paid by the Minister's department in respect of obstetricians, surgeons and general practitioners: [OQ.192/2018]

What are the current annual insurance premiums paid by the Minister's department in respect of obstetricians, surgeons and general practitioners and what are the indicated increases, if any, over the next couple of years?

Deputy R.J. Renouf of St. Ouen (The Minister for Health and Social Services):

Hospital consultants are personally responsible for securing their own insurance cover and the Health and Community Services Department reimburses them an agreed proportion. However, other medical professionals employed by the department are covered by a generic insurance contract funded by the States of Jersey, which is not broken down by speciality. Of course, general practitioners are not employed by the department and they are responsible for their own insurance arrangements.

3.11.1 Senator S.C. Ferguson:

I asked the Minister for figures and I asked for the current annual insurance premiums paid by the Minister's department. He may not be able to break it down into specialities but he could give us an idea, I think, of the amount of insurance that is paid.

The Deputy Bailiff:

In fact, your question asks for premiums paid in respect of obstetricians, surgeons and general practitioners and I think the Minister has just said he does not have that information. But, Minister, if you do have that information are you able to assist?

The Deputy of St. Ouen:

In respect of the premiums paid by consultants to their insurers, that is a contractual matter between them and their insurers. If a consultant requests reimbursement of a part of the premium, the department will become aware of the cost of the premium but the department is not a party to that contract between the consultant and the insurers. That is the difficulty and I feel that it would be inappropriate to disclose the individual figures for particular specialties for reasons of commercial sensitivity that might disclose particular arrangements specific to consultants. There is that issue of confidentiality that the department holds.

3.11.2 Deputy G.P. Southern:

In more general terms then, has the Minister or has his department been approached by many of the consultants and what is the total sum that may have been disbursed to those consultants to cover all or part of their insurance bills?

The Deputy of St. Ouen:

It is an interesting question, but where the department is not a party to contracts that are arranged between consultants and their insurers, what would the reason be for putting in the public domain any amounts that the department may happen to learn of paid under those contracts? It is a question of confidentiality towards our consultants, surely.

3.11.3 Deputy G.P. Southern:

Can the Minister clarify for me what he has just said there? He appears to have said we might learn of what the bill was but we do not contribute to it and, therefore, the answer is zero is what we disburse to cover these insurance claims, or there is a global sum and, if so, if there is expenditure by his department when and where is it going to appear on the books?

The Deputy of St. Ouen:

Generally, we do contribute to insurance premiums payable by consultants but the reason that consultants are responsible for securing their own insurance cover is that they have private practice and they are responsible for what goes on in their private practice and insuring those activities. Insofar as they work in the public service, there is an assessment made of how much of their time or work is carried out in the public service and a reimbursement made accordingly. So it is not a case that the department is responsible for the global sum of these insurance premiums. The department reimburses a proportion, which is calculated and negotiated with each consultant.

Deputy G.P. Southern:

I believe it is a matter of clarification but may I pursue this?

The Deputy Bailiff:

I do not think so, Deputy. That last one was a supplementary and there are other people wishing to ask questions. I have Deputy Higgins and then I have a final supplementary from the Senator.

Deputy G.P. Southern:

I remain unclear.

3.11.4 Deputy M.R. Higgins:

Following on from what the Minister has just said, are not insurance premiums an indication of the risk that insurance companies have with regard to particular consultants or the type of work they do and is it not in the public interest that if doctors or specialists are considered to be high risk to the insurance company, surely the people of the Island should know that?

[10:45]

The Deputy of St. Ouen:

I do not think we would be able to assess whether practitioners are considered high risk merely by the amount of insurance that is paid or that is reimbursed by my department. There are other means of assessing practitioners' performance. This highlights perhaps the commercial sensitivity around the area.

3.11.5 Senator S.C. Ferguson:

In this new age of transparency, which the fog appears to be over the Minister for Health and Social Services this morning, given the fact that excessive insurance premiums will significantly affect the number of medical professionals and provision of medical expertise in the Island, does the Minister not think that it is time to face up to this, to be transparent with regard to the public, and will he come back to the States with the details that I have been asking for?

The Deputy of St. Ouen:

The Senator suggests that insurance premiums are excessive, but how is that judged? I have no sense at the moment. **[Interruption]** The Senator used the word "excessive" ...

The Deputy Bailiff:

No, we cannot have an exchange between Members. It is through the Chair, if you please. If you would like to give the answer that you wish to give, Minister, it is the final supplementary and that will be the end of this question.

The Deputy of St. Ouen:

Yes. The question of the volatility of insurance premiums and whether or not they are liable to increase is not an issue confined to Jersey. There are ongoing risks within the medical profession wherever it is practised. Now, it may be that the Senator is alluding to the issues arising out of the proposed Damages Law, which will be coming before this Assembly shortly, and if that law is passed my understanding is that it will assist in ensuring a proportionate and consistent approach to the calculation of damages in any personal injury claim. That will then, no doubt, give assurance to insurers that Jersey has a sufficient legislative framework in order to limit damages to what is proportionate. I hope that may help.

Deputy G.P. Southern:

Can I test your discretion? I am still confused by the answers and I seek clarification. May I?

The Deputy Bailiff:

I am afraid not. That was the final supplementary. If we had more time and there were fewer questions I might be sympathetic to allow to have more questions asked, but I am afraid we just cannot within the time available to us and the number of questions.

3.12 Deputy G.P. Southern of the Minister for External Relations regarding the economic substance test that would apply to internationally-owned companies incorporated outside the Island but trading through it: [OQ.204/2018]

What a waste of time the last 5 minutes was. Let us see if we can get any further on this one. Further to his reply to written question 252/2018, will the Minister state whether internationally-owned companies incorporated outside the Island but trading through the Island will be subject to his economic substance test and will he further confirm whether he has a record of where such companies do pay tax and why they do not register in the Island to take advantage of Jersey's tax regime?

Senator I.J. Gorst (The Minister for External Relations):

I have little further to add to the answers already provided to this question by my Assistant Minister, the Constable of St. Ouen, at the previous meeting of this Assembly.

3.12.1 Deputy G.P. Southern:

If I may, does the Minister have a register of those excluded from this test and can he confirm how the right to be excluded has been established?

Senator I.J. Gorst:

I am not sure what the Deputy is asking me. Is he asking me whether we know which companies are Jersey tax resident or not? I am not sure what he is asking me.

The Deputy Bailiff:

I will allow a further supplementary. Please, do ask a further supplementary on that one, I think.

Deputy G.P. Southern:

In answer to your question of my question, the key question is: does the Minister have a list of those to whom the economic substance test does not apply? What conditions are placed on that to get on to the list in establishing whether they should be excluded?

Senator I.J. Gorst:

I am wondering if the Deputy has read the legislation and read the consultation document. Perhaps he might like to come along to a briefing for States Members tomorrow. These are quite detailed areas. He, I think, understands the principle of tax residency but his question seems to indicate that he does not. I am sure he has read about relevant activities in the legislation and I am sure he understands the adequate level of certain activities and the basis upon which this test has been worked through. I am sure he understands the definition arising from the Forum on Harmful Tax Practices, the work that officials have done with the O.E.C.D. (Organisation for Economic Co-operation and Development) peer review group, but he seems to think there is a reverse operation. I am struggling to understand exactly what it is that he is asking me about on this piece of legislation.

The Deputy Bailiff:

We come to the final supplementary, Deputy, in any event. If there is a way you would wish to ... I am sorry, I beg your pardon, Deputy Tadier, you have only just put your light on.

3.12.2 Deputy M. Tadier:

Can the Minister explain how the economic substance test differs from what was previously called the sniff test by his predecessor, if there is any difference? If not, why the change in the name?

Senator I.J. Gorst:

I know there are some Members of this Assembly who wilfully misunderstand any changes that we bring forward, wilfully misunderstand any moves that we make to ensure ...

The Deputy Bailiff:

Senator, I do not think you can accuse people of wilfully misunderstanding because that is an intention to say something which they do not mean. Perhaps you would like to withdraw that and deal with the matter in a different way.

Senator I.J. Gorst:

If you suggest that wilfully misunderstanding is inappropriate parliamentary language, then I will withdraw from using such a phrase. Of course I will. I will be guided by the Chair. But it seems to me that the Member is fully aware that the work that we did with Jersey Finance and the regulator about not wilfully avoiding the will of other Parliaments and working particularly in the case of the United Kingdom and changing the code of practice that members of J.F.L. (Jersey Finance Limited) signed up to around aggressive tax avoidance, I would have thought that the Member understood from reading this piece of legislation that that is quite different from the substance test that I have brought forward in that piece of legislation. I would not have thought that the Member needed to ask a question to understand the differences.

3.12.3 Deputy M. Tadier:

First of all, welcome back to the Minister, we have missed him in the Assembly recently in some key debates. It is good to have him back. I am interested, for one, to know how the progression of policy and the evolution of policy exists when we had a previous Minister for External Relations who talked about this nebulous sniff test which was applied almost mysteriously. I am glad that we now have an economic substance test. Could the Minister talk about the way in which that is applied? Is it done by feeling or is it done systematically by going through various criteria and making sure that all are robustly adhered to? Perhaps he could seek to publish some more information for my colleague Deputy Southern. That might provide clarity rather than seeking to grandstand as he has been doing for the last few minutes.

Senator I.J. Gorst:

Might I say what a pleasure it is to be back. It never ceases to amaze me that some Members of this Assembly so openly side with our critics. We have a financial ... and now they are tutting and muttering, but I am afraid that is the case. The Deputy knows the work that the previous Government undertook in regard to ensuring that Jersey was not used for aggressive tax avoidance. He is fully aware of that. We have debated that and discussed it in this Assembly. He also now has in front of him a piece of legislation, so not nebulous as he tries to indicate, a piece of legislation that I will be asking this Assembly to approve at the sitting commencing on 3rd December. He, I think as he said, has seen the consultation document. From that and from the legislation, together with the codes of practice, he should be able to see that this is a thorough test proving once again a point which the Deputy has questioned in this Assembly, that Jersey is a jurisdiction of substance and we meet the highest international standards. We have an international finance centre in Jersey that I for one - and I think the majority of Members agree with me - am proud of. **[Approbation]**

3.12.4 Deputy G.P. Southern:

Ad hominem attacks again on my neighbour. The final supplementary then must be: does the Minister have a register of where internationally-owned companies incorporated outside the Island, trading through the Island, do transact their business and what evidence does he have that such companies pay tax in another place?

Senator I.J. Gorst:

This is a test which is built around tax residency in Jersey. If companies which use Jersey seek to have Jersey tax residency, then this tax will apply to them. It does not matter whether they are a Jersey-registered company or a registered company somewhere else across the globe. I have to be

careful now, Sir, you having corrected me once in the use of wilful misunderstanding. I would not wish to attribute that to him because I would fall foul of your ruling. But he seems to misunderstand upon which basis the substance test is based. If international companies which are not tax resident here were to seek a tax relief here, then of course the tax authority would be aware of that. Perhaps that is the area that the Deputy is trying to ask about.

3.13 Deputy S.G. Luce of St. Martin of the President of the Chairmen's Committee regarding the scrutiny re view into legal aid: [OQ.203/2018]

Could the President update the Assembly on the status of the Scrutiny review into legal aid and advise as to why no public hearings have been held on this matter despite numerous submissions being received by Scrutiny from various bodies and members of the public over many months?

Senator K.L. Moore (President, Chairmen's Committee):

The Chairman of the relevant sub-committee will answer this question.

Deputy S.M. Ahier (Chairman, Legal Aid Review Panel - rapporteur):

Thank you, Deputy, for your question. The Deputy of St. Martin will be aware that the Legal Aid Review Panel was formed in July to scrutinise the Draft Access to Justice Law 2018. At this time, the Chief Minister informed the panel that the draft would be re-lodged in time for debate on 23rd October and it was expected that it would be in substantively the same form as the draft that had been listed for debate in July. On this basis, the panel wrote to several key stakeholders to obtain their comments on the draft law and a large public consultation was planned for September. However, due to the significance of the concerns raised by said stakeholders, it became apparent that the draft law would require amendments in several areas before it could be re-lodged. The panel consequently recommended that the Chief Minister review these areas before holding any public hearings, and we have received an indication from the Chief Minister that the law will be lodged on 4th December, which is the lodging deadline for the States sitting on 15th January.

3.13.1 Deputy S.G. Luce of St. Martin:

Following that, am I to understand that there will be no public hearings even though there was an assurance there would be?

[11:00]

Deputy S.M. Ahier:

The panel plan to hold a number of public hearings once the draft law has been re-lodged. As the purpose of the review was to undertake legislative scrutiny, it was considered appropriate to wait for the draft law to be re-lodged before holding any public hearings. This would have enabled the panel to take evidence on the draft law as lodged.

3.13.2 Deputy D. Johnson of St. Mary:

I am a member of the review panel into this matter. Could the chairman simply confirm that we as a panel have been very anxious to proceed with the subject but, as he says, we are effectively prevented from doing anything further? We do have every intention to hold public hearings once the draft law is re-lodged, in respect of which I think the Chief Minister has taken account of certain of our recommendations. Simply, will the chairman reconfirm for the record that we are anxious to pursue this matter and it is not the panel's fault that we have not been able to do so today?

Deputy M. Tadier:

May I raise a point of order? I realise that it may not be explicitly covered by Standing Orders but it is normally the format that one does not ask a question of a body that one is a member of, and in the

absence of any Standing Orders it is up to the Chair I think to have discretion to make a ruling. It seems that you should not get a member of effectively a Scrutiny Panel asking a question of the chairman of the Scrutiny Panel.

The Deputy Bailiff:

I note, Deputy, that you ask it as a point of order. In fact, this has been considered by the Chair in the past. A question from a member of the same panel is not out of order. It can be asked. If there is any suggestion that that should not be the case, then it will be a matter to be considered by P.P.C. as a change to Standing Orders.

Deputy M. Tadier:

Could I ask that it be referred to P.P.C.? That is not to impute any false motives on behalf of the questioner. He has the absolute right ...

The Deputy Bailiff:

No, of course not, but it is open to any Member to raise a point with P.P.C.

Deputy M. Tadier:

I would ask that P.P.C. look at it because it seems to be consistent with what we do in other areas.

The Deputy Bailiff:

Very well. Yes, Chairman.

Deputy S.M. Ahier:

I thank the Deputy for the question. Yes, of course, we fully intend to hold public hearings as and when the draft law is re-lodged.

The Deputy Bailiff:

Deputy Tadier, did you have a substantive question or was that what you were asking?

Deputy M. Tadier:

I do not have a question.

3.13.3 The Deputy of St. Martin:

It is clear that the Chief Minister is very interested in this subject. It is my understanding that he has recently had some correspondence with the Law Society. Is the chairman cited on this correspondence and, if so, will he publish it on the Scrutiny website?

Deputy S.M. Ahier:

I thank the Deputy for his question. I am unaware of any such correspondence at this time, but I am sure that if it is made available to me we will publish it on our website.

3.14 Connétable K. Shenton-Stone of St. Martin of the Chairman of the States Employment Board regarding provisions for bonuses in the contracts of the Chief executive and other senior members of staff: [OQ.190/2018]

Will the chairman advise whether contracts of employment for the chief executive and other senior members of staff make any provision for payment of bonuses and, if so, will any bonuses be paid in the current year?

The Connétable of St. Ouen (Deputy Chairman, States Employment Board - rapporteur):

Unfortunately, the chairman is indisposed and I would be grateful for the House's consent for me to answer this question as I have answered previous ones.

The Deputy Bailiff:

Yes, that is probably the only way that the question is going to get an answer.

The Connétable of St. Ouen:

The answer is that there are no provisions for bonuses within States contracts at any level of the organisation and, therefore, there will be no bonuses paid in the current year.

The Deputy Bailiff:

Supplementary, Connétable?

The Connétable of St. Martin:

No, I think that answers the question. I had heard rumours whirling around and thought the best way to deal with a rumour was to find out whether it is fact or fiction. [Approbation]

3.15 Deputy R.E. Huelin of St. Peter of the Minister for Health and Social Services regarding the States' insurance policy in respect of clinicians and healthcare staff working in the hospital: [OQ.207/2018]

Will the Minister state the duration of the States insurance policy relating to clinicians and healthcare staff working in the hospital, the cap on damages payable under the policy and the cap on the amount of claims that may be made under the policy if there are any?

The Deputy of St. Ouen (The Minister for Health and Social Services):

This question relates to the generic insurance contract which is funded by the States of Jersey and does not relate to the individual arrangements that consultants make with their own insurers. So that insurance policy is for a period of 12 months and renewed annually and, as with all contracts of insurance, the amount of damages and costs is limited because there are no medical negligence insurance contracts that provide unlimited cover. So in this case the States of Jersey policy has a limit of £20 million per claim and it is subject to an overall maximum of £30 million per annum.

3.15.1 The Deputy of St. Peter:

In the world of clinical negligence there is a major increase in claims being made around the U.K. and the world and we will be governed, it is fair to assume, by the premiums that are set by insurance companies outside of the U.K. May I ask then: should any of these claims exceed those caps, what provision do the States have to make up any shortfall?

The Deputy of St. Ouen:

I am aware of the general concerns around increasing costs of premiums. The States of Jersey employs advisers to assist on the appropriate levels of insurance. It will enter into discussions and negotiations each year to fix a limit of indemnity which it will consider is appropriate in the circumstances. The fact is that the area is being continuously reviewed to minimise risk.

3.15.2 Deputy G.P. Southern:

Would the Minister state for Members how much this insurance policy costs and how that compares with the insurance policy support that he pays towards consultants?

The Deputy of St. Ouen:

As I understand it, this is a single insurance policy covering all States employees. I do not know the detail. I do not know whether the premium is broken down between hospital staff or health staff or

staff employed within other departments. It is a single insurance policy. There is a single premium payable. I think it would be very difficult, if not impossible, to carry out the exercise that the Deputy suggests.

3.15.3 Deputy G.P. Southern:

Where is the difficulty? Because there must be somewhere in the accounts a sum which says: "Insurance policy for this function" and there must be a statement somewhere at some time saying: "And we also spend this much on consultants' protection." Why is that so difficult to find out? Will the Minister attempt to come back with some decent figures?

The Deputy of St. Ouen:

In the context of an oral question, it is very difficult to answer questions about the States accounts. I am sure in the States accounts there is a figure given for the insurance premium that the States pay under this policy of insurance and, as the Deputy requests, I will request what that figure is and I will circulate Members with that figure for the last insurance period. As to comparison, I am totally unclear as to what the Deputy is asking. I do not believe you can compare a global insurance policy covering thousands of employees with individual insurance policies to which we are not party because they are taken out by our consultants. So I cannot see how I can undertake any sort of work in that vein.

Deputy G.P. Southern:

If I may seek clarification because the ...

The Deputy Bailiff:

I think you have already had a supplementary to your question, Deputy. At the moment I have the Deputy of St. John, Deputy Higgins, Deputy Morel, Senator Ferguson and then the final supplementary. I really have to keep a very tight rein on the number of questions that we allow in.

Deputy G.P. Southern:

Please, one of you, ask the germane central question.

3.15.4 Deputy T. Pointon of St. John:

I ask the Minister: what risk assessment has been undertaken to ensure that Jersey is prepared for an increase in clinical negligence claims, increased damages payments and increased professional indemnity insurance premiums?

The Deputy of St. Ouen:

It is interesting that the Deputy posits a level of increasing claims. I am not sure there is any evidence to back up a scenario that claims are continually increasing. Claims will always happen; we must accept that. The team that negotiate and take care of our insurance arrangements will always be assessing risks and will be taking appropriate advice, I can say that.

3.15.5 Deputy M.R. Higgins:

Before I ask the question, I will just state I am going to be asking about the family X siblings' case and damages. I am not going to be asking any questions about the merits or demerits of that case. The question I want to ask is: if the Minister has said that there is a maximum payment of £30 million, or whatever the figure was he gave a short while ago, how does he reconcile that with the £200 million-plus claim that was made in that particular case? How do you reconcile the 2? It is your department that is going to be faced with that claim.

The Deputy Bailiff:

I think that is a question that can be answered. I do not think it can impinge upon anything currently before the courts, Minister, so if you are in a position to answer that, it is simply a comparison.

The Deputy of St. Ouen:

It seems to me a question that goes way beyond the ambit of the original question that was asked, but the answer to the original question was that there is an annual overall maximum claim limit of £30 million per annum. That would suggest that to the extent that claims exceed that figure there is no insurance cover. That would be my understanding at the moment.

3.15.6 Deputy M.R. Higgins:

Does that mean that the States is going to pick up the bill for any claims in excess of the £30 million?

The Deputy Bailiff:

I think that may well stray into an area which might be difficult. I do not allow that question.

3.15.7 Deputy K.F. Morel:

In light of the potential for increased claims in the coming years, does the Minister know whether there is any fetter on the right of the insurer to increase premiums in years after claims are made, so whether we have a way of limiting the increase on the premiums that the insurer asks us to pay?

The Deputy of St. Ouen:

These are commercial arrangements which are subject to negotiation. I do not believe we can enforce any limitations on a commercial contract. We can shop around perhaps to see what other insurers may provide, but there is, of course, something within our power, which is to ensure that we have appropriate legislation that might fairly limit awards of damages. I refer again to the question of the Damages law in draft that will be considered by this Assembly shortly because there is a concern around how future losses are quantified. We have not kept up in Jersey, it would seem, with statutory provision in other jurisdictions, which does limit the ambit of awards for future care of persons who have suffered medical negligence incidents. That damages law, if passed, would allow us to come into line with many other jurisdictions while still providing a fair system of compensation to claimants. That would, no doubt, give comfort to insurance companies who are looking at the Jersey market and considering the quantum of claims that might arise.

[11:15]

3.15.8 Senator S.C. Ferguson:

Does the Minister not realise that there is very much a public interest aspect to this because the prospect of too high premiums will add to the recruitment difficulties of medical staff and general practitioners in the Island and will leave a great big hole in the amount of medical provision that we provide for Islanders? Does the Minister not realise the urgency of this?

The Deputy of St. Ouen:

I have not heard at all that consultants are prevented from coming to Jersey because of the cost of their premiums. I have no reason at the moment to believe that their premiums when working in Jersey are any different to premiums they paid previously when working in the U.K. or elsewhere. Again, this is a question of commercial confidentiality towards those consultants when we are not party to their insurance arrangements.

3.15.9 Senator S.C. Ferguson:

I am sorry, will the Minister pay attention to this, please? I regret to mention but earlier in this session the Minister said he thought there were only one or 2 bullying cases prior to the H.R. (human resources) report being issued. Will he not understand that I am not asking this question from a point of ignorance; I am asking it from a point of view of informed opinion from within the profession.

The Deputy Bailiff:

Other than to say yes or no, I am not sure that can provide information; an answer to that question, Senator. What information are you asking for?

Senator S.C. Ferguson:

Will the Minister give the assurance that he will consider this matter with a great deal more urgency than he appears to be doing at the moment?

The Deputy of St. Ouen:

I will give urgent consideration to the matter when I can understand the Senator's concerns. She obviously has some information; is it that a consultant feels that he or she has paid too much for an insurance premium and that the States has not reimbursed sufficient amount? All those questions can be looked at and the Senator, as chair of P.A.C. (Public Accounts Committee), will know that she has her methods by which she can request information to be treated confidentially for the purposes of her P.A.C. work. But to seek a disclosure of amounts paid under a contract to which we are not party, which might identify individuals, is I believe entirely inappropriate.

3.15.10 The Deputy of St. Peter:

I think Deputy Higgins's question covered my original supplementary.

The Deputy Bailiff:

You do not have to ask one.

The Deputy of St. Peter:

That is, how would the shortfall be covered over and above the cap of £20 million for each individual case or £30 million overall? It is clear that is going to have to come out of the rainy-day fund or other reserves.

The Deputy Bailiff:

This has to be a final supplementary question, not a statement about what someone else has said earlier.

The Deputy of St. Peter:

Can you please clarify that and also can you please give an assurance to myself, the Assembly and the Island in general, that it is known that increased premiums are a real situation and this will be at the front of your agenda going forward to make sure we cover that situation to the benefit of the Island, because it will otherwise undermine our health service potentially.

The Deputy Bailiff:

I thought, Deputy, that was talking about what happens if there is a shortfall between the insured sum and that was a question that I specifically ruled out of order when Deputy Higgins asked it.

The Deputy of St. Peter:

Then could I ask the Minister just to give clarification that he will have this at the front of the agenda and do the necessary research and due diligence that insurance premiums are flying at the moment and that he will do whatever he can to ensure this does not potentially undermine the health service for our Island?

The Deputy of St. Ouen:

I give that assurance.

3.16 The Connétable of St. Helier of the Minister for Economic Development, Tourism, Sport and Culture regarding the progress of the review of the Licensing Jersey) Law 1974: [OQ.208/2018]

Would the Minister update the Assembly on progress with the review of the Licensing Law?

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

Senator Pallett has responsibility for this area and therefore will be taking the question.

Senator S.W. Pallett (Assistant Minister for Economic Development, Tourism, Sport and Culture - rapporteur):

I am very tempted to give a very short answer to this, but I do not think that will be particularly helpful to the Constable. It gives me no pleasure to report that there has not been any significant progress since 6th March 2018. When I withdrew the draft Liquor Licensing Law I made a statement explaining my reasons for doing so. I would personally dearly like to restart the work on the draft law immediately but I have to tell Members that I am not in a position to make any promises in the short term as there are still challenges from a policy and resourcing perspective. From a policy perspective, the majority view is that the existing 1970 law has passed its sell-by date, it nevertheless remains hard to achieve anything approaching consensus on the way forward. To give just one example of the problem, I recall the industry representatives pressed for the introduction of a single category of on-licence and a new determining authority with a different membership to the one proposed in the new draft law. At the same time, we are being pressed by the Scrutiny Panel and other industry stakeholders to consider retaining the existing Licensing Assembly, which had concerns about the practical consequences of introducing a single on-licence category. The Constable of St. Helier may recall this because he was a member of the Shadow Alcohol Licensing Policy Group that worked on the draft law. From a resourcing perspective, I no longer have a dedicated policy and legislation team within my department to call on. That said, I stand ready to press on with the reform once I am in a position to access resource within the new Strategic Policy function.

3.16.1 The Connétable of St. Helier:

I thank the Assistant Minister for his very helpful answer and I was going to ask him when the Shadow Alcohol Licensing Policy Group is going to reconvene and he has more or less answered that question, so I will ask him: does he not feel that it is inappropriate that we do not have, he says, sufficient officer resources to progress this important work whereas we do have plenty of, for example, spaces in the Communications Unit? Will he not talk to his Minister about reallocating some posts so that we can press ahead with getting rid of the ridiculous amount of red tape and the waste of the valuable time of the judiciary that goes with the current licensing regime?

Senator S.W. Pallett:

I cannot disagree with the Constable. It disappoints me that we cannot carry on this work a little bit more quickly, in the sort of timeframe he would like. But we have yet to debate the Common Strategic Policy and I think once we have debated that then this Government, this Council of Ministers, need to decide what their strategic priorities are. I hope the new Licensing Law is one of them because I think it is vitally important for the hospitality industry that they have an up-to-date law. But until those decisions are made and the resources made available to me then I am not in a position to do that. But I take his comments on board and I will speak to the Minister and other Ministers, because other Ministers were involved within the Strategic Alcohol and Licensing Policy Group, and try to get their support to move this work forward as quickly as we possibly can.

3.16.2 Deputy K.F. Morel:

In his answer to the first question, the Senator mentioned that he was trying to achieve consensus. I was just wondering if he could describe which parties he is trying to achieve consensus with?

Senator S.W. Pallett:

As much as we have, from a political perspective, not been able to move some of the issues forward, the officer that was dealing with pushing the law forward has engaged with some stakeholders since the election in May. The department has been speaking to representatives of the Jersey Hospitality Association because they had specific concerns prior to me pulling the law in March. But clearly stakeholders, including a lot of the big pub chains, hotel groups, restaurants, hospitality businesses, all have different concerns around how the law was drafted, some concerns around the complexity of the law and maybe that was an issue around communication from both the Scrutiny Panel and from the department and myself. They are issues that I would like to resolve but we do need more consultation on it and I cannot really do that unless I have the policy officers to be able to carry that work forward.

3.16.3 The Connétable of St. Helier:

The Assistant Minister will be aware that the current Strategic Plan has just 2 more weeks to run, I assume, because we are debating a new one at the next meeting. I would just ask him for his comment on the agreed objective of the States for the last 3½ years that we would introduce an effective and efficiently-administered licensing regime?

Senator S.W. Pallett:

It was part of the previous Strategic Plan. An awful amount of work went into producing this document from several departments and help from the Constable himself. All I can say is I was extremely disappointed that this could not be debated in March. If it had been purely on my thoughts, I would have gone ahead with the debate because I think, if nothing else, it would have flushed out some of the issues within this draft Licensing Law. But we never got to that stage unfortunately and all I can do is apologise on behalf of the hospitality industry for not providing an up-to-date Licensing Law that they can understand and work with moving forward.

3.17 Deputy K.F. Morel of the Minister for Home Affairs regarding the application of funds provided for the Settled Status Scheme: [OQ.194/2018]

Would the Minister confirm whether any funds allocated to the Settled Status Scheme have been set aside to enable deportations and, if so, how much?

Deputy G.C. Guida of St. Lawrence (Assistant Minister for Home Affairs - rapporteur):

I will answer for the Minister. I thank the Deputy for his question. The very simple answer is £3,000 has been set aside to cover potential deportation. I should be clear that deportation will only be considered in circumstances where a person is found to have a criminal record that in any other normal circumstance would make that person potentially liable to being deported, *vis-à-vis* it does not apply to the overwhelmingly majority of citizens who will be applying under the Settled Status Scheme.

3.17.1 Deputy K.F. Morel:

Just a clarification for the record, can the Assistant Minister clarify that answer is different to the one given in the Assembly 2 weeks ago?

Deputy G.C. Guida:

There were many discussions about the Settled Status Scheme and the question of deportation came up a few times and, to be candid, it is not something that we thought would occur, but we estimated

it might and we were surprised to see that the department had set aside a sum to cover those because, to us, the risk was absolutely minimal. So we were not aware of that at the time and we were quite pleased to see that the department set aside a bit in their budget to cover that.

3.17.2 Deputy G.P. Southern:

If I may expand the question a little: can the Assistant Minister state whether, in his opinion, the imposition of charges to have settled status under this scheme, given that many of these people who are required to apply for settled status have been here for 5, 10, 15, 20 years, or are children, does he not consider that such an action may be seen as discriminatory?

The Deputy Bailiff:

I am sorry, Deputy; that is too far outside the ambit of the question, which relates to costs of deportation. It would need to be the subject of a different question.

3.17.3 Deputy J.M. Maçon:

In order to minimise the cost of deportation, does the Assistant Minister not agree that perhaps the department has missed a trick in that had they worked better with some of the consulates on the Island in order to do events to raise funds working with those bodies, could have helped in order to fund the charges that are needed for perhaps those people who have been here 20-plus years? Does the Assistant Minister agree that the department could have thought about this and done it better in order to minimise the potential for the deportation costs that might arise?

[11:30]

Deputy G.C. Guida:

That is a very interesting dogleg; I would love to see you play golf. There is a question about the cost of settled status, but it is not today's question, so if you want to come back to us with that question I would be very happy to answer it, or the Minister will be very happy to answer it, later. On the issue of deportations, we cannot expect every legal possibility and we have thought that maybe it could happen that some would be warranted. Searching within the department, talking to the director general, we cannot find one case where that would be warranted. We have obligations with the E.U. (European Union) when we are talking about E.U. citizens. Those obligations will only or might only end on 29th March and they may continue for a couple of years during the transition period. If any sort of agreement comes up between the U.K. and the E.U. those conditions might continue, so we are just putting a little bit of a provision in case something really exceptional could happen. We do not expect it to happen.

3.17.4 Deputy M. Tadier:

It may have been partly answered, but I think the obvious question is to ask whether the Minister thinks that £3,000 is an adequate sum to cover any potential deportations or, to put it another way, how many deportations can you get for £3,000?

Deputy G.C. Guida:

A very good question. I thank the Deputy for his question. The answer is very little, very few, and that reflects our expectations.

3.17.5 Deputy K.F. Morel:

While I accept that the active sum in question, £3,000, is very little and you may not even get one deportation, I think for that £3,000, is it the department's intent to use the opportunity of the settled status scheme to go through people's records, using this as an opportunity to check whether people should be deported? Should we see this £3,000 as a symbol of that intent?

Deputy G.C. Guida:

Sorry, I would like to reiterate it; the provision was made by the department as a standard business practice. As much as we have talked about this, we have not found any scenario where this might be needed.

3.18 Deputy J.M. Maçon of the Chairman of the States Employment Board regarding the provision of succession-planning conditions in contracts issued to senior staff: [OQ.186/2018]

Will the chairman advise whether the States Employment Board has a policy that all senior contracts issued, including those of the new director general class, and other States appointments include succession-planning conditions; and if not, will she explain why not?

The Connétable of St. Ouen (Vice-Chairman, States Employment Board - rapporteur):

I thank the Deputy for his question. There is no standard clause in any permanent contract within the States of Jersey that provides for succession planning conditions. From time to time, for specific interims and short-term contracts, there have been occasions in the past where a contract might have such conditions in the light of the specialist nature of those duties. However I would like to add something to that answer. Succession planning is something that the States have not been very good at and also normally you would not expect to see in a contract of employment any succession planning requirement, you would expect to see a performance agreement. As Members will know, performance agreements are pretty few and far between in the States. However, as part of the rollout of the new target model performance, agreements will include things like succession planning, improvement of working conditions, talent management, and also providing training to employees so they can improve their skills and hopefully move into more senior roles. I do accept the Deputy's point that it has not been very good up until now.

3.18.1 Deputy J.M. Maçon:

Just for those listening, succession planning is just about widening the pool of people that can apply for it, it does not necessarily mean that individual would then get the role, but it is about widening the pool to allow people to apply. I thank the vice-chairman for the answer. Perhaps then will the vice-chairman be able to advise the Assembly whether, if not through contracts, through wider policy of the States Employment Board that succession planning should be something that is expected of all senior officers?

The Connétable of St. Ouen:

I thank the Deputy for his question. The answer to that is simply yes, and I would take issue with his earlier remark, or I disagree with his earlier remark; "take issue" is a bit strong perhaps. Talent management is a very important part of any organisation and not only giving people the opportunity to join a pool for a recruitment process, but also ensuring that they have the right skills to apply for those roles is a very important part of how we see our role going forward.

3.18.2 Deputy J.M. Maçon:

I wonder perhaps, given that ethos, can the vice-chairman please advise the Assembly therefore, in order to gain those skills and that talent, whether the States Employment Board does have a pool of money, for example, to allow for secondment? So after the Care Inquiry we know, for example, in that report it said that things like social workers should be given the ability to be seconded to other authorities in order to develop their abilities. Does the States Employment Board have a policy and funding in order to support secondments?

The Connétable of St. Ouen:

Yes, I thank the Deputy for his question and he has alighted on an area that I do not have the answer for. But the answer is, no, we do not have that at the moment, but I will take it back and it will be an issue that we will discuss and come back to him at some stage in the future.

3.19 Deputy M.R. Higgins of H.M. Attorney General regarding the powers and limitations of the States Assembly in legislating and determining its procedures and composition: [OQ.189/2018]

Will Her Majesty's Attorney General outline the powers and limitations of the States of Jersey Assembly with regard to its ability to make law and determine its standing orders and composition?

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

This is a large question. In summary, the States Assembly has the power to adopt laws and make regulations for any regulations and Acts. The Assembly also has the power to regulate its own proceedings and the power to make Standing Orders for this purpose as set out in the States of Jersey Law 2005, which I will call the 2005 Law in this answer. I will briefly describe these powers. The Constitution of the States is set out in Article 2 of the 2005 Law. As for the making of laws, pursuant to the March 1771 Order in Council, which sanctioned the Code of 1771, which I will call the code, a law will become part of the law of Jersey if adopted by the States Assembly, given Royal Assent by Her Majesty in Council, and the resulting Order in Council in respect of the law is registered in the Royal Courts. Pursuant to the code, the only insular body entitled to enact a new law is the Assembly, abolishing the Royal Courts' power, which previously existed to make laws. There is no particular thematic limit on the competence of the Assembly to pass laws. After a law is adopted, in order to attain Royal Assent, a report is sent by my department through the official channel to the Privy Council responsible for the affairs of Jersey, presently the Secretary of State for Justice. In practice, a law that sought to depart from what is Jersey's constitutional relationship with the U.K. or pose a significant risk of breaching international obligations extended to Jersey will be the subject of further scrutiny and discussion between the U.K. Government and my department and the relevant departments that proposed the law. As to regulations, they are a form of delegated legislation. The power to make regulations can come from either a law that has been given Royal Assent or from an Order in Council where either have been registered in the Royal Courts and become effective in this Island. The power to make regulations may be wide but it is invariably expressly limited in a number of ways, including with respect to the subject matter of the original law pursuant to which the regulations are to be made.

The Deputy Bailiff:

Are you able to bring your answer to a close, Mr. Attorney, you are already well over the normal guidance for an answer?

The Attorney General:

I am sorry. I am probably two-thirds of the way through but I will try to summarise the last 2 sections if I may.

The Deputy Bailiff:

It is normally 90 seconds and you are at 2½ minutes.

The Attorney General:

I am sorry. So the last 2 matters are triennial regulations made for 3 years under the 1771 Code, which can be extended by a further 3 years by the 1884 Order in Council and, finally, Standing Orders made under Article 48 of the 2005 Law.

3.19.1 Deputy M.R. Higgins:

So, in other words, the Assembly, as a sovereign body, can pass the laws that it wishes, subject obviously to getting Privy Council consent, and therefore if the States chose to have its own Speaker rather than the Bailiff, it would be totally within its power to do so and therefore would the Attorney General confirm that, if the States has passed the law, then there would not be a constitutional issue because it is a matter for the States alone?

The Attorney General:

There are 2 questions there, in my submission. Firstly, yes, the States would be entitled to change its composition as currently provided for under Article 2 of the 2005 Law and that would include altering the nature of the speakership, the presidency of this Assembly. But that does not mean that would not give rise to a constitutional issue. A constitutional issue is an issue relating to an established set of principles governing a State, and I have already given a recent written answer to the effect that the removal of the Bailiff would amount to a constitutional issue. That does not take away from the power of the Assembly to determine its own constitutional arrangements.

3.19.2 Senator S.Y. Mézec:

Following on from the question from Deputy Higgins then, given that we have a President of the States Assembly and a Chief Justice of the Royal Court, which are arguably 2 different roles, could the Attorney General elaborate on why he thinks it is a constitutional issue that when we could simply have one different person do one of those 2 jobs and the roles, responsibilities and rights of this Assembly and its place in the wider world would remain completely unchanged?

The Deputy Bailiff:

I am not sure, Deputy, that the original question dealt with whether it was a constitutional issue or not, merely the powers of the Assembly, which the Attorney General has answered, and therefore I do not think this question is within the parameters of the original question. It could be posed at a different time.

3.19.3 Deputy M. Tadier:

Of course in the Jersey context we do not have a written constitution and it makes it difficult perhaps to nail down exactly in the abstract what one believes is an integral part of that constitution. With that in mind, could the Attorney General confirm how long a tradition needs to be in place for it to constitute being part of a constitution?

The Attorney General:

It would depend on the nature of the element that went to the core of the constitution of the state in question. So it is difficult to answer. I have given a written answer in relation to the Bailiff on 9th October and plainly, when one looks at the terms of the recital to the Code of 1771 in relation to the law-making process for Jersey, that is a constitutional issue as well. The Deputy is right, in the sense that it may be that a more recent innovation of less significance would not amount to something amounting to an established principle governing the way in which a State was administered or run.

The Deputy Bailiff:

Senator Mézec, on reflection I think I should have allowed your last question and therefore would you like to ask it?

3.19.4 Senator S.Y. Mézec:

Thank you. It is the same question but slightly rephrased given that the initial question refers to the powers and, key word, limitations of the States Assembly in its ability to make law. Therefore this is a question about the constitutional position of the Assembly and its own sovereignty. Would the Attorney General agree that, if a minor amendment was made to the States of Jersey Law 2005 to stipulate that the person who held the office of Presidency of the States Assembly to not be the person

who also concurrently held the role of Chief Justice of the Royal Court that this would not impact on the ability, limitations, or the rights of this Assembly to conduct its business as the elected law-making body of Jersey?

The Attorney General:

We might be conflating 2 issues, which were conflated in the question I was asked some time ago. There is no doubt that this Assembly, as a sovereign body, subject to the consent of the Queen in Council, is entitled to change its own arrangements and that includes significant constitutional issues. But, nonetheless, as indicated for the reasons set out in my answer of 9th October 2018, the removal of the Bailiff, in my view, is clearly a constitutional issue. There are other issues of significance to the Jersey constitution, which would also amount to constitutional issues, there are others of less significance that would not do so. I do not propose to repeat the written answer I have given but, as I have said, the fact that a matter is a constitutional issue does not deprive this sovereign Assembly from dealing with it and addressing it in such way as it thinks fit.

3.19.5 Senator S.Y. Mézec:

Supplementary, if this is to be a constitutional issue then presumably there would be some sort of impact from the decision of the States to elect its own President. I would like to know from the Attorney General exactly what those implications are because, so far, in every answer he has given, I cannot seem to see any implications at all that would deprive this Assembly of its role as the supreme law-making body in Jersey, a sovereign body elected by the people in accordance with the Code of 1771 rather than the Royal Court where there was a clear split there. So could he please try to be a little bit clearer about what exactly these constitutional issues are, when, on the face of it, there does not really seem to be any?

[11:45]

The Attorney General:

If the question is directed to the role of the Bailiff, I can do no better than read one of the paragraphs from the written answer I gave to the Assembly on 9th October: “As I said during the debate, the role of the Bailiff goes to the heart of the Island’s constitutional identity. The term ‘Bailiwick’ is inextricably bound up with the word ‘Bailiff’. Jersey is called a Bailiwick because of the constitutional role of the Bailiff as civic head. It is not simply a matter of status but, as Lord Carswell put it, a reflection of his dominant position in public affairs in Jersey over the centuries. This derived from Jersey’s constitutional identity as a *bailliage* within Normandy, headed by *un bailli*. To this day Jersey remains a *bailliage*, or bailiwick, under the English Crown in place of the Duke of Normandy, and still headed by a Bailiff. Sir Philip Bailhache in his submission to the Carswell Review, was therefore correct to state that, in constitutional terms, the head of the Bailiwick of Jersey is the Bailiff. Sir Michael Birt explained, when Bailiff, in his letter to the P.P.C. in 2011: ‘The Bailiff has an important role to play in safeguarding the constitutional position of the Island’; and he went on to say ‘it is hard to see how this role could continue if the Bailiff were simply Chief Justice. The underpinning of this role is that he is President of the States.’”

3.19.6 Deputy M.R. Higgins:

Just a comment first, and that is that they would say that, would they not, because the answers in the question, they were from 2 former Bailiffs.

The Deputy Bailiff:

I want to have a question, not comments, thank you.

Deputy M.R. Higgins:

Yes, I am going to do that. Could I ask the Attorney General, his statement on 9th October, I have read it through, in fact it is more of an opinion based on nothing. I cannot see any reference to the constitutional relationship within his answer. Will the Attorney General bring to this House a written document setting out the authorities for what he is trying to say so the House is better informed going forward?

The Deputy Bailiff:

Will you file a document?

The Attorney General:

I would be content to do so. It might be best, if the Deputy would be so kind, to formulate a written question to me saying precisely what he would like me to provide and of course I shall do so.

Deputy M.R. Higgins:

I will do that, thank you.

The Deputy Bailiff:

That brings the time allocated for questions under the Questions with notice to an end. We now move on to Questions ...

Deputy G.P. Southern:

Sir, I have a question unanswered from the head of the S.E.B. (States Employment Board). Could she or could someone assure me that they will circulate the answer as we could not get around to answering questions today?

The Connétable of St. Ouen:

Yes, someone, me, will undertake to circulate the answer to the Deputy as soon as possible, and the Assembly as well.

Deputy M.R. Higgins:

As we have run out of time, we have not obviously heard all the questions, could I ask that all those who were supposed to answer questions provide a written answer to them to the States as well because some of them are very interesting?

The Deputy Bailiff:

That would be a matter for the individuals concerned unless people wish to stand up and make confirmations at this point.

Information subsequently provided by Ministers and/or others:

3.20 Deputy K.G. Pamplin of St. Saviour of the Minister for Health and Social Services regarding staff currently employed in the hospital: [OQ.196/2018]

Question:

Will the Minister state how many staff currently employed in the hospital are contracted staff and how many are locum or agency placements?

Answer:

There are currently 1,279.5 FTE (full-time equivalent) staff currently employed in the hospital, of which;

- (a) 1,243.5 are 'contracted' (substantive or fixed-term contract); and
- (b) 36 are locum or agency placements*

[* 17 locum doctors /consultants
19 Registered Nurses].

3.21 Deputy M. Tadier of St. Brelade of the Minister for the Environment General regarding desired changes to the bus service in Jersey: [OQ.202/2018]

Question:

From an environmental perspective, what changes if any, would the Minister like to see to the bus service in Jersey?

Answer:

The Minister for Infrastructure has responsibility for managing the bus service.

I must congratulate him, his officers, and CT Plus (bus operator) for delivering significant improvements to the bus service. This includes an increase in ridership of over 30% since 2013, when CT Plus started to operate the bus service. This equates to an anticipated 4.76 million bus journeys in 2018.

One of the largest contributors to the Island's Greenhouse Gas Emissions and to poor air quality is emissions from vehicles. As part of the planned States Sustainable Transport Policy review, I'd like to see further changes to the bus service that would benefit the environment. A growth in bus usage will result in an increase in more sustainable forms of transport and a decrease in our carbon emissions.

In the States approved Energy Plan for Jersey, Pathway 2050, we have committed to decreasing our carbon emissions by 80 per cent by 2050, from 1990 levels. In order to achieve this we will need to look at a range of policy tools that influence and modify environmental behaviour changes. This should include reviewing legislation, sanctions, regulations, taxes and charges, and subsidies, and the continued provision of public services and information.

Members will be aware that I have lodged an amendment to the Draft Budget Statement 2019, due for debate at the next sitting. This asks the Council of Ministers to review fair and proportionate taxes and charges to encourage public behaviour changes to help deliver the proposed Common Strategic Policy's (CSP) objectives for the environment.

I'd like a range of changes to the bus service to be considered and I would be happy to work with the Minister for Infrastructure to explore these.

Options include:

- dedicated bus lanes and priority to buses
- safer and improved access to bus stops
- more use of planning obligation agreements to improve the bus service and associated infrastructure
- exploring the feasibility of introducing electric buses to Jersey
- reviewing bus fares

3.22 Deputy G.P. Southern of St. Helier of the Chairman of the States Employment Board regarding the contractual terms of teaching assistants: [OQ.205/2018]

Question:

Will the Chairman inform Members under what contractual terms teaching assistants are employed and, if arrangements other than permanent contacts are in use, state why?

Answer:

Teaching Assistants are employed under Civil Service Terms and Conditions. Some Teaching Assistants are utilised on a fixed term basis. This may happen for the following reasons:

- to work on a one-to-one or small group basis with pupils that may have been assessed as having special educational needs;
- to work on time-limited interventions with children with additional funding under the Jersey Premium programme;
- to cover maternity leave, or
- to cover long term sickness absence

The Deputy Bailiff:

Very well. Before we move on to Questions without notice, could I just inform Members, who may have been concerned, that the States Greffe checked the records of Hansard on the last occasion and in fact the late Deputy Rondel was marked as ill within the Minutes of the Assembly and indeed his voting record marks him as being unwell.

Connétable J.E. Le Maistre of Grouville:

I think in the meeting before that he was not marked as *malade*.

The Deputy Bailiff:

Very well; I hope that gives Members some comfort in that particular area.

4. Questions to Ministers without notice - The Minister for International Development

4.1 The Connétable of St. Helier:

My questions to the Chief Minister I think will serve to the Minister for International Development. Is it the Minister's policy that Jersey should offer a home to a small number of child refugees?

Deputy C.F. Labey of Grouville (The Minister for International Development):

I am not entirely sure that comes under International Development but I will try to answer the Constable's question. A few years ago the then Chief Minister, Ian Gorst, looked into bringing over some Syrian refugees into the Island. He was thinking of about 30 or so or 5 different families. However it was looked into and it was discovered that they would have to go via the U.K. and when they arrived here they would be entitled to everything they would have been entitled to in the U.K., housing benefits, *et cetera*. The then Chief Minister made a decision at the time that this probably was not in the best interests. Jersey Overseas Aid however did increase its funding to the Syrian crisis. [Approbation] We put monies in the Zaatari camp in Jordan and have since given monies to

the Lebanese refugee camp and the Red Cross, the Red Crescent out there, and U.N.I.C.E.F. (United Nations International Children's Emergency Fund), to work in the communities.

4.1.1 The Connétable of St. Helier:

If I can ask for a supplementary, and I appreciate the Minister going off-script a bit with this and also the work of her department in supporting the refugee and civil war-torn areas of the Middle East. Is it her personal view however that a small number of child refugees, were one to have approval of the U.K., were that to be possible in policy terms and were it to be requested, I am certainly aware of a certain number of families in Jersey who would be willing to offer good homes to child refugees, would she support it and is she aware of the Dubs Amendment in the U.K., which has allowed a small number of children to find homes in the U.K.?

The Deputy of Grouville:

That seems to be going into the hypothetical, if we had the policies, if we could change policies. I have heard of Dubs International adoption. It is something that I would need to be aware of the details, if there are families over here that wish to adopt, I think that could be entirely possible, but I do not really want to make decisions like this on the hoof. I would have to have far more detail.

4.2 Deputy S.M. Ahier:

Will the Minister, as chair of the Jersey Overseas Aid Commission, inform the Assembly of how much of the overseas aid budget has been spent thus far, whether the remainder will be carried over to next year, and if any additional funds will be made available to the J.O.A. (Jersey Overseas Aid) in the future?

The Deputy of Grouville:

I presume he is talking about the budget for this year. Our aim is always to have nothing left at the end of the year because, if we do, we are failing someone somewhere. So that has always been our aim. If I can refer to last year as an example, we carried forward £211,000, which was slightly more than anticipated because we had asked for monies back from an underperforming charity, otherwise it would have been £82,000. As I said, the aim is to get to zero. Out of a budget of £10.34 million, we spend £2.8 million on emergencies, but obviously that can fluctuate depending on the emergencies we have, about £6 million in grant aid, £1 million now with local charities, which include the R.J.A. and H.S. (Royal Jersey Agricultural and Horticultural Society), Durrell, the Gurkha Welfare Trust, St. John Ambulance and Hands Around the World. We have upped our local giving and outreach programmes as well as our community work projects, which over 50 years - which we are celebrating this year - there have been about 1,000 Islanders go on them. We have now increased the outreach programmes, as I have said, this includes Trackers offering 4 places to people in the Trackers programme in conjunction with education on our community work projects. We offer bursaries, an annual internship, and workshops in schools and the museum, as people might have seen recently. We provide this for Jersey, we are less than the O.E.C.D. in our overheads, our overheads are currently ...

The Deputy Bailiff:

I do hesitate to interrupt you but the norm is one minute 30 seconds and you are now at 2½ minutes. I pulled up the Attorney General at the same point and I wonder if you could bring your answer to a close.

The Deputy of Grouville:

Could the Deputy remind me of the last part of his question? **[Laughter]**

The Deputy Bailiff:

The Deputy will have a supplementary if he wants it, so perhaps he can ask it as a further question.

4.2.1 Deputy S.M. Ahier:

It was whether there would there be any more funds made available to the J.O.A. next year.

The Deputy of Grouville:

No, is the short answer, because our budget is fixed until 2020 and, as people might know, that puts us below the O.E.C.D. average. The O.E.C.D. aim is 0.7 per cent of our G.N.I. (gross national income), and we currently run at 0.25 per cent of our G.N.I. we are giving.

4.3 Deputy J.H. Perchard:

I just want to ask the Minister why is it important for us to continue giving aid? How are our aid priorities decided and what are the current priorities or projects?

The Deputy of Grouville:

There are 3 quite big questions in that. So “why” is because almost 50 years ago, in 1970, economically-advanced countries agreed at the U.N. General Assembly to donate, as I have said, the equivalent of 0.7 per cent of their G.N.I. in aid. The figure has been reaffirmed since then and, as I said in the previous answer, Jersey currently gives 0.25 per cent, however that still entitles us to a place around the table of international actors. Jersey operates on the international stage and it is right, I believe, that we play our part in our responsibilities as well. It is also an expression of who we are as a compassionate, generous and responsible, jurisdiction. It makes the world a better place, it transforms lives - happier, more peaceful, more prosperous. It helps our own community, as I have just told the Assembly in the previous answer, with our outreach programmes and our community support projects. Lastly, probably because it is morally right. **[Approbation]** We should not forget really that every child here grows up with a roof over their head, food on the table, access to education, healthcare and justice. I might remind the Assembly as well, if I am not going on too much ...

The Deputy Bailiff:

You are now at 1 minute 50 seconds as opposed to 1 minute 30 seconds, which is the norm. I was about to pull you up in another 5 seconds but you have done it yourself.

The Deputy of Grouville:

Okay, thank you.

4.4 Deputy K.F. Morel:

If I can just add one other reason that the Minister did not give, which was approximately 75 years ago Jersey was a recipient of aid, which we all benefit from even today. I just wanted to ask, the Minister mentioned that at the moment the amount Jersey gives is 0.25 per cent of G.N.I. and the O.E.C.D. recommendations are 0.7 per cent. Can the Minister confirm whether she is committed to trying to raise that level to 0.7 per cent of G.N.I.?

[12:00]

The Deputy of Grouville:

Absolutely I am, however we live in these times of austerity, but it has to be an aim. We function, we play on the international stage, and I think it is only right that, if we take the benefits from playing on the international stage, we also take the responsibilities. There are many countries that exceed the 0.7 per cent, countries like Switzerland, 0.52, the U.K. make its 0.7 per cent, we are probably on a par with Italy, 0.21 per cent. I would like to see us at least in the short-term aim to be the O.E.C.D. average, which is 0.35 per cent, as a short-term aim.

4.5 Deputy J.M. Maçon:

I wonder if the Minister could clarify what the difference between International Development and External Relations is?

The Deputy of Grouville:

Senator Gorst answered a similar question with his questions without notice, so if I can go through what I see my role is and, before I start, I should say that we should try not to confuse aid with trade and it is important that they are kept separate because, if they are not, they can compromise what we do, it can compromise the giving of aid. However, having said that, we do work with External Relations, we are about to have an M.O.U. (Memorandum of Understanding) with them, so that everybody is clear about who does what in these roles. My areas of responsibility, and to have been appointed as a Minister, I believe sends strong signals to the world that Jersey is a serious and effective international aid actor. It means that there is ministerial representation, which, on our budget, it is only right and fair, it puts me up here answering questions without notice, so we are more accountable to the Assembly. It demonstrates that we are more than just an international finance centre, it aligns us with most E.U. and O.E.C.D. countries, it enables the Minister to represent the goals of overseas aid on the Council of Ministers and International Development, which, as I said, increases our accountability. The role will hopefully be a key player in establishing the development of Jersey as a centre of philanthropy. Many of you might have heard me saying about changing the narrative, well this is ...

The Deputy Bailiff:

I am sorry, Minister, we are at one minute 53 seconds. I hate operating a timing system in this way but there are a number of people who would like to ask you questions so I would ask you to limit your answers.

Deputy J.M. Maçon:

Supplementary?

The Deputy Bailiff:

The norm is a supplementary but that may run us out of time.

4.5.1 Deputy J.M. Maçon:

Is the Minister properly resourced in order to carry out her functions?

The Deputy of Grouville:

No, is the short answer. Jersey Overseas Aid has 3 professional staff of many years' experience and they operate the Jersey Overseas Aid Commission. However, there is more to this role and more to my other roles too and one, as I alluded to, I would like to expand International Development into developing Jersey as a centre for philanthropy. I believe I need to be resourced in staffing for this. At the moment that has not been forthcoming, is the very short answer.

The Deputy Bailiff:

I am afraid that does draw the time available; I have a list of Members to ask questions in the strict order that I saw their lights and their names came up on the screen. I am afraid we have simply run out of time.

Deputy M. Tadier:

Could I ask the Minister to circulate an answer about what she meant by the short-term goal to meet the international standard of funding for overseas aid?

The Deputy Bailiff:

Certainly, Deputy, you can ask her outside the parameters of the Assembly, but we are still within the 4 walls of the ...

Deputy M. Tadier:

Do you know how many questions we got through in that question period?

The Deputy Bailiff:

We had questions from the Connétable of St. Helier, Deputy Ahier, Deputy Perchard, Deputy Morel, Deputy Maçon.

5. Questions to Ministers without notice - The Minister for Infrastructure

5.1 The Deputy of St. Martin:

Last week the Minister for the Environment promoted congestion charging as a way of easing traffic in St. Helier. Does the Minister concur?

Deputy K.C. Lewis of St. Saviour (The Minister for Infrastructure):

I thank the Deputy of St. Martin for that question. In a word, no. This was an initiative by the Minister for the Environment, not the Minister for Infrastructure, and we have over 10,000 vehicles coming into St. Helier daily. We are trying to increase the bus service year on year, which LibertyBus are proving very good at, to try to minimise congestion. But I am completely against a congestion charge because I think it would be counterproductive. We are trying to boost the footfall in town even though we are trying to reduce the cars going into town. We want to increase the footfall in town and I think this will be counterproductive. It is not my idea, not my initiative, and it is not happening. First, I heard of it was on the radio when I nearly sprayed my desk with tea when I heard it. But, no, I appreciate what the Minister for the Environment is trying to do, but it is not on my radar at the moment. I hear mumbling from the Minister for the Environment. It is not on my radar at the moment. I think it would be counterproductive. In fact when I heard it on the radio the Minister for the Environment did state that it would not affect him at all because he is on his bike. So I would reflect those sentiments to the Minister and say it is not happening.

5.2 Deputy M. Tadier:

LibertyBus need to be congratulated for the way they have grasped our local culture by putting Jèrriais on their buses, on the outside of their buses, but can the Minister talk about what his opinion is of the authenticity of the voiceovers announcing the stops on LibertyBus?

Deputy K.C. Lewis:

Yes, the Deputy raises an interesting point. I have taken this up with LibertyBus previously; I will mention it again. There is a phonetic problem; it is computerised, but, as we all know, it is not English, it is not French, it is Jersey, which is something completely different, but that is something I am more than happy to take up with LibertyBus.

5.2.1 Deputy M. Tadier:

Can I give the Minister a specific example: "Next stop Green Island, alight here for Green Is Land Beach." Now that seems to me to be English, there should not be any problem with an English voiceover pronouncing something, it could be something as simple as a space having been omitted or put in, so does the Minister agree that at least when pronouncing English names, which it can clearly demonstrate capable of pronouncing in other ways, that they should have a consistency on there? Perhaps the Minister would consider doing the voiceover recording himself free of charge.

Deputy K.C. Lewis:

I would be more than happy to do that but it is electronically programmed, it is not a voice as such. But I will indeed point that out to LibertyBus who are very receptive to these ideas.

5.3 Deputy J.M. Maçon:

If the Minister does not favour a congestion charge, how then does the Minister intend to align himself with other States policies in addressing the air quality and improving the air quality within urban areas?

Deputy K.C. Lewis:

I just touched on to it briefly the fact that I think since the new bus company took over we are up by about 46 per cent ridership on buses, which is excellent. I am very, very pleased with LibertyBus and the work they are doing. They are reinvesting in new buses and we are investing in infrastructure with more and more bus shelters coming on line. We have about 13, I think, coming on line very soon in St. Helier and further out into the Island, bus shelters to make the bus ridership more comfortable. So basically it is public transport we are trying to promote more and more. Members may have heard this morning there was an item on the radio regarding that we want more car parks in St. Helier. But on the outskirts of St. Helier there are plenty of spaces, but not in the centre of St. Helier. I am a bit of a dinosaur when it comes to this, but there is an app that one can just touch on their screens, which is a parking app, and it gives a heads-up of exactly how many parking spaces are available in the major car parks in town. Our major town car parks would be Minden Place has 18 spaces, Sand Street 95 spaces, Pier Road 153 spaces, so that is on the outskirts of town and they are available as I speak.

The Deputy Bailiff:

We are out of time. Do you have a supplementary, Deputy?

5.3.1 Deputy J.M. Maçon:

Dare I? The question I asked the Minister was about how he was going to improve the air quality within the urban areas, not the availability of car parking spaces throughout St. Helier. Can I ask therefore does the Minister have another suggestion, other than use the buses, in order to improve the air quality within urban areas?

Deputy K.C. Lewis:

Yes, I have directed my department to up the ante, if you will, on bicycles; we want to introduce more bicycle racks. We are improving the cycle routes. We have 2 areas that we are working on at present, French Harbour and English Harbour; that will extend the cycle routes from Corbiere right the way through to Havre des Pas. Obviously, the eastern cycle track is more tricky. We will be working with the Parish of St. Helier on making cycle routes through town. As mentioned previously, we are trying to encourage more and more people on the bus. If you live on the number one route there is a bus every 10 minutes so I think public transport is the way to go. I do live in an urban area so I know the problems regarding air quality but that is something that is ongoing.

5.4 Deputy K.F. Morel:

Just returning to LibertyBus, the company's accounts show it has £2.7 million I believe retained within the company in its accounts. This is in stark contrast to other companies that have either nothing or £200,000; that sort of level. Given the scale, £2.7 million, how much does the Minister believe the company should be returning to Jersey, should be investing in the Island, given that it said it has only invested £1.6 million back or given back to the States over the years? There seems to be a large amount of profit and very little coming back.

Deputy K.C. Lewis:

As I have mentioned previously, there is a tremendous reinvestment by LibertyBus in new rolling stock. They have more or less doubled the bus service since taking over, and the amount of drivers employed have more or less doubled. We are, from the States side, we are putting up more and more bus shelters to make it a more pleasurable experience. So there is a heavy reinvestment in it. It is a company; they have to make a profit, which they have to return, but the percentage they return to the Island is excellent.

5.4.1 Deputy K.F. Morel:

If you go back to very beginning of my question, I believe I went on to shorten it down, given the difference between LibertyBus and the amount, the £2.7 million, the £210,000, the £382,000, and £24,000, that other companies it runs have as far as funds are concerned, is the Minister concerned that Jersey is being operated very differently to the other companies that they run?

Deputy K.C. Lewis:

No, I am more than happy to get the exact figures and present them to the Deputy.

5.5 Connétable M.K. Jackson of St. Brelade:

Would the Minister consider the implementation of a commercial vehicle operator's licence with a view to compelling commercial operations to make provision for the parking of their vehicles off the public realm and, if not, why not?

Deputy K.C. Lewis:

Sorry, was that to get the commercial vehicles off the States roads?

The Connétable of St. Brelade:

With the object of removing commercial vehicles from the public realm.

[12:15]

Deputy K.C. Lewis:

Yes, I would approve of that. There are many problems in the suburban areas of St. Helier and outlying Parishes with people parking their vans overnight outside of people's houses. At night they park their van there, remove their car from a space, park their van and then disappear until the following day. It is a problem. I know it is a problem both east and west of St. Helier in the suburban areas. So that is something I am more than happy to work with the Constables and see if we can find a solution.

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

The Minister mentioned the very excellent Love Jersey app that can be readily downloaded from the app store. Would he agree with me that, though excellent, it should only be used when safe to do so and never when driving?

Deputy K.C. Lewis:

Absolutely, it was the other app I mentioned, not the Love Jersey app, but the principle is the same, do not use while driving. I thank the Deputy for the reminder.

5.7 The Deputy of St. Martin:

The Minister says he is trying his best to increase walking and cycling into St. Helier. He has a wonderful scheme on his desk to improve the safety and ease of crossing at the bottom of Gloucester Street for those who cycle and walk into town in the morning. Will he implement it immediately?

Deputy K.C. Lewis:

I will implement it as soon as possible; as soon as the thing is in place, more than happy to get it rolling. The bottom of Gloucester Street, as the Deputy of St. Martin has alluded to, is a key point in coming off the main cycle routes and getting through to town. So that is something that the department is working on.

5.7.1 The Deputy of St. Martin:

The department does not need to work on it anymore, the work has been done, all that needs to be done is to be implemented.

The Deputy Bailiff:

Is there a question there?

The Deputy of St. Martin:

Will the Minister implement the scheme immediately?

Deputy K.C. Lewis:

As soon as it is feasibly possible to do so, yes.

5.8 Connétable J. Le Bailly of St. Mary:

What is the Minister doing to ensure that every household in this Island is able to have access to fresh water and main drainage as a priority?

Deputy K.C. Lewis:

Excellent question from the Constable of St. Mary. We will do as much as we can. The fresh water obviously would be the Waterworks Company and obviously drainage is down to ourselves. What we are prioritising at the moment is to reduce the pressure on Bellozanne by way of stormwater separation. We do not need stormwater going into the sewers. Stormwater can flow out to sea as it is basically fresh water. The crucial point is we do not have the funds to go way off the main road at the moment. Obviously the southern part of the Island is pretty well taken care of regarding mains drains, and the main roads going up through the Island are pretty well served but there are quite a few hamlets leading off the main roads left and right, there are several problems there, one of which is access across land with private landowners to hook up small hamlets to the mains drains system, which is one major problem which the Constables are well aware of. The other one is obviously we need more money in the infrastructure to extend it further left and right on the top end of the Island to cover all the houses as necessary. But it is something I am well aware of. In 2019 we will have the new sewage plant on line and thereafter I would hope to really start extending mains. I would like to see every house in the Island on mains drains but that is not physically possible at present.

5.8.1 The Connétable of St. Mary:

How would the Minister list his priorities in order of importance?

Deputy K.C. Lewis:

We are still referring to drainage, I take it? The main priority at the moment, we need to get funding. We are just finishing off the new sewage plants. The old one behaved wonderfully for well over 50 years, it is time for replacement. We need to meet international standards, which we do, with the new plants and then I would like to start extending mains drains. There are other smaller satellite systems that can be used in conjunction with Parishes. There are a few at the moment on the north of the Island that are functioning very well but, as I say, it is not feasibly possible at the moment to have every single house on mains drains. There are numerous problems but I know the team is working on it. We have worked with several Constables at the moment to set up satellite systems and to loop around various systems to get linked into the main drains. It is happening but I understand the Constable's frustration.

The Deputy Bailiff:

That conveniently brings the time allocated for questions without notice to this Minister to an end and that ends question time in general.

PUBLIC BUSINESS**6. Public impact of Propositions: proposed amendment to Standing Orders (P.96/2018)****The Deputy Bailiff:**

We have nothing on J or K and we come on to Public Business. The first item is the Public impact of Propositions, proposed amendment to Standing Orders P.96/2018, lodged by Deputy Guida and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion - (a) that in addition to the existing requirements under Standing Order 21(2), every proposition should also be accompanied by a statement estimating the impact of its implementation on the public of Jersey in both time and money, along with an explanation as to how the proposer has calculated his or her estimate; (b) to request the Privilege and Procedures Committee to bring forward amendments to the Standing Orders of the States of Jersey to give effect to this change.

6.1 Deputy G.C. Guida:

I will start with a comparable. You enter a shop and find a nice pair of trainers, the salesperson is on you immediately: "Oh, you do have a good eye, Sir. It is the current fashion this week and they will be trending on the internet at least until Thursday. The price? Oh, well surely you do not expect me to calculate marginal cost, V.A.T. (Value Added Tax), G.S.T. (Goods and Services Tax) on all of my product? No, no, no, you buy them first and then I will get my calculator out." We do not often hear this so why should we subject ourselves and the public to it? This proposition is about honesty, it is about being fair and open. If we can spend days writing a beautiful report to justify our point of view, why can we not spend a fraction of that time guessing at the overall cost, the most direct burden it is putting on the population. The British have a very sophisticated system starting with a regulatory triage assessment and then a comprehensive U.K. impact assessment report. This document answers questions such as why is government intervention necessary? What other options have been considered and, of course, the actual cost, including: "Other key non-monetised costs by main affected groups." It ends in a cost-benefit analysis for each of the options considered. These are beautifully detailed documents which give no doubt to the sense of responsibility the British Government has for its citizens. The rest of the European countries have their own system and 35 members of the O.E.C.D. use their regulatory impact analysis system. There is no doubt that we will eventually have to rise up to those standards but today I would like us to adopt just a tiny fraction of them. All I am asking for is a rough estimate, a back of an envelope calculation of the primary impact a proposition will have on the public. If it takes you more than half an hour with the internet and a calculator you are doing it wrong. I do not expect exact figures, plus or minus 50 per cent is good enough. In our business, if you get that close with a team of economists on your side you are doing well. In any case, whatever you come up with will be subject to scrutiny and a good amount of criticism in this very Chamber. As I said, it is just about being honest with yourself. The Privileges and Procedures Committee lodged a comment to P.96; they argue that it is difficult to evaluate all the consequences of a proposition. My first reaction to this is that if you cannot comprehend the scope of a proposition you should not be let anywhere near a voting paper. The second is I do not think we have such a problem in this Chamber. While we may occasionally have a different point of view, I have nothing but admiration and respect for all the Members of this Assembly who are perfectly able to evaluate the impact and the consequences of propositions, be it their own or that of

others. I will repeat myself, we see no difficulty in preparing extensive reports and long speeches extolling the manifold benefits of our propositions but do not prepare in anticipation any burden of side effects. This is just about being honest and putting a very tiny amount of the bad with the good just to show that we care. The Council of Ministers lodged a comment that echoes some of the reservations of the Privileges and Procedures Committee and I can only give the same answer. We already do all the difficult bits. We already anticipate the consequences, we weigh the pro and cons, we carefully balance the needs, the benefits and the costs; what we do not do is publish the most significant of them. I urge the Assembly to support this proposition.

The Deputy Bailiff:

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

6.2 Public impact of Propositions: proposed amendment to Standing Orders (P.96/2018) – amendment (P.96/2018 Amd.)

The Deputy Bailiff:

Very well, there are 2 amendments. The first of which has been lodged by Deputy Wickenden, I ask the Greffier to read that first amendment.

The Greffier of the States:

Page 2, paragraph (a) - after the words “every proposition”, insert the words “or amendment submitted by a Minister or Assistant Minister”.

6.2.1 Deputy S.M. Wickenden:

I have lodged this amendment just because it would be prohibitive to ask Back-Bench politicians who have little or no resources; they get very good service from the Greffe, of course, but in the way of resources. The proposer, who has never been a Back-Bench politician, is obviously used to being around officers for advice, support and information. As a Back-Bencher you do not have that information. As the recent C.P.A. (Commonwealth Parliamentary Association) conference over here showed we have the least resources for parliamentarians in the whole of the Commonwealth in Jersey. It would be unfair to ask us Back-Bench politicians with no support to have to try and get these impact statements. So if the Assembly wishes to have impact statements, it should be for Ministers and Assistants, and I hold my amendment, proposal.

The Deputy Bailiff:

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

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

I will probably only speak once in this debate because either it is going to be in or it is going to be out and I wanted the Deputy who was proposing the main amendment to give me an example I could get my teeth into, not basically if you can do it on the back of a fag packet we will accept it. Deputy Wickenden has said if we do pass this it should not be imposed on Back-Benchers. Well, I hope we do have a new Assembly, like the financials under P.21A, that they can come to the department and they will get every help they want. That is if I agreed with the main amendment. This cannot happen. We have brought in massive laws - the Capability Law, the Mental Health Law, seatbelts in cars, smoking not in pubs - none of which were costed but they were fantastic laws. At the time what impact financially, policing, anything like, would they have on the public? I understand where the Deputy is coming from. If anybody wants to support this amendment and then Senator Ferguson’s amendment, you literally can only do it by supporting the main amendment and I do not think any of this has been made. I am sorry that we are where we are and I would love to support the original proposition but it is not one that can be done even, as Deputy Wickenden says, with all the support that we do have to us as ministries and departments and what would they be measuring? Only things

that are literally, as the example given in the main proposition, a kit in a car. There is so much more we pass in this Assembly that is not measurable in finance or manpower or policing alone. I urge Members not to support this amendment, not to support any other amendment and then finally, I am sorry, not to support the main proposition. Thank you.

The Deputy Bailiff:

Does any other Member wish to speak on this amendment? I call on Deputy Wickenden to respond.

6.2.3 Deputy S.M. Wickenden:

I thank Deputy Martin for her comments, which I also do agree with as well. This is merely a safety net for if the main proposition goes through. I uphold the proposition and ask for the people to vote how they feel.

Deputy J.A. Martin:

Could we have the appel, please?

The Deputy Bailiff:

The appel is called for. I invite any Members not in the Assembly to return to their seats. I ask the Greffier to open the voting.

[12:30]

Votes pour will be votes in favour of Deputy Wickenden’s amendment.

POUR: 28		CONTRE: 10		ABSTAIN: 0
Senator I.J. Gorst		Connétable of St. Saviour		
Senator L.J. Farnham		Connétable of Trinity		
Senator S.C. Ferguson		Deputy J.A. Martin (H)		
Senator T.A. Vallois		Deputy G.P. Southern (H)		
Senator K.L. Moore		Deputy of St. Ouen		
Senator S.W. Pallett		Deputy of St. Mary		
Connétable of St. Clement		Deputy G.J. Truscott (B)		
Connétable of St. Lawrence		Deputy G.C.U. Guida (L)		
Connétable of St. Brelade		Deputy of St. Peter		
Connétable of Grouville		Deputy C.S. Alves (H)		
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy K.G. Pamplin (S)				

6.3 Public impact of Propositions: proposed amendment to Standing Orders (P.96/2018) – second amendment (P.96/2018 Amd.(2))

The Deputy Bailiff:

We now come to the second amendment lodged by Senator Ferguson. I ask the Greffier to read the amendment.

The Greffier of the States:

Page 2, paragraph (a) - after paragraph (a) insert new paragraph (b) as follows: “(b) that every proposition should also be accompanied, where appropriate, by an estimate of the cost and practicality of policing or enforcing the substance of the proposition;”, and re-letter the subsequent paragraph accordingly.

6.3.1 Senator S.C. Ferguson:

This is a very simple but incredibly important amendment to the proposition. It is predicated on the theory that it is essential that we do not inflict legislation or regulations on the population which are impossible to police. In other words, does a proposal just inflict more red tape on an unsuspecting public? Those of us who have spent any time in the Honorary Police, as well as those of us who spent time with the States Police, will have spent their share of time cursing legislators who passed legislation without considering the practicalities of importing it. This is where I would recommend that anyone thinking of ending up in politics might spend some time with the honoraries or in the Honorary Police since that will give them real hands-on experience of the implications of legislation and what we do in this Assembly. In my report I pointed out the drawbacks to the additional time on a road check, the additional time spent checking the additional equipment in the boot of your car. How many people do break down in Jersey in cars and how difficult is it to get somebody to tow you home? I have also highlighted the problems identifying the guilty dog fouling beaches or pavements, if you do not catch it in the act. It is very expensive to do D.N.A. (Deoxyribonucleic acid) tests and if you do not catch the animal doing the act then are you really going to go around with your little plastic bags harvesting all that is around. Really? It is red tape writ large. If we adopt my amendment it just means Members will have to think harder about the practicalities of legislation they want to impose, and it might perhaps encourage Members to contact the States Police or the honoraries to check that there are no problems with enforcement. This is an amendment which is to really keep the original proposition under control. I shall probably vote against the overall proposition because of the red tape of the implications. All I want to do here is to ensure that Members do consider the practicalities of their propositions. It is red tape writ large. I recommend the amendment and I ask for the appel.

The Deputy Bailiff:

Is the amendment seconded? **[Seconded]** Yes, I think we will have the debate first before we put it to the vote if that is all right. Very well, does any Member wish to speak on the amendment?

6.3.2 The Connétable of St. Ouen:

I have to say this to Senator Ferguson - I almost called her Deputy Ferguson - this really encapsulates the problem that I and the Government have with this proposition in that once we approve it it will generate an industry of its own and we will be for ever struggling to keep up with it. It does not mean to say that I do not sympathise with what Senator Ferguson is saying. It is important that we police these regulations but as the Deputy well knows, we have had a number of exchanges on the wording of this and, in my mind, the most important bit is the wording, keep it simple, keep it clean and keep it in a format that we can all deal with and provide the information in an easy format. We have had a number of debates about this. As we are at moment, we have not come to a conclusion which is why unfortunately the Chief Minister and I will probably vote against this proposition but it does not mean to say, and should not be interpreted, that we do not have great sympathy with the Deputy's

motivation behind it and it is a motivation that we support. If the proposition fails we will be working very hard with the Deputy to try and resurrect it in a format that we believe is acceptable. Thank you.

The Deputy Bailiff:

Does any other Member wish to speak on this amendment? I call on Senator Ferguson to respond.

6.3.3 Senator S.C. Ferguson:

I note the comments of the Connétable of St. Ouen and we shall see what happens in the end.

The Deputy Bailiff:

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

POUR: 12		CONTRE: 28		ABSTAIN: 0
Senator S.C. Ferguson		Senator I.J. Gorst		
Senator K.L. Moore		Senator L.J. Farnham		
Senator S.W. Pallett		Senator T.A. Vallois		
Connétable of St. Lawrence		Connétable of St. Clement		
Connétable of St. Brelade		Connétable of St. Saviour		
Connétable of Grouville		Connétable of Trinity		
Connétable of St. Peter		Connétable of St. Ouen		
Connétable of St. Mary		Connétable of St. Martin		
Deputy of St. Mary		Deputy J.A. Martin (H)		
Deputy G.C.U. Guida (L)		Deputy G.P. Southern (H)		
Deputy S.M. Ahier (H)		Deputy K.C. Lewis (S)		
Deputy J.H. Perchard (S)		Deputy M.R. Higgins (H)		
		Deputy J.M. Maçon (S)		
		Deputy of St. Martin		
		Deputy of St. Ouen		
		Deputy L.M.C. Doublet (S)		
		Deputy R. Labey (H)		
		Deputy S.M. Wickenden (H)		
		Deputy G.J. Truscott (B)		
		Deputy J.H. Young (B)		
		Deputy L.B.E. Ash (C)		
		Deputy K.F. Morel (L)		
		Deputy of St. Peter		
		Deputy of Trinity		
		Deputy of St. John		
		Deputy M.R. Le Hegarat (H)		
		Deputy C.S. Alves (H)		
		Deputy K.G. Pamplin (S)		

6.4 Public impact of Propositions: proposed amendment to Standing Orders (P.96/2018) - as amended.

The Deputy Bailiff:

Very well, we now return to debate on the main proposition as amended. Does any Member wish to speak on the main proposition?

6.4.1 The Deputy of St. Peter:

I totally understand where Deputy Guida is coming from. We arrive in the Assembly as new people and we get a tsunami of paper, most of which is basically gobbledygook to try and interpret and understand. I was remembering I was reading my father's obituary, he died in his 90s, in 1991 and he was asked why he never went into politics and he just said: "All the reading." I do not think that has changed over the last 30 or 40 years. It must be simplified. However, I am not sure bringing a Standing Order to that is the solution. I think it should be a best practice for anybody bringing a proposition to the House to point out the pros and cons, who will benefit and who will not benefit from such a proposition, to put the positives and the negatives to it, and also put some financial considerations to that. That should be more of cultural change to help each other with the propositions, to read and interpret these propositions so we can come to a clear conclusion instead of imposing it within the Standing Orders. That is the only reason why I will not be voting for this. I have full understanding as to why we should be simplifying it but I am not sure Standing Orders is the solution.

6.4.2 Connétable R. Vibert of St. Peter:

I fully understand why the Deputy Minister has brought the proposition, however having come from the world of project management and spent many hours on cost analysis, this is a proposition that will only create work. The fact that he does not demand accuracy is the reason that I will vote against it. It will create an industry in itself but to suggest that you can spend 30 minutes on putting some sort of estimate, sticking your finger in the air and pulling out a figure, defeats the whole reason for having the proposition. If you are going to do a job then you have to do it accurately. The worst thing you can do is make a guess at financials when you are putting forward some sort of proposition because in the end people will take that figure and consider it with some form of accuracy. I would ask Members not to vote for the proposition. Thank you.

6.4.3 Deputy R. Labey:

P.P.C. could not receive better advice on our procedures than it does from the Greffier. For the reasons that we have laid out in our report on this proposition, codifying this in Standing Orders will not work and we should not be putting things into Standing Orders that are going to be troublesome and are not going to work. We simply should not do it. In fact we are going in the wrong direction for Standing Orders, which when I left the Island 30 years ago was half the size of this and I turn my back for 30 years and it has doubled in size. The piece of work we need to do is on Standing Orders and making them much more economical. The Deputy's own proposition does not do what he is asking everyone else to do subsequent to it if it is successful. I call it the Buzz Lightyear proposition because it is to infinity and beyond; there are no limits on what we are being asked for. But other speakers are correct in that the Deputy's intentions are good and I do not like to knock or disrespect any Back-Bencher who brings a proposition to the Assembly. I am interested to have seen the attempts by the Council of Ministers to assist Deputy Guida here in amending his proposition but, in fact, for all their best intentions and best efforts and careful thought, it was sending the proposition in the wrong direction and it was becoming even worse in my opinion. Here, I think, we need to keep in sight that what we should be aiming for is outcome focused public policy with our propositions. So properly outcome focused propositions, worked through with a clear intention of the outcome or impact, they can be the same, they can differ slightly. So a clear intention of the outcome, the output, the activity needed, the input, the money needed and the consequences both foreseen and unforeseen, if you could do that, the beneficial consequences and detrimental ones. We should be able to tick those boxes with every proposition that comes before us. Applying Deputy Guida's proposition to say the Common Strategic Policy would be an interesting exercise and would take an awful long time, I suggest. In fact the Common Strategic Policy begins with its first policy, which is not outcome-focused public policy, putting children first is not an outcome, it is probably output. It is an activity or something you want to keep in mind when you are trying to assist with the benefit or welfare of children in the Island so putting children first is not outcome focused public

policy. There is, later on in that document, a perfect piece of outcome-focused public policy in - I think it says - a safe and caring family home for every child. There is almost a perfect piece of outcome-focused public policy, I have always thought so when I saw it in Deputy Martin's manifesto, I think, in 2014, but certainly in the last election. You can clearly see that is a sensible outcome to aim for. The output, the activity, would need to be recruiting foster carers and training more foster carers, adoptive parents, and maintaining them. The input, the money to be spent would be on financing all of those 3 things and the consequences one could see might be the closure of institutions, which would be a good thing; there might be less beneficial or detrimental consequences in terms of the labour and possible redundancies of moving around. That is a perfect outcome-focused public policy. What is the difference between a safe and caring family home for every child in the Island and putting children first? What is the major difference between those 2 policy statements? One you can measure and one you cannot measure. An outcome-focused public policy should be something that we can measure, that we can see how we are doing, whether we are failing and need to do more or need to do it differently or whether we are succeeding. I think that is why a lot of Members could not sign the pledge because they were asked to sign it for something that is immeasurable. How do you tell if we are putting children first? It is a laudable aim, I do understand it, but there is better outcome-focused public policy further down the document.

[12:45]

This proposition is well-intentioned. It will not work in terms of being put into Standing Orders. I do not think if we were all to carry the box-ticking exercise of outcome-focused public policy, the output, the input and all the consequences, if we were to tick those boxes, and we should speak this language and your Civil Service will know ... there are many Ministers here who do know, Deputy Young is ... we see the headlines of he wants to bring the congestion charge. Of course he does not want to bring in a congestion charge, he wants to improve the air quality for those who are living and working in St. Helier. That is one of the tools he can use. But, of course, very often the headlines get taken into the press. Deputy Martin knows exactly what she is talking about with outcome-focused public policy, as the most savvy politician, I think, in this Assembly, and I do hope the Council are listening to her advice on this. We should always be striving for properly outcome-focused public policy, carry that with us, ask those questions on the output, the input and the consequences, and we would probably be doing a great service to the people we do serve, but this proposition, regretfully, I cannot vote for.

The Deputy Bailiff:

Are you going to propose the adjournment, Deputy, or are you going to ask to speak?

LUNCHEON ADJOURNMENT PROPOSED

Deputy G.P. Southern:

I am indeed, Sir, going to offer that choice to the House.

The Deputy Bailiff:

Very well, the adjournment is proposed. The States stands adjourned until 2.15 p.m.

[12:47]

LUNCHEON ADJOURNMENT

[14:16]

The Deputy Bailiff:

We return to P.96, Deputy Guida's proposition. Does any Member wish to speak on the proposition?

Deputy J.M. Maçon:

The appel, please, Sir?

The Deputy Bailiff:

The position is that the debate is closed, no other Member wishes to speak, it would now be the proposer's opportunity to speak on the matter but he is not here. We can defer it to follow on from the next item after he returns, being that I think this is the Deputy's first ever proposition, or the matter could be in theory, I suppose, put to the vote.

Deputy M. Tadier:

Sir, I think it was asking for the appel to see who is here, is that something that can be done under Standing Orders?

The Deputy Bailiff:

No, we are entirely quorate. That would be true if we were not quorate but we are quorate.

Deputy S.M. Wickenden:

Could we request an adjournment while we wait? No?

The Deputy Bailiff:

The mood of the Assembly seems to be against it.

Senator S.C. Ferguson:

It is just possible presumably to move on to the next item.

The Deputy Bailiff:

It is indeed possible to move on to the next item. Speaking as the Chair I suppose I am slightly concerned that something must have happened to the Deputy because everyone knows the States start at 2.15 in the afternoon and he was midway through his proposition. I am slightly worried not to act precipitously.

Deputy J.A. Martin:

Would it be helpful if I, as a Member, request that we come back to the ... **[Interruption]** No, you cannot come that way either. Deputy, you have to come ...

The Deputy Bailiff:

Deputy, you have to walk around the back and then you need to explain to the Assembly why you were not here to continue with your proposition.

Deputy J.A. Martin:

Thank you, Sir.

The Deputy Bailiff:

Thank you very much. Deputy, perhaps you can remove your coat, turn your speaker on and stand to say what you need to say to the Assembly. The position that we reached was that no one else wished to speak on your amendment, you were called upon to reply and you were not there. So it is only out of the good graces of the Members that this matter is still open. Perhaps you would like to explain the position to Members.

6.4.4 Deputy G.C. Guida:

Yes, well, again, my apologies. A number of us were invited to d'Auvergne School for their big event of Children's Day and it was completely outside of our ... sorry, it was completely outside of

our control, thank you, when we were going to come back, even though, of course, they were told that we needed to be here at 2.15 p.m. I apologise for being late. May I have a chance to finish?

The Deputy Bailiff:

Yes, the position is obviously that, although clearly you have given your reasons, States business must take priority and it is not prudent if you are midway through a debate on your own proposition not to be absolutely certain that you could be back to deal with it when you are called upon to do so. If you take that as a remonstrance from the Chair, yes, the debate is now closed on your matter and I call upon you to respond.

Deputy G.C. Guida:

I accept the remonstrance, I will be much more careful in the future. Yes, to close this I must say it is extremely confusing because I have had a large amount of support every time saying that we really like the idea but we really do not want it, which is very difficult. You have my thanks anyway and I suppose it is the end result that counts because all of this is about saying to the public that we are bothered about how we make it all pay, that when we come up with a new regulation every week we care about what it costs. That is the essence of this. That is very funny, of course, I am completely new in politics and completely new to how government works and as a businessman ... yes, I know you can spend days doing calculations, especially if you are surveyor, but as a businessman I say I want so many square metres, it is going to be £100 per square metre and that is what it is, that is what the building is, I do not need ... after that, of course, when you order concrete you want your surveyor to tell you exactly how much concrete you want. But I know that that building will be £5 million before I sign any sort of contract. When I negotiate a contract I can make it up in my head, the other guy has the indication of what changes and whether it is in my interest or not. It is things that we do all the time outside of this. So when it is government, all of a sudden a very simple request becomes completely unmanageable and we should not even consider it, but, of course, when it is the public, we have this new regulation, we have to comply with it, what do we care about the cost to you? I know of several within my department coming up and many for this Assembly; 500 propositions a year is 250 hours of time to just make an idea of how much it will cost. I have said it during my initial speech, every other country does it and they do not do it as a back of a fag pack calculation, they do it as major works and we will have to do it as well at some point. So let us get started, let us make it a very, very small leap for the Assembly and a large leap for constituents. I urge you to vote for my proposition.

The Deputy Bailiff:

The appel is called for. I invite any Members not in their seats to return to their seats. I ask the Greffier to open the voting.

POUR: 3		CONTRE: 37		ABSTAIN: 0
Deputy G.C.U. Guida (L)		Senator L.J. Farnham		
Deputy of Trinity		Senator S.C. Ferguson		
Deputy J.H. Perchard (S)		Senator K.L. Moore		
		Senator S.W. Pallett		
		Senator S.Y. Mézec		
		Connétable of St. Helier		
		Connétable of St. Saviour		
		Connétable of St. Brelade		
		Connétable of Grouville		
		Connétable of St. John		
		Connétable of Trinity		
		Connétable of St. Peter		
		Connétable of St. Mary		
		Connétable of St. Ouen		

		Connétable of St. Martin		
		Deputy J.A. Martin (H)		
		Deputy G.P. Southern (H)		
		Deputy of Grouville		
		Deputy K.C. Lewis (S)		
		Deputy M. Tadier (B)		
		Deputy M.R. Higgins (H)		
		Deputy J.M. Maçon (S)		
		Deputy of St. Martin		
		Deputy of St. Ouen		
		Deputy L.M.C. Doublet (S)		
		Deputy R. Labey (H)		
		Deputy S.M. Wickenden (H)		
		Deputy of St. Mary		
		Deputy G.J. Truscott (B)		
		Deputy L.B.E. Ash (C)		
		Deputy K.F. Morel (L)		
		Deputy of St. Peter		
		Deputy of St. John		
		Deputy M.R. Le Hegarat (H)		
		Deputy S.M. Ahier (H)		
		Deputy C.S. Alves (H)		
		Deputy K.G. Pamplin (S)		

7. Draft Road Traffic and Vehicles (Vienna Convention – Miscellaneous Amendments) (Jersey) Regulations 201- (P.109/2018) - as amended

The Deputy Bailiff:

The next item is the Draft Road Traffic and Vehicles (Vienna Convention - Miscellaneous Amendments) (Jersey) Regulations, P.109 and I ask the Greffier to read the citation.

The Greffier of the States:

Road Traffic and Vehicles (Vienna Convention - Miscellaneous Amendments) (Jersey) Regulations 201-. The States make these regulations under the Motor Vehicles (International Circulation) (Jersey) Law 1953, the Order in Council of 26th December 18512 and Article 92 of the Road Traffic (Jersey) Law 1956.

7.1 Deputy K.C. Lewis (The Minister for Infrastructure):

I am asking the Assembly today to approve legislation which will enable the United Nations Vienna Convention on Road Traffic to be extended to Jersey. Please note that we have accepted the amendment proposed by Scrutiny, which allows the Assembly to bring forth regulations to amend any orders made and the proposal I am presenting. If Members approve this legislation today then the U.K. will be able to extend it to Jersey as a Crown Dependency in time for Brexit. If the Assembly does not approve this legislation today then we face the very real risk of Islanders being unable to drive either their own vehicles or hire cars in parts of the European Union after March of next year. I will now set out why we need to introduce this legislation before changes in regulations that it requires and what the likely practical implications are of those changes. The Vienna Convention on Road Traffic is designed to facilitate cross-border traffic and increase road safety. The jurisdictions which signed a convention commit to a set of common safety standards and are obliged to recognise the legality of vehicles and drivers from other signatory countries and the I.D.P.s (International Driving Permits) that they issue. Until now, being part of the common transport area has given the U.K. the right to drive in E.U. countries. Brexit will mean that they leave the transport area and for

that reason in March 2018 the United Kingdom ratified the Vienna Convention that has given the U.K. a sound legal basis and certainty for drivers and vehicles travelling in Europe. During the time that the U.K. has been part of the E.U. Common Transport Area, it has become customary for E.U. countries to accept all other G.B. (Great Britain) drivers on the same basis as the U.K., despite the Crown Dependencies not being part of the same agreements. It has been assumed that we have the same rights and vehicle testing as the U.K. and this has been why Jersey drivers have had unhindered passage through Europe. That, of course, will not be the case once the U.K. leaves the European Union. So Brexit has simply highlighted a problem that was already there. While we are signatories of the 1949 Geneva Convention we currently have no or limited rights to drive hire cars through or in Germany, Switzerland, Croatia, Estonia, Latvia or Lithuania. This raises a worrying question around motor insurance in some countries. A question that would apply to both hire cars and privately-owned vehicles. So could we do nothing and hope to continue as before? Brexit has made our position much more public and we would be putting at risk the thousands of Jersey cars and commercial vehicles that travel directly to Europe by ferry. It could also affect the many people who hire cars abroad on business or holiday using their Jersey driving licence. As part of the preparations for Brexit, my officers have been liaising with the Department for Transport and have agreed on a set of standards which are required for the U.K. to ratify the Vienna Convention on our behalf. These changes must be in our domestic legislation and enacted before the U.K. will extend the convention to the Island. The regulations presented today will achieve this. These proposals are all or nothing and need to be agreed, as presented, if we are to comply. Looking at the proposals in detail there are 4 areas of regulation required.

[14:30]

The regulation making it compulsory for seatbelts to be worn when driving will be extended to include drivers and passengers of large vehicles and medium-sized goods vehicles over 3.5 tonnes. It will also introduce the registration of commercial trailers. Post-Brexit, unregistered Jersey trailers could be turned away at the borders of countries which have ratified the Vienna Convention so any commercial trailer, above three-quarters of a tonne and non-commercial trailers above 3.5 tonnes will need to be registered and to display their registration mark, which will be a small plate when they travel to Europe. In practical terms, D.V.S. (Driver and Vehicle Standards) would inspect trailers and issue the documents. Each trailer will be registered just once. Registration will not be time limited and there will be a £29 registration fee. Non-commercial trailers below 3.5 tonnes, such as caravans and large horse boxes, have the option of registering voluntarily if they are going to travel to Europe, which should give the owners greater comfort that they will be able to travel uninhibited. The proposed legislation would also introduce an international driving permit which drivers would be required to produce if stopped or involved in a traffic accident while abroad. The permits would be issued by our Parish Halls using the same administrative process that is currently used for the permits issued under the Geneva Convention. The 2 would run in tandem since the signatories differ between the 2. The Vienna Convention permits will cost £10 and would have an expiry date of 3 years. The fourth and most significant of the proposals is the introduction of the roadworthiness inspection for all vehicles. My team has worked closely with the United Kingdom's Department for Transport to agree a vehicle inspection regime which is proportionate to Jersey's requirements. We are smaller so there is less wear and tear on vehicles here. However, the inspection regime has to be for all vehicles. We could not only test those vehicles travelling off Island, the reciprocal nature of the Vienna Convention means that in order to become signatories we have to demonstrate that we have the Articles in domestic legislation, that we have implemented minimum mandatory inspection requirements for all large vehicles and that we intend to inspect all vehicles as far as possible. It would set an unacceptable precedent if we were to do anything other than that. The United Nations would not accept it, the United Kingdom would not accept it, and neither would the other signatories because it would undermine both the intent and principles of the convention to improve international road safety. Being banned as a signatory the U.K. is unable to work against the principles of the

convention so the U.K. must satisfy itself that Jersey is meeting these standards before requesting the convention's extension to us. So practically what will we be inspecting? Essentially, there will be a set of roadworthiness standards for tyres, brakes, lights and exhaust. Inspections would be introduced in a phased way. We already inspect commercial vehicles which are over 3.5 tonnes and public service vehicles. From next year 10-seater mini-buses would also be inspected annually at D.V.S. The cost for inspection will be no more than £90. Mopeds and light motorcycles would also be inspected from next year at D.V.S. as well. The cost for inspection will be no more than £30 and it would happen every 2 years once the bike had reached 3 years old. Inspection of other domestic vehicles would only begin in 2021 subject to new inspection facilities being available. From 2021 all cars 5 years old but less than 40 years old would be subject to inspection every 3 years. The cost is estimated at being no more than £60. The price of the inspections would be based on the cost of establishing and running the required inspection facilities and not as a money-making exercise. The practical elements for all the inspection of cars, the issues of who, how and where these inspections would take place are yet to be decided. We will investigate the options and then present our proposals to Scrutiny before we start any procurement process. The options are having several licensed inspection centres; a dispersed model which is now how the U.K. operates; a single licensed operator similar to the national car test in the Republic of Ireland; a government-owned inspection centre, which is franchised to the private sector, an inspection centre which is both owned and operated by the government which would be similar to Northern Ireland; or a mixed model combining a central inspection centre with dispersed options. What it will not be is obligatory for garages to deliver these inspections. Mechanics will be able to continue to operate as they currently do, if they wish. So we have worked hard to protect the rights of Islanders to circulate freely in Europe. We have produced the enabling legislation to achieve this and will follow this with a detail of the scheme to meet the programme. I recognise that there is bound to be some concern over vehicle inspections but we have produced a proposal which is specific to Jersey and which will be brought in over time, and it is not onerous. Not only will this enable the Island to become a signatory to the Vienna Convention but it will also improve safety and environmental benefits. I commend these to the Assembly and I make the principles.

The Deputy Bailiff:

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

7.1.1 The Connétable of St. Brelade:

The Environment, Housing and Infrastructure Scrutiny Panel has elected to submit an amendment to this proposition, principally as a result of the haste in which it has been brought. The panel does understand that the timeline involved has been compromised by our elections earlier this year and the necessity to confirm our intentions to the British Government in the event that Members approve the Minister's proposition. The report attached to our amendment outlines the reasons for this minor amendment but in simple terms we feel that as the proposals will affect a large number of vehicles it is important that the detail of the implementation process and costs get submitted for approval by the States, by regulation, once they have been worked up.

The Deputy Bailiff:

Connétable, we are simply speaking to the principles, is this something you wish to deal with at this point or do you wish to wait for the amendment?

The Connétable of St. Brelade:

I can wait until the amendment.

The Deputy Bailiff:

It is entirely a matter for you but obviously it is not necessary to hear effectively the same speech in the Assembly twice.

The Connétable of St. Brelade:

No, I would speak differently to the amendment.

The Deputy Bailiff:

So do you wish to speak to the principles alone?

The Connétable of St. Brelade:

I shall do that later if I may, Sir. Shall I continue ...

The Deputy Bailiff:

I am afraid you have started your speech, you are on your feet, so if you wish to speak to the principles you have to do it.

The Connétable of St. Brelade:

Indeed I can, Sir, in that case, and I will just do a simple proposal for the amendment later.

The Deputy Bailiff:

Indeed.

The Connétable of St. Brelade:

All right, I will propose the amendment later and at this stage I would therefore continue by congratulating the Minister and his officers for putting forward proposals that may, in theory, mitigate risks which have been flagged-up with regard to the U.K. exiting the European Union. The difficulty in my view is that there is a significant lack of certainty over the status of Jersey licensed drivers and Jersey registered vehicles post-Brexit. We are being asked to agree to put in processes which are going to affect all vehicle owners, have a significant impact on the motor trade and create costs which we do not at present have. I can fully understand that benefits in terms of road safety and air quality improvements may be the result of a vehicle-testing regime but this can be equated to using a sledgehammer to crack a nut. We already have a vehicle construction and use law in place to deal with these issues and generally 2 roadside inspections per Parish per year conducted in conjunction with the Honorary and States Police. The Minister has alluded to the invitation from the U.K. Government to join in with them in the ratification of the 1986 Vienna Convention which, it is my understanding, they are doing in essence to safeguard English drivers circulating in Germany and certain Baltic states. There does not seem to be any publicly available documented evidence that this will be the case but I suspect it is one of the measures being taken in the event of a no-deal Brexit. I am cognisant of the requirements of the Vienna Convention in that it requires the contracting parties to comply in inspecting all vehicles as far as possible. I suggest it would not be unreasonable for this simply to apply to vehicles travelling overseas. The definition of "as far as possible" I think is very important and can be interpreted in lots of different ways. Certification from recent servicing could easily be produced and thus demonstrate a willingness to achieve the standard required. We hear on the media that deals have been agreed by the Prime Minister but given they are yet to receive parliamentary approval and there appears to be significant political turmoil, it is difficult for any one of us to make well-informed decisions and is almost reminiscent of a phony war, and all sorts of rumours abound. The situation between Jersey and France, which tends to be of more interest to Jersey residents, being the only point of landing on the European Continent, is unclear. A question to the Minister for External Relations by me in the States last month indicated that no discussions had taken place, so one does have to question whether the proposals on the table today are premature. Information received suggests that both France and Jersey are signed up to the 1949 Geneva Convention, which does not insist on the universal testing regime. There does appear to be a degree of certainty that after 29th March there will be what is described as an implementation period, during which we may be better placed to negotiate arrangements better suited to Jersey, and if indeed they

are found to be necessary. Jersey is presently ill-prepared to implement a testing regime for domestic vehicles, and while many garages would welcome additional work, the reality is they simply do not have the staff to do it. This point must receive consideration, as alternatively we will find ourselves bringing in additional non-qualified staff with the inevitable ongoing consequences. The issues of non-compliance need also to be understood, as failure to have your vehicle tested under the present proposals are likely to result in Parish Hall or court appearances and level 2 fines. The decision to be made by States Members today will be dictated by their appetite for risk, based on the uncertainties of Brexit and limited information. If they are risk averse, they will support the Minister's: "Auntie knows best" proposition and accept the consequences. However, if they have an aversion to increased bureaucracy, red tape and hassle, they will not.

The Deputy of St. Peter:

I would like to seek clarification from the Attorney General, if I may, because on one hand we are being told - and I am referring really to an email the majority of us received this morning - that we must go with the Vienna Convention in order to drive our cars, *et cetera*, on European turf. However, I have also been told that the 1949 Geneva Convention, which the Constable of St. Brelade mentioned, itself could be satisfactory for our purposes, whereby removing the need to have vehicle testing as a specific debate being dragged in. Can I seek that clarification, please?

The Deputy Bailiff:

Attorney, are you able to assist?

The Attorney General:

Yes. [Laughter] But I will carry on. Yes, to answer the question, I will say a few words which may assist. The Minister correctly says that Great Britain is currently subject to the Common Transport Policy of the European Union and will cease to be, either at the end of March next year or perhaps as late as the end of 2020, perhaps later than that. But of course that Common Transport Policy never applied to Jersey and whether or not this was properly appreciated or analysed in France or Germany, which we simply do not know the answer to, the position is that when Jersey motorists now drive in France, as a matter of law, that must be pursuant to the Geneva Convention, which does not require testing.

[14:45]

France remains a party to that convention, as do 20 or so other European countries, and Jersey could remain a party to that convention, notwithstanding a U.K. decision to become party to the Vienna Convention. To answer the question from the Deputy, I think I am answering the question he has asked. Notwithstanding Brexit and the date of Brexit, whether it is at the end of March or the end of 2020, the position in respect of the Geneva Convention and Jersey and France and any other countries will not change. As a matter of law, Jersey drivers and their cars have been driving in France in law under the Geneva Convention for the last 40 years or so and, in principle, at least could carry on doing so after Brexit. Brexit would not change the Geneva Convention relationship that Jersey has with other countries, including France.

The Deputy Bailiff:

Is it a question for the Attorney, Senator?

Senator I.J. Gorst:

It is, Sir. Just clarification on his earlier comments. Obviously, as one would expect, the learned Attorney was quite right as a matter of law, cars could continue, Islanders could continue to circulate in their cars post-Brexit under the existing Geneva Convention. However, he did very carefully mention the differential or perhaps the oversight of whether we were currently complying with the E.U. requirements. The only way to ensure that we had similar standards would be like the U.K.

have, to have the Vienna Convention extended. I wondered if he would like to say a little bit more about perhaps that oversight, not that we wish to dig at wounds.

The Attorney General:

As I have indicated, the position is currently that Jersey motorists and their vehicles must be driving in France and other countries pursuant to the Geneva Convention. In principle, that will continue or could continue after Brexit, but what the Senator I think is referring to - and the Minister touched on - is the unquantifiable risk, that there might be a difficulty in doing so after. In those circumstances, the spotlight may be not merely on U.K. drivers, but also on Jersey drivers, G.B.J. (Great Britain - Jersey) drivers, particularly in circumstances where the U.K. will have elected to become a party to the Vienna Convention, which does require periodic testing in relation to all vehicles, which is a standard which is adopted by certainly all E.U. countries, and I think even non-E.U. countries that share a border with France, by which I mean Monaco and Andorra. I hope that answers the question that Senator Gorst asked, but I am happy to answer any more questions. I appreciate it is not a straightforward area.

The Connétable of Grouville:

Could I ask a question, Sir? Does the Geneva Convention cover Germany and driving in Switzerland and Germany?

The Attorney General:

It does not cover Germany. I have a list of countries that it does cover, which I can read out in a moment. The Geneva Convention covers most countries. If it is useful, I can circulate it to all Members now so they know what countries are covered, but it covers *inter alia* Austria, Belgium, Bulgaria, Czechoslovakia, Denmark, Finland, France - not Germany - Greece, Hungary, Ireland, Italy, Luxembourg, Monaco, Montenegro, Holland, Norway, Poland, Portugal, Romania, Russia, Slovenia, Spain and Sweden. The excluded countries are principally, for these purposes - for our purposes - the Baltic states and Germany, which are parties to the Vienna Convention, but not the Geneva Convention.

7.1.2 Deputy S.M. Wickenden:

I think I am going to simplify this a little bit. We do not know how much it is going to cost; we do not know who is going to do it. It cannot be profit-making, so if we are going to enforce this on to the garages, what is their business plan going to look like? Are they going to spend all of their time doing non-profit work for the Government? We do not know if Brexit is going to happen. Are we going to start building nuclear bunkers by regulation underneath all our houses in case of the up-and-coming possible nuclear war? This just seems like we are putting the cart before the horse. Let us wait for something to happen and if we need it before we start enforcing this on our populous. It is not going to be popular. We may know how many cars are over 5 years old that need to be checked every 3 years, but I heard on the radio from a gentleman who is part of the Motor Trade Organisation saying that we just do not have the resources to be able to do the amount of vehicles in the amount of years. This just seems barmy, if I am allowed to use that word, or crazy or ...

The Deputy Bailiff:

Yes. You can ask him if you want him to have a look. It is a ...

Deputy S.M. Wickenden:

No, I cannot support this in its place. It seems like we just do not have all the answers. This is not the way that we enforce things on our populous, without the right answers. We cannot tell them how much it is going to cost, who is going to do it. It is crazy. Sorry, I will not be supporting this proposition.

7.1.3 The Connétable of St. Peter:

I would urge that Members should vote for this proposition. I must admit, I do not believe that it is barmy. First, we have the Geneva Convention. Unfortunately, although a number of states have signed up to the Geneva Convention, it does not necessarily give you unhindered access. You can travel to these countries, but it does not necessarily give you unhindered access, which is implicit in the Vienna Convention, if you have undertaken the test, *et cetera*. We cannot guarantee, whether there is a Brexit deal or there is not one, and we clearly have to sign up to one of the agreements if we are not to put our motorists at risk, who wish to travel to France or to other countries. We also cannot guarantee that the currently friendly arrangements with the French authorities would be maintained. Currently they look at our licence, it looks like a European licence, they let us drive through. It is not a European licence. But what I can tell you is something that happened to one of my own Centeniers a year ago. He travelled through Europe with his wife to visit relatives in Romania. A particularly diligent officer on the border with Romania noted his Jersey licence, it had no E.U. symbol on it and he was stopped and they demanded a roadworthiness certificate. There he stayed for the next 4 hours arguing with them. In fact, he was taken into a building and they sat in the building - I understand it was pretty cold - and eventually a senior officer from some other area arrived after 4 hours, was not entirely sure of the situation, but thought they had waited long enough and let them through the border. That is exactly what will happen to our motorists if we do not act on this. If we do not act on it now, we will not meet the transition period at the correct time. I recently had a Parish meeting with the Deputy and we discussed with the parishioners the fact that testing might come about and they were accepting the situation and thought that testing itself was a good idea. They had some concerns about the detail, but today is not about the detail. Today is about the enabling legislation to allow this to happen. I truly believe that unless we sign up to this and the Vienna Convention, we are not recognising the risk we are placing our motorists in. They may still get across into France and into other countries. We then have the insurance risk. Will they be insured? Some policies say that if you hold a licence, then you are still insured; others do not. Others only say the policyholder is covered if he has held a licence and anybody else who does not have a valid licence on the policy is not covered. There are significant risks if we do not sign up to this. As I say, I am certainly not going to enter into the details of testing and how that should be done and cost. It is simply the enabling legislation to allow the first step and for the U.K. to say that Jersey has signed up to the agreement. I would like to implore the other Members to accept this legislation.

7.1.4 Deputy K.F. Morel:

I was just thinking over those good words. The problem with this legislation is that it is not just simply enabling legislation. Too often I hear those words: "This is simply enabling legislation." Enabling legislation has consequences; enabling legislation leads to things. In this case, the things it leads to are more than just details and this is the time and the place to discuss some of those details. Some of those details include estimates of costs of £5 million to the States of Jersey - or at least to Islanders - for the tests, for the creation and maintenance of the testing regime, should we accept that. That is £5 million that Islanders do not need to spend today. Why are we spending this £5 million? The evidence, as Deputy Wickenden so concisely put, is not there as we stand as to why we need to spend this £5 million on behalf of Islanders. The Isle of Man has chosen itself not to go down this route. Now, of course the Isle of Man does not have quite the ferry links to France that Jersey does, but it has plenty of Islanders who travel to Europe, who hire cars in Europe, but they have decided that it is more prudent, rather than spending the money and tying itself to such legislation, to wait and see what happens. In reality, will Islanders be hindered as they travel through Europe? We do not know at this moment. The department - and understandably the department - has decided that it will go for the gold-plated option, it will get everything in place now and it will make sure that we are 100 per cent risk-free. That is fine. That is their point of view, but there is another point of view, which is to say is this a risk that at the moment we should mitigate in its entirety or should we wait 6 months, one year, and see what is happening on the ground? Because right now we have no idea of

what will happen on the ground and there is entire uncertainty. No one in the department can tell you for sure. There is not one person, no Minister who can tell you exactly what will happen come 29th March or later. It is for that reason I find this an incredibly difficult piece of legislation to deal with in my own head as to which way to vote on it. I do not want Islanders having problems when they travel, but equally, I do not want Islanders spending more than they already have to. So far we have passed legislation to enable the settled status scheme because of Brexit. That is going to cost current E.U. citizens who live here £25. We are now saying we are going to put another £20 per year - because it is £60 for every 3 years - on top of that, so that is £45 so far Brexit has cost many Islanders on top of the £5 million that we are also asking them to spend upfront for the capital costs of creating this. These are not the only costs of Brexit, they will continue to grow, and I believe it is this Assembly's duty to try to minimise those costs, as well as trying to ensure that Islanders are protected from the effects of Brexit as best they can. If we just go straight down the route of accepting everything that every department throws our way, we will be putting enormous costs on top of Islanders. By the time this Brexit process is finished, we will have Islanders spending £20 here, £20 there and we will not have thought of it in its entirety. How many £20 are we asking them to spend? The Constable of St. Brelade is absolutely correct, that this a case of risk mitigation and it is up to us, each individual here, to decide how far they want to mitigate that risk. My view is that we should wait. My view is the prudent thing to do is wait. We will get to discuss individual parts of the legislation a bit later on and I look forward to adding my voice in there.

[15:00]

But for the moment I ask: £5 million plus the £20 costs, *et cetera*, every year, is that worth it for 7,000 cars that travel to Europe every year, out of the 100,000 or so that we have on this Island? £5 million for 7,000, is that worth it?

7.1.5 The Deputy of St. Martin:

I do not have a speech, so I hope Members will bear with me. I know that it is the Government's view that we want to stay as close to Europe as we can after Brexit, as close to Protocol 3, and in layman's terms, that means as close to the current arrangements that we enjoy. I had thought until the last 15 or 20 minutes that maybe that was the Assembly's view as well, but it appears that we do have some here who would wish not to enjoy those facilities. As a Member of this Assembly who has taken a great interest in Brexit, I have said time and time again for many months now, as loud as possible, that I thought it would be politically unacceptable to have Jersey vehicles stopped at the end of the ramp in Saint-Malo on 1st April next year. I have campaigned as hard as I can to make sure we are prepared for every eventuality. Yes, we do not know what is going to happen, but we need to be ready for that worst-case scenario. The Vienna Convention is something that we have to do. Why do we have to do it today? We have to do it today because we have a time issue. Time is not on our side. I wish it was, I wish we had more time and we could discuss this detail and discuss the issues Deputy Morel refers, but we do not. If we do not pass this today, we do not have time to get the legislation in place to allow the U.K. to extend Vienna to us, we risk - and I accept it is a risk - Jersey vehicles, not just people going on holiday, but those commercial people who export their goods to the Continent arriving at the top of the ramp in Saint-Malo and being stopped, maybe for 5 minutes, maybe for 5 hours, maybe for 5 days or maybe turned around and sent back because it is not acceptable for us to be part of Geneva when we need to be part of Vienna. The confusion with the U.K. being under one regime and us under another will be there. Is it also acceptable for us as a jurisdiction who likes to see themselves as leading to put our reputation at stake by accepting a lower level than others? I say no. We know we need to tackle emissions; that is something that Jersey lags behind on. We know that Vienna will allow us to do that. I accept there are some issues on safety. Vehicles these days are so much safer than they were in the past. But before I stop, I just go back to my first point: I just find it politically unacceptable that vehicles may run the risk of not being allowed on to the Continent after the end of March next year and I ask Members to think very carefully. We

have detail we can argue about in the future, but we need to get this over the line today. We can discuss the cost, we can discuss how we put this into practice next year, how many garages, who does it, who does the inspection, who pays for it, how much we pay. That can all come later, but we need Vienna extended to us and I urge Members to agree this today.

7.1.6 The Deputy of Trinity:

You have virtually covered quite a bit of what I was about to say, but dare I use the phrase, can we go down a different route in the sense of what I am about to say? I think what has been said about money, what the Minister said at the beginning, he has clearly set out the necessity for the Vienna Convention and the rights that will enable us, as Jersey residents, to continue to enjoy. I can speak from experience of 18 years in the Honorary Police, and as president of the Association in dealing with all the Parishes and Centeniers. The many discussions that we had with regards to road checks and everything else with the staff, with the D.V.S. and everybody else concerned was the safety of cars. It was always very difficult in road checks to be able to have time to go through all the cars, but I will just give you some statistics, which have taken place over the last couple of weeks. During last month's traffic focus week, officers from the States and the Honorary Police stopped 570 cars, trucks and vans. There were 124 that were found to be defective. That goes into the situations of tyres, brakes and lights. The other one which tends not to come out too often is that because of the salt in the air and everything else, there are a lot of rusty cars that are travelling around this Island that never get checked. Of that 124 that were found defective, 12 were impounded and 2 were taken off the road and were scrapped. In other words, a quarter of all vehicles stopped had something wrong with them. Some were so unsafe to drive that we obviously did not allow them to continue. Now, it is already illegal to drive a defective vehicle in Jersey. We got in touch with the insurance companies that basically insure most of the cars and traffic vehicles in the Island. What we did not know when I got it back, and I will read it, was 92 per cent of the cars are only insured by 5 different insurance companies over here. Now, there is nothing in those insurance policies that says: "You should have an M.O.T. (Ministry of Transport), you should do this, that or the other" but what it does say - and I will read it, it is in every one of your policy documents, and I think everybody in this House drives: "Insurers do not specifically define what good working order and roadworthy conditions is, but if a testing regime is introduced, then a significant defect which would have resulted in failing the test or causing an accident would normally be regarded [and I will quote the legal side here] as breaching the policy conditions" and your policy becomes null and void. It does not say - and they can pick me up on this - in the U.K., but there have been lots of accidents on the motorways, and especially on the motorways, where the cars have been found defective and there has been a complete block with regards to the insurance claims because they have been defective. There are a large range of measures which can contribute to improving everything as a whole, but could significantly provide road safety. Roadworthy testing is one of these. It has always been down to, dare I say it, the Honorary Police doing their road checks and everything else, but we have never really had the time to go through it. We have always used, as you know, D.V.S. and the States Police. The inspections introduced under the Vienna Convention would not replace roadside checks, rather they would enhance them. They would add to the Honorary Police and States Police armoury for combating poor vehicle standards. Police statistics show, and this is one of the other worrying things - and I will show an interest, in the sense that I sat as chairman of the Vienna Convention on behalf of the Minister - that: "The likelihood of a 6 year-old vehicle being involved in a collision is noticeably higher than the likelihood of a 4 year-old vehicle." This is possibly because as vehicles age and the car has come out of warranty, people do not push their car to go to a garage to have it checked over, therefore they have less incentive and there are always higher costs with cars as they get older. They are less likely to address the wear and tear to their car's safety features. The other one that we have used, and again, because we have done a lot of record checks, but from the police records, it is showing in the last 5 years that here in Jersey there have been 20 injury road traffic accidents where vehicle condition has been explicitly recorded as a contributory factor. It is

estimated that introducing the Vienna Convention could save the Island between £280,000 and £340,000 a year in community costs, as well as the accident payment to families, with regards to the accidents that these cars created. Having your car tested once every 3 years seems to me to have a low impact but a high return, so it will not only enable Jersey to meet international standards but will also contribute towards the safety of the Island's roads. I look at all of you in here and say I am sure all in this Assembly would agree it is essential for all who live here to make sure that our cars are tested, and I very much support what has been said by the Minister this afternoon.

7.1.7 Deputy M. Tadier:

I am pleased to follow on from the Assistant Minister, because I think we have had a lack of a case being made for this up until now. I think it is quite right when people stand up and ask that any legislation that we bring to the Assembly is proportionate and that it is needed. I think that is what Deputy Morel was touching on. I am concerned when I hear that, for example, Germany is one of the countries that is not covered under the Geneva agreement. Just from one perspective, it seems to me that although Germany is not our immediate neighbour, it is a country which is not of insignificant political and cultural significance to our Island. I think immediately of the fact that St. Helier is twinned with Bad Wurzach. I think about the Arts Centre, which has a youth theatre, which I think every year tours and goes to visit Bad Wurzach to put theatre on there and has cultural ties in their own right with that town. I ask the question: they or anyone else who is travelling to Germany, whether it be for touristic purposes or for cultural or political reasons, are they likely to face any problems when entering Germany? It seems to me that that is likely to be the case or it is possible that it is the case anyway. The second point which I was glad that the Assistant Minister talked about is, irrespective of this argument, are we being forced to do this by Europe; there seems to be perhaps an understandable undercurrent of: "We do not want to be told what to do by Europe. Do we absolutely need to do this and do we need to do it now? Let us do it on our own terms." I think the argument for whether this is a good thing to do anyway, irrespective of if cars are travelling abroad, we had a figure that said only 7,000 vehicles leave the Island every year and then presumably come back. That is still a significant number anyway, but even if that were not important, is there a value to us having an M.O.T. system in Jersey in its own right? I think the answer has to be yes, that is definitely something which we should consider introducing, because at the moment we have a reactive system, so we rely on cars being pulled over for a reason and that is when a police officer of whatever type can see that there is something wrong with the car, with the vehicle. It may be a tail light that is not working, but how do you check for the issues that cannot be seen? What about if you go up to Glencoe and you buy one of their cars? Anyone can come to Glencoe, buy a cheap car and you take your luck, do you not? You buy a pig in a poke and you might get a good deal. If you have got some mechanical knowledge, you might be able to give it the once-over yourself, you may be able to take it to a friend to look at to test, but otherwise you could be driving around in that vehicle as soon as you register it. You do not know what the state of that car is. It may have a hidden defect; it may have a brake problem. How do the police know if a car has a brake problem when it is going along the road? You only find out about that in the situation where you need to use your brakes or something gives and then the result could very well be that people die on the road. The question is: over the years, how many people have died in Jersey because we do not have an M.O.T. system, because there is not a requirement either when you buy a second-hand car or sell a second-hand car or to have periodical checks? How many people have died and been injured on our roads because that has never been picked up? I think as responsible legislators, we need to be asking that question. Let me give you a story. Let us say the story is set 12 years ago in Jersey and a young person and his brother decide that they want to open up a second-hand furniture business, so they buy the best van that they can afford, but they do not have a lot of money, so they can afford to buy a second-hand £400 Bedford van. It has got the usual things that the Assistant Minister talked about: it has got the rust; it has got a tail light which was working when they bought it, but it stopped working; it has got a hole in the exhaust, but the engine works and it is used perfectly well for humping and

dumping and picking up rubbish, *et cetera*, and they get their business off the ground. But then they get stopped in a road traffic control and they test the vehicle.

[15:15]

They go to the Parish Hall Inquiry and then the Centenier says: “You were driving the vehicle, so I am going to give you a £50 fine for the engine problem, the light at the back is another £50, but the vehicle was owned by the brother, so you are going to get another fine.” One of them says to the Centenier: “But would it not be much easier if we just had a system of M.O.T.s in Jersey, because then you would not have to rely on vehicles like this being picked up, you could take them off the road altogether or people could get the relevant work done?” and the Centenier turns to the young man and says: “Oh, but we do not really want a system like that in Jersey, do we, because it would be so bureaucratic and it would cost a lot of money and, anyway, I have heard that elsewhere it is very easy to pass an M.O.T. if you just give the person a bit of money and it is easy to get a certificate issued.” I would hope we have come on a long time since that young person was sitting across from the Centenier and that this is not about giving jobs for the Parish to do, because I think that the time and the effort that our Honorary Police can be putting into the community can be used a lot more effectively and we can have a proactive system. Of course you can call that bureaucracy if you want to, saying: “Should we be spending money on this?” but ultimately, if it results in people driving around in safer cars and being more responsible and having the added benefit that when Brexit comes in, we are fully prepared and Brexit proves to be the future and that our arts students can go to Germany or even the Constable of St. Helier can go to Germany without the fear of being held up for 4 hours while he is trying to get to a very important meeting, then I think that there may be merit in us passing this piece of legislation today. But it would be good to hear that confirmed by the Minister.

7.1.8 Senator S.C. Ferguson:

I must admit, I was a little confused by all the talk about hire cars. Perhaps the Minister would like to confirm whether they are hire cars hired in France or hire cars hired in Jersey and taken to France, but that is another thing. Like Deputy Morel, I remain to be convinced that this is not merely gold-plating legislation. Going abroad before the E.U., it was not that difficult. You had to have evidence of insurance. I do not think at that stage you had to have evidence of the condition of the vehicle, which is something you could easily organise now. Everybody seems to think that if we do not have this legislation and we cannot go to Germany that there are not other methods of dealing with it. The other methods are going back to the sort of thing we used to do before we got lured into the Common Market, as it used to be. I do not know. We have also heard that the Isle of Man are going to pause for the moment and just see what happens. They do have some pretty good ideas up there occasionally. I am not again picking other people’s brains. I do not know what Guernsey are doing, but perhaps somebody will be able to enlighten me. I am really, as I say, quite concerned, particularly having received the submission this morning from an ex-D.V.S. gentleman pointing out that the Geneva Convention would carry us. We were taking cars abroad before the Geneva Convention was passed, so I really do wonder what we are playing at. I am not convinced.

7.1.9 Deputy M.R. Le Hegarat:

I have spent much time and thought in relation to the Geneva Convention and the Vienna Convention and I have batted it from one side to the other all the way through the process. However, like Deputy Tadier behind me, prior to the speaking of the Deputy of Trinity, I had not really got strong views either way in relation to both the Geneva and Vienna Conventions. The area that I will come from is neither of those 2, I will say. I spent 25 years, as you all know, patrolling Jersey, both in St. Helier and throughout the countryside. I spent a lot of my time dealing with traffic accidents of all different magnitudes. What I will say is that I would like to see us do something in relation to trying to get our vehicles tested to make sure that they are roadworthy, not for whether we go to France, to Germany or to Lithuania, but if we are going to drive them in Jersey. **[Approbation]** I think that is

what we are losing here, the fact that we are going to be driving those vehicles on our roads. I appreciate that we have done different things for a very long time, but there are more and more people that live on Jersey. We are now at 105,000 population. I am of an age that I remember that we had probably maybe not half of that, but significantly less. With more people comes more cars, more mopeds, more cyclists, *et cetera*. For me, this is about safety and nothing else. I travel to Europe. I would like to be able to go wherever I like with whatever convention we go with. However, as I say, I would like to make sure that we have roads and vehicles that are roadworthy and so I would ask that whatever we go with that we have proper testing in relation to brakes, lights, rust, *et cetera*. I accept everybody says: "Well, the Honorary Police do their road checks, the States of Jersey Police do their road checks, alongside D.V.S." I am aware of that. I have spent many an hour with particularly new probationers learning their trade of how to look at a vehicle. Predominantly though we only stop a very small percentage of those vehicles. If we have 100,000 vehicles, for example, we probably stop no more than a couple of hundred per year. It is very likely that we are stopping the same 100 throughout the course of the year. If I am going to take my very old car out on a Sunday afternoon and it is going to need to be looked at whenever the legislation comes in, then so be it. We need to make sure that our vehicles are safe for Jersey and the people that use our roads.

[Approbation]

7.1.10 Deputy J.A. Martin:

It is a real pleasure to follow Deputy Le Hegarat because she says it as it is from the police insight. But I would just like to take Members back: we are not in the horse and cart era. We do have something called Brexit coming at us at the end of March next year. We have had a team working behind the scenes in the last Council of Ministers on this saying: "This is the legislation you need to look at." I hear Deputy Morel say: "It is only 7,000 vehicles." If you have 4 people in that vehicle, which I know loads of families go for, that is practically the population of St. Helier, 30,000 people trying to get off this Island. But no, let us sit back and wait, we do not want to spend £6 million. Nor do I want to spend £6 million. We have something called a motor trade over here. We have youngsters unemployed. Myself and the Minister for Education and my Assistant Minister want vocational training. It talks about training up 6 or 7 more people. Great, absolutely great. It is something you have today to decide: "Let us suck it and see, because the U.K. ain't got a lot on their plate, have they?" There are the knives going in the back of the Prime Minister as we speak, because she is going to worry about Jersey and whether our cars can travel in Europe, France, can they get off the ferry, and if they do get off the ferry, can they go any further than France? We have taken advice. Normally I am with Deputy Guida, we do not need red tape for the sake of red tape. In the U.K., it is M.O.T. and ownership before you can get insurance. Before you even go to any insurance company, you have to prove those minimum standards. As Deputy Le Hegarat says, your brakes work, hopefully. Then for the environmentalists, because I have heard some really staunch environmentalists, and one of them is one of my Deputies who I work with, who is not having this. What are the emissions some of these old cars are putting out for our air quality? This morning it was so important. You cannot have your arguments that suit you. We know we are up against it. If it was up to me, I would never be taking a car abroad. I would never drive on the wrong side of the road. **[Laughter]** I have driven in Australia, and they drive on the right side of the road, being left. It is great to me. What I am saying, we are where we are today. We have one States sitting after this. You cannot bring it back. We are then going to be out and you are going to have people going: "Do you know what, I would not have minded having an M.O.T. because I tried to take my car across the ferry." I would ask the Minister to sum up, because I keep reading this, and I should know this: where do we stand with the U.K.? Because we are an Island, we either go that way or we go that way. I am like: "Can we drive in all of them?" and that is what I think our residents need to know. We are where we are.

7.1.11 The Connétable of Grouville:

One benefit of having M.O.T. tests is with regard to emissions. I was quite surprised when we had our Scrutiny Panel meeting with the trade that few, if any, garages test for emissions at the moment. A garage in the U.K. that gives M.O.T. certificates will test to the right standard, so I think we can be sure, if we do introduce M.O.T. tests, that all cars that are 5 years old will be tested and they will be returned to make sure they are not polluting, or if not, scrapped. I think that is one benefit that has not been mentioned so far, but it is very important.

7.1.12 Deputy J.H. Perchard:

I have a couple of questions I would like to pose, and hopefully the Minister might be able to help me in his summing up in respect of these questions. My understanding of the Geneva Convention is that irrespective of what happens with Brexit, Islanders' ability to access and drive on French roads will remain as it currently is; it will remain unchanged and unhindered, because we are indeed signatories to the Geneva Convention and that that is not going to fall away as a result of Brexit. I am a little confused about some of the comments, particularly by the Deputy of St. Martin with regard to accessing France, and perhaps the Minister could address that point in his summing up. We seem to be conflating a few different issues within this proposition. We have on the one hand the consequences of Brexit, which as I say remain confusing, because as far as I can see, the Geneva Convention, not as a doctrine of the Vienna Convention, does not really change much for us in that regard, but on the other hand we have got the issue of road safety and M.O.T.s or vehicle testing or P.T.I.s (Periodical Technical Inspections) or whatever you are going to call them, which of course I think we generally seem to agree that those are very important and quite desirable. But what seems to be lacking for me regarding P.T.I.s is a full and clear and detailed breakdown of costs. We were told that by 2021 we would have new inspection facilities, which sounds great. We were also told that the costs of an inspection would be no more than £60, but that that price is based on the cost of implementing and running facilities. I was just wondering if the Minister might clarify if he is suggesting that the only cost of implementing and creating new inspection facilities is going to be £60 per vehicle on Jersey or will there be other costs incurred and what will those costs be. On top of that, we were told by the Assistant Minister that 20 accidents were due to defects in vehicles. Again, I was just wondering if we could clarify whether those defects were specifically in relation to tyres, brakes, lights and exhausts, which will be the remit of the P.T.I.s, because of course if those defects were caused by other issues with the car unrelated to tyres, brakes, lights or exhaust, we might want to say the proposed P.T.I.s in their current form are not good enough, they do not go far enough, because they do not address all the possible issues with cars that have caused accidents to date. Therefore we might wish to propose that this is delayed or amended or added to before we put it through. The reason why this is so complex for many Members is because we are conflating these 2 issues, they are wrapped up here, the idea of Brexit and not wanting to pre-empt something that is a little unpredictable and the idea of wanting to do the right thing when it comes to safety on the roads. I guess finally, just to return to the issue of France, we seem to be basing a lot of our statements today on the idea that France will be difficult, for want of a better phrase. I would like to know, have we asked the French, has anyone contacted the Government and said: "When Brexit happens, if it were to be a hard Brexit, Jersey is in this difficult position"? We might not feel comfortable with spending this kind of money right now of signing up to the Vienna Convention. Will we in fact be hindered? Will Islanders in fact be preventing from accessing the French border? I think it is pretty reasonable to want to know if the French have been asked this question rather than just assuming and speculating on the outcome.

[15:30]

Finally, I think that it is really important again - and I keep saying this in various debates - I would really like to see more consultation with the professional bodies, who will be the ones implementing the changes, in effect. How many more mechanics will we need? Where will the money come from? How many cars per hour or how many cars a day will be inspected? How long will that take? What

will the cost be? Because my suspicion is that the overall cost is going to be far greater than £60 per vehicle in Jersey. But again, if the Minister has those facts and statistics, I would be really pleased to hear them and welcome his insights on that particular area.

7.1.13 Senator I.J. Gorst:

I do not know about you, but I enjoy driving on the wrong side of the road. My Constable is not in the room and I reassure him that it is only in those countries where it is considered to be the right side of the road. I am pleased to follow Deputy Perchard, because she is quite right to say there are 2 issues which are, by necessity, of the Vienna Convention being conflated this afternoon. They are preparation for a hard Brexit or no deal and the need to test motor vehicles. I do not want to dwell on the need to test motor vehicles. Others have quite eloquently said why that is a good thing and that perhaps Members of this Assembly would wish to introduce that to enhance road safety. Those of you that know me know that I come from a slightly different tradition. Being a petrol-head, I come to the need for road safety testing rather begrudgingly and I will tell Members this afternoon why that is. Is there great uncertainty about Brexit? Yes, there absolutely is. Can any one of us put our hand on our heart and say that there will be a deal, that that deal will ... initially, let us remember, it has got to be approved by the member states on Sunday, they have got to agree it, and we are already seeing some concern being raised from member states that the deal that the U.K. Prime Minister has negotiated goes further than they wish to have gone, so that is not certain. We then see what is happening in the United Kingdom and the apparent uncertainty about whether the deal will be approved by the House of Commons. I do not know if you, like me, enjoy staying up into the evening - that is perhaps because I was in foreign climes - watching the political high drama in the U.K. during the course of last week: first, whether the Cabinet would approve the deal on the table, and then secondly, whether Back-Bench Members would feel that the Prime Minister had gone too far in the deal that she is bringing forward; completely, completely uncertain. There are risks all around us. We must remember that we in Jersey are not in the E.U. We are in because of our Protocol 3 and that gives us the ability to trade goods into the E.U. Since the U.K. made its referendum decision, we in Jersey - and I think absolutely rightly - have sought to be prepared for every eventuality, to provide as much certainty as possible for Islanders, and in providing that certainty to be prepared for no deal whatsoever come the end of March next year. Therefore I think it is unfair to perhaps criticise the Minister in the way that some Members have, of being risk averse, of trying to bring in motor vehicle testing by the back door. Can we not - and we have heard it again - simply rely on Geneva? The answer to that question of course, as the learned Attorney so eloquently said, is yes, of course we can, but in doing so we put Islanders and their ability to flow freely with their transport at risk. The Geneva Convention does give access, but it is not necessarily free access. It does not imply unhindered access, so it leaves a risk. Some have spoken about personal experience of being not quite impounded, but held up at borders for 4 hours. No Member can stand up and leave this Assembly today and say for certain that that will not happen if we do not extend or seek to have the Vienna Convention extended to us. Now, for some Members that is a risk worth taking. They are prepared to put their constituents, they are prepared to put Islanders and free movement in that regard at risk. That is a perfectly legitimate political decision to make, measuring the risk. Not for a minute do I accept any Member standing up and saying there is no risk by simply relying on Geneva. There absolutely is, that is absolutely clear, but some Members may feel that that is a risk worth taking because of the conflation of what having Vienna extended means in regard to vehicle testing. But let us be clear: it is not in any way, shape or form, as some Members have suggested, the prudent approach to vote down this extension today. I would suggest it is absolutely the reverse. It is a cavalier approach to suggest that we can simply wait and see, because others, whose relationship geographically with the Continent is completely different to ours - completely different to ours, let us remember - their geographical relationship is to Scotland, to Ireland. They talk about that relationship on the international stage and in meetings that I attend with them in exactly the same way as I speak about our historical relationship with France and with Normandy. Let us remember

that, totally different historical and cultural relationship with the geography and the Continent of Europe. We find ourselves once again during a debate where the arguments I accept can be considered to be finely balanced. Do we want to take that risk or do we not? Do we want to be prepared, as much as we can be, for the uncertainty of no deal or are we so optimistic - and I did not think anyone was more optimistic than me in this Assembly that the U.K. Prime Minister was going to get a deal - in this Assembly that we think she is going to get a deal and it is going to pass the U.K. Parliament and it is going to be approved by the member states of the E.U.? I think the prudent approach today is to agree to the Minister's proposal and to seek to have the Vienna Convention extended. It will not be popular. We know that. We see that from looking at social media and the contacts that we have had from some members of our community, but nor will it be popular if there is no deal and when Islanders try to flow freely into Europe with their vehicles, they are stopped. That is the balance and the decision that the Minister rightly is putting before the Assembly and it is right that this Assembly is asked to make that decision. If we say no today, I will have to change my tune for once. When I am asked whether we are prepared for no deal, I will be able to say: "We continue to prepare in every single area other than in whether we can drive freely in the Continent post-Brexit day." For me, on balance, despite my long-held views about motor vehicle testing, the right decision, the prudent decision, the decision in ultimately the best interests of Islanders in being prepared for a no-deal Brexit is to support the Minister and vote in favour and seek to have the Vienna Convention extended. I ask Members to consider very carefully - very carefully - whether they are prepared to risk the free movement of Islanders in that regard without this decision today.

[Approbation]

7.1.14 The Deputy of St. Peter:

I will try and be briefer, but thank you very much. This has drifted away from being a debate on the Vienna Convention to being a debate on M.O.T.s and vehicle testing, and that concerns me mainly because if the Island has an appetite, and I think there is a strong appetite for vehicle testing and vehicle safety in this Island, then I think that should be a separate debate at a separate time. I am not comfortable with it being merged with this particular debate. What I would like to really understand is the assessment of risk that Senator Gorst discussed so well. I would ask the Minister for Infrastructure to elaborate on that in his closing: what really are the risks to the Island of staying with the Geneva Convention, which we have signed up to and is valid and is independent today? We are signed up independently today. I would like to really understand what those risks are because the only one that I have heard and I forget - I am embarrassed to say - who mentioned it, brought up the most valid figure for insurance, and that can have a hugely detrimental effect on families if they are involved in insurance, are in an accident, it is deemed their fault and that can have a devastating ... both driving from here in the U.K. and in France, for example, which is part of the Geneva Convention and in Germany, for example, which is not. I think these are very, very relevant areas. In summary, I need clarification, if I may, on those points, on the risk assessment, insurance and ask everybody to preclude M.O.T.s or vehicle testing from their deliberations, because I think it is academic to this. It is far more important and we can address that independently another day if necessary.

7.1.15 Deputy J.H. Young of St. Brelade:

Senator Gorst has picked up most of my points but I wanted to highlight one or 2 things briefly. Since the referendum, we have put huge efforts into preparing for an unknown eventuality. Either there will be an agreement that the U.K. will do for us or there will be no deal, and of course many people, many of our citizens, many of our Islanders expressed the view that the U.K. did not care about us in the end. So we have put huge efforts and since I have been elected, which is a very short time, I have been a member of the Brexit ministerial group and I have been enormously impressed with the efforts of Ministers and the team of experts and lawyers who have really probed just about every area of business that Jersey has to try to identify the inherent risks.

[15:45]

Those inherent risks are basically either no deal or a deal that does not work for us. We know unfortunately now, we have seen that there is an agreement that was circulated round recently with the U.K., which I think that eventuality now looks much more remote, because we have absolutely no idea about whether or not there will be a deal anyway and whether we have to face a day of new deal. I do not know what the gambling is on this but I would not want to take the gamble. I think it is likely to be quite some time before we know. So it is common sense for us to do planning for that contingent situation. We have invested heavily in it and it seems to be crazy that we are contemplating not now making the step of enacting and putting ourselves in a framework where we can have the Vienna Convention on road matters extended to us. Seventy-five other countries are there. Yes, there is a Geneva issue but we know, all the advice is, it is not satisfactory. The U.K. itself came to that point of view and there is this residue of this old Paris agreement that apparently, I think, only Iraq and Somalia rely on. It does not seem to be sensible. What we have heard is obviously there are big financial issues, like, for example, I heard it said £6 million for capital costs and so on. I accept that those are all valid issues but they are downstream issues. They are not for now because looking at the programme in the report there, those full impacts are not going to occur until 2020, 2021 and the initial phase of testing work can be done and will be done from our resources and our programmes, and so that is manageable. Of course, we have an excellent Scrutiny Panel working on that detail. But these risks we just cannot, in my view, contemplate taking the risk by saying: "No, in this case we are going to take the risk." In many other areas, some areas we know that the risks are there that we cannot manage. Here we have got a risk that we can manage and I really think the consequences of not doing so are really too foolish. It would be a foolish thing. I think we have got a duty to the public, absolutely, and I think they will not forgive us if this goes wrong. Speculating, I am known for out-of-the-box thinking, I do wonder if we say: "No, we do not want this", we have got all the issues about the uncertainty of the French ports and so on. What would that do to Condor if suddenly there was issues and problems to do with vehicles? What would that do to our essential services? Who knows, and I am not prepared to take that risk. Here we have got legal advice, expert advice, all the input from the U.K. This is an agreement that will protect the Island. We will now feel safe. That is one area of business we will not have to worry about. Get on and worry about the huge issues that occur on things like fishing, which are separate issues indeed. I am strongly going to support this. One quick word, obviously I have spoken about the Brexit issue and not about the testing regime. Members will not be surprised that I am entirely in favour of that. Obviously, you know my views on traffic and you know my views on air contamination, of which vehicles are the major source of pollution. A number of us Ministers have been to d'Auvergne School this lunchtime talking to children, about 100 children, on the World Children's Day and guess what subject they asked? Vehicles. Sorry, air quality. In the discussion, what did they say? Road safety issues, worried about air contamination. They chose the subject not us and we had to talk to it. So at least comfortable in our young generation who are going to inherit this Island and this planet ... they are the ones that we should think about. There are huge benefits anyway from road safety benefits and from reductions in pollution from pollution standards and, as well as that, it is a no brainer as far as I am concerned that this should be supported.

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

I just have a few points I would like to make. You were talking about the testing. Motor mechanics at Highlands College now, it is very, very different. You do not just open the bonnet of a vehicle and have a look inside and see a sparkplug that needs cleaning and all this sort of thing; it is plugged in. They need to have brilliant maths. They have to pass a maths exam to be a motor mechanic and there are very few of them at the college at the moment and there is a great shortage of them. Although the vacancies are there, there is a shortage of the quality that they need to take up the vacancies, because at the Scrutiny Panel we did have people from the motor trade in. Secondly, you are talking about Germany that has a problem but it is also a problem in Spain. So I think if you want to go to

Portugal with your vehicle you are going to have to get something different again. So that is also worth considering. If you have your car serviced, because that was another thing that came up in Scrutiny on a regular basis, it is said that that should be sufficient and basically it should be if you are paying for a service to get your vehicle roadworthy it should be okay. But it also came out of that at Scrutiny meetings that the emissions were not tested, so that was something that should not be happening. I would also like to bring Deputy Tadier to task to say that it was not the Honorary Police at Parish Hall Inquiries saying: "We do not want this." It has just been a general thing on the Island. I do not think we should blame the Honorary Police because this is not happening. The Honorary Police do a great job on this Island, along with the paid police, and they save the Island an awful lot of money. So instead of knocking them, I think you should support them [**Approbation**] and I say once again they were not responsible for M.O.T. tests not coming in.

7.1.17 Connétable P.B. Le Sueur of Trinity:

I will be brief. Just to say that clearly this legislation is not universally popular but we are not in this place to make universally popular decisions. [**Approbation**] I certainly do not want to be at the end of a phone the day that the ferry arrives in Saint-Malo and some official comes out and says: "Jersey vehicles? No, thank you. Go back." France has subscribed to both the Geneva and the Venice Conventions. The Venice Convention is the more recent legislation and I think that would, at the end of the day, probably take priority for them. So I will be supporting this.

7.1.18 Deputy G.C. Guida:

Very, very quickly on the vehicle inspection tests, as another motor head, as a petrol head, this will take a few days out of my life every year so I am not terribly keen on it. However, the Geneva Convention is very antiquated and one of its first paragraphs says that it allows people from one signatory state to travel in another signatory state exclusive of any customs issues, because at the time there were very few countries that had a free exchange agreement and of course you would have to purchase whatever duty, tariff or V.A.T., if it existed, that was due on the car. This is something that can still be the case because it is the very first paragraph of that particular convention, which again is something that we do not think about today but it can be the case. I have travelled from a very, very weird country to an even weirder country and it has always been a challenge. It was never possible to just say: "My car is registered there, so I should go ...". They have a look: "Have you paid this, have you paid that? Sorry, we need \$5,000 as a bond before you can enter the country. If you come back exactly the same way maybe you will get it back." When you come at the end of this it is really, really special and indeed who wants to answer the calls when we have 300 E.U. nationals saying: "We are in Portugal. We would like to come back but we cannot drive our cars here", if we have 500 Polish residents calling on the same day and saying: "Sorry, we are stuck here. We would love to go to work and make your industry work but unfortunately it will take a few weeks to sort out." Do we tell them: "We missed the train on Vienna but if we ask the U.K. maybe they can integrate us in the next one in 2025"? Who wants to be at the end of that problem? Who wants to try to solve that and say: "No, wait a minute, wait a minute. Paris, they are a signatory to Paris and if you have a car that is less than 500cc of an engine maybe you can argue your way back." We really do not want that. I hope I am not speaking for my compatriots but I wonder if any of you have felt any sort of animosity on the part of other European countries about people from across the pond, and in this one I mean the Channel. They really did not want us to leave. We have put us in as much trouble as this and I do not think we can expect a lot of help from them and if we go and tell: "Just let us back", I do not think that is going to work. I think that we are going to have serious problems, sometimes from the countries themselves, sometimes from individuals, who will say: "Wait a minute, I have got this law here and that allows me to stop you until we find otherwise." The last thing, the most sobering moment I have had in this Assembly, was on the very, very first day when the Bailiff described the fact that Jersey was not an Island anymore. I was massively disappointed. I had come in to champion Jersey, to champion the difference and try to keep our traditions alive and was really

disappointed, but he was, of course, completely right. We are not an Island anymore. We are trying to live within Europe. We would love to remain within Europe and we would love to have our place in the world. Those regulations that exist in almost every other country in the world, we will not be able to avoid them for very much longer. We will have them here, if it is not next year, we will be forced to adopt them in a hurry because we have real trouble with our residents all over the world not being able to drive, having their insurance voided, not being able to come back, having their vehicles impounded. It is really problems that we do not want to have and we can solve them today. The next window of opportunity might be in 2 or 3-years' time. It is a real issue. The last thing I would like to mention is that we took advantage of our situation with the U.K. today to ask for the lightest possible implementation of where the system is. We stretched it as far as it could go. I do not think anybody else in the world has one that is as light as that and that is a possibility that we have today with this possible implementation. In 3 years' time when we are absolutely desperate because it is total chaos, we will have it. Somebody else will come and say: "You can become a member of the European system but you follow the European system" and that will be very different and much more expensive. I could tell you figures but I do not have a calculator.

7.1.19 The Connétable of St. Mary:

This is not just about driving in Europe. This is about driving in the U.K. as well because the U.K. has signed up to the Vienna Convention. If we drive in the U.K., they will be breaking the convention by letting us do so, so we need to bring this in today. There is no other choice. I will be voting for the proposition.

7.1.20 The Connétable of St. Ouen:

I think we need to understand that Jersey has had a very sweet deal as far as Europe is concerned for quite a number of years. As Deputy Guida alluded to, the whole of Europe is pretty irritated with Britain. In my view, it is a big risk for us to rely on the goodwill of the French, and indeed any other European nation, to allow us to drive our cars throughout Europe without belonging to a convention that has some sort of testing regime. The point that brings it home is that every single European country that is in the E.U. has a testing regime, including the U.K. So I think we are deluding ourselves if we think that we are going to get away with not having a testing regime because the Europeans will simply turn round and say: "Your cars are not safe." I bring you back to the comments made by the Constable of St. Peter, my neighbouring Parish. We both were serving officers and we have both done road checks and we have uncovered some real horror stories in terms of vehicles that we found. If we think that the current regime in Jersey is effective, I am afraid we are deluding ourselves. It is not. D.V.S., for all their worthy work, only check a very small number of vehicles and even when they do that, certainly the road checks I have been to, quite a number of the vehicles are taken off the road. So I think in terms of safety and motoring safety it is important that we bring this in. I accept that the cost is unfortunate but it is a cost that everyone else in Europe and in Britain has to bear and it is just part of motoring life, I am afraid. So I, for one, will be supporting this proposition.

[16:00]

The Deputy Bailiff:

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

7.1.21 Deputy K.C. Lewis:

I thank all Members who have spoken, some of which have scared me a little, I must admit. The Constable of St. Brelade, the checks and balances are there because we are accepting the amendment by Scrutiny, which we will be coming to shortly. So the checks and balances are there. This is just the framework. We are putting the framework in and we are not starting off with a huge bill because we have an excellent Driver and Vehicle Standards station down at La Collette which is ready to go.

At the moment we do test all public service vehicles and we test all heavy goods vehicles, and that is going through now. So we have the facility there. We will need a new facility for cars and such like but that is down the road, that is way down the road. All we have to do is sign up to the framework so we can show the European Union and everyone else that this is in train; that once we have signed the Vienna Convention it is in train, it is happening over the next few years, and we are then compliant. Deputy Wickenden expressed some reservations, also forgetting we will also need the international driving permit. That will be on the list too. The Constable of St. Peter I thank for his comments. Deputy Morel was part of the Scrutiny Panel so, as I say, that is well covered in Scrutiny. There are differences between the Vienna Convention and the Geneva Convention. Many Members here today will be covered by Protocol 3, Jersey born, Jersey parent or Jersey grandparent, and you will have the stamp in your passport which means various things, one of which is you do not have the right to work in Europe. If you do not have the stamp in your passport and you are of British descent or U.K. descent you do have the right to work in Europe. There is a very subtle difference. If we sign up to the Vienna Convention, we will have the right to drive through Europe. The Deputy of St. Martin I thank for his comments and support. The Deputy of Trinity, my Assistant Minister, obviously, as many Members here, former Honorary Police. The Honorary Police and the States Police with D.V.S. have done an absolutely fantastic job over the years with the roadside checks but, as they freely admit, they can only check so much of a vehicle. Short of putting it up on the ramp and getting under it, you cannot check everything. But as I say, they have done a fantastic job. This is not replacing that. That will still be in place, I understand, but that is something we have to work with. Deputy Tadier, I thank for his comments. There is a subtle difference. Germany, he mentioned, which is fine. Not everyone is signed up to Vienna but if you are a European Union country you are legally obliged to do periodic testing of your vehicle. That is the requirement regardless or not whether you are under Geneva or Vienna. The U.K. is coming out of the European Union in March, as far as we can see. When they come out, we will fall out by default so this is the checks and balances in place. We will demonstrate to the European Union that we are a modern, well-regulated jurisdiction. Deputy Le Hegarat, I thank for her comments. Likewise Deputy Martin. The Deputy of Grouville and Deputy Perchard, there were a few questions. He is not here at the moment but with the costs, the maximum cost for the vehicle testing for the car test will be £60. As I say, I cannot do anything with those fees because through the amendments of Scrutiny, which we are accepting, then that will come back to the Assembly. So there are checks and balances there, belts and braces. As I mentioned previously, we are up and running with our existing testing station. Unfortunately our cousins in Guernsey are not quite in that position. They do not have the big testing stations we have at the moment, so they are trying to catch up at the moment but they are very much with us on this. Brexit negotiations with the U.K., I would like to thank all officers involved. They have done an absolutely fantastic job with the negotiations with the United Kingdom. I thank the Assistant Minister for Infrastructure for the panel that he ran. They have done an absolutely first-class job and I thank the Scrutiny Panel for coming in. It is very short notice but, as I say, this is the framework going in. The detail can come later, which States Members will control not me. Senator Gorst I thank for his comments. The Deputy of St. Peter I believe mentioned insurance risk. That is there now and another Member, the Constable of St. Mary, mentioned the United Kingdom. The United Kingdom would be well within their rights if they so chose to say: "Unless you have some kind of certificate of roadworthiness in Jersey, you may not bring your car to the United Kingdom." They would be well in their rights to say that and, quite frankly, I could not blame them. I have driven to the U.K. on several occasions with a Jersey car. Obviously, it is well maintained but no certificate of roadworthiness. Heaven forbid should there be an incident on a motorway and it was proven my vehicle was defective, then you could imagine that legislation would be brought in by the U.K. very, very quickly to plug that loophole. As I mentioned in the past, driving on the Continent we have come under the United Kingdom. People in Europe have seen the badge on the car: "G.B. or G.B.J. or G.B.G. (Great Britain - Guernsey), that is a British car. On you go", but now the genie is well and truly out of the bottle. The U.K. is coming out of the European Union. At March this year the United

Kingdom has signed up for the Vienna Convention so the European Union now knows that we have not and today we can put that right. Deputy Young, the Minister for the Environment, I thank for his comments. The Constable of St. Saviour mentioned mechanics. Absolutely, we would be more than happy to work with Highlands. But because we are talking several years down the road with the car-testing station, I think there is a fantastic opportunity to train up some of our youngsters who could do an absolutely fantastic job in the new testing station when that is built. It may be built next to the existing D.V.S. station. That is to be determined, but we do have some excellent service stations on the Island. No garage, by the way, will be compelled to do any kind of testing. As far as I am concerned at the moment, the detail is coming later, I am quite content that the state does the testing for the time being. Germany and Spain were also mentioned. As I said previously, all countries within the European Union, regardless if they are under the Geneva or Vienna Convention, are legally obliged to bring in periodic vehicle inspections. Deputy Guida I thank for the very insightful knowledge regarding our European cousins. The Constable of St. Mary and the Constable of St. Ouen also made some very interesting comments. I think I have mentioned previously that regardless of whether we are under Geneva or Vienna, you will still need an international driving licence, which will be available from the Parish Halls. So, I implore Members to support this. It is a sensible thing to do. Basically we are talking, if it were £60 a year, which will be governed by Members, if it were £60, sorry, for a test, that works out over 3 years at £20 per year. That will give us the right to drive in Europe and free passage throughout the European Union. I make the proposition and ask for the appel.

The Deputy Bailiff:

The appel is called for. I invite Members not in the Chamber to return to their seats.

The Attorney General:

Sir, could I beg leave to correct one thing the Minister said? It is only a small matter but I think I should correct it.

The Deputy Bailiff:

Certainly, yes, if it is a legal issue on which the Assembly might be slightly misled, then you should correct it.

The Attorney General:

It has been mentioned by one or 2 Members in passing, so I think I should mention it. The U.K. Government have indicated that Jersey vehicles will be allowed to move freely to and within the U.K. even if the Assembly does not, in effect, invite the extension of the Vienna Convention to the Island. Regardless of the result of this vote, Jersey vehicles will be able to move within the U.K. That has been confirmed by the Government of the U.K.

Deputy K.C. Lewis:

I believe I said the U.K. could if they so wished.

The Deputy Bailiff:

Yes. I do not think that is at odds with your closing speech, Minister. Very well, the appel has been called for. I call upon the Greffier to open the voting. The vote is on the principles of the regulations.

POUR: 37		CONTRE: 8		ABSTAIN:
Senator I.J. Gorst		Senator S.C. Ferguson		
Senator L.J. Farnham		Deputy M.R. Higgins (H)		
Senator T.A. Vallois		Deputy J.M. Maçon (S)		
Senator K.L. Moore		Deputy S.M. Wickenden (H)		
Senator S.W. Pallett		Deputy K.F. Morel (L)		
Senator S.Y. Mézec		Deputy S.M. Ahier (H)		

Connétable of St. Helier		Deputy J.H. Perchard (S)		
Connétable of St. Clement		Deputy K.G. Pamplin (S)		
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy C.S. Alves (H)				

The Deputy Bailiff:

The Connétable of St. Brelade, does your committee wish to call in this matter?

The Connétable of St. Brelade (Chairman, Environment, Housing and Infrastructure Scrutiny Panel):

Yes, Sir. We have made an amendment, which has been accepted, and we have done the necessary work.

The Deputy Bailiff:

So you are perfectly satisfied? All right. Minister, how would you like to deal with the regulations. You have indicated you are accepting the amendment to Regulation 7. I suppose I could ask Members if they are content to take the regulation as amended or does anyone wish a debate on the amendment?

Deputy K.C. Lewis:

I could take them 1 to 6.

The Deputy Bailiff:

Perhaps I could just ask Members if they want to have a debate on the amendment to Regulation 7. Well, I think we will then ... subject to any to the contrary, you can assume then that the regulation can be put as amended and I can ask again how would you like to deal with the regulations, Minister?

Deputy K.C. Lewis:

En bloc, please, Sir.

The Deputy Bailiff:

Are the regulations seconded *en bloc*? **[Seconded]** Does any Member wish to speak on any of the regulations? Those in favour of adopting the regulations, kindly show. Those against? The regulations are adopted. Do you wish to deal with the matter in Third Reading, Minister?

Deputy K.C. Lewis:

Yes, please, Sir.

The Deputy Bailiff:

Is the matter seconded for Third Reading? **[Seconded]** All Members in favour of adopting the regulations ... the appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting.

POUR: 42		CONTRE: 3		ABSTAIN: 0
Senator I.J. Gorst		Deputy M.R. Higgins (H)		
Senator L.J. Farnham		Deputy J.M. Maçon (S)		
Senator S.C. Ferguson		Deputy S.M. Wickenden (H)		
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				

Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

8. Draft Education (Provided Schools - Amendment of Law No. 2) (Jersey) Regulations 201-(P.111/2018)

The Deputy Bailiff:

The next item is the Draft Education (Provided Schools - Amendment of Law No. 2) (Jersey) Regulations and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Education (Provided Schools - Amendment of Law No. 2) (Jersey) Regulations 201-. The States in pursuance of Articles 3(4) and 68 of the Education (Jersey) Law 1999, have made the following Regulations.

8.1 Senator T.A. Vallois (The Minister for Education):

D’Hautrée House School opened in around 1999 to provide for students with emotional and behavioural difficulties from year 7 to 11. The Alternative Curriculum was opened on its present site in 2003. It provides for young people with primarily low attendance as a result of being disaffected and disengaged from mainstream school during year 10. There was a good deal of overlap between what the 2 schools provided in terms of emotional and behavioural support, individualised timetables and addressing the students’ behavioural, social and emotional needs. Almost all students based at D’Hautrée House over the last 10 years transferred to the Alternative Curriculum after year 10 to complete their last year of compulsory education. In 2015 and 2016, the headteachers at both Alternative Curriculum and D’Hautrée House retired and a single headteacher was appointed to oversee both educational establishments. There is considerable merit in developing a one-school provision and developing a single ethos. Merging resources and expertise will deliver a better support for the students.

[16:15]

There is also a growing demand to provide the same social, emotional and mental health support to accommodate younger students from primary schools, with a focus on key stage 2 - school years 3, 4, 5 and 6 - which commenced in the spring term of 2017. We have a duty to recognise and provide for students with social, emotional and mental health needs. There is a greater understanding of mental health issues in children and young people, and this has provided the catalyst for changing the focus of the 2 schools and the provision they offer. A key focus of the work carried out within the schools is close working partnerships with colleagues and the parents of students who attend and staff from the Social, Emotional and Mental Health Inclusion Team who are also based at the D’Hautrée House site. Placements of all students are based around their individual needs with an emphasis on developing their social, emotional and mental health needs and skills to support them back to mainstream school when they are ready. After liaising with the Jèrriais Department and consultation with students and staff, the new proposed name, La Sente, is Jèrriais for “The Path”. The idea is that we are all on different paths to be our best or true self and that no journey is a simple straight line. This is felt to be a great reflection, and represents much of the work the school

undertakes to support students on their journey. The intention is that both school sites would be named La Sente, and years 3 to 9 students would attend La Sente key stage 2 and 3 based at the D’Hautrée House site, and years 10 and 11 students would attend La Sente key stage 4 at the Oakside site. I recommend the proposition.

The Deputy Bailiff:

Is the proposition seconded or the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Those in favour of adopting the principles kindly show. Those against? The principles are adopted. Does the Education and Home Affairs Scrutiny Panel wish to call the matter in? It would be Deputy Ward. Is there any other member of the ...

The Deputy of St. Peter (Vice-Chairman, Education and Home Affairs Scrutiny Panel):

Yes, Sir, I am but I have not been briefed on that one in Deputy Ward’s absence. I apologise for that. Yes, it is absolutely fine.

The Deputy Bailiff:

I will take it then there is no desire to call the matter in on the part of the relevant Scrutiny Panel. There are 2 regulations in the Second Reading. Do you propose them *en bloc*, Senator?

Senator T.A. Vallois:

Yes, Sir.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on the regulations in Second Reading? All those in favour of adopting the regulations kindly show. The appel is called for. I invite Members to return to their seats.

POUR: 41		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy of St. Ouen				

Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy C.S. Alves (H)				

The Deputy Bailiff:

Do you propose the matter in the Third Reading, Senator?

Senator T.A. Vallois:

Yes, Sir.

The Deputy Bailiff:

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

Deputy R. Labey:

Sir, I wonder if I could propose, with the indulgence of the Assembly and the various Ministers concerned who I have not spoken to ... I wonder if the Assembly would be agreeable to bumping up the Order Paper P.124/2018, the mesothelioma proposition. There are members of the public who are in the public gallery and have made arrangements to be here today to hear this. I do not wish to emotionally blackmail but today is the birthday of a gentleman who died of mesothelioma and whose plight sparked the campaign that is culminating with this proposition today. I think it can be despatched rather quickly but it would be a good thing if we were able to do it this afternoon and some of these propositions might go into a lengthy debate. This one I think we can despatch very quickly and I wonder if the House would be agreeable to take that proposition now. [**Approbation**]

The Deputy Bailiff:

Well, it is a matter for the Assembly but I sense the mood of the Assembly is that. Deputy, would you like to make a formal proposition to bring the matter up to be debated next on the Order Paper?

Deputy R. Labey:

Yes, Sir, I would do that.

The Deputy Bailiff:

Is that seconded? [**Seconded**] Does any Member wish to speak on the movement in the Order Paper? Those in favour of moving it on the Order Paper kindly show. Very well, we will deal with the matter as the next item of business.

9. Compensation for Mesothelioma sufferers (P.124/2018)

The Deputy Bailiff:

In which case, the next item is compensation for mesothelioma sufferers, P.124, lodged by Deputy Alves and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

The States are asked to decide whether they are of the opinion - (a) to provide compensation to every victim of mesothelioma who was infected following exposure to asbestos in Jersey; (b) to request the Minister for Social Security to bring forward proposals for the implementation and administration of an appropriate compensation scheme, as described in paragraph (a), to be implemented by 1st April 2019; and (c) to request the Minister for Treasury and Resources to identify the necessary funding source to provide compensation for victims either from central contingencies or, if insufficient funds are available, to request the Council of Ministers to make provision in the draft Government Plan 2020-2023 for this payment to be funded.

9.1 Deputy C.S. Alves of St. Helier:

My proposition aims to provide compensation for mesothelioma sufferers. Some Members may be wondering why mesothelioma and why now. I first became aware of mesothelioma just after the election this year when I saw Brian Coutanche's extremely emotional plea for support. I later learned about Keith Shaw, a local teacher and lecturer, who died of mesothelioma in 2012 aged 65, a mere 16 days after diagnosis. His wife June Summers-Shaw has been an active campaigner ever since, fighting for compensation and recognition of this horrific disease. She set up the e-petition and is here today in the gallery for the debate. **[Approbation]** As Deputy Labey stated, today would have been her husband Keith's 72nd birthday. Mesothelioma lies dormant in the body for years. The time between asbestos exposure and diagnosis can be decades long. For many patients, diagnosed 50 to 60 years after their initial exposure to asbestos, the disease is already in an advanced phase when they begin to suffer symptoms of shortness of breath and chest pain. It is a rare and aggressive cancer. There are no widely recommended screening tests for this cancer, there is no treatment and there is no cure. What makes it worse is that mesothelioma is an industrial disease which is entirely preventable. However, due to failings of past Governments to alert people to the dangers of asbestos at the time, these 2 individuals and more were exposed to asbestos. This could have been avoided. We often see public notices in workplaces stating that staff will not tolerate inappropriate behaviour, but where are the signs alerting staff to the risk of exposure to dangerous substances such as asbestos? Imagine working somewhere where every breath you take could cause you to develop a devastating disease later in life with no treatment, no cure and yet you were never made aware of it. So why now? The U.K. has had a compensation scheme in place since 2008, over a decade. As stated in my report, this directly affects approximately a maximum of 5 people a year. Many of these sufferers would have been otherwise healthy individuals who were looking forward to living a long and happy retirement but have had this denied to them. As time goes on, the number of people with this disease will decrease as the likelihood of exposure has decreased and so one day this compensation will no longer be needed. This compensation is a relatively small sum that aims to give sufferers and their families better access to support and care for the last few months of their lives. I think the real question is why is there not something in place already, why are we falling behind? Over the past week or so Members have received numerous emails from members of the public, including past Deputy Jackie Hilton, urging Members to support this proposition. I would like to take this opportunity to thank the Minister for Social Security for her support and amendments, which I will be accepting. I did have concerns regarding the compensation being only applicable to Islanders who reside in Jersey at the time of diagnosis. However, this has been addressed by the report and comments submitted by the Council of Ministers, which state that this will be reviewed following a

larger piece of work looking at all industrial illnesses. The important thing is that something is put in place sooner rather than later. I stood for election to make a difference and positive impact on as many people's lives as possible. I am saddened that it has taken this long for a compensation scheme like this to be proposed. I know that no amount of money can bring back someone's life but if it is within our power to make someone's last days a little bit more comfortable by providing a small level of compensation then we should do just that. We have a duty of care to the people of this Island so I hope that the Members of this Assembly will support this proposition. **[Approbation]**

The Deputy Bailiff:

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

9.2 Compensation for Mesothelioma sufferers (P.124/2018): amendment (P.124/2018 Amd.)

The Deputy Bailiff:

Does any Member wish to speak? I beg your pardon, there is an amendment lodged by the Minister for Social Security and I ask the Greffier to read the amendment.

The Deputy Greffier of the States:

Page 2, paragraph (a) - for paragraph (a) substitute the following paragraph: "(a) to establish a statutory compensation scheme for Islanders who have been diagnosed with diffuse mesothelioma following exposure to asbestos in Jersey." Page 2, paragraph (b), for paragraph (b) substitute the following paragraph: "(b) to request the Minister for Social Security, subject to the provision of funding as set out in paragraph (c), to bring forward proposals for an appropriate statutory compensation scheme as described in paragraph (a), to be implemented by 1st October 2019." Page 2, paragraph (c), for paragraph (c) substitute the following paragraph: "(c) to request the Council of Ministers to make provision in the draft Government Plan 2020 for this scheme to be funded from 1st January 2020, and to request the Minister for Treasury and Resources to identify the necessary additional funding to provide payments under the scheme in 2019 from contingency if costs are unable to be met from within existing approved departmental revenue heads of expenditure."

9.2.1 Deputy J.A. Martin (The Minister for Social Security):

Firstly, I would like to thank Deputy Alves for meeting with me and my officers so I could explain why. I knew myself and the Council of Ministers really wanted to support her but there was just some technical wording that had to be moved so we could all get to where we wanted to be. You will see I have proposed amending the date of implementation from April 2019 to October 2019, but I have also discussed with Deputy Alves that anyone diagnosed in 2019 and possibly now because the U.K. scheme goes back a year, these people will be in the scheme. These are the finer points that myself and officers need to work on. We need to bring back regulations, we need to make sure the money is in place and it is something that needs to be planned for. It needs to go into the Government Plan and the wording just was too tight. I fully understand where the Deputy was coming from as in (a). It was so wide. We know people diagnosed in Jersey, we know there has been X amount of cases in 7 years and that works out at so many a year. We do not know, we cannot cost but, as I say, we have got to this scheme while my department and officers are looking at a larger scheme and this may be ... it will be a much more complicated scheme but we are going to look to see whether we can accommodate people like that. So I fully understand the Deputy feels this is a long-time coming, and a lot of things are a long-time coming. But, as I say, in this Assembly and round the Council of Ministers, it has been up there twice and I knew they really wanted to support this but I had to do it on my own without meeting with the Council, knowing let us bring something that everyone can be behind. I really hope today that is whatever the vote, plus nil. Everyone should be behind this with the amendments and I really urge the Assembly to support my amendments to the proposition that Deputy Alves has brought.

The Deputy Bailiff:

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

9.2.2 Deputy J.H. Young:

I am 100 per cent behind this proposal and congratulations on bringing it forward so promptly. I did flag-up an issue with the Minister for Social Security. Having myself assisted other persons before when I was not a States Member, there are a range of occupational health diseases which are in fact linked to respiratory inhaling of dust, chemicals, proteins, organisms and so on as regards occupational exposure. These diseases do have long-term chronic effects, very similar to mesothelioma, which cause morbidity and lays latent in the lungs for many, many years and cause morbidity and indeed mortality. In the U.K. there is a statutory scheme for such sufferers for compensation. The rationale for that is that it is generally accepted by all concerned that when exposure to such hazards through employment take place and they do not come to light until much later in life, that it is very difficult for people to have to prove which of their employments were responsible for their exposure through a normal litigation system.

[16:30]

A statutory compensation scheme for that group exists under the Occupational Health Executive and I would ask very much that the Minister, in taking this forward, broadens out the proposition to include that group of sufferers so that they too can have some support in what is a tragedy that people in their working lives are exposed to these things but which are only found out later. Standards have obviously improved over the years but there are plainly, I think, a whole number of latent practices, materials and so on in people's working lives that are likely to lead to such lung conditions. So I would ask the Minister for Social Security to please reflect on that, which I think is reflected in her comments where the Minister says that in taking this forward there is the ability, when looking at the triennial regulations, to include the range of occupational health diseases. I am 100 per cent behind this.

9.2.3 Deputy K.F. Morel:

If I could reiterate the Minister's thanks to Deputy Alves for assisting with this piece of work and for putting in the hard work that has got this here. I speak to the amendment rather than the main proposition, mainly because I have some questions that I feel as a legislative body we should ask, just to have a clearer understanding of the amendment. As the amendment essentially in many ways replaces the proposition, I think to be asking the Minister is probably the right way forward. What level of costs do we see this incurring over the years? How sure are we of those costs? If these are inappropriate, please let me know. I was a bit unsure as to what the funds are used for. Are they compensatory in terms of an award or are they for care? I was not sure. What is the ongoing liability likely to be? We heard that it is likely to peter out but how long do we think that is going to go on for? Linked with Deputy Young's speech just now, is the adoption of this scheme likely to result in calls for other public compensation schemes for industrial illnesses, which as Deputy Young said, may be a very good thing, but is it likely to result in that? So I would like to have some answers to those questions. That would be useful.

9.2.4 Senator S.Y. Mézec:

I do not have that much to say. The first point I would say is to congratulate Deputy Alves for bringing this proposition forward. I think that mesothelioma is undoubtedly a very cruel disease that will bring misery on those who suffer from it and their families as well, so any action that we can undertake to do something for those people and their families absolutely must be worthwhile. So it is very good that this Assembly is debating this. When I saw the amendment lodged by the Minister for Social Security, I had 2 concerns that I raised at the time and I just wanted to air those so Members can be aware of why I am satisfied that this amendment is acceptable and will help Islanders and why I will be supporting it. The first concern that I had was about the potential to backdate compensation.

I was worried that we could end up in a situation where there would be people who would contract this disease and die after the States had made a decision that there would be compensation but before the scheme had been implemented, which would be an unimaginably upsetting and sad position to be in. I am convinced by the answers that the Minister for Social Security gave me and the conversation I had with the chief officer for Social Security that this is something that is dealt with in this amendment and will be okay. The other point that worried me was the potential for people who came into contact with asbestos in Jersey but later moved out of the Island, who may not be able to claim compensation. That was something I was worried about but the Minister has assured me that in the greater compensation scheme that she is putting together this will be something that can be dealt with and coincides quite well with some other work that is going on as well. So I am convinced that this amendment is helpful and, despite the concerns I initially had, I will wholeheartedly be supporting it.

9.2.5 Deputy K.C. Lewis:

I think Members will agree that this is a horrible, horrible disease. The asbestosis and the later mesothelioma is a terrible, terrible disease. I was very moved when I saw Mr. Coutanche on television and his plight that I rang hospice to ask if it would be in order for me to pay a visit. I believe it was the senior nurse on duty said: "May I call you back?" and 5 minutes later she said: "I have just had permission to inform you from the family that Mr Coutanche has passed away." It was very sad. It is a very, very horrible disease and I do hope that those families concerned will take some small comfort from the way that it has triggered this debate by Deputy Alves and the subsequent amendment by the Minister for Social Security and will be a good way forward.

The Deputy Bailiff:

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

9.2.6 Deputy J.A. Martin:

I think Deputy Young and Deputy Lewis and even Senator Mézec are all in the same area. Deputy Young wants to know about ... the U.K. 1979 scheme does cover 5 other industry-related schemes and there is industrial accident and everything, and then there is mesothelioma in the 2008 scheme. To probably then answer Deputy Morel's question, and Deputy Young really, why this? It is because it is one of those diseases that from diagnosis unfortunately to death can be a matter of weeks or months. The compensation from this scheme will give families money upfront very quickly if we keep it simple, we keep it to where we know it is diagnosed, residency and we can pay the money. Deputy Morel also asked if I have confidence that the figures are correct. Now that I have made the amendment, we know in the last 7 years we have had 32 people diagnosed in our hospital who lived in Jersey all their lives with mesothelioma. So they did not catch it anywhere else and that is going to cost us between £150,000 and £200,000 a year. As Deputy Alves said, this is something that 30 years ago people were working with. Nobody really knew the dangers, so we are going to reach a peak but very shortly after, because of the safety measures we have put in now, it will start to not be needed. The bigger scheme is something that I was already working on. I was told by the Council: "Just do not concentrate on one. We do not have a scheme from 1979, we do not have this ..." but we are where we are. My thinking, along with the rest of the Council, is let us get something in. This is a really, really horrible disease, kills very quickly and I have been asked to do something that the Council can support and hopefully, as I say, the rest of the Assembly. So I hope I have answered everyone's questions. Of course that was the concern. If I had opened up the scheme today to people who maybe only were in Jersey for a year 30 years ago, I could not rely on these financial figures and I can only stand here to say to you and the Assembly this is what it is going to cost, not who is going to look around: "I worked there once and they do not have a scheme where I live now, let us go there." I am not saying this will not be looked at later. You want a scheme, you want it quick and

you want it brought in, and this is the way we do it. I hope the Assembly can support my amendments and I make them.

The Deputy Bailiff:

Is the appel called for?

Deputy J.A. Martin:

I ask for the appel, Sir, yes.

The Deputy Bailiff:

I invite any Members not in their seats to return to their seats. I ask the Greffier to open the voting.

POUR: 45		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				

Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

[Approbation]

9.3 Compensation for Mesothelioma sufferers (P.124/2018) - as amended

The Deputy Bailiff:

We therefore return to debate on the main proposition. Does anyone wish to speak on the proposition?

9.3.1 Deputy M.R. Higgins:

Keith Shaw was a colleague of mine at Highlands College. I taught in the same classrooms that he taught in. The college at the time knew there were broken asbestos panels and insisted that both teachers and students use those rooms because there were no others available. I think by passing this legislation the States is showing, first of all, they care whereas past Governments and Assemblies did not. Certainly the way that the department acted in the past was totally unacceptable. They were putting people at risk, knew that they were at risk but insisted it was fine. So, by the States passing this today, they are showing that they do care in trying to help these people, and I certainly hope that if there are other buildings that have asbestos and broken panels, as there was at Highlands at the time, that the States, the Education Department and other departments, will deal with the issue now rather than have people contracting the disease and having to seek compensation in the future. I would just like to pay tribute to Keith’s wife, June Summers-Shaw, who I think has done a brilliant job and thank you for what you have done. As I say, we hope that it will make some difference to the people who have contracted this horrible disease. **[Approbation]**

The Deputy Bailiff:

Does any other Member wish to speak on the proposition? I call upon Deputy Alves to respond.

9.3.2 Deputy C.S. Alves:

I would just like to thank everyone for their support. I think this is going to make a huge difference to a lot of people’s lives, so thank you.

The Deputy Bailiff:

Those in favour of adopting ... the appel is called for. If Members would return to their seats I will ask the Greffier to open the voting.

POUR: 45		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				

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Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
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Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

10. Draft Motor Vehicles (Removal from Private Land) (Jersey) Law 201-

The Deputy Bailiff:

Very well, we now return to the Order Paper. The next item is the Draft Motor Vehicles (Removal from Private Land) (Jersey) Law - P.112 - and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Motor Vehicles (Removal from Private Land) (Jersey) Law 201-. A Law to permit the removal of motor vehicles from private land and connected matters. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

10.1 The Connétable of St. Clement (The Minister for Home Affairs):

Vehicles that have been parked or abandoned on private land without permission can be a source of great frustration for private landowners. One only has to visit the Facebook page “Jersey parking fails” to see what I mean. They cause inconvenience for people parking at their own homes, great cost to businesses and, at worst, hinder the emergency services in responding to incidents. But up until now private landowners have had very few remedies to deal with the problem. But in some cases landowners have turned to wheel clamping to try and solve the problem but the legality of that practice is uncertain, and there were concerns about how wheel clamping is enforced by operatives.

The Assembly therefore agreed, in 2009, to outlaw wheel clamping on private land. So here we are 9 years later doing just that. However, private landowners do require an effective and proportionate mechanism to deal with vehicles that have been left on their land without permission, while also making sure that there are appropriate safeguards in place to protect vehicle owners. I want to read for Members parts of a letter that I received after this draft law was lodged. It comes from the Georgetown Methodist Church and talks about their experiences of trying to deal with vehicles that have been left in their car park without permission. I now quote: “Our Sunday evening worshippers find it difficult to park with so many overnight vehicles filling the car park. The Monday evening choir practices are continually interrupted by demands to move cars so those illegally parked can access at their convenience. We find the situation so frustrating. Speaking and seeing offenders on site only leads to verbal abuse. Various measures have been carried out to discourage offenders, an example being the use of chains and bollards, only to find that these are wrenched from the walls and damaged and thrown away.”

[16:45]

I am sure Members will agree that this is a situation which is totally unsatisfactory. So this law is intended to provide a solution to this sort of problem. The draft law provides a statutory framework for the introduction by regulations of a number of different processes by which private landowners will be able to deal with vehicles that have been parked or abandoned on their land without permission to be there. If this is approved by the Assembly, I will bring forward regulations to make vehicle immobilisation and interference on private land an unlawful practice that reflects a decision this Assembly made in 2009 to introduce a ban on wheel clamping, and will also provide alternative mechanisms that private landowners will be able to use in order to seek the removal of vehicles from their land when they are not authorised to be there. I have attached to the proposition, to the draft law today, a draft of the proposed regulations and a flow diagram which sets out the different processes that could apply to various situations where vehicles are parked on private land without permission. These are still subject to discussion with interested parties so it will change as we consider, in more detail, how the proposals will work in practice and what additional safeguards might be required. But they are there to give Members a guide as to our thinking. In this regard, I would like to thank the members of the Education and Home Affairs Scrutiny Panel for their comments on the draft law. I agree with the panel’s comments and look forward to working with them as we finalise the regulations for lodging in the New Year. I would ask Members who have comments and observations on the draft regulations to make these known so that we can feed them into the final proposals. If this law is adopted today, it is my intention to finalise the draft regulations and bring them back to the Assembly for debate around about Easter of next year. I propose the principles.

The Deputy Bailiff:

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

10.1.1 Deputy J.M. Maçon:

Funnily enough I did have another constituent contact me from the Georgetown area - funnily enough it was not the church. So it is definitely an urban issue which we are facing. Thankfully, however, I was able to send my constituent these regulations and the joy on their face upon reading them should be noted. It is something which has been called out for for a long time and we do look forward to the regulation coming back. I wonder if the Minister could just outline for the Assembly roughly the timeline in which he expects all that to be done and dusted. I know this is the law so we would still need to come back with the regulations, but when that is anticipated to come into effect, as that was one of the questions my constituent did have upon reading this. So, if the Minister could just clarify, that would be most helpful. I am really behind this law. Thank you.

10.1.2 The Connétable of St. Ouen:

I would also like to rise in support of this proposition. In my time as a Centenier in St. Ouen, it is a recurrent problem that we have and it is a great frustration to landowners who have thoughtless motorists park vehicles on their land, obstruct their drive and other parts of their premises and they are powerless to do anything about it. I cite one example where a campsite had 2 very large lorries parked on it. We were unable to trace the owners and unable to move the vehicles, which stopped the campsite from opening, and we were completely powerless to do anything about it. So I will definitely be supporting this and I thank the Minister for Home Affairs for bringing this to the House.

10.1.3 Deputy R. Labey:

I am pleased to follow the Constable of St. Ouen because it would be a great shame, would it not, if this proposition resulted in the proliferation of no parking signs all over St. Ouen and field entrances, *et cetera*. I know the Constable laughs but we are going in the wrong direction if we are encouraging more signage of this kind. Members will be aware of the public realm campaign run by the *Jersey Evening Post* and Save Jersey’s Heritage. The trend now is to try to minimise this kind of signage and road traffic furniture as much as possible because frankly, it is out of keeping in many places and a total eyesore. So, that is my concern with this proposition. I wonder if we might be able to do an organ donor type thing where you should not park on the private land unless there is a sign saying you can rather than having to put myriad signs up saying that this is private land and you cannot park there. I do not know if that would work but I do think it would be a shame if this led to a messy proliferation of ugly signage all over the countryside and the town.

10.1.4 The Connétable of St. Peter:

I would just like to thank the Minister for Home Affairs for bringing forward this legislation. Like the Constable of St. Ouen, I had constant problems as a Centenier and continue to have problems in St. Peter where there are 4 hotspots, 2 particular businesses on the airport road, which constantly have vehicles left there, and a number of licensed premises that also have the same problem. Finally, we will be able to do something about it and I completely support this legislation. Thank you.

The Deputy Bailiff:

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

10.1.5 The Connétable of St. Clement:

I thank those who have spoken. Since this was lodged I did feel that this was a draft law that was universally acclaimed until I heard Deputy Labey but more of that in a moment. I can state to Deputy Maçon, as I said just now, I am hoping, if this law is approved, to bring back the regulations to be in effect for around about Easter or April of next year, is our time plan. I thank my 2 colleagues, Constables. As for Deputy Labey I totally agree with him. We do not want to see a proliferation of signs; that would be quite ridiculous. In that context that really is a matter for planning rather than me. But the object of signs, and what we are thinking about there is on housing estates, in church car parks, hotels, pubs, commercial premises. Anybody who wants to put a no parking sign on their driveway or in their field, I think that would be totally inappropriate and it should be a statement of the obvious in any event. That is not something we wish to see and is not something we have in mind. I thank the Members who have spoken and I maintain the proposition.

The Deputy Bailiff:

Very well. Those in favour of adopting the principles, kindly show. The appel is called for. I am not sure who is responsible for the musical interlude but thank you very much, all donations to the Greffier’s fighting fund gratefully received. Thank you. The appel is called for. I invite Members to return to their seats. I will ask the Greffier to open the voting.

POUR: 28		CONTRE: 0		ABSTAIN: 0
Senator L.J. Farnham				

Senator S.C. Ferguson				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy K.C. Lewis (S)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy J.H. Young (B)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy K.G. Pamplin (S)				

The Deputy Bailiff:

Does the Education and Home Affairs Scrutiny Panel wish to call the matter in, Deputy of St. Peter?

The Deputy of St. Peter (Vice-Chairman, Education and Home Affairs Scrutiny Panel):

Sorry, I am prepared this time. We only had some concerns over the definition of abandonment in the proposed measures to ensure that all efforts were made to contact the owner. The Connétable of St. Peter and I had a situation where something was removed in rather a heavy-handed way. We questioned whether it was legal or not and it certainly incurred a very heavy fine. So the other area is we wanted to make sure that there was no profiteering involved, it should be an expense recovery situation for removing vehicles. Thank you.

The Deputy Bailiff:

How do you wish to deal with the matter in Second Reading then, Minister?

10.2 The Connétable of St. Clement:

I wish to propose them *en bloc*. I am quite happy to talk to the regulations, which possibly I should do but I would do them in one ...

The Deputy Bailiff:

It is entirely a matter for you.

The Connétable of St. Clement:

I could test the mood of the House and see if they just want me to propose them *en bloc* and sit down. [Approval] I propose them *en bloc*.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Yes. **[Laughter]** Does any Member wish to speak on any of the regulations in the Second Reading?

10.2.1 Deputy K.F. Morel:

It is just to pick up on Deputy Labey's comments. I think he has an important point with regard to the regulations. There is an incentive to put up signs that is implicit in this law and I think when I heard Deputy Labey speak, it immediately took me to Guernsey where they have a sign: "*Ces premises sont terre a l'amende*" everywhere; all over the Island they have these signs which are basically: "Park here and we will fine you." So I was just wondering, with that in mind, if the Minister might explain how, if it does turn out that people see this law as an incentive that if you put up the sign it means you can take the cars away immediately. If you do not put up the sign you have to go through a lengthy process. So there is an implicit incentive to put up signs on your fields or wherever your property may be. I was just wondering, if that turns out to be the case, how does the Minister intend to mitigate that problem. Thank you.

The Deputy Bailiff:

Does any other Member wish to speak in Second Reading? I call on the Minister to respond.

10.2.2 The Connétable of St. Clement:

The incentive to place signs on private land saying "No parking" I do not think is encompassed in the law but is rather encompassed in the proposed draft or the suggested draft regulations. But I do agree with Deputy Morel and, as I said, with Deputy Labey, that is not something we would wish to encourage. So as we develop the regulations over the next couple of months, we will bear that in mind. We will have discussions with the Environment Department and the Minister for the Environment to ensure that that does not happen. As I say, what we were really thinking about - and I think it is right - is the church car park, when I was speaking about it earlier, hotels, housing estates and places like that but not private fields, not our private driveways but more commercial premises where signs probably already exist and quite rightly so. But I do agree with Deputy Morel and I agree with Deputy Labey and, as I said, we will make sure the regulations do not encourage the proliferation of more signage. I maintain the Articles.

The Deputy Bailiff:

Very well. All those in favour of adopting the Articles, kindly show.

Deputy M. Tadier:

Sir, could I ask for a Regulation 6 to be taken separately?

The Deputy Bailiff:

Rules of the court regulation? It is the one dealing with the rules of the court. Very well. Do you propose Regulations 1 to 5?

The Connétable of St. Clement:

Yes, please, Sir.

The Deputy Bailiff:

Those in favour of adopting Regulations 1 to 5, kindly show. Those against? Regulation 6: those in favour of adopting ...

Deputy R. Labey:

I am just looking for Regulation 6, would it be possible to hear what it is?

The Deputy Bailiff:

It reads: “Rules of court - the powers to make rules of court under Article 29 of the Magistrates Court (Miscellaneous Provisions) (Jersey) Law 1949 and under Article 13 of the Royal Court (Jersey) Law 1948 includes powers to make rules regulating the practice and procedure for applications and appeals under this law.”

Deputy M. Tadier:

Can I ask for the appel on that, please?

The Deputy Bailiff:

Yes, certainly. Very well, the appel is called for. I will ask the Greffier to open the voting on the adoption of Article 6.

POUR: 40		CONTRE: 3		ABSTAIN: 0
Senator I.J. Gorst		Deputy M. Tadier (B)		
Senator L.J. Farnham		Deputy R. Labey (H)		
Senator S.C. Ferguson		Deputy C.S. Alves (H)		
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				

Deputy K.G. Pamplin (S)			
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The Deputy Bailiff:

Do you wish to take the remaining Articles *en bloc*, Minister? Very well, the vote is on Articles 7 to 12. Those in favour of adopting Articles 7 to 12, kindly show. Those against? Those Articles are adopted. How do you propose the matter in Third Reading?

The Connétable of St. Clement:

I propose the law in the Third reading, Sir.

The Deputy Bailiff:

Is the matter seconded in the Third Reading? **[Seconded]** Does any Member wish to speak in the Third Reading? All those in favour of adopting the law in the Third Reading, kindly show. The appel is called for. I invite Members to return to their seats. I will ask the Greffier to open the voting.

POUR: 45	CONTRE: 0	ABSTAIN: 0
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator S.C. Ferguson		
Senator T.A. Vallois		
Senator K.L. Moore		
Senator S.W. Pallett		
Senator S.Y. Mézec		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Saviour		
Connétable of St. Brelade		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy of St. Martin		
Deputy of St. Ouen		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy J.H. Young (B)		
Deputy L.B.E. Ash (C)		
Deputy K.F. Morel (L)		
Deputy G.C.U. Guida (L)		

Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

[17:00]

The Deputy Bailiff:

The next item was to have been The Comptroller and Auditor General Board of Governance: appointment of member. I have been notified that that has been deferred, is that correct?

The Connétable of St. Ouen:

That is indeed correct, Sir. I have had some issues brought to my attention by a Member and I would like time to address those concerns and come back in the next sitting. Very well. That is entirely a matter for you then, so that is deferred. Very well. The next item of business is the Draft Regulation of Care (Jersey) Law 2014 (Appointed Day) Act, P.125. I will ask the Greffier to read the citation.

The Deputy of St. Martin:

Sir, have we jumped the gun a bit?

The Deputy Bailiff:

I think I have jumped something, yes, I think you will find. Yes. I am sorry, I turned over 2 sets of the ...

11. Parish of St. Martin: provision of a loan for the former St. Martin's Primary School Redevelopment 201- (P.117/2018)

The Deputy Bailiff:

The next item of business is the Parish of St. Martin: provision of a loan for the former St. Martin's Primary School redevelopment - P.117 - and I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of the opinion - (a) to authorise the grant of a loan to the Parish of St. Martin for the purpose of converting the former St. Martin's Primary School for retail and commercial use; and (b) to agree that the loan shall not exceed £2.6 million, shall bear interest at a fixed rate of 4.5 per cent per annum, and shall be repayable over a period not exceeding 20 years on terms to be agreed with the Treasurer of the States.

11.1 Deputy L.B.E. Ash (Assistant Minister for Treasury and Resources - rapporteur):

I stand on behalf of the Minister for Treasury and Resources today to propose the provision of a loan for the former St. Martin's Primary School redevelopment. I am aware that some fellow Members of the Assembly will be speaking in favour of this proposition so I shall try to just stick to the facts of the loan. The former St. Martin's Primary School site was returned to the Parish in 2016 upon completion of the construction of the new Parish school. After an extensive period of consultation with parishioners and other interested parties, it was concluded that the site should be retained by the Parish and developed to provide retail and commercial facilities for the local community and indeed the Parishes beyond. The preferred use for the site includes a small supermarket, healthcare facilities

such as a doctor's surgery, pharmacy and possibly a vet's practice. Those plans have now been finalised and Planning Department approval has been received. The Parish have then approached the Minister for Treasury and Resources to provide financial assistance through the provision of a fixed rate loan before they commence tendering for contractors. Heads of terms have now been signed with a number of tenants and negotiations over the remaining unlet space are continuing with full occupancy expected to be agreed well before the redevelopment is completed. In addition, there is a unit on the first floor of the building that is likely to be retained by the Parish for community purposes. This also offers the potential for Government, through the Department of Customer and Local Services, to work collaboratively with the Parish and its residents. The total loan being requested is £2.6 million. The coupon will be 4.5 per cent which will be used for the payment of all demolition, alteration and construction costs, professional fees, legal fees and other costs associated with the development works. Repayment will come from the rental income from tenants and it is anticipated that the loan will run for a maximum term of 20 years, although the Parish, of course, have the option to repay the loan sooner should they wish. Finally, the provision of the loan allows the Parish to redevelop the original school while sympathetically preserving the original façade and appearance of this historic building. I commend this proposition to the Assembly.

The Deputy Bailiff:

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

11.1.1 The Connétable of St. Martin:

Unsurprisingly, I would like to speak in support of this proposition. As stated, this is a loan which the Parish of St. Martin will repay within a 20-year period and the interest rate is very favourable to the States. We are preserving the façade and appearance of a much loved and historic building which stands, quite literally, at the heart of the community. The Parish project team have worked hard to take parishioners' wishes into account, provide, among other facilities, a vet, a doctor, a pharmacy and supermarket. As the Assistant Minister stated, there may be a room upstairs that we can work in, liaising with the States for community projects. This project should impact favourably on the environment inasmuch as cutting down car journeys to medical facilities further afield and encouraging parishioners to walk. It will also impact favourably not only on the elderly of the Parish who will have healthcare and shopping almost on their doorstep, but also on the young. The old school, which has been developed, is next door to St. Martin's Primary School, therefore parents and children will have easy access to healthcare. I would like to thank the Treasurer of the States and his team, the Minister and Assistant Minister for Treasury and Resources, and the hard-working project team in St. Martin. I would urge you all to support this forward-thinking community-based project. Thank you. [**Approbation**]

The Deputy Bailiff:

Connétable of St. Ouen, it is contrary to Standing Orders to cross in front of a Member of the Assembly when they are speaking. Does any other Member wish to speak on the proposition? I call on the rapporteur to respond.

11.1.2 Deputy L.B.E. Ash:

Thank you very much to the Constable of St. Martin for her comments on this. I will just close briefly saying this is a community-focused project which has enabled the school building to be retained within Parish ownership that brings essential amenities closer to parishioners. I believe Parish officials and their project co-ordinator have created an excellent plan to redevelop this historic building, not only for the benefit of St. Martin's Parish residents but the wider Island community. Again, I commend the proposition to the Assembly.

The Deputy Bailiff:

The appel is called for. I invite any Members not in the Assembly to return to their seats. I will ask the Greffier to open the voting.

POUR: 40	CONTRE: 0	ABSTAIN: 0
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator S.C. Ferguson		
Senator T.A. Vallois		
Senator K.L. Moore		
Senator S.W. Pallett		
Senator S.Y. Mézec		
Connétable of St. Helier		
Connétable of St. Lawrence		
Connétable of St. Brelade		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy M. Tadier (B)		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy of St. Martin		
Deputy of St. Ouen		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy J.H. Young (B)		
Deputy L.B.E. Ash (C)		
Deputy G.C.U. Guida (L)		
Deputy of St. Peter		
Deputy of Trinity		
Deputy of St. John		
Deputy M.R. Le Hegarat (H)		
Deputy S.M. Ahier (H)		
Deputy J.H. Perchard (S)		
Deputy C.S. Alves (H)		
Deputy K.G. Pamplin (S)		

12. Draft Regulation of Care (Jersey) Law 2014 (Appointed Day) Act 201- (P.125/2018)

The Deputy Bailiff:

The next item of Public Business is in fact, I think, the Draft Regulation of Care (Jersey) Law 2014 (Appointed Day) Act and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Regulation of Care (Jersey) Law 2014 (Appointed Day) Act 201-. The States, in pursuance of Article 50(3) of the Regulation of Care (Jersey) Law 2014, have made the following Act.

12.1 The Connétable of St. John (Assistant Chief Minister - rapporteur):

I hope Members will bear with me with this rather unexciting but extremely important piece of legislation. Today I am going to ask Members to debate and adopt 5 propositions. The first is the Appointed Day Act bringing in the remaining Articles of the Regulation of Care (Jersey) Law, which was introduced in 2014, and it will be brought in force on 1st January 2019. The second is the regulations defining which services will be regulated by the Independent Jersey Care Commission. The third will be that the regulations setting the standards of those services must be complied with. Finally, 2 sets of regulations relating to the transfer of functions from their traditional arrangements. If I may, I will start with the Appointed Day Act. Knowing that this Assembly has not considered matters relating to this Regulation of Care since 2014, I will provide slightly more detail than is usual for an Appointed Day Act. I will also touch upon matters that need further elaboration when we progress to the discussing of regulations. In July 2014 this Assembly adopted the Regulation of Care (Jersey) Law by a significant majority, and at that point a number of Articles of the law were brought into force. This included Articles allowing the establishment of our Independent Care Commission, which has been up and running since mid-2017 and working to prepare for the full implementation of this law. The purpose of this Appointed Day Act is to bring into force the remaining Articles on 1st January 2019. Articles that provide for the registration of care providers, care managers and of regulated activities, which makes it an offence to deliver a regulated activity if you are not registered and which allows the Care Commission to impose further conditions of registration. We consider which services are defined as regulated activities when we debate P.126 and the requirements imposed on those services when we debate P.127. The Appointed Day Act will also bring into force Articles that deal with the suspension and cancellation of services. This includes setting out the registration of essential services, such as our acute hospital service, that cannot be directly cancelled by the Care Commission. The Care Commission must, instead, recommend to the Council of Ministers what action should be taken. Further Articles provide for the appointment of inspectors, the power of those inspectors, the sharing of information and the management of personal data. This includes requirements placed on the Care Commission requirement to publish inspection reports and to investigate complaints. There is also a provision for the right of appeal against any decision of the Care Commission, whether that is a decision not to register a provider or a care manager, a decision to suspend or cancel a registration, to impose conditions of registrations or to issue improvement notices. Why do the remaining Articles of the 2014 law need to be brought into force? Because our current regulation of health and social care is inadequate and currently not fit for purpose. The Nursing Agencies (Jersey) Law 1978 and the Nursing and Residential Homes (Jersey) Law 1994, both provide for some regulation and some services but there are significant gaps. Gaps that allow high-risk services to operate with little or no independent inspection of the standards or quality of care provided to potentially vulnerable adults and children. For many services we lack a clear framework of standards and we lack the powers to investigate and hold services to account for the delivery of those standards. We do not always know how staff are recruited, whether they have a criminal record or if they were dismissed by previous employers for poor practice. We cannot assure all care receivers that the service they rely on will meet their needs, promote their well-being and protect them from harm. This includes services delivered to individuals in their own homes behind closed doors. The risks are not hypothetical - they are very real. Our existing professional and care regulation team receives ongoing complaints from concerned members of the public about poor practice, inadequate care and neglect of personal needs. They can cite numerous and often distressing examples of vulnerable people coming to emotional, physical and financial harm on this Island. The law, like all regulatory laws, brings with it a financial and resource implication. Regulated activities will need to pay both an application fee and an annual registration fee. These fees represent a very

small proportion of estimated annual income, something between 0.09 per cent and 0.93 per cent of the gross annual income. I will pick up on the fees later, if I may.

[17:15]

Some regulated activities might find that they do not meet the necessary standards. However, it is important to emphasise that it is highly unlikely to affect services currently regulated under the 1978 Law and the 1994 Law, or home care services that fall under the long-term care scheme approved provider framework. But it may impact on care providers who are not currently regulated, including States of Jersey providers, but until the new regulatory scheme commences it is not possible to quantify who or indeed how much. This may be something that the Minister for Health and Social Services may wish to address in due course. Inadequate services will need to improve, and if they are to meet the required standards they may need investment. But that is the whole purpose of this law: to protect Islanders from harm and to ensure they receive good quality service that will promote their well-being and protect their dignity. I recommend this Appointed Day Act to the Assembly.

The Deputy Bailiff:

Is it seconded? [**Seconded**] Does anyone wish to speak on the adoption of the Appointed Day Act? Those in favour of adopting the Act, kindly show. Those against? The Act is adopted.

13. Draft Regulation of Care (Regulated Activities) (Jersey) Regulations 201-(P.126/2018)

The Deputy Bailiff:

The next item is the Draft Regulation of Care (Regulated Activities) (Jersey) Regulations P.126 and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Regulation of Care (Regulated Activities) (Jersey) Regulations 201-. The States, in pursuance of Article 2 of the Regulation of Care (Jersey) Law 2014 and Article 10(3)(b) of the Rehabilitation of Offenders (Jersey) Law 2001, have made the following Regulations.

13.1 The Connétable of St. John (Assistant Chief Minister - rapporteur):

I would like to thank the Members for their support in the Appointed Day Act. The Regulation of Care Regulations are made under Article 2 of the 2014 Law. Article 2 provides that the States may amend schedule 1 of that law in order to set out the health and social care activities to be regulated by the Care Commission. Adopting these regulations will provide that from 1st January 2019 the Care Commission will independently regulate and inspect care of home services, home care services, which are often called domiciliary care services, and adult care services. This is regardless of whether the provider is a private company, a charity or the States of Jersey. Current arrangements with regard to these services are wholly inadequate. Adult day care services are not regulated at all and there is no overarching regime of standards or inspection of home care providers other than allowed for by the Long-Term Care Law's approved providers framework. While the standards set out in the approved provider framework are broadly similar to those under the 2014 Law, the framework only applies to care providers whose clients receive long-term care, it does not protect self-funding clients nor does it provide adequate powers of inspection, which are essential if the Care Commission is to obtain assurance in the quality of care. As for care homes, some are currently regulated under the Nursing and Residential Homes (Jersey) Law 1994 but this law only applies to non-States providers. For years we have applied different rules to ourselves, which has been a source of grievance and generated some well-founded accusations of unfairness. The regulations set out in this proposition define what is meant by the terms "care home" and "home care" and "adult day care". This includes residential children's homes, long-term nursing care, respite nursing care, residential services for

people with learning difficulties or mental health problems, and nursing personnel care or personal support provided to people in their own homes or day centres. It does not include the care or support delivered by family or friends unless in exchange for money or in-kind rewards. It also does not include the giving of thank you gifts, reimbursement of expenses, the cost of shared meals, the receipt of a carer's component under the Income Support Law, the receipt of home carer's allowance under the Social Security Law or the monies paid directly to an unpaid carer to provide them with respite under the Long-Term Care Law 2012. This law will also not cover babysitting or self-help social activity groups. The approach is proportionate and has been subject to extensive consultation. While a service is delivered by a U.K. business it must have a Jersey presence. This means setting up a Jersey office or, if they are home care businesses, they can individually register each carer as working in Jersey. Our law does not extend to the U.K. Without that Jersey presence the Care Commission cannot access the records and information necessary to provide assurances of quality. There would be an unequal playing field between Jersey and U.K. businesses, and more fundamentally, it would defeat the purpose of the law because care providers could bypass the standards that we would wish to set. This is not an onerous requirement, it is about ensuring parity between Jersey and U.K. businesses. It will cost U.K. providers of home care staff £50 per person per year in order to register and to become care providers working in Jersey. Those agencies charge Jersey clients an administration fee of £20 a day to supply fill-in staff. The live-in staff charge then around £105 a day. Assuming services are provided to 20 clients, this can equate to some £900,000 a year and so £50 per staff is not a large sum of money by comparison. In addition to defining the services to be regulated, schedule 2 of the regulations provides for appeals or consequential amendments. This includes repealing the Nursing Agencies (Jersey) Law 1978. Businesses that supply nurses, midwives and auxiliary nurses will be regulated now under the 2014 Jersey Law. Amending the Nursing and Residential Homes (Jersey) Law 1994 to ensure that care home services are not double regulated under both the laws, they will come under the 2014 Law. Importantly, schedule 2 also amends the Goods and Services Tax (Jersey) Law 2007 extending existing G.S.T. exemptions for doctors, dentists and care home providers to home care providers as well. All regulated services will be required to pay an application fee and an annual registration fee. These fees will be set by Order; they do not form part of these regulations but it is important that Members of this Assembly will be informed about those fees. The 2014 Law was adopted on the understanding that approximately 50 per cent of the Care Commission's costs would be generated from fee income. The proposed fees, as set out in the covering report, are designed to meet that target. Fees will be paid by all care providers regardless of sector and the States services will not be exempt. Application fees are one-off fees. A provider's application fee must be paid in respect of each premises or service and a manager application fee must be paid for each care manager. The fees will be higher than those currently charged under the 1978 and 1994 Laws because improved regulatory regime provided for under the 2014 Law is going to cost more. Furthermore, services which are currently regulated under the 1978 and 1994 Laws will only be required to pay 50 per cent of the new fees plus 50 per cent of the existing fees in 2019. This is to provide a smooth changeover from one to the other. As previously stated, charities are not exempt from fees. However, I have instructed officers to develop a small charities provision in the fees order, setting out a zero fee for small charities that provide a care home service for a limited number of clients. The charities will only be charged fees equivalent to the long-term care rate and will not receive any other public monies. The number of these clients has been determined and will be in the region of about 10; so care homes with 10 or less patients or customers will not be charged. It has always been intended that the regulation would be phased-in service by service. We have learnt from the U.K. experience that this staggered approach is essential to avoid both the regulator and the regulated services from being overwhelmed. I am aware that in 2014 the then Minister for Health and Social Services intended that care home, home care and adults care regulations should be brought forward by the end of 2015. It has taken 3 years longer than envisaged. The reasons for the delay are varied but include a failure to provide dedicated resources to the development of this legislation. In early 2019, and in accordance with Article 39 of the law, I

will formally consult with the Care Commission about the next tranche of services to be regulated. Subject to their response, I anticipate that over the coming 12 months I will bring forward draft children's social work regulations to be followed or accompanied by broader children's social services regulations. While it has been previously accepted that we cannot introduce full regulation on all acute services until the new hospital has been delivered, I will be consulting the Minister for Health and Social Services about the distinct aspects of acute hospital services, including but not limited to matters such as recruitment and selection, training, governance, clinical practice and infection control. At the point at which the new hospital is delivered not only will we have a comprehensive framework of independent inspection and regulation in place, but it will already be implemented and applied across many areas of acute service activity. This is in accordance with the Comptroller and Auditor General's recent report on health and social care governance arrangements. I will also be focusing on adult social work services, cosmetic procedures in the community, and mental health services. Alongside this work consideration is also being given as to whether the remit of the Care Commission should be extended to other children's environments and services, such as after school clubs, and to the potential pan-Island, Jersey Guernsey Care Commission. I would like to recommend these regulations to the Assembly.

The Deputy Bailiff:

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

[17:30]

13.1.1 The Connétable of St. Brelade:

Just one point on paragraph 26 regarding the proposed adult day care centre fees. It just strikes me that day care centre fees are probably quite excessive. I appreciate that they do not apply where social services are provided but a lot of day centres will be in a position to provide nursing or medical support, and it concerns me they are having to pay £1,100 and there is little likelihood of getting that back from the few individuals that may be using those centres. So I would ask the rapporteur to clarify that.

13.1.2 Deputy M.R. Le Hegarat:

The Health and Social Security Panel have looked at these regulations and have been provided with some information from the officers on 12th July. Following that consultation process we also wrote to a number of private and charitable organisations asking for their comments. We have received 3 replies from those organisations and on our second briefing on 20th September we put those concerns raised to those officers and we, as a panel, were generally satisfied with their responses. Members have been emailed in relation to concerns that some members of the public have raised in relation to individuals requiring care when the organisations providing the care do not comply with new regulations. This could ultimately lead to services being withdrawn, resulting in individuals having to find alternative arrangements. We, as a Health and Social Security Panel, will monitor closely how the impact on these regulations will be on those providers. However, just to make the Assembly aware, we are in favour of those regulations.

13.1.3 The Deputy of Trinity:

Can I just go back to the conversation yesterday? I sit as chairman of the Complaints Board for anybody with regards to a care problem via the health service. What I am just slightly concerned about - and I could not get the answer yesterday - is that we are employing companies from the U.K.; the people that are coming in are self-employed. I could not quite get to the situation yesterday, because they are self-employed coming in but they are in here for quite a considerable time; they might come in for 2 weeks, 3 weeks, go back and then come back in again. I am not sure where these people sit because the question I asked yesterday - which I did not get the definitive answer - was does this affect population status, and where are they sitting? The other thing is, by being self-

employed I know they have to be checked and I know that we are checking in one particular company at the present time, which many of the Members know about. But I am not sure if you are self-employed ... again, we will come back to the favourite word that has been spoken about across all sorts of situations today and that is the insurance implication. I presume if they are self-employed they have their own insurance so, therefore, do they have any insurance issues with regards to the company that we then employ? I only ask those questions because - and I might be talking out of my head - I just could not work out the position of self-employed people being employed by companies in the U.K. that work over here, who could be over here for some time. I hope that is clear.

The Deputy Bailiff:

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

13.1.4 The Connétable of St. John:

The Constable of St. Brelade raised the issue on fees, in particular to day care. If this is day care that has nursing and certain facilities then, yes, the fees will apply. But if it is just a social club, for example - I am trying to remember the name of the various clubs - but for example in St. John we have the Golden Age Club which is a Parish club that meets, that will not be regulated, and there is no need for that to therefore apply for fees. I would like to thank Deputy Le Hegarat for her comments and support from Scrutiny; it has been good to hear their comments. The Deputy of Trinity raises some very interesting points over self-employed, but if they are coming through an agency our understanding is the agency has them insured. That is as far as we know at the moment; this is being looked into. With regards to the self-employment status and working here in Jersey under the immigration laws and so on, that would be a matter of the employer ensuring that they have the right permissions to employ individuals under the registration and the Housing and Work Law. With that I would like to ask Members to adopt the principles, and if I may I will ask for them *en bloc*.

The Deputy Bailiff:

Well, no, these are the principles so we simply vote on the principles at this stage and then when you come to the independent regulations.

The Connétable of St. John:

Sorry, yes.

The Deputy Bailiff:

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

POUR: 41		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Peter				

Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

The Deputy Bailiff:

Deputy Hegarat, I take it you do not want to call the matter over because you are supporting it?

Deputy M.R. Le Hegarat (Chairman, Health and Social Security Scrutiny Panel):

No, Sir.

The Deputy Bailiff:

Very well. Now, it is slightly past that time where Standing Orders require that I ask the Assembly whether they wish to adjourn until tomorrow or whether or not they wish to continue and deal with this, or indeed what remains on the Order Paper.

Deputy R. Labey:

I think the mood of the Assembly, as I gauge it, is that it would prefer to plough on for at least another half an hour. Can I propose that we plough on until 6.05 p.m. and reassess at that time?

The Deputy Bailiff:

Is that seconded? [**Seconded**] Does anyone wish to speak on that? All those in favour. Very well, we will sit at least until just before 6.10 p.m. How do you wish to deal with the matters in Second Reading?

The Connétable of St. John:

En bloc, if I may.

The Deputy Bailiff:

So that is the 3 regulations, plus the 2 schedules?

The Connétable of St. John:

Yes, sir.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the regulations or any of the matters contained in the 2 schedules to the regulations? Those in favour of adopting those things kindly show. Those against? The regulations and schedules are adopted. Do you wish to deal with the matter in Third Reading?

The Connétable of St. John:

Yes, please.

The Deputy Bailiff:

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

14. Regulation of Care (Standards and Requirements) (Jersey) Regulation (P.127/2018)

The Deputy Bailiff:

The next item of Public Business is the Regulation of Care (Standards and Requirements) (Jersey) Regulations, and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Regulation of Care (Standards and Requirements) (Jersey) Regulations 201-. The States, in pursuance of Articles 9(1), 10, 11, 14, 16 and 30(3) of the Regulation of Care (Jersey) Law 2014, and having consulted the Health and Social Care Commission, and in accordance with Article 14(9) have made the following Regulations.

14.1 The Connétable of St. John (Assistant Chief Minister - rapporteur):

I will try and be a little more brief this time. This Regulation of Care sets out the requirements imposed on people seeking registration under the law, and on those who are registered. It also places a duty on the Care Commissioner to inspect care providers at least once a year to ensure they are compliant. The regulations are extensive and provide for a range of matters. They set out conditions of registration which include the requirement for a provider or a manager of a service to be a fit person. They must have the right qualifications and knowledge, be registered with the appropriate professional body, and undertake training to maintain their skills. The care can only be provided to a stipulated maximum number of people at an agreed premises. The care must meet the health, welfare, treatment and supervision needs of users and it must keep them safe. Carers must be treated with dignity and respect, afforded privacy and supported to be as independent as practicable. They, their families and friends, must be involved in the planning of their own care. The law supports the provision set out in our new Capacity Law. There must be good standards of hygiene and infection control; food must be well prepared, sufficient and nutritious; premises must be appropriately designed and fit for purpose; and medicines must be safely managed. Services must keep good records, notifying the Care Commission of accidents or incidents that cause harm or pose a risk to the user. Additional requirements apply to children's homes and to children's support services. These include a requirement to meet children's educational and leisure needs and to appoint an independent person to visit the children's home in order to report on quality and safeguarding arrangements. The law does not provide for the *vires* to regulate commissioners of services as distinct

from providers of services, but the regulations do place a duty on the care providers to report to the Care Commission any deficiencies in the amount or type of care they are commissioned to provide by a third party. This provides essential intelligence to the Care Commission, who may directly challenge any third party. A person who contravenes the requirements set out in these regulations and who fails to comply with an improvement notice issued by the Care Commission commits an offence and may be liable to a fine. This is in addition to potential deregistration of their service. Overall these regulations bring forward a comprehensive but proportionate set of standards designed to safeguard the service users. They have been the subject of 2 phases of consultation and so I commend these principles to the Assembly.

The Deputy Bailiff:

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

14.1.1 Deputy G.P. Southern:

The rapporteur mentioned the words “dignity” and “respect for clients” and my question is: what consideration has been given to the place of the ethical care charter for domiciliary care in these regulations? If none, when will with the ethical care charter be included in his considerations? I did not spend the best part of 6 months working on an ethical care charter to have it disappear, which it appears to have done.

14.1.2 The Deputy of St. Ouen:

As Minister for Health and Social Services I welcome all these new regulations which will ensure that Islanders enjoy good standards of care through appropriately qualified staff and managers. These particular regulations will ensure that facilities are brought up to required standards, fulfilling basic expectations such as the provision of en suite bathrooms for each room in a care home, as an example. Through regular inspection and regulation of this sector we will be assured by an independent body that those providing less than adequate care, and indeed those providing excellent care, will become known to both the States and the wider community. This is going to allow Islanders who are considering a care arrangement for themselves or their family members to have all that information which will give them the ability to make better informed choices. Of course, these regulations will govern the care services provided by the Health and Community Services Department. They will require us to review our staffing levels and qualifications against those standards, and also to undertake a review of our buildings in terms of the physical changes that undoubtedly will be required in some cases to meet new standards. I have to say that it is apparent really that many of the premises that we have at St. Saviour’s Hospital, particularly Clinique Pinel, will require substantial work carried out and there is a possibility that we may have to do work at Sandybrook also.

[17:45]

So there will be costs to changing those staffing levels and changing the premises. Currently I understand no monies have been set aside or planned for those changes but of course we will be bound to carry them out and we will need to be seeking money in the Government Plan to come before this Assembly. We will need to take advantage of the period of time given in the regulations, which I understand is 2½ years in which these standards must be met, but we will proceed to assess the work that is required as soon as possible. Thank you.

14.1.2 Deputy J.H. Young:

Can I ask a question of the Assistant Minister? The part 2 for registration obviously sets out a lot of quite detailed requirements. Could we be reminded, where is the appeal procedure and what is the appeal procedure in the main law? Who is it to?

The Deputy Bailiff:

Does any other Member wish to speak on the principles?

14.1.3 The Connétable of St. John:

Deputy Southern asked about the care charter. This has been designed, I believe from what I have seen, to complement the idea of the care charter, and it brings into law much of what is needed so that we now have teeth to start enforcing what should be a better regulated industry. I thank the Minister for Health and Social Services; he is quite correct, if a building fails to reach standards there is a 6-month period in which to bring forward plans, and that is within an overall period of 3 years to complete those plans; but that is the initial stage. As for the appeals procedure, I understood it was in the law and I cannot immediately put my fingers on it but it is there if you keep reading. With that, I would like to propose the principles.

Deputy G.P. Southern:

Sir, if I may have a point of clarification from the rapporteur?

The Deputy Bailiff:

Yes, if it is a clarification of something that the rapporteur has just said.

Deputy G.P. Southern:

Yes, I am still not clear as to what place the ethical care charter has in these regulations. Can he explain how that is going to be delivered?

The Connétable of St. John:

I am sorry, I do not understand which parts of the ethical care charter he is referring to because I understand this complements it and brings in the ethical care charter within the regulations.

Deputy G.P. Southern:

If that is indeed the case then what you just said clarifies the issue, thank you.

The Deputy Bailiff:

Those in favour of adopting the principles, kindly show. Those against? The principles are adopted. Deputy Le Hegarat, are you calling this in?

Deputy M.R. Le Hegarat (Chairman, Health and Social Security Scrutiny Panel):

No, we do not want to call it in, thank you.

The Deputy Bailiff:

Very well. How do you wish to deal with the matter in Second Reading, Connétable?

14.2 The Connétable of St. John:

If I may, *en bloc*.

The Deputy Bailiff:

Very well. Is the matter seconded? **[Seconded]** Does any Member wish to speak on any of the regulations in Second Reading?

14.2.1 Deputy K.F. Morel:

We had an interesting briefing on this yesterday and I thank the Minister, the Assistant Minister and the officers for arranging that. I just have a few questions on the regulations and I do apologise, the answers may be obvious. This is not an area I am ordinarily knowledgeable about but there are a few itches, so to speak. At the very end, kind of Regulation 34, or something like this at the very end, as far as prosecuting is concerned it talks about if a person contravenes these regulations they may be prosecuted and they may be fined up to £50,000. I was wondering, when we refer to “person” does that include corporate entities? If it does include corporate entities, what is the situation where a

corporate entity has been dissolved? I asked this question yesterday as well which is Regulation 24 about financial viability and the need for a self-certification of financial viability. Again I ask what happens if the financial viability statement is incorrect but the company has since been dissolved, what teeth does the commission have to kind of bite back or prosecute them in that respect? Also in Regulation 30 there is also the requirement for an appointment of an independent person in the case of children's care. As far as independent persons are concerned, I was just concerned about how the regulator or how the commission is going to ensure that that independent person is truly independent. I imagine this is an opportunity for someone to set up a business as an independent person and start to go around regulating and visiting every month children's care services and care homes. So for me I could see how that person could become quite well known in a community and there over time could be the potential for some sort of conflict. I know it does say if there is a conflict of interest it must be notified, but I was just wondering how the commission is going to ensure that that independent person remains independent. That is all for now, thank you.

14.2.2 Deputy G.P. Southern:

Without trying to question the rapporteur's statement that he thinks that this particular set of regulations complements the ethical care charter, I wonder could he point to the Articles that do account for the ethical care charter and do provide some regulation.

The Deputy Bailiff:

Does any other Member wish to speak in Second Reading?

14.2.3 The Connétable of St. John:

I am a little perplexed by Deputy Southern's continual questioning because the whole idea of this law is to ensure that there is a proper legislative framework in place to ensure that the elderly, the vulnerable, the children of this Island are looked after by qualified people in a proper, regulated way which is independently inspected by the Care Commission; and I fail to see where he feels there is a difference. With regard to the Deputy of St. Lawrence, he spoke initially on the liability issue, if a fine is levied on a company that goes into administration or goes bankrupt. I am afraid that is the same as with any organisation; if it goes bankrupt then you have to take your turn in the queue as to what finances are available. If there has, however, been negligence on the part of the directors then I believe under Companies Law - which I have very little knowledge of - there may be some recourse to additional funds. I regret to say I forgot his second part of the question because I was too busy writing things down.

The Deputy Bailiff:

That may be an invitation to ask it again, Deputy?

Deputy K. F. Morel:

I believe that is about the financial viability and the self-certification; again, what teeth does the Commission have if they lie about that and then are dissolved?

The Connétable of St. John:

Any person making false declarations will of course be committing an offence, as is the case with anything. That is all I can say on that matter. If you make a false declaration that is an offence and that is the case anywhere. I hope he is satisfied with that answer and if I may I will ... now I have lost my place. Have we voted on the principles? Yes, we have. In that case ...

The Deputy Bailiff:

We have voted on the principles; we are now voting in Second Reading ...

Deputy K.F. Morel:

Sorry, I do apologise. I asked about independent persons and how we ensure independent persons maintain their independence because there is a circular reference at 31(1) and the definition of independent persons they just repeat against each other.

The Connétable of St. John:

That is something I would presume is up to the Care Commission to ensure that their independence is independent. That is the idea of having an independent Care Commissioner to ensure it is independently inspected and independently regulated, and it is not up to us as a Government to interfere. We will set the laws, they will then be enforced by an independent authority, and I think that emphasises the word “independent”. With that I would like to ask for the regulations to be adopted *en bloc* in the Second Reading.

The Deputy Bailiff:

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

POUR: 41
Senator I.J. Gorst
Senator L.J. Farnham
Senator S.C. Ferguson
Senator T.A. Vallois
Senator S.W. Pallett
Senator S.Y. Mézec
Connétable of St. Helier
Connétable of St. Clement
Connétable of St. Lawrence
Connétable of St. Saviour
Connétable of St. Brelade
Connétable of Grouville
Connétable of St. John
Connétable of Trinity
Connétable of St. Peter
Connétable of St. Mary
Connétable of St. Ouen
Connétable of St. Martin
Deputy J.A. Martin (H)
Deputy of Grouville
Deputy K.C. Lewis (S)
Deputy M. Tadier (B)
Deputy J.M. Maçon (S)
Deputy of St. Martin
Deputy of St. Ouen
Deputy L.M.C. Doublet (S)
Deputy R. Labey (H)
Deputy S.M. Wickenden (H)
Deputy of St. Mary
Deputy G.J. Truscott (B)
Deputy J.H. Young (B)
Deputy L.B.E. Ash (C)
Deputy K.F. Morel (L)
Deputy G.C.U. Guida (L)
Deputy of St. Peter
Deputy of Trinity
Deputy of St. John
Deputy M.R. Le Hegarat (H)

CONTRE: 1

Deputy G.P. Southern (H)

ABSTAIN: 0

Deputy S.M. Ahier (H)
Deputy C.S. Alves (H)
Deputy K.G. Pamplin (S)

The Deputy Bailiff:

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

The Connétable of St. John:

En bloc, if I may.

The Deputy Bailiff:

Yes, you propose the matter in Third Reading?

The Connétable of St. John:

I propose the matter in Third Reading.

The Deputy Bailiff:

Is the matter seconded? [**Seconded**] Does any Member wish to speak in Third Reading? The appel is called for, I invite Members to return to their seats and I ask the Greffier to open the voting.

POUR: 40	CONTRE: 1	ABSTAIN: 0
Senator I.J. Gorst	Deputy G.P. Southern (H)	
Senator L.J. Farnham		
Senator S.C. Ferguson		
Senator T.A. Vallois		
Senator S.W. Pallett		
Senator S.Y. Mézec		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Saviour		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Deputy J.A. Martin (H)		
Deputy of Grouville		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy J.M. Maçon (S)		
Deputy of St. Martin		
Deputy of St. Ouen		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy J.H. Young (B)		
Deputy L.B.E. Ash (C)		
Deputy K.F. Morel (L)		

Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

15. Draft Regulation of Care (Transfer of Functions) (Jersey) Regulations (P.128/2018)

The Deputy Bailiff:

The next item is the Draft Regulation of Care (Transfer of Functions) (Jersey) P.128, and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Regulation of Care (Transfer of Functions) (Jersey) Regulations 201-. The States, in pursuance of Articles 37(2) and (3) of the Regulation of Care (Jersey) Law 2014 have made the following Regulations.

15.1 The Connétable of St. John (Assistant Chief Minister - rapporteur):

The Draft Regulation of Care (Transfer of Functions) (Jersey) Regulations are made under Article 37 of the 2014 Law. They transfer a range of registration, inspection and regulatory functions from the Minister for Health and Social Services and the Medical Officer of Health to the Care Commission. The purpose is to ensure that Ministers are not both regulator and providing services. This includes requirements relating to on-Island registration of professionals in order for them to practice in Jersey, such as ambulance paramedics, nurses, social workers, radiographers and dentists. It also includes functions relating to distinct types of service provider such as skin piercing and tattooing. I commend these regulations to the Assembly.

The Deputy Bailiff:

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

15.1.1 Deputy K.F. Morel:

It is just another brief statement; I will not keep anyone. It was just to say this is about the transfer of functions from the Government to the Commission, and again something that came out of a briefing yesterday was that ultimately - and just to bear in mind - if the Commission is ever sued for negligence in itself it is the States of Jersey that are liable. So while this is an independent commission, the States of Jersey will remain liable in the event that the Commission is negligent. I just thought that was worth commenting.

The Deputy Bailiff:

Dose any other Member wish to speak on the principle? I call on the Connétable of St. John to respond.

15.1.2 The Connétable of St. John:

I thank the Deputy for that point that was raised yesterday and I ask for the appel.

The Deputy Bailiff:

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

POUR: 41	CONTRE: 0	ABSTAIN: 0
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Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

The Deputy Bailiff:

Deputy Le Hegarat, do you wish to call the matter in?

Deputy M.R. Le Hegarat (Chairman, Health and Social Security Scrutiny Panel):

No, Sir.

[18:00]

The Deputy Bailiff:

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

15.2 The Connétable of St. John:

I believe it is only the one Article at the moment, if we could take that, it is Article 37.

The Deputy Bailiff:

I think there are 6 regulations but you wish to take them *en bloc*?

The Connétable of St. John:

I take them *en bloc*, yes.

The Deputy Bailiff:

Is it seconded? [**Seconded**] Does anyone wish to speak on the regulations or the schedule? Those in favour of adopting the regulations and schedule, kindly show. Those against? They are adopted. How do you wish to deal with the matter in Third Reading?

The Connétable of St. John:

If I can propose them *en bloc* again please.

The Deputy Bailiff:

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

16. Draft Regulation of Care (Transitional and Transfer) (Jersey) Regulations (P.129/2018)

The Deputy Bailiff:

The next item is the Draft Regulation of Care (Transitional and Transfer) (Jersey) Regulations, P.129, and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Regulation of Care (Transitional and Transfer) (Jersey) Regulations 201-. The States, in pursuance of Article 49 of the Regulation of Care (Jersey) Law 2014, have made the following Regulations.

16.1 The Connétable of St. John (Assistant Chief Minister - rapporteur):

Finally, to the Regulation of Care (Transitional and Transfer) (Jersey) Regulations, which are made under Article 49 of the 2014 law. They set out transitional arrangements for services that are currently regulated under the Nursing Agencies (Jersey) Law 1978, and the Nursing and Residential Homes (Jersey) Law 1994. In short, a licensed nursing agency will be treated as from 1st January 2019 as a registered home care service. A care home that falls within the definition set out in the 2014 Law will be treated as if it were a registered care home service. These services will not be required to pay the application fee under the 2014 Law. Any care home, home care or adult day care services that are not currently regulated under the 1978 and 1994 Laws have 6 months to apply for registration under the 2014 Law. I commend these regulations to the Assembly.

The Deputy Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? All those in favour of adopting the principles kindly show. Those against? The principles are adopted. Deputy Le Hegarat?

Deputy M.R. Le Hegarat (Chairman, Health and Social Security Scrutiny Panel):

No, Sir.

The Deputy Bailiff:

Good. How do you wish to deal with the matter in Second Reading, Connétable?

The Connétable of St. John:

If I may, *en bloc*.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Those in favour of adopting the regulations kindly show. Those against? Do you propose them in Third Reading, Connétable?

16.2 The Connétable of St. John:

If I may, but before doing so I would like to thank Members for bearing with me with what really sounds very boring but extremely important regulations, because we must look after the vulnerable in our society. I would also like to thank the officers and all those who have been involved, Scrutiny and all the service providers, in what has been a very long discussion period in bringing forward these laws. I would like to thank Members finally for their patience, and in doing so ask for the appel.

The Deputy Bailiff:

Is the matter seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? The appel has been called for; I invite Members to return to their seats. I ask the Greffier to open the voting.

POUR: 41		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
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Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				

Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

The Deputy Bailiff:

That concludes Public Business for this meeting and I invite the chairman of P.P.C. to propose the arrangement for the Public Business at future meetings.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

17. Deputy R. Labey (Chairman, Privileges and Procedures Committee):

Just in addition to what has been published on the Order Paper, of course P.115 - deferred today - has moved to the December meeting. Otherwise I am not aware of any other changes but a number of amendments to the Budget and the Common Strategic Policy have been lodged. As things stand, 7 amendments have been lodged to the C.S.P. (Common Strategic Policy) and 6 amendments to the Budget, with a further 4 amendments to the C.S.P. in the pipeline, and an amendment to the Finance (2019 Budget) Law, P.130, has also been lodged today; so a very full programme.

The Deputy Bailiff:

I think it is correct to say that the Assembly has agreed to sit from 2.45 p.m. on the Monday, has it not, to deal with questions and the likes, so we will have a full run at the principal business on the Order Paper. So with the addition of P.115 then, chairman, the business is as per the Order Paper?

Deputy R. Labey:

Yes.

The Deputy Bailiff:

Do Members agree?

17.1 Senator I.J. Gorst:

Could I ask the Chairman whether he has considered whether we will need to sit on the Friday and, if so, set that time aside now? Thank you.

17.1.1 Deputy R. Labey:

The short answer is no, I have not considered that. If that is something that Members would wish to deal with now it might be sensible so that they can make provision. It seems very, very likely that even with question time on the Monday afternoon 3 days is not going to be enough for all of this business. So whether Members would like to block off the option of the Friday now and have that as a fourth day.

17.1.2 Senator L.J. Farnham:

May I in that case formally propose that we sit on the Friday if necessary?

The Deputy Bailiff:

Yes, so there is a proposal before the Assembly that we sit on the Friday. Is that seconded? **[Seconded]** Does any Member wish to speak on whether the Assembly continues its business on Friday if it is necessary to do so? Those in favour kindly show. Those against? Very well, the Assembly will sit on Friday if it is necessary to do so. Aside from that, do Members agree the adoption of future business in accordance with the proposal put forward by the chairman of P.P.C.; that is as per the current Order Paper but with the addition of P.115 on the next occasion. Very well, that concludes business. The States stands adjourned until 2.45 p.m. on 3rd December.

ADJOURNMENT

[18:07]