

# STATES OF JERSEY

## OFFICIAL REPORT

THURSDAY, 6th DECEMBER 2018

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[9:31]

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

**PUBLIC BUSINESS - resumption**

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

Before we begin, could I possibly ask whether we might be staying late tonight. I do not know if the vice-chair of P.P.C. (Privileges and Procedures Committee) could give some indication just of the possible time Members might want to stay to, so that those of us with caring responsibilities can make arrangements in advance, if possible.

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

The Deputy got in before me. I was going to raise this morning the idea that we have 9 other items on the Order Paper, we have put aside tomorrow to stay, if need be, but I would ask the Assembly to consider whether they would like to stay late tonight to maybe not come in Friday, if we can get the work done. Or whether they would be more happy to just continue on for tomorrow.

**The Bailiff:**

Would you like to put the proposition one way or the other?

**Deputy S.M. Wickenden:**

I will propose, so people can make their decision that we stay late tonight and then if that does not happen, we will continue as normal. I think that is the best way to go.

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

Can I please have clarification? When he said “stay late” this evening, does he mean that we are going to stay until everything is complete or we do find ourselves at 9.00 p.m. and we have not completed everything so we have to come back tomorrow anyway?

**The Bailiff:**

Could you clarify, Deputy?

**Deputy S.M. Wickenden:**

I would say let us keep it open to 9.00 p.m., a final time. **[Aside]** I propose that we continue on to 7.00 p.m. this evening if there are still items on the Order Paper that we are debating.

**The Bailiff:**

Is that seconded? **[Seconded]** Those in favour of ...

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

Can I just say that some of us may have appointments this evening? I, for example, have got to go to the Surfers Against Sewage National Award around about 5.30 p.m., and can I suggest an alternative should be considered as where we can adjourn and then come back if Members really do not want to sit tomorrow? I just flag that up. I may not be the only one that has to leave.

**The Bailiff:**

Frankly, we are not going to have a debate about this. You will either vote against it or for it. The appel is called for. If Members are in their seats. The vote is on whether to stay late until 7.00 p.m. this evening, if that should be necessary. I ask the Greffier to open the voting.

<b>POUR: 24</b>		<b>CONTRE: 17</b>		<b>ABSTAIN: 0</b>
Senator J.A.N. Le Fondré		Senator T.A. Vallois		
Connétable of St. Lawrence		Senator S.W. Pallett		

Connétable of St. Brelade		Senator S.Y. Mézec		
Connétable of Grouville		Connétable of St. Helier		
Connétable of St. John		Connétable of St. Clement		
Deputy J.A. Martin (H)		Connétable of St. Saviour		
Deputy of Grouville		Connétable of Trinity		
Deputy K.C. Lewis (S)		Connétable of St. Peter		
Deputy J.M. Maçon (S)		Connétable of St. Mary		
Deputy S.J. Pinel (C)		Connétable of St. Ouen		
Deputy L.M.C. Doublet (S)		Connétable of St. Martin		
Deputy S.M. Wickenden (H)		Deputy G.P. Southern (H)		
Deputy of St. Mary		Deputy M.R. Higgins (H)		
Deputy G.J. Truscott (B)		Deputy of St. Ouen		
Deputy L.B.E. Ash (C)		Deputy J.H. Young (B)		
Deputy K.F. Morel (L)		Deputy S.M. Ahier (H)		
Deputy G.C.U. Guida (L)		Deputy J.H. Perchard (S)		
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

## **1. Draft Budget Statement 2019 (P.114/2018): second amendment (P.114/2018 Amd.(2)) - resumption**

### **The Bailiff:**

We now resume debate upon the second amendment to the Budget Statement.

### **1.1 Deputy K.F. Morel of St. Lawrence:**

Good morning. I do not believe that is said often enough in this Chamber.

### **The Bailiff:**

*Bon jour.*

### **Deputy K.F. Morel:**

I would like to start by referring to a couple of colleagues yesterday who said that they do not like paying tax. I stand askance to them on that. I like paying tax. Paying tax, for me, is a sign of my participation in society. It is a sign that I am doing well. That I am also helping others around me. One of the reasons I think I have this attitude is because when I look back at my own life, I realise I would not be here were it not for tax that had been paid by others. My education was funded principally through tax. All the times I was ill that I visited the doctor or spent time in hospital when I was a child, they were all funded and paid for by tax. So, it is with that in mind that when I look at the proposal before us, I have enormous sympathy for it. It is aiming to create a fairer, in the mind of the person who has proposed this, way of taxing and I assume therefore distributing wealth around the Island. But as well as that kind of fairness, which I believe is in the mind of the Senator who has proposed it, there is another aspect to it. It is a fundamental reform of this Island's income tax system. While I am inclined to agree that it is fairer, does that mean that I should vote for it? Perhaps if votes lived in isolation then I would be able to do so, but unfortunately they do not. All of our votes here have consequences. Many of them unintended and it is our job to try to understand what those unintended consequences are. To do that we must be aware of the wider narrative. So as we look at this proposal, let us ask ourselves: what will happen if this passes? In my opinion, it will tie the

hands of the Minister for Treasury and Resources. She will have to come back with a proposal that dictates how she will raise income tax. Income tax is our most important revenue stream. Over the years we can debate whether that should be so, and I am sure we will. But right now that is the case. One of the reasons why I know we will debate this over the coming years is because this Minister for Treasury and Resources has promised a review of personal taxation. Now, as an aside, I have said, and I said yesterday, I believe that should be a wider review. I do not think it should just be personal taxation. But again, we will debate that. She said so in one of her earlier statements as Minister. To be honest, I have no reason to doubt her. Yet in my view, unfortunately, a fellow Minister in this new Government is seeking to tie her hands and essentially dictate an area of her competence in this case. I do not feel comfortable with that. I do not believe there is any intention on Senator Mézec's part to undermine the Minister for Treasury and Resources. But sadly, if this proposal were to pass, I believe that would be the unintended result. I believe the Senator believes wholeheartedly in the good intentions of his proposition but in doing so I also think he has become carried away, as we are all prone to - myself as well - with the theatre of this Assembly. This proposition is intended, as much as anything, I believe, to make a statement. It is intended to put his party's manifesto on the map, but at what cost. If it were to pass, the cost could be as high as the very stability of this young Government. A Government that the Senator is a Member of. To be honest, I feel for the Minister for Treasury and Resources. I understand the Treasury Department have worked hard to help the development of this proposal and the Minister's objections have been put fairly and eloquently. But, as I have said, this is a young Government, and this is the Minister's first Budget, and she has promised a review of personal taxation. In that context and within that narrative, I do not quite understand how it is possible to support this proposal. I believe that the appropriate way to promote it would be through the Council of Ministers because this is one Minister proposing a review of taxation, which is on another Minister's patch, so to speak. They could do that through also the promised review of taxation. What I think we see here is that in reality the allure of party politics lies in its theatre. This proposal shows us the danger that comes with that. In the quest for headlines and promotion, other things can be damaged. In my view, there are many more valuable things, like stability and confidence in the Government. I do not want to see those things put at risk. I take a simple view of Jersey's Government structures. The Government is of this Assembly.

[9:45]

It is a part of this Assembly. As such, we should all want it to succeed. That does not mean we cannot disagree with it and, believe me, I will disagree with it. I know I will disagree with it many times and I will put my views strongly and I hope fairly. But I do want it to succeed and, as part of this Assembly, I think we all should want it to succeed, especially so early in its life. But to see that success happen we cannot tie its hands, not at the beginning of its first term on something as fundamental as the income tax system. When the Minister for Treasury and Resources' taxation review reports then we can all debate the pros and cons of its recommendations and argue for or against the Minister's proposals, but to do so now is too soon. Because it is too soon, I believe this proposal is unfair. There are better ways of getting this or a similar system adopted than through the theatre of this Assembly. As such, as I would ask - and maybe this is going too far, I do not know - but I would ask the Senator to explore those other methods instead because the cost of adopting this proposition I honestly believe are too high. Why risk unintentionally undermining a colleague for some party promotion. This proposition could well succeed in the future but to truly do that it will have to be brought through another forum and on a different day. Later on in this session Senator Mézec and his party colleagues are hoping to pass another proposal that will make demands of the Minister for Treasury and Resources. While strong, those demands in that other proposal, do not tie their hands in the way that the proposal before us does. For all the reasons I have stated, I believe it would be wrong to put all the constraints of those 2 proposals on the Minister and so I ask the Senator to avoid playing with fire and to consider withdrawing his proposal. To do so would remove the risk of unintentionally undermining his ministerial colleague and making this Government - the one that

he is a part of - less stable so early in its life. I believe such an action would also have the benefit of giving his party's second, more pressing, proposition a better chance of success. If this proposal does go to a vote, I urge all of you to join me in rejecting it but rather than take it that far I personally think a withdrawal would be a wiser and safer move.

#### **1.1.1 Connétable M.K. Jackson of St. Brelade:**

Briefly just to emphasise the points really that Deputy Morel has made with regard to my concerns over stability and also, of course, the implications on the long-term care costs. Apart from that, Deputy Morel has made the other points which I was going to make so I shall conclude there.

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

I am quite pleased to follow Deputy Morel's speech because I think that was a very well thought out contribution to this Assembly. Senator Mézec will know I am very supportive of what he is bringing forward. I like the concept of it. I like what it is doing and trying to do and, in the past, as I say, I have been supportive. However, the Minister for Treasury and Resources has given us an assurance that there is going to be a review of our tax system. I am not entirely sure it is going to be a root and branch review, because I feel that is most certainly what is needed as the Constable of St. Martin said yesterday. We really do need to almost start with a blank piece of paper and devise a really modern tax system. It is not just the archaic way that we treat women but I would like to see it go into other things. I feel that Scrutiny missed a trick with the stamp duty amendment that they were going to bring forward. I mean that in itself, yes, the Council of Ministers in the short time available have not done their bit for the first-time buyer. I do not feel it went far enough but that is another story. I did try to do something about it but I ran out of time but in the fullness of time, and as we develop a better system, I would like to see the stamp duty change again. I would like to see us, for example, look at commercial properties. We hear about this commercial property that recently got sold on the Waterfront. How much did we raise in stamp duty from that? Zilch. There is something wrong here. There is something fundamentally wrong. So I really do welcome the root and branch overhaul of our tax system. I would probably push my colleague now to see if she could commit to a timescale for this review. Anyone that is considering voting for this now and even if we are persuaded by Deputy Southern's arguments when he said: "Just approve it. Just approve the principle." Now, if we want to destroy our finance industry overnight we will just say that we have supported a principle to change our tax system but without any details. So the whole world will know our tax system is changing but there is no detail on it other than a possible figure of 25 per cent which, when most other jurisdictions do not have this marginal tax relief, it will take some explaining. So I would just exercise caution if anyone is persuaded just to go for the principle. I welcome the summing up and I shall be supporting on this occasion the Minister for Treasury and Resources.

#### **1.1.3 Deputy M.R. Higgins of St. Helier:**

Unlike the first speaker this morning I happen to believe that keeping one's election promises is absolutely essential. This Assembly has many new Members. Why? Because the old Assembly had broken their promises and shown for a considerable period of time that they had failed in looking after the interests of the public of this Island. I know some of the older Members are looking and feel they are being criticised but we have all got to accept we have failed the population in the past collectively. I do think one way that we can keep the faith of the population and take people through what may be some difficult times is to honour our election commitments. I always have. I am not going to be standing again but I am proud of the fact that I have done, and I commend the Reform Party for following up on what they have said. I do not believe it is just headline grabbing or anything else. They are following their commitments and they should be praised for it rather than criticised. Now, I am going to support this proposition. I know the Chief Minister - he is not here at the moment - but he is not surprised because I have always supported a fairer tax system and what is being proposed here is fairer and the other reason why I am supporting it ... and I wish I had the

confidence of the Deputy for Grouville. I have been in this House 10 years. I have had repeated promises of reviews of the tax system, of change. It has never ever happened. Now, we are being promised a review of personal tax, however one thing I do agree with the Deputy from Grouville is the fact that we need a root and branch reform. We have been pressing for that. Senator Ferguson was in the States before I joined and was pressing for tax reform. So what I am trying to say is: you may put this down and it may be your only chance in the 4 years that you are going to be in the States to bring about a change in our tax system which would be for the better of most citizens in this Island. Now, we are also being told that we should not support this proposition and give Deputy Southern's proposition a better chance. You have got to be joking. I could imagine the people in here who are the ones going to vote this down will not be supporting that either. Do not believe that by rejecting this one you are going to help the other one get through or give it a better chance. Yes, there are things in the proposition, such as long-term care that needs to be looked at. It needs to be looked at anyway. In fact our whole tax system, as I say, needs to be looked at. Long-term care is supposedly not a tax. When it was brought into the States we were told it was not a tax. It was only by a slip of the former Minister for Treasury and Resources, Senator Maclean, when he said it was a tax that confirmed it. We all knew it. He confirmed it and then tried to backtrack. What I am trying to say now is that, yes, we are going to have to look at that but I believe it can be done in a way that will not be that detrimental to the population. What is on the table here is the first positive, in fact the first real suggestion of tax reform in this Island that I have seen in over 10 years, and therefore I shall support it.

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

Yes, as Deputy Higgins has said, one of my manifesto pledges in 2016 - oh, it seems a long time ago now - was to get a review of the tax and I asked for, effectively, a root and branch review and this was defeated in the Assembly at the time but I am glad to hear the lesson has been learnt and it is in progress because one of the curious statistics was that only about 5,000 people - was it 5,360, something like that anyway - only that number of people pay tax at 20 per cent which does make somewhat of a nonsense of 20 means 20. We do not really understand all the ramifications of changes and how they go through the economy. We do not understand the economic impact assessment of how each income quintile is affected by proposed user pays charges and from the changes which we have had imposed since the implementation of Zero/Ten we need to consider the appropriateness of routing income from, for instance, the proposed health charge directly to the Consolidated Fund. We need to view the change in accounting treatment of income tax to assess the robustness of the tax estimate process and review the model used for estimating tax. We need to assess the overall effects on the economy resulting from high levels of immigration. We need to assess the income generated from companies trading in Jersey or owned by residents of Jersey and we need to reconcile and explain the changes in the number of taxpayers in the main bands defined as non-taxpayers, marginal band taxpayers and 20 per cent taxpayers and if anyone would like to read the rationale for all this it is P.68/2016, amendment 9. So at the moment just one change like this; no, I want the whole review. So I oppose this amendment.

#### **The Bailiff:**

Does any other Member wish to speak? If not then I call on Senator Mézec to reply.

#### **1.1.5 Senator S.Y. Mézec:**

That was quicker than I was expecting. Can I thank all the Members who have taken part in what I think has been generally a well-mannered debate? I will say I think there are a couple of exceptions to that, that did seem to come from sort of the twilight zone. I just want to remind Members exactly why this amendment has been brought forward. There are 2 very simple reasons. The first is that we believe they are good proposals which will go somewhere to making this a fairer Island and support our public services and that belief is absolutely genuine and sincere. The second point is that

we said we would do this. We literally could not have been any clearer at all. It was in black and white in the manifesto and not only did we say what the proposals were, we said we would bring them in this Budget, the 2019 Budget. So we were completely clear on that. I would say to Members that it really is absolutely liberating to have a comprehensive manifesto that you can constantly refer back to, to the page and to the line, whenever you need to to guide your decision making and make sure that you stay true to what it is you told the electorate and I would say that that is not sinister. It is not underhanded. It is democratic and it is really helpful, as an elected Member, to have that to guide your decision making and I cannot recommend it enough. I think that politics in Jersey is at its absolute worst when people get preoccupied with being personal, and when you stick to policies you get much better debates in the end.

[10:00]

The only downside to that is that it puts a massive target on your back to be shot at by people who themselves do not have policies that can be criticised or they can be held to account on and who have no alternatives themselves to propose. There was quite a lot of optimism in the Tuesday of this sitting because many of us feel that this is a different Assembly to ones that have come before it and we think Members are getting on among themselves a lot better and producing more intelligent arguments. I will say that in this debate there was hints of the old Assembly seeping through. The worst contributions in this debate came from speakers who did not seem to understand what the point of a manifesto is and spoke as if this amendment is some sort of attempt at subversion when, as Deputy Higgins pointed out, it is just elected people trying to do what it was they said they would do before they were elected, trying to fulfil their promises. I do not think that is a new or interesting concept, making a promise at election time and then trying to do it when you are elected. I said it in my opening remarks but I will repeat this because I think it is worth saying but I thank the Chief Minister and the Minister for Treasury and Resources who I think have, despite the difference in point of view on this, approached things entirely honourably and I think have understood why I brought this, and I respect and thank them for that. So I will address what I think were the worst contributions in this debate because there are points that need to be called out and then I will move to what I think were the better contributions so I can talk about how we move together forward as an Island. Senator Pallett yesterday gave a speech that was bizarre. He started by reminding the Assembly that this is a Reform Jersey proposal as opposed to a Senator Sam Mézec proposition, as if that point was secret. As if we were somehow acting underhand even though it was literally made clear in the very first line of the proposition. If Standing Orders enabled us to lodge propositions as a party as opposed to an individual we would have done that. That is not available to us. If Senator Pallett wanted to recommend that change he will have our full support in doing that but we have been completely transparent about this so let us not have those sorts of inferences because it is the start of taking politics into the gutter, and we do not need that and that is absolutely not our intention. But he asked an interesting question. He asked: "What mandate do we have to bring this?" Every single Member of this Assembly has their own personal mandate by the fact they won their election and we have seen that mandate played out this week. For example, Deputy Ash argued in favour of Deputy Wickenden's proposal. Absolutely right that he should do so. He was absolutely black and white with the public beforehand. I completely respect this position there. That was his mandate that he sought to fulfil, so good on him for doing that. So I went home last night and I dug out Senator Pallett's manifesto. The word "tax" is not mentioned once in it. Not once. So I have no idea what Senator Pallett's tax policies are. I do not know how I can work with him constructively to find common ground to move forward. I do not have that ability because it was not clear before the election. So you could equally pose the question back to him and say, what mandate does he have for opposing our policy? Contrast that with this. Senator Pallett was recently in the press talking about how he felt that he has not been given the appropriate authority he needs to make progress on things like Fort Regent regeneration, and I just want to say to him that I am absolutely sympathetic with what he said. I think that Senator Pallett left what was potentially a safe seat as Constable of

St. Brelade so that he could take the risk running for Senator, and it was a brave and honourable thing to do, to get a mandate to pursue his policies on Active Jersey and Fort Regent. On those subjects, I have been quiet because they are not top of my list of political interests but I respect the mandate that Senator Pallett has for that. I will support him in his bids to move forward and get the authority he needs to do that because I think that is important in a democracy. But he then went to ask: "What is going to be next on Reform Jersey's hit list?" Well, I can help him there. He asked the question rhetorically but of course there is no need to ask it rhetorically. It is all on page 6. He can find our hit list very clearly there because we are transparent on it. It is all in the manifesto. It is all still online. No need to speculate. I give Members advance notice. There are more of these propositions coming on the way. We made commitments. We are going to seek to fulfil them. That does not mean Members who said different things in the election have to support us but that is how democracy works and that is what we are going to do. He made another rhetorical point in his speech as well. He asked us: "Who are we going to go after next? Is it going to be the self-employed?" I was really pleased he made that point because again if he goes to page 6, he will see that our policy is to cut social security contributions for the self-employed. So I look forward to his support on that. He went on to say, and this is the exact quote he used, and Deputy Morel raised this in his speech as well, he said: "The Senator may well have made election promises but he is now part of the Government of this Island." I find this comment worrying and I found it worrying when Deputy Morel suggested we should withdraw this amendment. I do not think that you should say things at election time and not follow through on it. That is what I think builds distrust in politicians. We see it in examples not just in Jersey but around the world where politicians say one thing before the election and then do the opposite afterwards. That is why there is a lot of distrust in politicians and I do not want to be one of those people that acts in that way. When you join the Government you do not throw your promises out of the window just because you have got a nice title. Government is meant to be a platform for delivering on your promises because that is the point of elections and if we are not successful this time round, having brought the proposition on the precise terms that we said we would bring that proposition, then of course we will work constructively with the review that the Minister for Treasury and Resources has set up and we will have that second attempt. He ended - and this is particularly enjoyable - by saying: "The proposal was dangerous." That was the words he used. That sentiment, of course, was not shared by the majority of contributors in this debate, some of who were intrigued by the proposals even if they do not want to vote for it but have said that there is enough merit in it to warrant further consideration. I think that is a much more sensible and considered position than what Senator Pallett said. The next worst contribution in the debate was that from Deputy Martin. She claims that there were rows on social media and challenged me to answer the unanswered questions and of course that is an impossible argument to address because it is just so far from the truth. She will say it is true. I will say it is not. All we get is naysaying there and how does that take political debate forward. It is just not a good thing to do. What I would do is I would challenge Members of this Assembly to find a Budget amendment that has come before this that has ever been so comprehensively well put together, that has had so much detail attached to it because you will not find one. We have by far the best distributional analysis you could imagine for an amendment. Part of that is attached to the amendment as the appendices and the Treasury officers, sat in the corridor outside, know our policy inside out because we have worked with them right from the very start and the policy produces a surplus. I mean you honestly do not get better than that. She challenged me on the point of how this interacts with the long-term care charge. She correctly pointed out that this was referenced in the reports the first time I brought this proposition and was not raised this time round. She has got me there. That is true and I am absolutely kicking myself for not including it in this version because frankly the only reason I did not bring it is because I thought it was so painstakingly obvious that it did not need addressing. That is a mistake I will not be making again. So with L.T.C. (Long-Term Care) the issue arises because there are a number of people who currently find themselves on the 20 means 20 calculation but below the L.T.C. cap, above which you do not pay any extra L.T.C., who, under these proposals, will now be eligible for tax allowances,

which means the taxable income that L.T.C. is applied to will be lower and therefore reducing the take. That is absolutely true. It is also true in this Budget unamended because that is what happens every time you raise tax allowances. Not just our proposition but the Budget unamended has the same effect but of course it is only our amendment that that gets pointed out to, not the main Budget. The comments from the Council of Ministers say that this could mean raising L.T.C. on people sooner and of course that is one option. You could do that or you could raise the cap. The cap is unfair. It is regressive. It means those with the most means contribute proportionately the least. There is no logic to it. You could raise that cap and your problem is solved immediately, and I give advance notice on this point. Again, it is in here, great decile clause. We said that we support raising the cap on L.T.C. So in the future discussions that there will be on L.T.C. that is what our position is going to be. I do not believe that you seek to raise taxes on ordinary working people without asking those with the broadest shoulders to carry more of the burden. Let us be clear in the context of this amendment, we could not have a better time to be talking about L.T.C. because we know we are going to have to look at it anyway. We could wait for the L.T.C. debate to be had and move forward and then bring on this change and, great, we have to reopen the debate again, so pragmatically this is the best time to be having that debate. So moving on to what I think were some of the better contributions in the debate. Just one issue I want to raise that Senator Moore brought up. She very clearly said that one of the reasons we have to vote against this is we did not give enough notice. I can see Deputy Southern laughing because he probably remembers this. We announced this policy on 16th May 2017. I mean how much more notice do you want? We did it on the year run-up to the last election. We have been completely open and transparent about this the whole way through. I think to say that nobody knew about this before 19th November is just not true. I mean we can do everything we can to publicise it. There is only so much you can do. Some people just cannot be helped. But some of the rest of the criticism that this has faced has been on the usual doomsday stuff that says: "If you do anything at all you risk undermining stability and throwing everything up in the air." I have to say that if that is true then we may as well all go home. What is the point in being here if you cannot change anything because that ends stability? The fact is that our tax regime, whether it is personal tax or business tax, changes all the time. Just a few years ago marginal relief was reduced from 27 per cent to 26 per cent. L.T.C. was introduced. It did not exist before. The last Assembly attempted a health tax that was going to be similar to the L.T.C. Tax allowances change all the time. So how are we stable anyway? Your tax changes naturally over time or you sit down and you consider a change because you see your circumstances have changed and you need to move with the times and go with that. Corporation tax has changed when it has needed to. Sometimes it is needed to change with circumstances not of our own making. Some of those responses have been right. Some of those have been clumsy. So let us not accept this idea that stability, keeping things the same, is the be-all and all-end because it does not matter how stable your hand is on the tiller if your ship is heading towards an iceberg. Having the ability to change when you need to is the right thing. It is the responsible thing and every Government should be open-minded about doing it. I have been disappointed that so much of this debate has been focused on the finance industry and I doubt that this would have happened at this scale without the last-minute intervention from Jersey Finance, which I said in my opening speech had several fallacies in their letter and I stand by that. There are things said in it that I think are nonsensical when this is a debate on personal tax, not business tax. We are not proposing changing Zero/Ten and this is not about changing our finance infrastructure. People in all of Jersey's industries pay income tax, some of which is at very high levels, not just in finance, so why are we not also talking about digital? Why are we not also talking about hospitality or construction? This applies to people not the businesses themselves. In any event the vast majority of finance workers get a tax cut under this proposal. Surely that is good for finance firms for their workers to be that little bit better off, enjoying life, able to be more productive. I will say that I was heartened by some of the contributions that there have been in this debate. To single out just one, there is the Constable of St. Ouen who said: "That with a bit more time and consideration we might possibly be on to something here." I think that was echoed as well by the Deputy of

Grouville. So I say to them that if this amendment does not succeed today then I am glad that it sets the groundwork for being considered next year over this review.

[10:15]

As I have said, we will completely work and co-operate with this review because it is a good thing to be happening. My view is that it could focus on other issues if we dealt with this today but if it is to be dealt with in the wider scheme of the review that is fine. The one thing I will say about this thing about reviews is because, as Deputy Higgins said, reviews happen all the time, often decisions do not get made or often the obvious decision is made but it is delayed by a year in getting to that point. What concerns me about this review is right now I do not know what the guiding principles underpinning it are and I think that when you are having a consultation or when you are having a review surely you should start with some of those principles that you are seeking to abide by. Are we talking about fairness? Are we talking about getting more and more stable revenue for public finances? All of these things need to be considered and we do not really know where we are there so that is one thing that worries me. I really hope that this Assembly does not make the habit of kicking things into the long grass because we really have wasted a lot of time as an Assembly previously, avoiding making an in principle decision on something that is right and then spending your time working out the detail of the legislation, making sure the legislation is fit for purpose because that is something in legislative scrutiny that we are not very good at as an Assembly. Instead we spend a lot of time having divisive and often pointless discussions on the in principle decision. I know I referenced it yesterday but the same sex marriage consultation was an obvious example of this, where we put off making that in principle decision and spent a year with a nasty and divisive debate when that time could have been spent coming up with that legislation quicker and doing it in a better way. I think that it goes against the principles of governments being agile and dynamic, able to make decisions and show that leadership there, standing up to be counted and getting on with it which I think is the right thing to do. As I sum up, I think that this proposition that we have put before us is brought forward on democratic grounds. It was unfair to ask us to withdraw it because we were so clear in our manifesto that we would do it. I am not going to break my promises to the electorate and I will not listen to anyone who tells me I should, and I hope every Member has the same attitude there. This policy's greatest virtue is that it treats us all equally because no matter where you are on the income scale the same rules apply to you. We can have a 2-tier system or we can treat everyone the same. By the way, on top of that, it makes the system simpler and raises more revenue. What could be better than that? So I ask Members, if you believe in the principles of what we are proposing do not kick it into the long grass. If you think it has merit, vote for it today. It might not win but at least you can personally make that statement that you support the simplicity, the equality and the principle of raising revenue for our public services. Have the courage of your convictions. Vote for what you believe in. If there is a review you want to engage with, well, that is fine, you can still do that. Voting for this does not stop you from doing that. It is not going to stop me from doing it. So I make the proposition and I ask for the appel.

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

Before we call the appel could I raise the défaut on Senator Moore and Senator Farnham please?

**The Bailiff:**

It is proposed that the défaut be raised on Senator Moore and Senator Farnham. The défaut is ...

**Deputy M. Tadier:**

Are we allowed to object?

**The Bailiff:**

You are allowed to object, Deputy, yes. The défaut is raised. Then I invite Members to return to their seats. The vote is on the second amendment to the Draft Budget Statement as lodged by Senator Mézec and I ask the Greffier to open the voting.

<b>POUR: 12</b>		<b>CONTRE: 34</b>		<b>ABSTAIN: 0</b>
Senator S.Y. Mézec		Senator I.J. Gorst		
Connétable of St. Mary		Senator L.J. Farnham		
Deputy G.P. Southern (H)		Senator S.C. Ferguson		
Deputy M. Tadier (B)		Senator J.A.N. Le Fondré		
Deputy M.R. Higgins (H)		Senator T.A. Vallois		
Deputy J.M. Maçon (S)		Senator K.L. Moore		
Deputy L.M.C. Doublet (S)		Senator S.W. Pallett		
Deputy S.M. Wickenden (H)		Connétable of St. Helier		
Deputy of St. John		Connétable of St. Clement		
Deputy J.H. Perchard (S)		Connétable of St. Lawrence		
Deputy R.J. Ward (H)		Connétable of St. Saviour		
Deputy C.S. Alves (H)		Connétable of St. Brelade		
		Connétable of Grouville		
		Connétable of St. John		
		Connétable of Trinity		
		Connétable of St. Peter		
		Connétable of St. Ouen		
		Connétable of St. Martin		
		Deputy J.A. Martin (H)		
		Deputy of Grouville		
		Deputy K.C. Lewis (S)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Ouen		
		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 M.R. Le Hegarat (H)		
		Deputy S.M. Ahier (H)		
		Deputy K.G. Pamplin (S)		

## **1.2 Draft Budget Statement 2019 (P.114/2018) - resumption**

### **The Bailiff:**

Very well, we are shortly now to return to debate on the Budget Statement. Having dealt with the amendments I am going to ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion – (a) to approve, in accordance with the provisions of Article 10(3)(a) of the Public Finances (Jersey) Law 2005, the estimates of income from taxation and duties during 2019 of £757,812,000 as set out in Summary Table A of the Budget Statement, with the sum to be raised through existing taxation measures and the proposed changes to income tax, impôts duty, goods and services tax, stamp duty and land transactions tax, as set out in the Budget Statement; (b) to approve, in accordance with the provisions of Article 10(3)(c) of the

Public Finances (Jersey) Law 2005, the appropriation of £20,533,000 in 2019 from the amount appropriated to growth in the Medium Term Financial Plan Addition for 2017 – 2019 (P.68/2016 as amended) to the revenue heads of expenditure of those States funded bodies as set out in Summary Table B, noting that these sums incorporate the £9,400,000 growth funding approved by the States in their Act dated 30th November 2017 (as detailed in paragraph (b) of P.90/2017 as amended); (c) to approve, in accordance with the provisions of Article 10(3)(d) of the Public Finances (Jersey) Law 2005, a capital head of expenditure for each of the capital projects for States funded bodies to be started or continued in 2019 (other than States trading operations), as set out in the proposed programme of capital projects in Summary Table D, with the net allocation from the Consolidated Fund totalling £32,975,000; (d) to approve, in accordance with the provisions of Article 10(3)(e) of the Public Finances (Jersey) Law 2005, each of the capital projects that are scheduled to start during 2019 in the recommended programme of capital projects for each States trading operation, as set out in Summary Table E, that require funds to be drawn from the trading funds in 2019; (e) to refer to their Act dated 8th October 2015 in which they agreed in accordance with Article 4(2) of the Public Finances (Jersey) Law 2005, that in 2019 a transfer of £50,000,000 would be made from the Consolidated Fund to the Strategic Reserve Fund; and to vary that decision and instead transfer that same amount from the Consolidated Fund to the Stabilisation Fund in 2019, in line with the requirements of Article 4A(1) of the aforementioned law.

### **The Bailiff:**

The Budget Statement is now open for debate. Does any Member wish to speak?

#### **1.2.1 Deputy S.M. Wickenden:**

For me to summarise this Budget as unamended I would have to say this Budget Statement is acceptable for a child to have to go hungry because the child's parents need to find more money to support their habits. This Budget says it is acceptable for a husband or wife, boyfriend or girlfriend, to be abused by their partner when they are behind closed doors and drunk. This Budget says it is acceptable for a person to poison themselves at home with alcohol they home brew. It says it is acceptable for people to sleep on the streets because they are drunk and homeless and the hostels will not accept them when they are drunk. All of this is acceptable for this Government because of the policy that helps make it all happen makes good money for our coffers. In my opinion the 28 Members who voted against amendment 6 have shown they share the same corporate social policy as the tobacconists and oil companies. It is okay to do harm if we make money from it. I will support the Budget in total but I am disappointed in the policy that allows all the things I mentioned to happen within it and I think that we can do better.

#### **1.2.2 Deputy J.H. Young:**

I rise to make some brief remarks and thank the Minister for Treasury and Resources for, in her speech, including within the work which is going to go on this year a commitment to looking at environmental taxes and charges and enabling me to lodge my amendment. The fact that I did originally lodge an amendment was one of timing and accident, practical difficulties, but nonetheless as soon as there was the opportunity I was able to put the information through to the Minister for Treasury and Resources and I am grateful for the commitments. I think I make the point because in the context of the Budget as a whole, as I said yesterday, I think it is a very balanced Budget. It takes the difficult task ... it is incredibly difficult I think for a new Minister for Treasury and Resources to come into a new role at the end of an M.T.F.P. (Medium Term Financial Plan) cycle where all the decisions have been effectively made by the previous Assembly and previous Ministers and to take that material because in a 3-year plan so much is going to change. We have heard all the plans that did not come to fruition, the savings that were not delivered, the charges that were not made because of the issues I said yesterday - I will not go over it - and so to produce a plan that gets so close to retaining us within balance is no mean achievement. I think in an ideal world, hopefully ... well, in

an ideal world we would have much more flexibility and I still think there is an issue in the way we run our finances. The Medium Term Financial Plan and the Finance Law; I am delighted that there is a commitment to changing it because I think almost this 3-year plan has proven to be very much like a straitjacket and it will seriously restrict a democratic ability to respond to very uncertain times. We are on the edge of Brexit. None of us know what that is going to be. It is increasingly troubling by the day. So it is good that that is going to change and I am very hopeful that we will be able to agree the mechanics of those changes next year and that we will find that future Budget processes and whatever new procedures come in place for the financial planning is improved and enables us to respond more quickly. But of course central to that - there is no question about it - is that future Budgets will have to address the unfunded - the unfunded - already seriously unfunded costs of our health service and our education service and we know that not only is it not going away but it is going to get more and more. So I think that means definitely more revenue raising and we discussed that yesterday. I was delighted that environment is in the strategic priorities but I have to recognise that with the issues of health and education, the demands are going to be enormous and therefore I feel strongly that the elements that I spoke to the Minister for Treasury and Resources about, about looking at charges and vehicles for trying to change environmental behaviour, on vehicle and road users, on waste reduction and management. Also on trying to get some return on the enormous gain that people gain from increases in land value, released by public decisions, by people of this Island, enormous capital gains are made and to attain or to have a system whereby we get some community benefits from that by way of the infrastructure requirements particularly in St. Helier, so we do not have a situation again that in the future whereby we have plans, plans on the table, the Minister for Infrastructure has them, which cannot go ahead. We have to have that. So it is a tough challenge for the Minister for Treasury and Resources to produce this balanced plan but the Minister for Treasury and Resources has made those commitments and I feel absolutely confident that we will work together and bring back proposals that would come to this Assembly and it will be your choices. I shall be arguing strongly in support of them, but they will be properly researched and properly looked and subject to consultation and so on.

[10:30]

So I think with those remarks I think it is as good as ... I think in summary, when I first looked at the Budget, I was disappointed as a new Minister. I was disappointed and I thought: "Well, it is kind of a steady-as-you-go Budget." I could not see anything exciting or new in it because I am an impatient person. I like to get on and do things. But then on mature reflection I realised that that is basically the only task that could be done in the current situation but what we have also managed to do, I think, is to set the way forward for future changes and improvements in the future, and I think I am delighted with the way the amendments have gone. I think it is the right decision. I think we have had some very good debates on those amendments and I think that has helped us all as an Assembly and make sure that we keep balanced finances, but we recognise that things are going to have to change and people are going to have to pay more tax, in order to ensure that our public services are properly funded, so I support the Budget.

### **1.2.3 Senator S.Y. Mézec:**

I agree with every word that Deputy Young just said. Like the C.S.P. (Common Strategic Policy), I have voted against every Budget that I have ever had the opportunity to vote on in this Assembly and I will be voting in favour of this Budget and doing so quite enthusiastically. I think it is difficult to try and get anything new after what Deputy Young has said but I will try and do so. The circumstances that we find ourselves in make it very difficult obviously to be radical in this Budget, to come up with new and important ways of altering our public finances so that we have got the ability to support our public services. I think that is a real problem that we are going to have to deal with. I think the decision to separate funding services and raising revenue and set us on these 3-year plans, I think, was a disastrous decision that right now has put ourselves in a position that it is

absolutely the wrong place to be in when we are facing the challenges and we are, as an Island, and I certainly hope that that will be changed as soon as possible. There will be an opportunity perhaps later today to do something to change that. What I would like to say is that I hope the next Budget we have is much more ambitious than this. It is right that we have a Budget this time round but next year I hope we are in a situation where we are able to propose some important reforms that will set Jersey out in a good place for the future, that can raise revenue in ways that is not just sensible but it is also ethical. That is future thinking in terms of what we will be looking at with the way the environment is going. I think that the Minister for the Environment is right to want to look at how we look at raising revenue and people's environmental behaviour. I think that it is absolutely right that we look at that. It is right that we look at personal taxes, given that there are unfairnesses in the system, not just the issue of married couples but the issue of marginal relief versus 20 means 20, which I do hope is addressed at some point. I will absolutely work with that review to make sure we are in a good place to move forward. I do not have anything new to add. Apart from that, this is a good Budget, it proposes the right things at the right time and I look forward to an ambitious Budget next time round. I am very proud to be voting for my first Budget.

#### **1.2.4 Senator K.L. Moore:**

It is a new Government and I am sure it was difficult for the Minister to bring a Budget so early in the term of office. It is justifiable that it is a quiet Budget to an extent. However, this is a time of uncertainty, as many have accepted during the debate so far. At a time of uncertainty it is necessary to give the public, and particularly businesses who drive our economy, an element of hope. That hope, I think, has been rather silent in this Budget. There is a mention of inflation, which is, and I quote: "A cause for concern." There is a mention of productivity, which is one of the priorities or a common theme somewhere within the C.S.P.; that is now agreed. The Budget says we need to tackle productivity, yet there are no specific measures to tackle either one of those just yet, right at a time of uncertainty, at a time where we need to give hope to our businesses that there is a strong and stable future here in Jersey and that they will be able to weather the storms ahead. Quite the reverse, in listening to the Minister's speech, we did hear 2 new pieces of news, which I welcome. One, that there will be an infrastructure fund and a fund for I.T. (information technology) and digital, and I hope that the Minister will be able to give us more information about those as she sums up, or certainly in the coming weeks as they advance, because they sound like interesting projects that could benefit our Island community. But the majority of the message that I received in this speech was a warning; a warning that there is change to come and that, I am afraid, does fuel uncertainty. I would caution and urge the Minister to be very clear with her messages as she moves forward following this Budget, which I will be supporting. But I do urge caution and encourage the Minister to take her engagement with business and the public extremely seriously after the comments that have been made in this Assembly over the last day. It also must be said that when making such statements and giving such warnings, it is essential that we have our own house in order. The Budget deficit that is forecast in future years is not clear and it does not currently account for the changes that are going on within the public sector. I think it is essential that we show the Island, before asking them to contribute further, that we really can tackle the issues of public sector change and show what economic impact that will have on the Island spending in terms of our public revenues before we have that conversation with the public about how they can contribute to the future of our public sector. I commend the Minister for her engagement with us, as a Scrutiny Panel, and for her speech and I wish her well in her first full term of office.

#### **1.2.5 Senator J.A.N. Le Fondré:**

I am delighted to follow the last speaker because you will find I agree absolutely with one of her last statements and that was around the public sector organisational change and demonstrating that we achieve those changes before we go and start putting greater taxes on to the wider public; I agree absolutely. In fact just before I go any further, can I thank the Ministers plural, the Minister in

singular and the team behind her basically for the work that has been done on the Budget and all the work that we have seen this week? Where I was negligent is, I forgot to say the same for bringing the Strategic Plan together. Again, thanks to the Ministers and the team behind that. There is a lot of work that goes into these things and the officer support that comes through is huge. I also need to thank the relevant Scrutiny Panels in terms of both introduced plans and particularly our Corporate Services Scrutiny Panel for their work on the Budget and, hopefully, we will be working constructively together in the future. This is not going to be a long speech, you will be delighted to know, because we have still a long day ahead of us. There is going to be passion in the debates to come, I am sure; hopefully, we can deal with respect as well. There is obviously a different Assembly here in this Chamber this time round but I hope, again, so far the debates have been respectful and, hopefully, we can keep it that way as well. We will disagree, no question, at differing times but it is how we go together for the common good of the Island. In terms of caution looking ahead, what I did want to say, and it was the main reason for standing up, I hope people have still got the Budget somewhere near them because that is what we are about to vote on. If Members could look at page 92, if one has it to hand and I think it is just worth identifying that in relation to the future. There is a little bit about uncertainty as well and there is a bit about understanding some of the pressures we are facing. On page 92 there is a figure 29, which is the Summary of Financial Forecast for the Draft Budget 2019. If one looks down the column at the bottom you will see a black figure of about £11 million surplus; that is good, no question. The ones that are concerning are the red figures to the right in brackets, which are £27 million, £37 million, £39 million and £39 million, respectively. That, broadly speaking, adds up to £142 million deficit cumulative and that is why when we say we have this large pot of money sitting there, just keep an eye on the future. Just before everybody gets fixated on precise numbers, there are a load of assumptions that come through here and this is the bit; that is where the Government Plan starts coming together. Because the red figures do not take account of any future savings, in other words it is coming through from the restructurings and things like that. They do not take account that perhaps if we can make some efficiencies through vacancy management and things like that, so we hope we can reduce those figures. One of the pressures we face is that in 2020 we face an extra £15 million a year on supplementation because the grant that has been frozen for the last 8 years up to the end of 2019 will suddenly have to go up to reflect future changes. There are ways of addressing these things but if they are not addressed this is what this does. We will no doubt focus on that in the future but I really make the point between capital one-off spend and recurring spend, revenue expenditure. Because each time we take recurring revenue expenditure out of one-off available pots of money we keep kicking the can down the road, to use a probably maligned expression but we do not necessarily have the funding going forward. I went into the Chief Executive's office last night and there was a conversation going on of precisely that, where in the past somebody had funded something out of a one-off pot of money and suddenly they had no Budget further because they have not taken account of the future revenue costs; that is about fiscal discipline. The other point we need to bear in mind ... and, yes, I keep reiterating and, as with the Minister for External Relations, that horrible B word Brexit, one which we shall know about probably on Monday, I believe, but we are in that period of uncertainty. We are pretty well placed in terms of Jersey and its relationship with the U.K. (United Kingdom) and expanding people's understanding of our position. However, the however is no one, as yet, can predict what that vote is going to be early next week and what the consequences are going forward. Even depending on what that vote is, where that goes forward between now and March and thereafter. One always has that element of caution. Because the Ministers, the Minister for External Relations and his predecessor and, as I say, the team in External Relations have done a huge amount and I am very confident in the work that has been done. But there is still an element of uncertainty that we face. Those figures, the one thing you can guarantee, is that they will change. They could go up, they could go down. I think I got accused of being too prudent but we are in a single time in a generation probably with the greatest level of uncertainty that we are facing. We are well placed insofar as we can be, that is why we have had the Vienna Convention signed; that is why we have got the customs arrangement in place. We also know

later on we have got the economic substance; that is about supporting one of our key industries; our key industry, we have other very important industries that are improving. I think also do not forget because of those uncertainties that is why, for example, we are reaching out to other markets to try and expand Jersey business, to bring that in, diversification, all that sort of stuff. But that all takes time to come through and that is why you will have seen Ministers going away quite a lot, that is why the political engagement in Westminster is being ratcheted up even further. All of that is happening, it is all good stuff but we will only know the fruits of that work over the forthcoming days, weeks, months and years. But I do reiterate that point, that figure 29 is important; do not lose sight of it. For example, one of the pressures we do face is that some of the savings that we have built into the M.T.F.P., which are included in that figure for 2019, as yet, and in fact new Members will recall the Treasurer in this Chamber on one of the new presentations saying it; not all the savings were being delivered.

[10:45]

This assumes they will be or if they are being delivered, they are not necessarily being delivered on a recurring basis. It may just be a one-off cash saving they are going to make. They then have to find that money again in future years. There is uncertainty in these figures and I add that to that caution. If we have a pot of money on one side, which we do, which is good, that will get us through those times but do not go on a spending spree, and that is a message to Ministers as well, by the way. That is the caution but do not forget we have positive bits; we are well placed as a jurisdiction. We know this is a good place to live and we do have a very highly-respected industry, which is of huge benefit to the Island. We do have digital, which is expanding. We do have better figures coming through on things like tourism. But I will always add that element of caution, that table is still demonstrating levels of uncertainty going forward. On that point, we have deliberately, and the Minister for Treasury and Resources has deliberately said, it is a steady-as-she-goes Budget and I certainly commend it to the Assembly. I hope Members will be supporting it. I do thank the team once again for all the work done and I thank Members, for we have had a good productive few days in here.

#### **1.2.6 Deputy R.J. Renouf of St. Ouen:**

I stand to ask Members to consider the outburst from Deputy Wickenden and the accusations he made of most of his colleagues in this Assembly that we might be encouraging domestic violence or adding to child poverty and such like, when the majority of this Assembly have agreed that evidence exists that Budget measures have a role in changing behaviours and improving health outcomes. It seems to me that if the Deputy is so convinced by the stance he has just announced today, then where was his challenge to the tobacco measures? They were not there. I think we must always be happy to have that debate around the effectiveness of impôts measures and an alcohol strategy generally and I do hope the Deputy will contribute. I believe he would have a valuable contribution to make to an alcohol strategy going forward but only if it does not precede from a standpoint that his colleagues in this Assembly are so reprehensible that they are condoning criminal actions.

#### **1.2.7 Deputy J.H. Perchard of St. Saviour:**

I just wish to thank the Minister for Treasury and Resources for her comments in her very opening remarks for the Budget, particularly pertaining to the withdrawal of the amendment to change to presumed consent in tax and instead to refocus on what we all know is the more pressing issue of the fundamental law about wives' money belonging to husbands. I am really, truly grateful for all of her support throughout the last few weeks. We have had several conversations already about this and she has been nothing but collaborative and has provided a listening ear at all times, as has one particular officer of hers. I just wish to thank her for that. I know Deputy Doublet and I both very much welcome the opportunity to discuss this with her in the start of January.

#### **1.2.8 Deputy M. Tadier of St. Brelade:**

I think it is important to talk about smoking and this is one part of the Budget that seriously concerns me, not necessarily enough to put a Budget amendment in and let us deal with that issue first. This has been a strange Budget insofar as it has virtually been unamendable because we have been told that the envelope has been set and it has been set by a previous Government. If you wanted to find new monies to do new initiatives, that has not been possible in this Budget and that is the first time that has ever been the case in my 10 years in the Assembly. It would have been the case, I am sure, that many of us, and certainly on this side, would have wanted to prioritise new monies for urgent spending or investment in certain areas that are key and critical to the delivery of services, both now and in future years but that has not been the case. I am concerned that the message we are sending out about smoking is that it is okay to increase duty by 9.5 per cent this year, which is far and above the R.P.I. (Retail Price Index) figure and that is highly regressive. I should caveat this part of the speech by saying that of course we all know that smoking is bad and there is no such thing as moderately healthy smoking, whereas there is for alcohol, and I think that is one of the key differences. Although Deputy Wickenden has already spoken, there is no suggestion that somebody goes out on a smoking binge and then goes home and beats their partner or abuses their children. It is perceivable, I guess, that if you are so desperate that you cannot get hold of tobacco you might try and steal money and that is an issue. I know that for some people in the Island, as I have said yesterday, they will spend all of their money and spend all of their energy trying to fuel their addictions, and nicotine is one of the strongest and hardest addictions to kick yet it is one of the most costly; not just physically but financially. When we think about the many people in this Island who are living on a shoestring or on the breadline, whatever you want to call it, who are having to face these increases to fuel their tobacco addictions, who do not have the ability to travel off Island to get duty-free cigarettes, which is, I think, largely smoked by many people in Jersey. It would be good to do a proper study of how much of the tobacco in the Island is duty-free. They are the ones having to put up with this issue. Some of them will be on income support and they will be on income support facing the fact that their income is not going up with the cost of living and they have seen cuts. Certainly the Scrutiny Panel I was on in the last Assembly showed that there had been significant cuts to the lowest in our society in terms of their income. We have to consider how this fits in with the Common Strategic Policy that we just passed the other day, saying that we want to reduce income inequality. We do not see anything of reducing or tackling income inequality in this Budget. I think it is quite remarkable and, in a sense, laudable that reducing income inequality has been the target. But I suspect that Members and the Council of Ministers do not understand what that means because in order to reduce income inequality it means that you bring everybody closer to the average, to the centre. You have some mechanisms for doing that for the poorest in society. Essentially, there are 2 mechanisms to increase people's minimum wealth, those at the bottom end, is that you can increase the wages that are paid and you can do that by imploring or legislating for businesses to pay a living wage, therefore, increasing people's wages and taking them out of poverty, or you can do it through the benefit system by increasing the amount of benefits that people take home. At the top end we have got very fewer levers because, of course, the rich are not in receipt of benefits; most of them will be paid by the private sector. We can have some influence over pay restraints in the public sector but, by and large, the public sector already has a smaller gap between the top and the bottom. The current Government and previous Governments are doing their very best to reverse that with the creation of quangos and we have already seen that today; it has been announced. We have seen that in the past few weeks, that as soon as you create a quango your lowest workers get paid less because you outsource and you try and get them as far as possible to do the work for minimum wage. Of course, the bills do not go down, it just means that the middle managers cream a lot off the labour of the workers. The workers, of course, being the true wealth-creators. The ones that are called wealth-creators in our society are simply those who go and scoop the cream off the top that has already been created by the hard work of the labourers, who are necessarily underpaid and undervalued for their labour. This is the way this current Government is going and I have not seen anything to suggest that it is not but I hope that it will be reversed. But I do not see any signs of that today, as we have seen

announced in my very own department, Visit Jersey directors are being paid bonuses and pay increases, which are far above the cost of living. Andium directors have given themselves pay increases far above the cost of living, while those doing the outsourced work at the bottom, as I have said, are getting paid less than this. Are we aspiring to be a society where we reduce income inequality or are these just fine words? I suggest at the moment we have not seen that and this Budget does nothing to amend income inequality. We have seen it with the rejection of the very modest proposal that is being put forward by Senator Mézec and our party, is that even the principle of reducing income inequality when we could do something practical, not immediately but work on it and do it in 2020, has been rejected. It does not bode that well in terms of this Budget so far. We have talked about the fuel increase and we have talked about it is being done for health reasons. But what about the more pressing health issue that concerns all of us, not just in Jersey but right across the world, which is the health of our planet and the sustainability of our environment? Where is the health tax on fossil fuels? We have seen an R.P.I. increase when it comes to fuel duty, this is despite the fact that we know because we have been told so many times and, again, this week by world leaders and environmentalists that we need to do something seriously to tackle our carbon and the effect that we are all having collectively on the planet. Of course we can do things which are not entirely tokenistic but to reduce single-use plastics, that is great but that is not going to save the planet; it is the right direction. But we need to be tackling fuel duty and just by putting an R.P.I. increase on it, which is, effectively, staying the same, it does not change behaviour at all; it does not encourage people to take the bus. By keeping parking at the same rate and by not taxing people who have private spaces, and I am not saying that is necessarily the best way to do it, it does nothing to challenge the very urgent issues of the environment that we are facing and, again, this Budget does not address that issue. When we say it is a safe middle-of-the-road steady-as-you-go Budget, it is but we do not need safe steady-as-you-go middle-of-the-road Budgets because that is not the kind of world we are living in. We are living in a world that has got urgent issues, both domestically in terms of housing, in terms of education, in terms of healthcare and, globally, in terms of the environment, and this Budget does nothing to tackle those issues seriously. That is partly because, again, we have been restricted by the Budget of a previous Government, of which I was not a part and which I did not vote for. You can understand if I do have serious reservations about being able to vote for this Budget, given the fact that it does not tackle any of those issues, given the fact it does not tell us how any of the money is going to be spent next year. We have still got individuals and groups and organisations who do not know whether they are funded next year, coming to us at the last minute saying: “Where is our money?” We are having to say: “I am afraid we do not know.” It is very strange. I wish to take exception with some of the comments and the backslapping that has been going on by some individuals about how great this Budget is. I am not really sure it is the Budget that we need. It is by no means radical enough. I think the challenge for the Council of Ministers and the Assembly in the next few years is to tackle some of these issues and to realise that stability is a word. But if the whole world is falling down around your ears you need some radicalisation in your Budget and in your political approach.

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

I am delighted to follow that excellent speech by Deputy Tadier. In fact he has said quite a few things that I was going to say but I will come to those in a minute. First of all, I welcome the fact that we have heard from the Minister for Treasury and Resources that there is going to be a review of corporate tax. As Members will have noted from my comments in yesterday’s debate, I find the current situation where some corporates are taxed more than others is simply unfair. I am encouraged that this will be looked at and it will not, therefore, be necessary for me to bring back, hopefully, next year a proposal to halve the tax on large retailer profits because, hopefully, by next year the Treasury Department will have found a way to take tax off, for example, the large companies that deliver the products we all so enjoy ordering online. I have to confess I did it myself yesterday; I bought something online, what a terrible confession but there we go, it happens. I am sure we all do it.

[11:00]

I look forward to the corporate tax review and I look forward to finding out ways of getting tax back from all sectors and not simply the retail one. I also hope that the Minister, and it has not been mentioned yet, will press forward with the revaluation of the rating system. **[Approbation]** I think 2 years ago that was approved. That was approved before the States agreed to pay rates; they agreed half of the proposition on the Budget 2 years ago but then would not approve the payment of rates. It is really important because, again, there is an enormous unfairness, that the large financial institutions that occupy those prestigious buildings that have been created on the I.F.C. (International Finance Centre) are being rated under a system that was designed years ago when it was based on the rentals paid over a decade ago. Business premises occupying areas in Colomberie, for example, are not being treated fairly. The rates are far too high on some business premises and far too low on others. I am sure that some of the big commercial properties must feel that Christmas has come early when they get their rates bill from the Parish. Of course, we are unable, as a Parish, to do anything about that. Business rates are low in Jersey, as was said yesterday, and I hope the rates revaluation will introduce fairness and also opportunities to get those who can to pay more. We know that big companies, the big shops in town, they pay a lot more in their U.K. branches than they pay in Jersey. They come to us sometimes in the Parish and they say: "You must have made a mistake with your rates bill, it is tiny. Do we have to pay extra for recces? Do we have to pay extra for street cleaning?" They cannot believe that they are so low. I do encourage the Minister to ... I know there is a working group, I do not believe it has met very often and I would encourage her to really get behind the revaluation of rates. The Council of Ministers has been in place for 6 months or so. It is an awkward amount of time because it has enabled the Council to say: "We have not had a chance to do some things." But it is kind of too long and it is too long when you consider that the previous Council of Ministers set itself ambitious targets in respect of the environment, which I have to say they did not deliver on. Now we have had another break and we have another Budget and, as Deputy Tadier has said more eloquently than I can, we simply do not have the environmental taxation proposals that were being talked about not 4 years ago but probably 24 years ago; that is a bit before my time. But I remember standing in this Assembly under, I think, former Senator Frank Walker asked former Senator Wendy Kinnard to head up a group looking at environmental taxation. We are talking about 15 years ago and nothing has been done in 15 years. I would have been delighted if in 6 months the new Council of Ministers had brought forward proposals to respond to the urgent need to tackle climate change but they have not. As Deputy Tadier says, not even an extra penny on petrol, which could have been used to provide the free buses that some Members were saying yesterday would solve our retail problems and would certainly help. I am disappointed in this Budget. It is not a bold Budget in terms of the environment. I am not going to talk about other issues regarding the Civil Service because that is through a debate later in the day. But, again, Deputy Tadier mentioned fossil fuel investments and, again, I have been following that on social media. There is concern out there in Jersey that we are investing as a Government in fossil fuels and that is, again, something that we need to know about. We need to know whether we can do something to move our investments into other areas. We have extra funding for the public realm in this Budget and, of course, I welcome any spending on the public realm; I am not going to object to it. But I do have to make the point that I raised in a question earlier this week, that the proposals to enhance the area of the Weighbridge and Liberation Square are what I would call nice to haves. They were discussed at the Future St. Helier Group but they were not on the priority list. I will tell Members what was in the priority list, some of the roads in and out of St. Helier where commuters brave the commute because they do it on foot. Hundreds of commuters come down Midvale Road every morning and make their way back, a road which is simply too narrow for 2-way traffic. It has been in 2 Island Plans as a project and it was taken off the Future St. Helier list. It was at the top of the list, it was taken off in order to create a cycle track in St. Peter's Valley. I think it is a lovely cycle track in St. Peter's Valley but, quite honestly, there are hundreds of people being exposed to risk every day and trying to walk to work,

trying to walk to school. We are not tackling those projects. While I welcome the improvements to Liberation Square and the Weighbridge Square we must get funding for projects. Members may have heard on the media recently, residents of St. John's Road, saying that they had been asking the Department That Changes Its Name; that is my new name for it because I cannot keep up with the acronyms, to do St. John's Road and to make it safe for the residents for 20 years - for 20 years - and it has not been done; it has not even been investigated yet. I do feel frustrated when I see money being put on nice-to-have projects and essential projects that affect the quality of life and that affect this objective of the Council of Ministers, to make St. Helier a desirable place in which to live and work and visit; they affect that. Because if people feel they cannot get out of their homes safely without risking being run over, then of course they are going to prefer to live in St. Ouen or St. Mary. I welcome the Budget to some extent but I do think it does not go far enough. It does not pick up on the commitments made 4 years ago by the former Council of Ministers. I really do urge the new Council of Ministers to really get moving and particularly to respect the wishes of the people that, as an Island, we do our part to mitigate the impact of climate change.

**1.2.10 Senator S.C. Ferguson:**

Yes, I just wanted to make a few comments about the speech of Deputy Tadier. He was very articulate and it was highly entertaining but I think he had got a number of principles muddled. Income equality is equal pay for equal work, no problem there, must have it. If you are in a practical profession, like I was in, then you know the rates and you know you are getting the same rate but we need to make sure that it is covered. But just as important is equality of opportunity, in fact I think it is almost more important and this is something that the Minister for Education is working on. The other little point, as he is an Arts graduate, as is, I understand, Constable Crowcroft, he might like to refrain from talking about things about which, possibly, his knowledge is not as broad as it might be. If we talk about the recent report of the Met Department, U.K.C. (United Kingdom Climate) 2018 or something, the one that Deputy Young was talking about with the climate change alarmists, the figures in that report, I have had a look at it and most of the figures are based on computer models. From my practical experience of designing and using computer models, which I have done, if your assumptions are incorrect you are in dead shtook. The problem there is that you only know if your assumptions are correct if real life and your model agree. There is a lot of evidence that the models do not agree with real life but that is an argument for another day. Scrutiny are looking at income inequality; we should wait for that review. As for the rules on setting salaries in the wholly-owned States subsidiaries, which were referred to, starting with Visit Jersey, the Auditor General will be reporting on the rules being used to set those salaries, so watch this space. In the meantime, I agree totally with the Chief Minister, we do need to be very prudent in our spending.

**1.2.11 Deputy G.J. Truscott of St. Brelade:**

I rise in support of the Budget and, again, I congratulate the Minister for producing such a good one yesterday. You made an excellent Minister for Social Security and it was an honour and a privilege to serve with you at the department in our last term.

**The Bailiff:**

Through the Chair, Deputy.

**Deputy G.J. Truscott:**

Sorry, Sir, yes. The Minister made an excellent Minister for Social Security in our last term. I am sure she is going to make an excellent Minister for Treasury and Resources also, ably accompanied by her Assistant Minister. Being at Social Security for 3½ years, we kind of looked into the future and I am so conscious, unfortunately, that the Minister for Social Security is not here today. But so conscious for one that social security contributions within some period of time will have to be raised possibly by ... I cannot predict but maybe doubling. I do not know and the cap may rise but that is

something that the Minister for Social Security will be bringing to this Assembly. I am so conscious also, on my manifesto, my platform was putting the people first and every decision that I have made in the past 3½ years is to put people first, thinking of the long-term consequences of what we are doing in everything else. I am so conscious that the people are feeling squeezed and I think everything that we do here should in some way try to alleviate that feeling of being squeezed. Since 2008 the world has changed, there are no 2 ways about it that the economic crash of 2008 has been problematic to the world's economy in general, absolutely. It is concerning that there are problems that are still out there. The world economy has not recovered. We have America, China, with their trade negotiations, stock markets today I believe have tumbled again. There is still mass debt out there. The Italian banks have been teetering for some time. We have Greece that still has not resolved its issues. We have Europe potentially in debt as well and struggling. We have Brexit. There are so many headwinds out there that it does cause me concern. The Budget was quite neutral and I think it is going to be a neutral Budget before the storm because your next Budget, Minister, will quite likely be totally different; it will be a chalk and cheese Budget quite frankly going forward. I am so conscious of the squeeze on people, I was disappointed that we lost the debate on the retail tax, it is a short-term gain but there will be long-term damage to the retail industry in Jersey and I was so disappointed that Constable Crowcroft lost that debate. We have again, while we are at Social Security, we looked at the ageing demographic and we are going to double our numbers between now and 2030. We just cannot comprehend as an Assembly how much that is going to cost this society to produce that amount of money that is going to be needed, one to support P.82 and all the other costs that go with it. I have just turned 60 recently, still just a few grey hairs on my head, and for most of my life I had not been to a hospital, but in the past 3 years, in fact the past few months, I have had day surgery as well and it just goes to show, as you get older, things start wearing out. They were trying to take my wallet from my top right-hand breast pocket but they failed in that attempt. Anyway, it is a hernia that I went in for and it was all repaired very well. I have to say, I have to compliment the Minister for Health and Social Services, the staff [Laughter] ... no, you did not do it. No, but the staff were absolutely brilliant. I cannot fault the staff that are there. There was a nurse that attended to me on the first day and she was absolutely brilliant. It was her first day as being a nurse; she had come through the system locally, she had a wonderful way with her and you could tell it was her vocation and it was really an excellent experience, the day surgery. So, as I say, just warnings going forward, I am so conscious, I want to put the people first and I think as we all do.

[11:15]

We have children first on the list but the people should be equal first in this way forward. It is an ambitious Common Strategic Policy. It is going to cost a lot of money and without doubt taxes will have to rise. That does give me concern because, at the end of the day, this is a low-tax jurisdiction. Since the war we have built our reputation around the world on that basis and as soon as you start eroding that business model things could become problematic. But, as I say, I will sit down now and I will be supporting the Budget.

#### **1.2.12 Deputy G.P. Southern of St. Helier:**

Seventeen years in this House, 17 Budgets, I cannot remember whether I voted for any of them, but just in case I did not, I assume that I did not vote for them, but I am, as people will notice, as Members might notice from my new Reform mug available at good stores anyway, or Deputy Tadier, says: "Reformed grumpy old man." I do not know how far the reform has gone but it may be it has gone just far enough for me to vote for this Budget. But with reservations, with serious reservations, there is the Budget, a bit better now, lots of tables, lots of words, lots of numbers. There is one thing I learned in my time in this House is to look at the numbers. So I am quite surprised that this gets called a balanced Budget because it is far from balanced. It might be an attractive Budget, but it is not balanced. Because I look at the operating surplus line in the Budget and I look at last year's, for 2018 predicted £17 million surplus, for 2019 £53 million surplus. So I look at this year's Budget,

2018, operating surplus for 2018 now up to £50 million, for 2019 up to over £91 million. I think this time how have we managed to grow such an operating surplus; it is enormous? Then I think, but we are warned that from 2020 we have to save £30 million to £40 million and I look at those numbers and go: “Hang on, we have just got an operating surplus of £91 million and you are saying we have to make a saving down the road of £30 million to £40 million. I look at where that is going to come from and I try to ask the Ministers responsible: “How are you going to do that?” and effectively they say: “There will be efficiencies, we are going to streamline the service.” Bottom line is what is the biggest expenditure? It is wages. So there will be reductions in the workforce. That is the main tool, I believe, in what is going to happen. Lo and behold, where did we get this surplus from? Well I know where we got part of that surplus from; we got it from not paying our employees properly. They have had year after year of wage freezes, wage restraints, 1 per cent, 1 per cent awards. That is what we have been doing. That is part of that surplus; we have not been paying our employees properly. Now it would be nice if we could shut the book, close the book, it is December, there is the Budget, let us pat it and look at it. But, no, there is an outstanding issue and that issue is not settled and it is not dormant and it will not lie down and that is about this historic underpayment of our employees. That is not settled yet. So it is nice to put this to bed, but as we know full well there are issues still to be dealt with. We will be dealing with them I hope, one way or another, by the end of this meeting today. Nonetheless, it remains outstanding. So I may be voting with those reservations for this Budget, a first for me, a first for the Budget.

#### **1.2.13 Deputy R.J. Ward of St. Helier:**

As a new Member to the House this is a new experience for me to go through the Budget and I will vote for the Budget, but to me there are some really interesting comments that really this Budget is not amendable, it is not my Budget as a new Member, really it is a remnant of the last Assembly because of the limitations that we have that have been started in 2015 from the M.T.F.P. So the notion of something going through on the nod for me, as you may have already guessed, is very difficult. I need to have a say and I want to represent my constituents as fully as possible. Now I welcome some of the comments that have already been made regards the environment, for example. I am also very disappointed that our tax proposal was not accepted, but I am very pleased to have been honest to the manifesto that I stood on at every single doorstep and spoke to people about. So I am very, very pleased that we had the opportunity to do that and we will come back to it. But what worries me when I talk of the environment is, if we use the same principle, we are going to have real trouble taxing the environment because the environment might just get up and leave and then we will not have an environment in Jersey if we use the same principle as taxation of everyone else. So we have to be very careful about that principle. I welcome the comments that have been made about the consideration that we have to make regards climate change. I have put a number of questions in and a number of suggestions to the Minister for the Environment and I would say again that I would hope that climate change is a recurring theme on the Council of Ministers’ agenda and it is considered just as finance, just as the economics, just as well-being and just as all the other issues that are there, because it will become an economic and social driver for this Island probably before many other places in Europe, for example, and we have to consider that and our impact. So I really hope that we can. Finally, there are unsolved issues that this Budget does not address and I really hope that we can solve them and I look forward to the future Budgets, which hopefully will be more the sort of Budget for us as new Members as well.

#### **1.2.14 Deputy D. Johnson of St. Mary:**

First, I would like to congratulate the Minister for Treasury and Resources and her team for the Budget, which I shall be supporting. I rise to address one particular point, which is that during the course of the last few days reference has been made to the £11 million deficit caused by the lack of implementation of the proposed liquid waste charge. It is important that we all recognise the reason why that did not go forward. It was included in the M.T.F.P.; it was included in the M.T.F.P. before

there had been any debate on the matter as a standalone proposition. Members had not had the opportunity therefore to look into it; more particularly Scrutiny had not had the opportunity to review it. When the proposition was eventually lodged, Scrutiny did look into it in a fairly wholehearted way. At the end of the day, our report, a copy of which I have here, made a number of recommendations, the main one of which was not to pursue it for the moment, to delay implementation. In the event what happened was that the department itself, I think with the pressure or influence of Treasury, withdrew it on the morning of the debate. The reason why I stand to make the point is simply that the main reason for it not going forward or the Minister withdrawing it was through pressure from a number of parties, including the Chamber of Commerce and the Hospitality Association as well as our report, that there had not been full consultation. That I think is the key. Our recommendation is it should be delayed until we had the opportunity to engage in full consultation. The Minister of the day made the point, valid or not, that, as the measure had been included in the M.T.F.P., the Assembly had approved it, why was there a need to consult? I very much hope and pray that we do not take things in that order in the future, because it is that which has caused the problem. I do repeat that the main reason for the delay, and well set out in our recommendations, or the panel's recommendations of the day, was the lack of consultation. I make the point to implore the Minister for Treasury and Resources and all other Ministers to so engage in consultation in the future and take the public with them so that we can take that matter forward. I think it fair to say, and I am sure now Senator Vallois will correct me if I am wrong, the individual members of the panel were not opposed to the principle of the charge and it was, as far as the panel was concerned, merely postponed and I for one would be pleased to see it back on the agenda.

**Deputy M. Tadier:**

May I just raise what may become a point of order? We are teetering on inquorate and I am intending to pop out for 5 minutes so it might be good to get Members in. I am happy to make it inquorate otherwise.

**The Bailiff:**

I had been wondering about that. For those Members who are listening to the debate in the precincts, it would be helpful if some could return to the Chamber because we are down to the minimum limit before becoming inquorate.

**1.2.15 Connétable J. Le Bailly of St. Mary:**

I would just like to reflect a little on what the Constable of St. Helier said about we are doing a lot of things that are nice to have but not really that important. Some of the essential things to this Island are being neglected and I have to say that St. Mary and some of the northern Parishes are some of the issues. Most people get up in the morning, switch on the lights, go to the bathroom, the water is running, do the business. That does not always happen in St. Mary. [Laughter]

**Male Speaker:**

You can get something for that. [Laughter]

**The Bailiff:**

I am not sure whether I want you to carry on or not, Connétable. [Laughter]

**The Connétable of St. Mary:**

Sometimes you turn on the tap and the water comes out a bit green or various colours and that is because we are not fortunate to have a waterworks system that extends right throughout the Island. We do not have a drainage system that extends right throughout the Island. Year after year I see this Budget making no concessions for doing that kind of thing, to implement this work. Electricity fortunately goes to every house in the Island; waterworks decided that it was too expensive to put it everywhere so they are very selective. It seems to be that our States have done the same thing with

drainage. So very often there are properties in the Island who have to rely on their own wells, they do not have fresh water, and they have soakaways for drainage, so they pollute their water systems, they rely on bottled water and quite honestly the way we do things right throughout the rest of the western world that is like a third-world country to a lot of people in the north of the Island. It is essential that we should have fresh water or drainage. If we cannot get fresh water I would certainly like to see drainage put on the agenda for the next Budget.

**1.2.16 Connétable P.B. Le Sueur of Trinity:**

I will be brief. I am pleased to follow the Constable of St. Mary. Trinity has similar problems and in the words of one of my predecessors: “The people in town are probably drinking our bath water.” But, unlike St. Mary, we do not have the benefit of a magic roundabout either so we are worse off.

**1.2.17 Deputy M.R. Higgins:**

I am going to shock Members as well. I am going to support the Budget, which is the first time in the 10 years I have been in the States, not because I am overly enamoured with it, I do think it is, I would not say a boring Budget, but it is not doing the things I would like to see. But again I accept the fact that we have many issues going forward. But I will say to the new Members and old Members, who did not look at the tax reform proposals, keep an eye on when the proposals come forward.

[11:30]

I do not want to forecast that we will go through 4 years and not have any tax changes or change to the structure, but on past performance it probably will happen, so please hold the Council of Ministers’ feet to the fire to make sure that we do get the reports and we can come up with a system that will bring equity for people within the Island and deal with the problems we have regarding the poor and others in this Island. We are not serving them well, the whole system is skewed, that does not mean to say you fleece the ones who have it, but we need to come up with a more equitable system. So please keep their feet to the fire.

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

Very briefly, just in answer to colleagues complaining about drains, I would dearly, as Minister for Infrastructure, love to take drainage to every house on the Island, but as Members are well aware it is simply not possible at the moment. I wish it was done 30, 40 years ago when we literally had money coming out of our ears that we had done the whole Island, but that was not done. We are building a new sewerage plant, as Members are well aware, and we would bring more and more people online as and when. A lot of the problems in the northern Parishes are little satellite hamlets well away from main roads where the drains are having to come across private land. That does cause a lot of problems with landowners, but if we had the funds to do it we would do it. But we would love to work with Parishes, with private landowners, to get this done and it would be my ambition to get as many houses connected to mainstream in liaison with waterworks who can take in fresh water at the same time as the roads are doing it. I would love to do as many houses as I can in my tenure as Minister for Infrastructure. So, if I have the money, I will certainly do that.

**The Bailiff:**

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

**1.2.19 Deputy S.J. Pinel of St. Clement:**

I am conscious of the fact it is now just Thursday morning and there is still a fair amount of work to be completed at this sitting, therefore I hope Members will forgive me if I keep my summing-up as brief as possible. I will start by reflecting briefly on the 3 proposed amendments to the Budget that were debated. Firstly, I wish to commend the proposers, all 3 amendments were extremely well presented. Members should not underestimate the amount of work that needs to go into making a

Budget amendment. I would then like to thank Members for their participation in the ensuing debates, each of which amendments covered important issues and, as such, deserved the debates they received. Starting with the Connétable of St. Helier's amendment to reduce the rate of tax on large corporate retailers to 10 per cent, as I said during the debate, I am very aware of the challenges facing the Island's retail sector, particularly in a world that is changing, a world that is increasingly online. A world that is difficult for traditional bricks and mortar retailers. Against this background, the work being undertaken by both the Economic Affairs Scrutiny Panel and by Senator Farnham on the Island's Future Retail Strategy is clearly vitally important. I believe that we can work in partnership across this Assembly to support the retail sector and I will play my part. Tax is likely to be a very small element of the package of measures designed to help. The solution will need to be much broader. If the solution is focused wholly on tax, I can guarantee that it is not a solution; it will fail. Having said that, I know that many retailers have contacted me and the panel on the issue of the G.S.T. *de minimis* threshold. Members know that I will keep this threshold under review and I put this Assembly on notice that during the term of this Assembly I expect that we will have to decide whether to reduce the threshold from the current level. Depending on progress made on a global basis, and in particular in the E.U., Members may be asked to consider removing the *de minimis* threshold altogether. We should be braced for what will no doubt be a difficult debate. As a prominent local retailer has already indicated, removing the *de minimis* threshold will not return shopping habits to pre-internet days, but will be an important step in levelling the playing field. Furthermore, I reiterate the commitment to monitor the large corporate retail tax and I encourage that small group of very profitable retailers impacted by the tax to engage with the Treasury and supply further information on the impact that it has had on their business decisions. Next, I will move to Deputy Wickenden's amendment on alcohol impôts. I am thankful to Members for supporting the Budget proposal on alcohol impôts. My proposal sought to balance the competing pressures on States revenues, the health considerations and inflationary pressures. I appreciate it is always difficult to make decisions to increase the price of alcohol during the festive period, but it is undeniable that alcohol consumption has financial consequences for the States and consequences for the lives of Islanders. I believe, despite my Assistant Minister's reservations, that we have made the right decision. Finally, I turn to Senator Mézec's amendment on the personal tax system. I thank Members for rejecting the proposal. It is right to await the findings of the personal tax review, not a corporate tax review as referenced by Connétable Crowcroft. Discussions on the amendment have been very helpful as I prepare to launch the public consultation element of the review in 2 weeks' time. As Deputy Martin correctly said yesterday, it is important that we take the people of Jersey with us as we change the personal income tax system. Further, to the comments of Deputies Morel and Carolyn Labey and Senator Mézec, I want to assure Members that I am committed to leading this very important piece of tax reform work, which is going to be one of my key priorities for the next 6 months and I am very grateful for their support in contributing to doing so. Once the process of engagement with the public and the finance industry is complete and the results and evidence are gathered, I will come back to this Assembly with clear recommendations next summer. There are choices to be made on a range of important and connected issues and it is right that we take the space and time to think these through carefully. But I can assure the Assembly that I will address the tax proposition of married women. I would like to briefly reiterate what I said in my opening speech regarding the tough decisions that lie ahead. Next year we will discuss the Government Plan. This will be a key debate for this Assembly. This will bring the income and expenditure plans of this Government together in one place in one debate, linking objectives, outcomes and performance, with the financial costs and consequences. As the Budget Statement outlines, before taking the steps to deliver the Strategic Priorities, we agreed in the C.S.P. debate initial indications, if we follow the existing trajectory, are that we will be running a deficit in the region of £30 million to £40 million in the near future. Members should be in no doubt that I will not allow this situation to come to pass. So next year in this Government Plan we will have challenging decisions to make, both from a spending perspective and from an income perspective. We cannot have it all. We have to prioritise.

We will have to make choices. Equally, public services must demonstrate their efficiency to Members of this Assembly and the public and I look forward to the savings, which will arise from the transformation of the public services into a single organisation, focusing on our customers and on our Islanders. I will not shy away from proposing appropriate investment to secure these savings but I am equally determined that money is only released on the basis of robust business cases. Before bringing the debate to a conclusion, I have a few people I would like to thank. Much has been said about the various amendments on this Budget, there is little more to add, other than to reiterate my thanks to Deputy Young and Deputies Doublet and Perchard and to Senator Moore, chair of the Corporate Services Scrutiny Panel, with whom we have reached a consensus of opinion via discussion to reduce the number of amendments to the Budget and agree to work together to take account of all opinions and incorporate and value those opinions in taking policy forward. I would also like to reiterate the comments made when debating the Common Strategic Policy that we are a new Government working together across perceived boundaries to achieve a common goal. Finally, I would like to thank the Treasury officers who have worked tirelessly to bring this A, B, C Budget to this Assembly. As we bring this debate to a close, I would like to re-emphasise the positives. Jersey has a strong financial base, a strong economy, and record levels of employment. We are well placed to meet the challenges of the future and I look forward to working with the Council of Ministers and this Assembly to deliver that future. I make the proposition and call for the appel.

### **[Approbation]**

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

Before we go to the appel, I did not hear the Minister for Treasury and Resources respond to my question about environmental taxes; will she be bringing those forward in the next Budget?

#### **Deputy S.J. Pinel:**

I addressed that in my opening speech and certainly the environmental considerations are very high on the agenda.

#### **The Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on whether to approve the Draft Budget Statement 2019 and I ask the Greffier to open the voting.

#### **POUR: 43**

Senator I.J. Gorst  
Senator L.J. Farnham  
Senator S.C. Ferguson  
Senator J.A.N. Le Fondré  
Senator T.A. Vallois  
Senator K.L. Moore  
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)

#### **CONTRE: 2**

Deputy G.P. Southern (H)  
Deputy M. Tadier (B)

#### **ABSTAIN: 0**

Deputy of Grouville  
Deputy K.C. Lewis (S)  
Deputy M.R. Higgins (H)  
Deputy J.M. Maçon (S)  
Deputy S.J. Pinel (C)  
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 R.J. Ward (H)  
Deputy C.S. Alves (H)  
Deputy K.G. Pamplin (S)

## **Standing Order 104 – naming of an individual not a Member of the States**

### **The Bailiff:**

Before we begin tackling the next item on the agenda, can I mention something that has come up overnight. A Member has asked a question in relation to the naming of Mr. John Shenton yesterday in the debate. Mr. Shenton's advice to the Corporate Services Scrutiny Panel came up in the course of the debate and the question was whether or not that should have happened given the content of Standing Order 104, paragraph 2(i) which says that a Member in his or her speech must not refer to any individual that is not a Member of the States by name unless use of the individual's name is unavoidable and of direct relevance to the business being discussed. If a Member therefore breaches that Standing Order it would be unparliamentary and under Standing Order 109 if the Presiding Officer believes the Member of the States has used unparliamentary words he shall direct the Member to sit down and there is then a process of having them withdrawn. Equally under Standing Order 109, paragraph 2, if a Member of the States believing that the Member speaking has used unparliamentary words, on a point of order that can be drawn to the attention of the Presiding Officer and then again there is the inquiry that is made. Under paragraph 7 of the same Standing Order, if the Presiding Officer determines that the words are unparliamentary and of the opinion the words consist of or include a name in contravention of Standing Order 104, which I have just referred to, the Presiding Officer may direct that the name is omitted from the transcript of the meeting, which is directed under Standing Order 160 to be provided by the Greffier. There is an exclusion in Standing Order 160 which enables the Greffier to take out of the transcript, what we call Hansard, a name if the Presiding Officer has directed at the time that the name should be removed. Now, yesterday I did not say that I considered that the naming of Mr. Shenton was unparliamentary. I would like to say it is because the Corporate Services Scrutiny Panel had received that advice from him and indeed had named him in its report. But I am not sure that that was my thinking at the time but I certainly did not raise it. No Member did raise it either and therefore it is too late for the name to be omitted from Hansard, even if it were right that it was unparliamentary to refer to it. I make no ruling on that, given that it is in the Corporate Services Scrutiny Panel report anyway. But I thought it might be helpful to new Members of the Assembly to know that if there is going to be an objection to naming

somebody in the Assembly debates then that objection should be raised straight away so it can be dealt with.

**Deputy M. Tadier:**

May I ask for the matter to be referred to P.P.C.? I think that while we ... I do not mean on this ruling, I just mean the general principle, which was agreed some years ago.

[11:45]

Because, first of all, I think there is a tension between what it seeks to achieve and the basis of parliamentary privilege, which is free speech, and the wording “unavoidable” and “of relevance” is perhaps too high a bar. This clearly was an example that was unavoidable but during the course of one’s speech, especially if one is extemporaneously speaking, it is difficult to perform all the relevant contortions that you need to make sure you fit within this quite tight parameter. So if I could ask, Sir, that it be given further consideration by the new P.P.C.

**The Bailiff:**

Well, the Deputy Chairman of P.P.C. will no doubt take that back to his committee and consider whether any changes to the Standing Order is needed.

**2. Draft Finance (2019 Budget) (Jersey) Law 201- (P.130/2018) - as amended**

**The Bailiff:**

We now come to the Draft Finance (2019 Budget) (Jersey) Law 201-, P.130. Minister, you wish to propose that as amended, I take it?

**Deputy S.J. Pinel (The Minister for Treasury and Resources):**

Yes, please. May I also ask that the Assistant Minister take the law forward.

**The Bailiff:**

Then I will ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

Draft Finance (2019 Budget) (Jersey) Law 201-. A Law to amend further the Income Tax (Jersey) Law 1961, the Goods and Services Tax (Jersey) Law 2007, the Customs and Excise (Jersey) Law 1999, and the Stamp Duties and Fees (Jersey) Law 1998. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

**The Bailiff:**

Assistant Minister, do you wish to propose the principles of the law?

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

Following the decisions reached in the Budget debate, the Draft Finance (2019 Budget) (Jersey) Law proposes the standard rate of income tax and the income tax exemption thresholds for 2019. It makes a number of amendments to the Income Tax (Jersey) Law, in particular removing the higher child allowance and changing the tax regime applied to non-residents, introducing targeted reliefs primarily aimed at those with low worldwide income. In addition, as Members are aware, the Minister has proposed an amendment to the Finance Law to backdate the introduction of these reliefs for non-residents to the 2018 year of assessment. I will introduce this amendment at the appropriate time. The Finance Law makes a number of administrative changes to the Income Tax (Jersey) Law in order to prepare for the introduction of the new revenue management system being introduced in

the taxes office, including setting payment dates for personal and corporate income tax payers. It also sets the level of impôt duty for 2019, together with the amended stamp duty and land transaction tax rates for 2019. I move the principles.

**The Bailiff:**

Are 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. Assistant Minister, do you wish to propose the Articles?

**2.2 Deputy L.B.E. Ash:**

I propose to take Articles 1 to 22 *en bloc*, then Articles 23 to 55 *en bloc*. I will then propose the Articles in parts 2 and 3 of the Finance Law *en bloc* and then the Articles in parts 4 and 5. Then finally I will propose the last Article, Article 67, as amended by the Minister to backdate the reliefs for non-residents.

**The Bailiff:**

You may have to repeat that in a moment but would you like to propose Articles 1 to 22?

**Deputy L.B.E. Ash:**

Article 1 provides for the interpretation of part 1 of the Finance Law. Article 2 sets the standard rate of income tax for the 2019 year of assessment at 20 per cent. Article 3 increases the standard income tax exemption threshold by 3.5 per cent, in line with the increase in average earnings to June 2018. Articles 4, 5 and 6 remove the higher child allowance as part of the funding arrangements for the new student grant scheme agreed earlier this year while broadly maintaining access to the additional personal allowance. Articles 7 and 8 align the Income Tax (Jersey) Law definition of a foreign charity with the Charities Law definition. Article 9 supports the Island's financial services industry by inserting a statutory exemption in respect of international savings schemes. Articles 10, 11 and 12 deal with the tax treatment of non-residents, in particular Article 12 creates the new targeted income tax reliefs for non-resident individuals. I can confirm that these targeted reliefs are being backdated to the 2018 year of assessment and later on I will propose the amendment to make this backdating occur. Articles 13 to 15 make some minor amendments to the tax rules relating to pension schemes, in particular a change has been introduced to address an anomaly in relation to a commutation of trivial pension funds. Articles 16, 17 and 18 clarify the tax treatment of dividends paid and received by a large corporate retailer, while Article 19 amends the transitional rules for large corporate retailers and financial services companies making them more flexible and allowing companies to benefit from the transitional arrangements without having to change their accounting reference date to 31st December 2018. Articles 20 and 21 make a very minor amendment to the tax regime applicable to high value residents. Broadly allowing tax on Jersey rental income to be into account when determining whether such a taxpayer has met their agreed annual minimum personal tax contribution. Article 22 ensures that where the States has created new legal entities, for example, entities such as L.L.C.s (Limited Liability Company), the States will be able to amend the Income Tax (Jersey) Law as required using regulations. I propose Articles 1 to 22.

**The Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak on Articles 1 to 22? Those in favour of adopting the Articles, kindly show. Those against? The Articles are adopted. Do you wish to propose Articles 23 to 55?

**2.3 Deputy L.B.E. Ash:**

Articles 23 to 55 make a number of administrative amendments to the Income Tax (Jersey) Law. These amendments reflect efforts being made within the Treasury to modernise the administration of income tax and maximise the value from the new revenue management system being installed in the

Taxes Office. I do not propose to go through each of the Articles individually, for example many of the Articles simply seek to replace the word “statement” currently used in the Income Tax (Jersey) Law with the word “return”. Instead I will provide a brief summary of the key elements. Article 27 creates new deadlines for the submission of tax returns. There will be a longer deadline for online submission, hopefully increasing uptake of online filing when it becomes available in 2020. With a small increase in the penalty charged for filing late. New penalties are also introduced to address those who file their tax returns more than 3 months late in order to incentivise better filing compliance. Articles 33 and 34 seek to align the timeframe within which a taxpayer or the taxes office can amend a tax assessment while maintaining an open-ended power to amend tax assessments where the taxpayer has sought to defraud the people of Jersey. Articles 35 to 37 fix the dates by which tax is due and create a new instalment payment date for company income taxpayers. Article 38 creates the ability for employers, which met certain conditions, to elect to move to the provision of annual I.T.I.S. (Income Tax Instalment System) filing. I propose Articles 23 to 55.

**The Bailiff:**

Assistant Minister, just for the avoidance of doubt, so the Chamber has no doubt, the amendment which had been lodged in relation Article 48 to insert a new Article 49 is not being proposed, is it?

**Deputy L.B.E. Ash:**

No. That is correct, Sir.

**The Bailiff:**

Are these Articles seconded? **[Seconded]** Does any Member wish to speak on these Articles? Those in favour of adopting them, kindly show. Those against? They are adopted. Do you wish to propose Part 2?

**2.4 Deputy L.B.E. Ash:**

Part 2 of the 2019 Finance Law consisting of Articles 56 to 59 amends the Customs and Excise (Jersey) Law to increase impôts duties on alcohol, tobacco and road fuels in line with the proposals outlined in the Budget Statement. Part 3 of the 2019 Finance Law consisting of Articles 60 to 63 makes some minor amendments to G.S.T. (Goods and Services Tax) aligning penalties more closely with those applied in the context of income tax and making a consequential amendment as a result of the change in definition of foreign charity mentioned earlier. I propose Parts 2 and 3.

**The Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak on Parts 2 and 3. Those in favour of adopting those parts, kindly show. Those against? Those parts are adopted. Assistant Minister, you are proposing Parts 4 and 5, are you?

**2.5 Deputy L.B.E. Ash:**

Parts 4 and 5 consisting of Articles 64 to 66 make the required changes to the Stamp Duty and Fees (Jersey) Law and the Taxation (Land Transactions) (Jersey) Law in order to give effect to the changes in stamp duty outlined in the Budget, including additional relief for first-time buyers, reduced stamp duty charged on mortgages for those buying a property of less than £700,000 funded by an increase in rates on consideration above £500,000. I propose Parts 4 and 5.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak? Those in favour of adopting these parts, kindly show. Those against? Those parts are adopted. You now wish to propose Part 6 as amended, and the amendment comes at Article 67(1)(iii)(a), is it not?

**2.6 Deputy L.B.E. Ash:**

Finally, Article 67 is the closing provision and outlines when the various provisions in the Finance Law come into force. This has been amended by the Minister to backdate the targeted income tax reliefs for non-resident individuals to the 2018 year of assessment. I propose Article 67.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on this Article? Those in favour of adopting it, kindly show. Those against? The Article is adopted as amended at 67(3)(b). Do you propose the Bill in Third Reading?

**2.7 Deputy L.B.E. Ash:**

I do.

**The Bailiff:**

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

**Deputy J.H. Young:**

If I could ask a question on Part 5, if I may. Part 5 deals with land transactions ...

**The Bailiff:**

The Third Reading, Deputy. Too late. Does any Member wish to speak on the Bill in Third Reading? The appel is called for. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 44</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
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 J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
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 R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

### **3. Draft Finance (2019 Budget) (Jersey) Law 201- (P.130/2018) - Acte Opérateur**

#### **The Bailiff:**

Now, in order that the Bill should have immediate effect it is necessary to propose an Acte Opérateur and this is being circulated to Members at the moment. Has the draft Act reached all parts of the Chamber? No. This appears to be a very private Acte Opérateur at the moment, Minister. I will ask the Greffier to read the Act Opérateur.

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

Act declaring that the Finance (2019 Budget) (Jersey) Law 201- shall have immediate effect. The States in pursuance of Article 15 of the Public Finances (Jersey) Law 2005 have made the following Act.

[12:00]

#### **3.1 Deputy S.J. Pinel (The Minister for Treasury and Resources):**

Thank you. I apologise for the delay. I just want to propose the Appointed Day Act following the Budget. Thank you.

#### **The Bailiff:**

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

### **4. Comptroller and Auditor General Board of Governance: appointment of member (P.115/2018)**

#### **The Bailiff:**

We now come to P.115 the Comptroller and Auditor General Board of Governance: appointment of member lodged by the Chief Minister. I ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion: in accordance with Article 3 of the Comptroller and Auditor General (Board of Governance) (Jersey) Order 2015, to appoint Mrs. Grace Nesbit as a member of the Board of Governance of the Office of the Comptroller and Auditor General for a period of 4 years with immediate effect.

#### **Senator J.A.N. Le Fondré (The Chief Minister):**

The Constable of St. Ouen is acting as rapporteur.

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

I would like to recommend to the Assembly that it agrees to appoint Mrs. Grace Nesbit O.B.E. (Officer of the Most Excellent Order of the British Empire) as a member of the Board of Governance of the Office of Comptroller and Auditor General for a period of 4 years with immediate effect. The Board of Governance initially sought to secure an appointment from Jersey, however following an advertisement in the *Jersey Evening Post* and on the States website, and an article in the *Jersey Evening Post*, unfortunately no applications were received. The Board of Governance then sought an application from one of the U.K. devolved administrations. Given that the chairman and other independent member of the board were from Wales and Scotland, the board approached the Northern Ireland Civil Service which advertised the post resulting in one application. Following an interview the panel unanimously recommended the appointment of Mrs. Grace Nesbit as an independent member of the Board of Governance. It should also be noted that Mrs. Nesbit is the first female independent member of the board. Mrs. Nesbit brings an in-depth understanding of public services, a strong understanding of governance and audit in a public sector context, and the experience of working in a complex political environment. I have no hesitation in recommending this appointment to the Assembly and would urge Members to support the appointment.

#### **The Bailiff:**

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

#### **4.1.1 Deputy K.F. Morel:**

Thank you, Assistant Chief Minister, for proposing this. As some Members may know I have asked some questions about this appointment and before I get into them, I just wanted to say a few words about our role as an Assembly and approving these appointments. I believe we have to decide, are we here just to rubber stamp or are we here to make sure that the job in the appointment was done properly, and the process of the appointment was done properly? With the first few appointments that passed by me, as a Member of this Assembly, after my election, there was no question we were just rubberstamping. I did not hear anyone utter any words about anybody. I am grateful to the media, they brought it to my attention that one of the people that we appointed to a particular commission had some question marks, which are really pertinent question marks, about their suitability for that role, or their appropriateness for that role. I mentioned - you may have seen a remark - that I was embarrassed to have been a part of an Assembly that just let that go passed unquestioned; we had not looked, we had not done the simplest Google search to see what this person was about. So Mrs. Nesbit was the next person up so I thought: "Well, I have to read this report properly and I have to ask ... not asking any questions but see at least the report, is there anything in there?" There was something really troubling in the middle of that report.

#### **The Bailiff:**

I am sorry, Deputy, would you please sit down just a moment. I should have noted this earlier, this proposition needs to be debated in camera and accordingly we will now go into camera. This is under the provisions of Article 3, paragraph 2 of the Comptroller and Auditor General (Jersey) Law 2014, I think. Have I got that wrong? Board of Governance. I am sorry to pause, this is an important matter and the Comptroller and Auditor General is debated in camera. It may be that the board is not. I just need a moment to check. I am sorry to interrupt you, Deputy, the appointment of the Comptroller and Auditor General is a debate held in camera and for some reason this particular appointment is not and so you may carry on.

#### **Deputy K.F. Morel:**

Thank you, and it is no problem stopping me. As I said, I found something troubling, perhaps something concerning would be a better way of saying it. With the report that we are provided with there is no way of knowing whether this point of concern was very important or was not important

at all. In this case it was that the candidate had sat or had been appointed to the Oversight Board of the Northern Ireland Renewable Heat Initiative and the reason this is a doubt is because the Northern Ireland Renewable Heat Initiative directly caused the downfall of a power sharing agreement in Northern Ireland. It was not just a simple renewable energy scheme, it was a simple renewable energy scheme that led to massive government scandal and corruption. So I wanted to know why was this candidate on that board. That is why a couple of weeks ago I brought my concern to the Assistant Chief Minister who kindly deferred so I could ask the questions that I felt were necessary. Now, do not get me wrong, the answers that I received were absolutely perfect, the candidate in question was appointed after the scandal broke. She was appointed in a manner to oversee the continuance of it after the scandal had broken. So she had nothing to do with poor oversight before the scandal. That, in many ways, was sufficient. I did have other questions about the process. I questioned that a local candidate had been preferred, it said, but then had not been found. The way this candidate was found was through direct contact from a member on the Governance Board who then contacted people in Northern Ireland who then found this candidate. So it all seems a bit uncomfortable. I do not like the way that was done but this is a *pro bono* position and I also have to accept that it is probably not easy to find people to work on a *pro bono* basis when they are highly trained professionals who are used to charging thousands of pounds a day. I just wanted to raise it because it showed that when we see these appointments come past us there is a massive temptation just to say: "Well, the Appointments Commission have done their job, let us just rubber stamp it." But 2 consecutive appointments now have had reason for us to ask questions about them and I think we need, as an Assembly, now to start taking a look and asking such questions. You know, in the main they will be answered, as what happened with this one, perfectly adequately. I thank the Assistant Chief Minister and I thank the people at the Comptroller and Auditor General's office who were very open and gave me the answers to the questions that I needed. I do not know what would happen if we were to turn somebody down after they had gone through the Appointments Commission, *et cetera*. I have no idea, but I do not feel ... and from now on I will certainly be looking at every appointment, I do not feel we can just let them pass by. I also feel that the reports we are given do not give us enough information. To me, any politically aware person would have known that the Northern Ireland Renewable Heat Initiative raised questions, so it would have been simple just to put from this date to this date and was not involved prior to the scandal breaking. With the person before that, I think there were ... that person was involved in things that should have been brought to our attention in the report itself. So I think we need to be helped by the officers who compile these reports, I think they should not shy away from pointing out: "You may have a question here, this is why it is not necessary to worry about it." So I think there is work to do there but as an Assembly I do ask that other Members join me in perhaps just casting a closer eye over these appointments in future, just to make sure that when we do pass them we are certain that they are the right people for the job. Thank you, Assistant Chief Minister, and thanks again for passing on my thanks to the Comptroller and Auditor General's office for helping me with my inquiries.

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

I would just like to confirm that the Public Accounts Committee has met Mrs. Nesbit and we appreciate her willingness to serve on the board, particularly as has been said, unlike the other arm's length organisations, this is an expenses-only post. It is both voluntary and honorary effectively. I have said on other occasions that our Auditor General is not only extremely competent but positively frugal. The terms on which the Board of Governance operates reflect that frugality. As Deputy Morel has said, it is notable that Mrs. Nesbit was appointed as a member of the board formed to deal with the renewable energy scam which was operating in Northern Ireland. With that sort of reputation it bodes well for the continued operations of the board. I feel sure that she will make an extremely helpful contribution to the work of the Board of Governance and to the work of the Comptroller and Auditor General and the P.A.C. (Public Accounts Committee). I would also point out that the probity of existing members of the board, who are both on audit committees of the other countries of the

union - Scotland and Wales - is such that they cannot afford to just be appointing jobs for the boys or girls. So I think Members can be confident that their decisions have been very carefully thought through and balanced, and I have no hesitation in supporting this appointment and look forward to working with Mrs. Nesbit.

#### **4.1.3 Deputy M. Tadier:**

Is Senator Ferguson absolutely sure that she wants to support this? I mean, she does have an Arts degree after all, but do not worry, Senator, because she has redeemed herself by making sure she got a Master's degree in business administration after that, so we are in safe hands I think on this one. That was tongue-in-cheek incidentally, but it may be too subtle for Members. I think we need a cross-section on our boards and it is good to have people with arts backgrounds as well as hard-nosed business or science backgrounds; it all adds to the mix. There is a matter that needs to be considered by P.P.C., so I would welcome any comments by the chairman. Deputy Morel is not the first person to stand up and comment on the fact that we do not have necessarily alignment in the way that we appoint individuals, so we know that the police chief needs to be debated in camera, we know that certain States positions like the Greffier needs to be debated in camera. If we were appointing a chairman here it would have been in camera but a panel member does not have to be debated in camera. The first question is: what is the rationale for having an in camera debate? It seems to me that is because people might want to be able to speak more freely than they can already do in a debate, that they may have reservations that they need to raise which are delicate in nature and they do not want to cast aspersions on the individual because they may not prove to be correct. That is a valid rationale but it needs to be tested I think by P.P.C., and that should equally apply to any Member if it is a valid rationale. There may be times of course when the chairman is unavailable and a member needs to step in to chair any particular board. The other question that P.P.C. may wish to consider is the valid one of whether we are a rubberstamping Assembly, and I think there needs to always be provisions for the Assembly to pull things in as necessary.

[12:15]

Are these things that should maybe be done by Ministerial Decision in future, with the ability for any Member to pull something in for a debate or to question it if there is a particular query? Given the fact that there is a lodging period anyway, and I know we all have busy workloads, with the internet and with things like LinkedIn and just a general Google search you can normally find quite a lot of information about an individual. These types of individuals normally are in the public domain anyway and will have a searchable track record that we can look at. If it is not possible for individual Back-Benchers to do and raise issues before it comes to the Assembly, maybe there should be a board. I am sure that these things do get looked at, things can obviously get missed, but as a general rule of how we do parliamentary procedure I am extremely uneasy to go in camera unless it is absolutely necessary. I think we need direction about avoiding unnecessary in camera debates because ultimately Parliament should be done in the public domain, not behind closed doors. We vote in public and this vote, had it been in camera, would have still been in public and I think that area needs to be looked at afresh by this current P.P.C.

#### **The Bailiff:**

Can I make it clear to Members that this proposition is about the appointment of this particular member to this particular board, so we will not have a debate about the mode of appointment? But, if I may say so, I thought Deputy Tadier's remarks are absolutely in point and there is a question for the Privileges and Procedures Committee to consider with the Chief Minister to decide on the appropriate mechanism for making appointments of this kind. Because on the one hand the issues which the Deputy has very rightly raised need to be balanced against the need to be able to recruit people of integrity and competence to these particular posts, who might not want to be subject to what might be a public humiliation if things which are incorrectly put out in this Assembly are then

ventilated. So there is a serious debate to be had there. Does any other Member wish to speak on this? I call on the Assistant Chief Minister to reply.

#### **4.1.4 The Connétable of St. Ouen:**

This is the first one of these I have brought to this House and I was slightly embarrassed not to have the level of detail when Deputy Morel first approached me so that I could answer the questions. I have to say the questions that were asked are the sort of questions that anyone should be asking when an appointment like this is made, and I thank him very much for the effort that he put into this because for me personally it was a very valuable experience and has taught me the value of asking even more questions that I already ask when bringing this sort of thing to the House. However, as Deputy Morel said, the background to Mrs. Grace Nesbit is entirely impeccable and I am absolutely delighted to recommend her appointment to this House and I hope Members will support this.

#### **The Bailiff:**

Or even to the Assembly.

#### **The Connétable of St. Ouen:**

Indeed, sir, my apologies.

#### **The Bailiff:**

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

### **5. Ratification of the Agreement between the Government of Jersey and the Government of the Republic of Mauritius for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (P.116/2018)**

#### **The Bailiff:**

We now come to P.116, the Ratification of the Agreement between the Government of Jersey and the Government of the Republic of Mauritius for the avoidance of double taxation, lodged by the Minister for External Relations. I ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion to ratify the Agreement between the Government of Jersey and the Government of the Republic of Mauritius for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, as set out in Appendix 1 to the attached report of the Minister for External relations dated 8 October 2018.

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

I would like to ask the Assistant Minister to act as rapporteur. He will be busy this morning. I would also like to say to Members that I would like to take P.123 as well after P.118, just so that they are mindful now of that change of order. The Assistant Minister will be acting as rapporteur for that item as well please.

#### **5.1 The Connétable of St. Ouen (Assistant Minister for External Relations - rapporteur):**

I would like to advise the Assembly that this is a standard D.T.A. (double taxation agreement) of which we have approved many. Mauritius is an O.E.C.D. (Organisation for Economic Co-operation and Development) member country and is seen as a relevant partner. The finance industry in Jersey has been consulted and the signing of this agreement is seen as a significant step in supporting our efforts to expand Jersey's business links in Africa and India. In recent years, Mauritius has developed a successful financial services sector and aims to become an investment hub located midway between

Africa and Asia. Mauritius's low tax regime and extensive treaty network has made it a particularly attractive destination for investment to and from India. Mauritius accounted for 43 per cent of India's direct foreign investment between 2000 and 2011, though India has yet to devise its D.T.A. with Mauritius in 2016 which could reduce these flows once the new protocols come into effect in March 2019. The Republic of Mauritius has 44 D.T.A.s in existence, which includes the United Kingdom, India, Luxemburg, the United Arab Emirates, Guernsey and most recently Sweden and South Africa. I commend the proposition to the House.

**The Bailiff:**

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

**6. Draft Financial Services Ombudsman (Case-fee, Levy and Budget - Amendments) (Jersey) Regulations 201 - (P.118/2018)**

**The Bailiff:**

We now come to the Draft Financial Services Ombudsman (Case-fee, Levy and Budget - Amendments) (Jersey) Regulations, lodged by the Minister for Economic Development, Tourism, Sport and Culture. I ask the Greffier to read the citation of the draft.

**The Deputy Greffier of the States:**

Draft Financial Services Ombudsman (Case-fee, Levy and Budget - Amendments) (Jersey) Regulations 201-. The States have made these Regulations under Articles 6 and 26 of, and paragraph 4 of Schedule 2 to, the Financial Services Ombudsman (Jersey) Law 2014.

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

The independent office of the Financial Services Ombudsman operates jointly with its Guernsey counterpart as the Channel Islands Financial Ombudsman Service from an office here in Jersey. They commenced operation in November 2015 and have been resolving complaints against financial service providers since then. While independent of both government and industry, the office is industry-funded through a combination of annual levies and case fees so that consumer complaints are resolved without cost to the taxpayer of the Channel Islands. The Ombudsman's initial funding approach saw its costs of operation split equally 50/50 between Jersey and Guernsey for a period up to the end of 2018, but following an 18-month stakeholder consultation the Ombudsman has now proposed a new funding structure which will move away from the current 50/50 split between the islands. The major change is for an equalisation of levies so that equivalent financial services providers will pay the same levy in Jersey and in Guernsey. This change was supported by the consultation responses from the industry stakeholders. The changes to this funding structure require certain legislative moves to be made jointly by the States of Guernsey and the States of Jersey. What the Ombudsman's office is simply asking for is to extend by one year the current funding arrangement of 50/50 so that there is ample time for these new legislative changes to be made for the new funding model. As a result of this, the current 50/50 funding structure needs to be extended for a further year, as set out in the proposed regulations.

**The Bailiff:**

Are 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. Senator Moore, in the absence of the chairman does the Economic Affairs Scrutiny Panel wish to scrutinise this legislation?

**Senator K.L. Moore (Member, Economic Affairs Scrutiny Panel):**

No, Sir.

**The Bailiff:**

Minister, do you wish to propose the regulations *en bloc*?

**6.2 Senator L.J. Farnham:**

Yes, please. The Regulations amend the Financial Services Ombudsman (Case-fee and Levy) (Jersey) Regulations 2015, and Schedule 2 to the Financial Services Ombudsman (Jersey) Law 2014. The amendments postpone from the end of 2018 to the end of 2019 the ending of the current funding arrangements.

**The Bailiff:**

Is that seconded? [**Seconded**] Does any Member to speak on the Regulations? Those in favour of adopting the Regulations kindly show. Those against? The Regulations are adopted. Do you wish to propose them in Third Reading?

**Senator L.J. Farnham:**

Yes, Sir.

**The Bailiff:**

Is that seconded? [**Seconded**] Does any Member wish to speak in Third Reading? Those Members in favour of adopting the Regulations in Third Reading ... the appel is called for. I invite Members to return to their seats. The vote is on whether to adopt P.118 in Third Reading and I ask the Greffier to open the voting.

<b>POUR: 36</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
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. 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 M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy L.M.C. Doublet (S)				
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 M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

## **7. Draft Taxation (Agreements with European Union Member States) (Revocation) (Jersey) Regulations 201- (P.123/2018)**

### **The Bailiff:**

We now come to Draft Taxation (Agreements with European Union Member States) (Revocation) (Jersey) Regulations, P.123. I ask the Greffier to read the citation of the draft.

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

Draft Taxation (Agreements with European Union Member States) (Revocation) (Jersey) Regulations 201-. The States, in pursuance of Article 2(1) of the Taxation (Implementation) (Jersey) Law 2004, have made the following Regulations.

### **7.1 The Connétable of St. Ouen (Assistant Minister for External Relations - rapporteur):**

Just so Members may well remember when this legislation was introduced, this is in fact the old E.U. (European Union) Savings Tax Directive. The Regulations before us today require the revocation of the Taxation (Agreements with European Union Member States) (Jersey) Regulations 2005. In 2005 Jersey voluntarily agreed to support the E.U. as part of the Island's established good neighbour policy in their taxation of savings income by entering into an agreement with each of the member states with respect to interest payments made by Jersey financial institutions to residents of member states. Up until the end of 2013, support took the form of an application by Jersey of a retention tax, the proceeds of which - after the deduction of the cost of administration - were sent to the individual member states concerned. After 2013 Jersey joined in the automatic exchange of information on interest payments that were made. The 2005 Regulations made provision for the support of it and we were required to bring the agreements into effect. In 2014 Jersey, together with the E.U. and other countries worldwide, agreed to adopt a new international standard promoted by the O.E.C.D. which provides for the automatic exchange of financial accounts information, known as the common reporting standard. The result is that information on financial accounts held in Jersey by a resident of an E.U. member state are now automatically transmitted to that member state. Jersey was among some 50 jurisdictions that are known as early adopters and financial accounts information was first exchanged for 2016 in September 2017. The financial accounts information being exchanged in accordance with the common reporting standard is by far more extensive than information on interest payments covered by the agreements entered into in 2005. That exchange is provided for by the Taxation (Implementation) (International Tax Compliance) (Common Reporting Standard) (Jersey) Regulations 2015. The agreements entered into with individual member states providing for the taxation of savings income have all been terminated. The 2005 Regulations, therefore, have no legal effect and now need formally to be revoked. This Assembly is, therefore, asked to adopt the Regulations which will revoke these 2005 Regulations. I move the proposition.

### **The Bailiff:**

Is that seconded? [**Seconded**] Does any Member wish to speak on the principles? All those in favour of adopting them kindly show. Those against? The principles are adopted. Do you move the Regulations *en bloc*, Connétable?

**The Connétable of St. Ouen:**

Yes, Sir.

**The Bailiff:**

Sorry, Scrutiny, yes, Senator Moore, do your panel in the absence of the chair wish to scrutinise?

**Senator K.L. Moore (Member, Economic Affairs Scrutiny Panel):**

No, Sir.

**The Bailiff:**

Are the regulations seconded *en bloc*? [**Seconded**] Does any Member wish to speak on the Regulations? All those in favour of adopting them kindly show. Those against? They are adopted. How do you wish to propose the Regulations in Third Reading?

**The Connétable of St. Ouen:**

*En bloc* please, Sir.

**The Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading? Those in favour of adopting them in Third Reading kindly show ... the appel is called for. I invite Members to return to their seats. The vote is on whether to adopt P.123, the Revocation Regulations, in Third Reading.

<b>POUR: 38</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator I.J. Gorst				
Senator S.C. Ferguson				
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 K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
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 G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

## **8. Draft Sanctions and Asset-Freezing (Jersey) Law 201- (P.119/2018)**

### **The Bailiff:**

I shall now ask the Greffier to read the citation of the draft for P.119, she is then going to take over from me in the Chair.

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

Draft Sanctions and Asset-Freezing (Jersey) Law 201-. A Law to provide for the implementation of international sanctions and the freezing of assets, and for related purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

[12:30]

### **8.1 The Connétable of St. Ouen (Assistant Minister for External Relations - rapporteur):**

Sorry, my apologies to Members. I got a little confused with the paperwork as this is the third proposition on the trot, however, I have now found the right bit of paper. In common with other E.U. states the U.K. must implement all E.U. sanctions regulations, which include both U.N. (United Nations) and autonomous E.U. sanctions. Because the Island also enforces all U.N. and E.U. sanctions regulations under the European Union Legislation (Implementation) (Jersey) Law 2014, it means that Jersey implements the same sanctions as the U.K. This is of course important because of our close relationship with the financial services industry in London. However, the Sanctions and Anti-Money Laundering Act introduced following the U.K.'s decision to leave the E.U. will enable the U.K. to implement its own independent sanctions regulations once it leaves the E.U. This will leave differences between U.K. and E.U. sanctions and it is likely there will be increasing divergence over time. The draft law would introduce new powers to enable the Island to implement U.K. sanctions made under the Sanctions and Anti-Money Laundering Act. This will ensure that Jersey can continue to implement the same sanctions as the U.K. if it chooses to. In addition, as the provisions which enable the Island to implement E.U. sanctions regulations will be repealed in Article 6 and 7 of the European Union (Repeal and Amendment) (Jersey) Law, E.U.R.A.L., comes into force, provisions have been included in the draft law that would retain these powers. The draft law would, therefore, add power to Jersey to implement U.K. sanctions to the powers available under existing legislation to implement U.K. and E.U. sanctions, bringing them together in one law. Once fully in force the U.K. Sanctions and Anti-Money Laundering Act will repeal much of the Terrorist Asset-Freezing Act 2010 and part 8 of the Police and Crime Act 2017, and incorporate their effects. The 2 acts are largely mirrored in Jersey by the Terrorist Asset-Freezing Law of 2011 and the United Nations Financial Sanctions Law 2017. These 2 laws enable the Island to enforce U.K., E.U and U.N. terrorist asset-freezing designations and implement all other U.N. asset-freezing designations without delay and, therefore, changes are required to this legislation. The new law would repeal both the Terrorist Asset-Freezing Law and the United Nations Financial Sanctions Law, incorporating their effect with the necessary amendments. The ability to require financial institutions to freeze the

assets and the economic resources of designated persons and entities is integral to sanctions legislation. The draft law would create one principal sanctions law under which the U.K., E.U. and U.N. terrorism and non-terrorism asset-freezing designations can be made. It will also make amendments to both the Crime and Security (Jersey) Law 2003 and the Money Laundering and Weapons Development (Directions) (Jersey) Law of 2012, which enable a person or entity subject to an asset-freezing under these laws to be treated as if they had been designated for an asset-freeze under the draft law. Information provisions concerning the reporting obligations of individuals and institutions to report certain information to the competent authority for sanctions, as well as the powers for the competent authority to request information and to dispose information to other relevant agencies; currently there are differences between the information provisions contained in the Terrorist Asset-Freezing Law and the United Nations Financial Sanctions Law, and those implemented by sanctions order under the European Union Legislation (Implementation) Law. The draft law would create one set of information provisions adopted from the model first introduced by the Terrorist Asset-Freezing Law, providing for consistency across the Island's sanctions legislation. This draft law forms part of Jersey's contingency planning and would ensure that whether or not there is a Brexit deal the Island can continue to enforce sanctions effectively and in accordance with international standards. It would enable U.N., E.U. and U.K. sanctions to be implemented, providing the Island with the freedom to act appropriately in response to all future scenarios. By repealing the Terrorist Asset-Freezing Law and the United Nations Financial Sanctions Law and incorporating these effects, one principal sanctions law is created under which all asset-freezing law designations can be made and one set of information provision is created, ensuring a consistent approach. Together these standards would simplify Jersey's sanctions legislation, making it easier to understand and, therefore, to comply with. I would also at this stage like to thank - and he is not here now - the chairman of the Scrutiny Panel, Deputy Morel, who has assisted in scrutinising this legislation and has given us the green light. Madam, I commend this law to the Assembly.

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

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

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

I simply speak as vice chairman of the Brexit Law Review Panel to confirm that we have had engagement with the Minister for External Relations and his department and we are satisfied that the measures are appropriate.

##### **8.1.2 Senator S.W. Pallett:**

In the comments given by the Chairmen's Committee it was mentioned that Article 7 of the draft law provides a legal basis for the U.K. authorities to enter Jersey waters in order to enforce sanctions on other ships. In addition to providing a legal basis for this it is understood the Article 7 has the additional effect of reinforcing the point that Jersey has jurisdiction over its own territorial waters. I just wondered if the Assistant Minister could point out where within the Articles that it reinforces the point that Jersey has jurisdiction over its own territorial waters - of which we do - and do the U.K. authorities have a duty in any way to notify local authorities when they do enter Jersey waters in terms of what they are intending to do and what the result of that action may be?

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

Just to, if I may, try to add some clarity to the Senator, eagle-eyed as ever he picked up a matter for the Articles, and I know the Assistant Minister will be able to deal with it then. But as he will know from seeing the Article, the very presence of the Article in domestic legislation enhances our autonomy and recognises that in fact having to take this action ultimately - if the Assembly approves this Article - recognises once again our territorial waters. As the Assistant Minister may go on to say as he runs through the Articles, there will be a memorandum of understanding which will be between

not only Jersey and the U.K. Government but also the other Crown Dependencies; that memorandum will cover notifications.

#### **8.1.4 Deputy R.J. Ward:**

May I just ask, just to be sure, this deals with all possible outcomes regards Brexit; does it also deal with Brexit not happening?

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

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

#### **8.1.5 The Connétable of St. Ouen:**

The answer to Senator Pallett's question is contained in Article 7 of the Articles, powers in relation to ships in Jersey waters under U.K. sanctions provisions. It is a fairly extensive Article so I do not propose necessarily to go through it but we do have the power and we will be notified, basically. In relation to Deputy Ward's question; yes, this replaces legislation whether or not Brexit happens. The legislation has already changed and we are required to introduce that so that on 29th March we are in step with the U.K. I move the proposition.

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

Those Members who are in favour of the principles kindly show. Those against? The principles are adopted. The Economic Affairs Scrutiny Panel, Deputy of St. Mary, you are the Vice Chairman, is your panel wishing to ...

#### **The Deputy of St. Mary (Vice-Chairman, Economic Affairs Scrutiny Panel):**

We are not.

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

Very well, we move to a Second Reading, Assistant Minister. How do you wish to propose the Articles?

### **8.2 The Connétable of St. Ouen:**

I believe I can take it *en bloc*, ma'am, is that correct?

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

Yes. Do you wish to elaborate at all? No, okay. There are 53 Articles and one schedule. Are the Articles seconded? **[Seconded]** Does any Member wish to speak on the Articles?

#### **8.2.1 Senator S.W. Pallett:**

Just a short question of the Assistant Minister. I accept that notification will be part of an M.O.U. (Memorandum of Understanding). When that M.O.U. is decided will that be made available to all States Members so we have an understanding of what will be within it? What form will it take and how will it be notified to this Assembly?

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

Taking a risk, ma'am. I thank the Senator for his question. The honest answer is that I do not know whether the memorandum is currently proposed to be notified to States Members. There will be 4 parties, as I understand it, to the memorandum so each party would need to approve it being put into the public domain. I will certainly make inquiries and make the case for it to be put into the public domain so that the Senator can be satisfied, but let us be quite clear; a memorandum of understanding will be just that. This is a difficult area; we would not wish to be seen to be obstructive to the implementation of the policing of international sanctions in the way that British forces may wish or consider it necessary to do so in our waters. We share the same aims of the implementations of

sanctions and sanctions regime, and what this Article does is allow us to give legal effect to ensure that we do not and cannot be considered to harbour in any inappropriate way by not granting access in this way. I am not sure if the Solicitor General wishes me to give way to him. He is just standing to speak so I shall sit down.

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

I just wanted to draw Members' attention to paragraph 4 of Article 7 which has been alluded to by the Assistant Chief Minister in response to Senator Pallett's question. Article 7(4) is significant in that it gives the Minister, despite U.K. legislation, a power to disapply or modify a U.K. sanctions provision. It gives him that power. It also provides the Minister power by order to provide that any other person can exercise functions in relation to ships in Jersey waters, so that provides jurisdiction for a Jersey person to exercise those functions. Or, under Article 7(4)(c) provide that a U.K. person is accompanied by a Jersey person. So those are significant additional safeguards as regards our own jurisdiction in our own waters, so I just wish to draw that to the attention of the Assembly.

[12:45]

**Senator S.W. Pallett:**

All I would ask is that whatever negotiations do take place that we are aware of what the outcomes of them are. If the details cannot be made known I accept that, but if they are not to be made known could we be made known of it.

**8.2.3 Deputy J.H. Young:**

Can I ask a question? Obviously, it is a very complex law; am I right in assuming that when this law is enacted that whatever happens under Brexit that Jersey will need to readopt all of the current sanctions and freezing orders that are in place under the current law, whether they are to do with the U.K., E.U. or U.N. will we have to do that?

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

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

**8.2.4 The Connétable of St. Ouen:**

Firstly, in response to Deputy Young's question; yes, of course we will be adopting all the sanctions that we currently have under this new legislation, so the same levels of protection are in place. In response to Senator Pallett's question; I will undertake to research what sort of notification we can bring back to the House and whatever notification we are permitted to that does not compromise the agreement I will bring back the House, and he has my personal assurance on that. I move the Articles *en bloc* if that is acceptable to the House.

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

Those Members who are in favour of adopting Articles 1 to 53 and the schedule please kindly show. Those against? The Articles and the schedule are adopted. Do you wish to propose the matter in Third Reading, Assistant Minister?

**The Connétable of St. Ouen:**

Yes, please.

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

Does any Member wish to speak ...

**Senator I.J. Gorst:**

Ma'am, may I second it please?

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

Sorry. **[Seconded]** Does any Member wish to speak in Third Reading? Assistant Minister, do you have anything you want to add?

**The Connétable of St. Ouen:**

I just thank my Minister for his support. It has been a fairly complex debate, certainly from my point of view, and I ask for the appel to be called.

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

The appel has been called for. Members are invited to return to their seats ...

**Deputy J.H. Perchard:**

Excuse me, ma'am. Sorry, apologies; given that the appel has been called for I think it would perhaps be appropriate to draw attention to the fact that Deputy Morel has left, he has been suddenly taken ill and has gone home, so I would ask if he could be marked as ill rather than absent for this. Does it not work like that? My apologies.

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

We unfortunately have no ability to do that at this stage. The appel has been called for. Members are invited to return to their seats, and I ask the Greffier to open the voting.

<b>POUR: 39</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator J.A.N. Le Fondré				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
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 K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
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 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 R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

## **LUNCHEON ADJOURNMENT PROPOSED**

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

The adjournment has been called.

### **Deputy R.J. Ward:**

May I say before we go, and I do not know the procedure for this, but is there something we can do about the heat? Because I think one of the reasons Deputy Morel is not very well, and I know I am absolutely boiling sat here, we have a pipe under here that is cooking us all and it may help for a more inclusive debate later on.

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

I agree with you. It has been unusually warm in here all week and not just because of the content of speeches. We will try and do something over the lunch break but, yes, point taken. Very well, the adjournment has been proposed. If Members are in agreement then the Assembly stands adjourned until 2.15 p.m.

[12:48]

## **LUNCHEON ADJOURNMENT**

[14:17]

### **9. Draft E.U. Legislation (Customs Union, Import and Export Control) (Jersey) Regulations 201- (P.120/2018)**

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

The next item of Public Business is the Draft E.U. Legislation (Customs Union, Import and Export Control) (Jersey) Regulations - P.120 - lodged by the Minister for External Relations, and I ask the Greffier to read the citation.

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

Sir, might I just ask for a ruling on behalf of some of the male Members? We have already had one Member taken ill due to the heat; there are issues with the heating. I am not sure which Standing Order it is that requires the male Members to keep their jackets on but I wonder if you might permit them, some of them have been asking.

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

Thank you, and I am sure the sentiment is entirely in the right place. My instinct is that we should maintain the standard of dress unless a specific Member individually feels that they are prejudiced by that. If they need to then I think we should know from them directly, Deputy. But thank you very much. That is not intending to shame individual Members and if a Member genuinely, because of the heating within the Assembly, is feeling profoundly uncomfortable then by all means stand up and ask. But I would not like to think it would be a general promissory thing.

**Deputy R.J. Ward:**

Sir, I will say it is incredibly warm at the back here and Deputy Morel has been taken ill, and I think it is partly because of the heat at the back. I know it is a first world problem to be quite frank, but if we are going to have a debate here this afternoon it would be great if we could do it in comfort. That was the only thing.

**The Deputy Bailiff:**

Yes, Deputy, apparently you do have difficulties with the heating, possibly over in that area. If any particular Member is particularly uncomfortable and needs to remove their jacket then I will allow for the rest of the afternoon that to happen. But I would not want that to be taken as a precedent; we should normally maintain standards within the Assembly. But if it is essential then you can take it that that is permitted by the President.

**Deputy R.J. Ward:**

Thank you very much, Sir, and may I thank Deputy Doublet for her concern and care.

**The Deputy Bailiff:**

I ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft E.U. Legislation (Customs Union, Import and Export Control) (Jersey) Regulations 201. The States have made these Regulations under Articles 5A, 5B and 6A of the European Union Legislation (Implementation) (Jersey) Law 2014.

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

You will be pleased to know that we are all cool on the Senator's benches. **[Aside]** And the Connétables, of course, that goes without saying. That is an oxymoron. **[Laughter]** These Regulations create a framework of powers to enable the implementation of a Customs Union between the United Kingdom and Jersey, as provided for in the Jersey U.K. customs arrangement that I signed on 26th November this year. Jersey and the United Kingdom are currently in a Customs Union with the European Union and apply the E.U.'s common external tariff. But that will change when the United Kingdom leaves the E.U. Customs Union after Brexit. Accordingly, it is crucial to secure new customs arrangements with the U.K. in order to support frictionless free trade in goods with the U.K. moving into the future. While of course it has been the case for several centuries that neither the U.K. nor Jersey has imposed import tariffs on goods produced in the other's territory, after leaving the E.U. Customs Union it will also be essential to put in place a practical mechanism whereby Jersey will impose the same common external tariffs as the U.K. on goods traded at the border. As you know, one of the Government of Jersey's key Brexit objectives is the continuation of the fundamentals of Jersey's existing relationship with the United Kingdom, and supporting the free movement of goods sits at the heart of our valued constitutional relationship. The customs arrangement I signed in November recognises the importance of our existing relationship and provides for just that. It also provides for the following: tariff-free movement of all types of goods between Jersey and the U.K. with no quantitative restriction on imports, the ability to impose prohibitions or restrictions at the border for specific reasons, participation in the new joint U.K. Crown Dependencies Customs Committee, retention of Jersey's autonomy in fiscal matters, and autonomy in maintaining our local customs I.T. systems. These negotiating outcomes are in line with the 11 high level principles that we set prior to the negotiation with the United Kingdom that Ministers from both the current and the previous Government have agreed upon. I am pleased to say that we managed to secure what we needed, not just in the agreement but also - as Members will be aware - through a side letter that Lord Keen wrote to me confirming or affirming the U.K.s commitment to the historic and valued constitutional relationship as evidenced by the Royal Charters.

I believe it was a proper and ultimately successful negotiation, and I pay tribute to those officials - I know they are listening - without whose hard work we would not have been in the position that we are this afternoon. They are not just officials in my department; they are officials in the Law Officer's Department as well as in the Home Affairs Department. It shows that when we put our minds together we can achieve on behalf of Islanders. I said on introducing the European Union (Repeal and Amendment) (Jersey) Law 2018 in February of this year that as a consequence of Brexit Jersey we would be required to bring forward new customs legislation in order to reflect and give effect to a new customs arrangement with the U.K. This is exactly that. The new Regulations are the backbone of that legislation; they amend Article 6 to the Customs and Excise (Jersey) Law 1999, and they specifically create a framework of powers to enable the implementation of the Customs Union between ourselves and the United Kingdom provided for in the Jersey arrangement. They provide for Ministerial Order making powers in relation to customs and excise matters. They enable the Agent of the Impôts to implement certain requirements of the Jersey U.K. customs arrangements, which are powers they already possess in relation to E.U. customs requirements, and they ensure that the existing powers of the Minister for Home Affairs to make orders for ensuring conformity with relevant customs obligations will also continue to apply. The passage of these regulations is the first stage in a suite of customs legislation required under the new arrangement, and as indicated earlier, they will be followed by a substantial number of Ministerial Orders. It is the uncertainties of Brexit and the increasingly tight timeframe which mean that we need in this instance to use Ministerial Orders. I have had what I think was a productive conversation with the Scrutiny Panel and I thank them at this point for their productive engagement around this and the other matters that are before the Assembly today from the Ministry of External Relations; I thank them for the way they have approached these matters which have to be dealt with in a timely manner. I committed to them to ensuring that they had sight of the subsequent orders in advance of them being signed by myself, and I said that I would make myself available to them should they so wish to question me further or any of the other Ministers involved on those subsequent orders. It gives me great pleasure to propose the principles of the E.U. Legislation (Customs Union, Import and Export Control) (Jersey) Regulations.

**The Deputy Bailiff:**

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

**9.1.1 Senator S.W. Pallett:**

The Minister for External Relations, the Chief Minister and all of his officers need to be congratulated for the work they put in, in prudent and thorough preparation I think for whatever Brexit holds. As the Minister said, we all want frictionless free trade. Were Britain in fact not to leave the European Union for any reason, i.e. remain in the Customs Union, irrespective of how that would happen be it a second referendum in the U.K. or whatever; what effect would that have on these particular Regulations? Also, do these Regulations prevent Jersey independently entering into any new trade agreements with any country it sees fit to trade with?

**The Deputy Bailiff:**

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

**9.1.2 Senator I.J. Gorst:**

Senator Pallett seems to be on the ball when it comes to my departmental legislation today, and I at this point at least congratulate him on that. We will see how the rest of the afternoon goes. He is right to ask the question what will happen if the United Kingdom ultimately does not leave the European Union. We have worked on the assumption from day one that there may indeed be no deal and that the United Kingdom is going to leave the European Union; it does not need me to tell Members that by the day it would appear that some of those assumptions become more and more uncertain. For us, we want to continue to give certainty to Islanders around the settled status scheme,

we want to give certainty to businesses around the new customs arrangement which has been signed; which is why we must continue to give effect to these Regulations.

[14:30]

There is of course a question about how we would deal with the subsequent orders should the United Kingdom during the early course of next year - although we must bear in mind as well that time is important - around whether we would continue as currently envisaged. But as I stand here, I must say to the Senator that if the Prime Minister's deal is not accepted next week that we will continue as currently planned to give effect to the regulation and to bring forward orders as well, because anything else would potentially mean that we run out of time and that would create unnecessary uncertainty to businesses. The Senator asked me a secondary question and I have just forgotten it.

**Senator S.W. Pallett:**

It is just around does this prevent us entering into independent trade agreements.

**Senator I.J. Gorst:**

Again, as the Senator is aware, we are not a sovereign state and, therefore, we cannot enter as a matter of international law into international agreements without what have become known as letters of entrustment from the sovereign state, in this case Her Majesty, as evidenced - if I might use that term - by Her Majesty's Government. So when we are signing tax information exchange agreements, double taxation agreements, bilateral investment treaties; we do that under that methodology that we refer to as entrustment. So we will continue to need to seek entrustment should we wish to sign trade deals in the future. This agreement does not stop us from doing so, but what it does do is create the mechanism whereby we will, in alignment with the United Kingdom, have common external tariffs. That would of course influence any future trade deal that either we or the United Kingdom would seek to sign post-Brexit. I think the Senator is aware, other Members may not be, of course should the deal be approved next week the United Kingdom will almost immediately - it is a pretty big shift, I accept that - move into the second stage of their negotiation which is the future economic partnership. The United Kingdom Government is aware of what Jersey's aims would be throughout that process, they are aware of where our national and economic interests lie, and they will be taking those into account. We will then have some important, probably technical, perhaps difficult decisions to make around whether and which parts of that future economic partnership we wish to be aligned with and sign up to and agree. But they are all matters for the future; this does not stop any of those agreements being entered into with all of the caveats I have just provided. I maintain the principles and call for the appel.

**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.

<b>POUR: 39</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
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 S.J. Pinel (C)				
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 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 R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

**The Deputy Bailiff:**

Deputy of St. Mary, does your panel wish to call this in?

**The Deputy of St. Mary (Vice-Chairman, Economic Affairs Scrutiny Panel)**

It comes under the responsibility of the Brexit Review Panel. Unfortunately Deputy Morel who chairs that is off ill, but as the vice-chairman I confirm that we are satisfied and do not wish to call it in.

**The Deputy Bailiff:**

Thank you very much indeed. How do you wish to deal with the matter of the 4 Regulations in Second Reading, Minister?

**9.2 Senator I.J. Gorst:**

I will do them *en bloc*. I think I really largely covered the contents of the Articles in the principles, as I said. They amend Article 6 of the Customs and Excise (Jersey) Law creating the new framework. They provide under Article 6 for Ministerial Order making powers in relation to customs and excise. They give implementing abilities to the Agent of the Impôts and they again provide those order making powers for what we have referred to as relevant Ministers. So Members will see Regulation 3(5) provide that the Jersey courts must when interpreting corresponding provisions of Jersey customs law have due regard to any relevant decisions in the courts of the United Kingdom, as you will be well aware, Sir, you already in your wisdom do so. This is not a new provision, just for those Members who may be thinking about this, it already exists in the European Union Legislation (Implementation) (Jersey) Law 2014, and it is of course a limited provision to those areas where the Customs Law of Jersey and the U.K. must correspond to maintain the integrity of the Customs Union

as provided for under the terms of this customs arrangement. If Members have other questions, I shall endeavour to answer them as they arise.

**The Deputy Bailiff:**

Is the matter seconded in Second Reading? **[Seconded]** Does any Member wish to speak on the Regulations in Second Reading? Those in favour of adopting the Regulations kindly show. Those against? The Regulations are adopted in Second Reading. Do you move the matter in Third Reading, Minister?

**9.3 Senator I.J. Gorst:**

I do propose them in Third Reading. I think I thanked all those involved during the principles stage. I am personally extremely grateful to them for the support that they have given me throughout this process and I move the legislation in Third Reading.

**The Deputy Bailiff:**

Is it seconded in Third Reading? **[Seconded]** Do you wish to say some words, Solicitor General?

**9.3.1 The Solicitor General:**

If I may thank the Minister for his thanks to my department and reciprocate them to him and his officials. In addition, and more substantively, I just wish to draw to Members' attention that these Regulations would have no effect on the historic Royal Charters that have been granted by Her Majesty to this Island over many hundreds of years. I think the first one that survives is from Edward III which dates from 1341. They are reflected in, for example, the 1771 Code and more recently in statutory provisions in our Customs Law and in equivalent legislation in England. I do wish to draw attention to a passage that is in Lord Keen's letter to the Minister, which I think should be read out for the benefit of the Assembly. Lord Keen, who is the Minister responsible for the Crown Dependencies, states: "The U.K.'s decision to leave the E.U. does not change the long-standing constitutional relationships between the U.K. and the Crown Dependencies. As the U.K. Minister responsible for Crown Dependencies business in Whitehall I want to reiterate this point and to reassure you that the U.K. fully intends to continue to work closely with Jersey in the context of that important and historic relationship, as evidenced by the Royal Charters." It is important that in official correspondence the Royal Charters have been referred to and confirmed. Given that they are the foundation of this Island's independence and its constitutional relationship with the U.K., that, in my submission, is an important matter and I just wish to draw that to the Assembly's attention.

**9.3.2 Senator I.J. Gorst:**

I am, as Members will know, a modest man so I am very grateful to the Solicitor General for reading out correspondence that I received from Lord Keen; but on a serious point he was right to do so. Throughout this Brexit process one of the principles that I have wished to adhere to - and I know that it is shared by all Members of the Council of Ministers and Members of this Assembly - that in navigating a change that the U.K. is having with Europe and therefore we are having with the European Union, we should do nothing to undermine the rights and privileges of Islanders that stem from the granting of those Royal Charters. I am grateful for the Solicitor General confirming that again today on the floor of the Assembly. Therefore, I call 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.

<b>POUR: 39</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				

Senator J.A.N. Le Fondré				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
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 S.J. Pinel (C)				
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 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 R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

## **10. Draft Taxation (Companies - Economic Substance) (Jersey) Law 201- (P.132/2018)**

### **The Deputy Bailiff:**

The next item of Public Business is the Draft Taxation (Companies - Economic Substance) (Jersey) Law - P.132 - lodged by the Minister for External Relations. I ask the Greffier to read the citation.

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

Draft Taxation (Companies - Economic Substance) (Jersey) Law 201-. A Law to make provision for imposing an economic substance test on Jersey resident companies and for determining whether the test is met by assessing the extent of certain relevant activities carried out by such companies and taking appropriate enforcement action. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

By necessity, my comments in regard to this legislation will be slightly longer so I ask Members to bear with me. So the Draft Taxation (Companies - Economic Substance) (Jersey) Law, which I will

refer to as the Economic Substance Law from hereon in, proposes the means by which the commitments of the Government of Jersey to address the concerns of the E.U. Code of Conduct Group regarding economic substance can be met. The legislation seeks to do this by imposing substance requirements on all Jersey tax resident companies undertaking particular types of business activities defined as relevant activities. In other words, the legislation creates an economic substance test. The legislation also ensures that we can enforce substance requirements. But why does that matter? Well, Jersey's position as one of the most stable and successful international finance centres in the world, I believe, is well-deserved. It is the responsibility of the Government to continue to drive excellence and adherence to international standards in what we do. International standards change and evolve over time. Jersey has a proven record of adapting to and also shaping the development of international standards in the areas of tax transparency and tax good governance. The Economic Substance Law is, I consider, the latest stage in the evolution of new international standards designed to eliminate harmful tax practices. This Bill is on Jersey's long-standing commitment to tax transparency through the internationally recognised common reporting standard and automatic exchange of information. It supports the Island's implementation of the anti-Base Erosion and Profit Shifting package and now this new law introduces the requirement that Jersey tax-resident companies have adequate people, expenditure and physical assets in Jersey. It is also a continuation of our good neighbour policy towards the E.U., which is vital in the context of the U.K.'s exit from the European Union and reflects the current international direction of travel being promoted by the O.E.C.D. Most significantly, this legislation is vital for promoting and protecting the Island's reputation as a transparent and well-regulated jurisdiction and it is necessary to ensure that the E.U. does not list Jersey as a non-co-operative jurisdiction. We are doing this now; perhaps I could explain to Members some of the international context to this legislation and why we are doing it now. In 2007 the Code of Conduct Group for Business Taxation assessed the tax policies of 92 third country jurisdictions against 3 tax good governance criteria.

[14:45]

They were: tax transparency, fair taxation and implementation of anti-B.E.P.S. (Base Erosion and Profit Shifting) measures. No concerns were raised by the code group regarding Jersey's standards of tax transparency and implementation of anti-B.E.P.S. measures. Jersey was also regarded by the E.U. as fully compliant with the general principles of fair taxation as its business tax regime had been assessed against the Code of Conduct for Business Taxation and determined non-harmful in 2011. As part of the screening process to which I just referred, jurisdictions with low or zero rates of corporate income tax were also assessed against something which has become referred to as criterion 2.2 under the Fair Taxation heading. That criterion states: "The jurisdiction should not facilitate offshore structures or arrangements aimed at attracting profits which do not reflect real economic activity in the jurisdiction." Following this screening process, the code group expressed concerns about Jersey's possible compliance with the criteria regarding a legal substance requirement for entities doing business in or through the jurisdiction. The code group recognised substance requirements in respect of financial services-regulated entities but was concerned the absence of a clear general statutory requirement increases the risk that profits registered in a jurisdiction are not commensurate with economic activities and substantial economic presence. In response, I made a number of unequivocal written commitments to address the concerns identified by the code group in relation to the need for businesses to demonstrate economic substance in the Island. I did that on 31st December 2017, just before, if I recall; I think I was on vacation on that day. It was on this basis that Jersey, together with over 50 other jurisdictions, was placed on Annex II of 5th December E.C.O.F.I.N. (The Council of Economics and Finance Ministers of the European Union) conclusions, meaning that we were assessed as a co-operative jurisdiction subject to implementation of those commitments. The proposed legislation is as of a result of that commitment. If the Assembly is minded to support the Economic Substance Law, it will mean that Jersey will have introduced appropriate legislation in time for 31st December, this year's deadline as set by the E.U. Members

will appreciate that the timeline set by the E.U. was ambitious and very demanding; some say it was unreasonable. It has required officers again to work extremely intensively over the past 12 months to develop Jersey's proposed response, to enter into regular dialogue with the E.U. Commission, to clarify key provisions and to consult with stakeholders on this new piece of legislation. Notwithstanding the pressures of the E.U. timetable, the Government has undertaken a public consultation and published a formal response. Government has also allowed time for the necessary discussions with the Law Officers, the Jersey Financial Services Commission and industry representatives. The contribution of industry reflecting their support for the principles of good governance and high professional standards has been most helpful. I am also particularly grateful to the respective chairs of the Economic Affairs and Corporate Services Scrutiny Panels for their engagement on this issue - and the former, the chair of the Economic Affairs, I wish him a speedy recovery - included through the joint participation of members of the panel in various dedicated briefing sessions on this law. Members were helpful in their comments and in their suggestions and I am grateful to them for the comments that they have lodged with the Assembly. So, how does it work in practice? The Economic Substance Law ensures that companies in Jersey that carry out certain relevant activities as identified by the international standard-setting board, the F.H.T.P. (Forum on Harmful Tax Practices), will be required to pass an economic substance test showing they have a proper business presence on the Island. The legislation contains 3 main pillars: firstly, identifying those activities that companies are undertaking which are relevant; secondly, imposing the economic substance requirements in relation to these activities and, thirdly, ensuring there are enforcement provisions in place where there are failures. Under step 1, all tax-resident companies will have to identify if they perform any geographically-mobile activities as defined by the O.E.C.D./F.H.T.P. I should have reminded Members that that stands for Forum on Harmful Tax Practices. This is the international body that assesses jurisdictions for compliance with tax governance. The E.U. has indicated its preference for jurisdictions to follow the F.H.T.P. methodology. The relevant activities include banking, insurance, fund management, finance and leasing, headquarters activity, shipping, distribution and service centres, intellectual property holding and holding company businesses. Under step 2, companies will have to report this information to the Taxes Office annually in respect of each financial period starting on or after 1st January of next year. The Taxes Office will assess this information to ensure accuracy. Under step 3, the draft legislation includes 3 types of appropriate sanctions: firstly, exchange of information where there is a failure of the company and it is a high-risk I.P. (Intellectual Property) company and, secondly, financial penalties, progressive sanctions up to £100,000 and winding up or striking off in the event of persistent non-compliance. Throughout this period we have worked very closely with our colleagues in the Isle of Man and in Guernsey and we have agreed these common proposals right across the Crown Dependencies. We have worked, of course, closely with the United Kingdom Government as well as officials at the E.U. Commission, as I have already said, together with working closely with technical experts from the O.E.C.D., as I have, again, already said, who develop international standards in tax good governance. It was important for me as Minister to ensure that these regulations followed the standards and definitions as published by the F.H.T.P. earlier this year. So, I believe that this legislation meets the requirements of the E.U. Code Group, I believe it meets the political commitment that I gave to the E.U. at the end of last year, and I hope that it will ensure that we are assessed as fully co-operative when the code group meets again in the early part of 2019. Therefore, I have pleasure in recommending the principles to the Assembly.

**The Deputy Bailiff:**

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

**The Connétable of St. Ouen:**

Yes, it is an honour to second these principles.

**The Deputy Bailiff:**

Does any Member wish to speak on the principles?

**10.1.1 Deputy G.P. Southern:**

Just briefly, as Members will know I have been asking questions about this and receiving answers of sorts over the weeks and, indeed, months. Despite the answers I have received, I am still not convinced that this will pass the economic substance test. Therefore, today for the second time ever, I think, I am going to abstain. I do not know exactly what is wrong with it; I cannot put my finger on it. I do not think it is going to work, so I am going to abstain.

**10.1.2 Deputy M.R. Higgins:**

Could the Minister for External Relations just confirm to us that these standards should also apply to Luxembourg, the Netherlands and the other members of the E.U. which are housing many of the abusive companies, for example, the Irish Republic, which has Amazon. Are we being singled out or does it apply to us all? I would just like clarification of that, please.

**10.1.3 Deputy J.H. Young:**

This obviously is a very important law. Obviously, reading it through, there are very strong and onerous tasks falling upon the Comptroller of Taxes and to make judgments all the way throughout this law. I would like to have a comment please from the Minister about what are the plans to back this up with resources because putting such a lot of task on one person is troubling to me. Therefore, I want to be assured of the importance of that. Also, perhaps if I could put this as a question. I cannot see that the Financial Services Commission - maybe I missed it - have got a role in this. But I do think it is important that these key judgments, the ultimate test on whether something is compliant, whether something is substance, and so on, and I want to hear from the Minister for External Relations to be sure that this is going to meet a kind of a sufficient independence and standards. What backup are we going to give to ensure that those judgments ... because they are, from my reading, pretty difficult judgments, I would think.

**10.1.4 Deputy G.J. Truscott:**

I did have a brief conversation regarding this with the Minister and I have just a couple of concerns. Obviously, it does feel like - and I did mention it at the time - another turn of the screw. It just feels like another part of the clamp coming down on us as a finance industry and sector. If we do not comply - and it is stated here, but if you could just for the record - then we could potentially be put on the harmful list of jurisdictions, so that is something that needs to be made plain. Impact analysis on the funds and the companies that this might impact on, if you could just briefly touch on that as well. Thank you.

**10.1.5 Senator S.W. Pallett:**

Just briefly, and it touches on what Deputy Young mentioned about resources. In terms of profits generated within any particular jurisdiction, how will this be policed or monitored? A company may meet the physical requirements and undertake relevant activities but nevertheless look to attract profits from another jurisdiction. The Minister mentioned enforcement provisions; what exactly will they be? Who will regulate them and monitor them to ensure companies are compliant in regards to that profits are relevant to our jurisdiction, for example?

**The Deputy Bailiff:**

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

**10.1.6 Senator I.J. Gorst:**

I am not quite sure where I will start but maybe I will start with Deputy Southern. He is right to say, he has asked a number of questions, and I am disappointed that he still is unsure, despite having had his questions answered. I am slightly more disappointed that he is unsure about why he is unsure

and perhaps - we are not going to do it now today, of course, because I am going to ask Members to vote on it shortly - if we could have a further conversation to understand why he remains unsure. If he is unsure because it goes from a technical process to a political process, then that of course is the way that the European Union operates. Virtually everything it does works from a very bureaucratic and technical base that is done by the Commission and then that is fed up to Ministers to make decisions from member states. So one can meet the technical requirements of the technicians, as Jersey found with the A.I.F.M.D. (Alternative Investment Fund Managers Directive) passporting proposals but despite having the regulator and the technicians saying we were suitable, it then goes political and we all know in a Legislative Assembly, some Members being part of the Executive, that, despite the technical proficiency, sometimes politics can overrun that. But I also pick up on that point because the point that was made by Deputy Truscott is a very good point and bears reiteration, that if we do not meet the political commitments that - well I would be a political goner anyway - that this Island gave through its then Government to the E.U., without a doubt we would be considered non-co-operative.

[15:00]

All Members know what that would mean for the listing of ourselves as a third country. Therefore, I ask Deputy Southern to put his doubts behind him because if everybody in this Assembly today took Deputy Southern's view, it would be a self-fulfilling prophecy because we would not have the legislation and we would therefore be listed as non-co-operative and placed on the combined European Union blacklist, so I ask him to think very carefully. I know he has given this particular piece of legislation a lot of thought as evidenced by his questions. Are we the only one? I do not always agree with Deputy Higgins but he makes, perhaps using different vocabulary to the one I would choose, but he makes nonetheless a fundamentally valid point. The European Union here are reviewing third countries. We know that we in Jersey are classified as a third country to the European Union. That was the screening process that they did of 92 third countries. I, in meetings with Commissioner Moscovici, have sat across the table from him where he has said to me that once they have completed - "completed" is an interesting word as we will no doubt see in due course - once they have completed this process, the proposal is then to make similar reviews of member states. Not only has he said that to me privately but now the Deputy will know that he has also said and made similar pronouncements in the public domain as well. Therefore, I hope that out of something that may have been a challenge to Jersey, we end up, yet again, becoming a standard setter for what do these questions around economic substance mean and how can they be analysed? Costs: there is a financial manpower implication in the legislation. The Taxes Office require a sum of £50,000 for system upgrades; that is just the system upgrade but there will be further resource requirements in terms of staff needed from 2020 onwards. I have got to tell Members that this of course is not the only international obligation that the Taxes Office are having to fulfil. They will have more and greater obligations placed upon them and I, for one, over the course of the last 2 years - I am not sure whether the Comptroller of Taxes is in the back room still or he is in Cyril Le Marquand House or he is in the vault counting the money - that he should make sure he has sufficient resources to meet our international obligation. Because there is no point in us simply passing legislation if they do not have the right people passing the right information to comply with their international obligations. This is Deputy Young's point about the nature of the tasks that we are asking the Taxes Office to do. They are important judgments covering all of those areas. There are legal requirements on companies, do not forget, that we have placed upon them with the B.E.P.S. legislation, now with this substance test. That information, as well as a whole host of other information under the common reporting standard, is passed to the taxes authority and they have to analyse it and then send it on for forward transmission and they need the right people and the right systems to ensure that they continue to do that. I believe that they have, they are alive to the issues that, again, this legislation will place on them and that they will recruit and provide the funding accordingly to ensure that we can meet these obligations. If individual companies wish to appeal decisions of the taxes authority, of course

they will have open to them the normal mechanisms of taxpayers right across the Island, tax commissioners, *et cetera*, or ultimate appeal to the Royal Court if necessary. So, I commend the principles of the Economic Substance Law (Jersey) to the Assembly.

**Deputy G.J. Truscott:**

Sorry, I asked for impact analysis and I did not hear that in the Minister’s reply.

**The Deputy Bailiff:**

Do you wish to speak further?

**Senator I.J. Gorst:**

Of course I always wish to speak further; I am a politician. It is a very good question. We have not undertaken the impact analysis as one might normally think of when carrying out perhaps a social policy change but what we have done is consulted carefully, widely with industry and involved experts looking at data. Be absolutely clear, this is another step along a continuum which shows that we are a jurisdiction of quality and of substance. It is fair to say that there are some businesses, very few now, that we would have referred to as “brass plate operations”. This legislation will mean that it is no longer profitable for them to consider Jersey. I happen to think that is a good thing but, let us remember, they are very, very few in nature now and we have been talking about substance and businesses, companies have been required to show substance for many, many years now. I had spent an enjoyable lunchtime listening to the Chief Minister, as if I do not listen to him enough in this place, and the person that I was sat next to is a senior partner of a global fund which is headquartered here in Jersey. They have got, I think, about 60 staff here. I am going to upset some Members now when I say that they are down at the International Finance Centre. They think it is a first-class operation and they welcome wholeheartedly this piece of legislation because they think yet again it reinforces the reason for why they chose Jersey over many other places that they could have chosen. They want to be associated with a high-quality jurisdiction that can act appropriately in the international arena. Thank you. I call for the appel, please.

**The Deputy Bailiff:**

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

<b>POUR: 42</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 1</b>
Senator I.J. Gorst				Deputy G.P. Southern (H)
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
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 of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. 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 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 R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

**The Deputy Bailiff:**

Deputy of St. Mary, is this a matter that the Economic Affairs Scrutiny Panel would wish to call in?

**The Deputy of St. Mary (Vice-Chairman, Economic Affairs Scrutiny Panel):**

No, Sir, we do not.

**The Deputy Bailiff:**

Thank you very much. How do you wish to deal with the matter in Second Reading, Minister?

**10.2 Senator I.J. Gorst:**

If I may, I went into some detail, I think, in the principles but if I may take them *en bloc*. Members will see from reading the Articles that Articles 1 to 4 in effect define the terms of the test; 5 to 7 contains the test and how it will be applied. Articles 8 to 19 are sanctions and allowed mechanisms and Article 20, of course, is the citation and the commencement. Again, I shall endeavour to answer any questions that Members may have.

**The Deputy Bailiff:**

Are the Articles seconded in Second Reading? **[Seconded]** Does any Member wish to speak in Second Reading?

**10.2.1 Senator S.C. Ferguson:**

Just a simple question. So I have got a company which is, oh, mining doughnuts in outer wherever and I want to prove that the economic substance of the company is in Jersey, what would I be expected to have in the office to prove that the substance is here and that the mining is incidental? Would I be required to have the whole selling operation and so on? Perhaps the Minister could take my rather juvenile example and explain.

**The Deputy Bailiff:**

Yes, assuming that is a hypothetical example, mining doughnuts, Senator? **[Laughter]**

**Senator S.C. Ferguson:**

Depends if they are jam or not.

**The Deputy Bailiff:**

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

**10.2.2 Senator I.J. Gorst:**

My first comment to her would be along the lines similar to yours; I fail to see how mining doughnuts is going to be a profitable business, anyway. That is not my experience of either mining or eating doughnuts; I never think of them together. So the Senator purports that that is a simple question. Of course, it is not a simple question, there are a number of underlying questions that, in the first instance, the Senator would have to have proven the need to create either a Jersey company with the J.F.S.C. (Jersey Financial Services Commission) and go through all of that bureaucracy. If she is a tax-resident company, then she will have contacted the Comptroller and considered those issues as well. Then, of course, she will look at the anti-B.E.P.S. legislation to make sure that she is not falling foul of that. She would have to prove under that legislation where the profit was being made, where the doughnuts were being sold, where she was employing her capital, where she employed individuals. So, once upon a time I would have welcomed the Senator to come and have a cup of tea with me, I would have shown her my fee scale **[Laughter]** and introduced her to a good Jersey lawyer and advised her accordingly. If she wishes to start up mining doughnuts, or she has a friend, if we might say that, who does, then that is the best advice that I could give her. We have first-class intermediaries in this community, first-class accountants, first-class lawyers, first-class bankers and they would be able to advise her accordingly. This is, outside of being flippant, an extremely important piece of legislation. I have been convinced for a long time that Jersey is a jurisdiction of substance. We will now have in legislation for the first time a substance test which will prove to the world and, importantly, to the E.U., that we put our money where our mouth is and we act and are responsible on the international stage and that we are not home to illicit flows of funds as some may wish to suggest. Thank you. Could I ask for the appel again?

**The Deputy Bailiff:**

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

<b>POUR: 42</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 1</b>
Senator I.J. Gorst				Deputy G.P. Southern (H)
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
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 of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy 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 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 R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

**The Deputy Bailiff:**

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

**10.3 Senator I.J. Gorst:**

I am very grateful to Members' support. This is, as I said earlier, a very important piece of legislation. I will just simply in Third Reading thank the officials in my department, particularly in the Financial Services Unit, together with the External Relations Ministry, together with Law Officers and Law Draftsmen again, together with Treasury and Tax officials.

[15:15]

Yet again, it has been a combined effort which has put Jersey at the forefront of international standards. We should be proud of many of the officials right across our organisation on how they put their Island first and show that we, in that old tired phrase, punch well above our weight. I personally wish to thank them for all the work that they have undertaken in this regard. I recommend the legislation in Third Reading.

**The Deputy Bailiff:**

Is it seconded in Third Reading? **[Seconded]**

**10.3.1 Deputy M.R. Higgins:**

Just a point I should really have raised when we were talking about the principles. Can the Minister for External Relations just tell us whether Guernsey and the Isle of Man are following in exactly the same steps as we are or do they have any variations to what we are doing?

**The Deputy Bailiff:**

Does any other Member wish to speak in Third Reading? Minister.

### 10.3.2 Senator I.J. Gorst:

We have worked in lockstep with Guernsey and the Isle of Man, as I said earlier, as ever, though we sometimes have different opinions that have to be argued out and agreed upon because it was important for us to work in lockstep to present a united front to the E.U. Commission services. We are not the only 3 jurisdictions who are listed under criterion 2.2. There are lots of others as well with similar economic models to ourselves but we chose, rather than to work broadly with all of those, to work very closely together. I have undertaken meetings with Isle of Man and Guernsey Ministers in Brussels and in London, so we will see that our legislations mirror each other. They are not absolutely identical because we have different approaches to how we engage with our Law Officers and Law Draftsmen but you will also see over the course of coming days other places around the world coming forward with proposals as well. I call for the appel.

#### The Deputy Bailiff:

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

<b>POUR: 41</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 1</b>
Senator I.J. Gorst				Deputy G.P. Southern (H)
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
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 of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy 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 of St. Peter				
Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				

Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

## **11. Draft Employment (Minimum Wage) (Amendment No. 15) (Jersey) Regulations 201-(P.133/2018)**

### **The Deputy Bailiff:**

The next item of Public Business is the Draft Employment (Minimum Wage) (Amendment No. 15) (Jersey) Regulations - P.133 - lodged by the Minister for Social Security, and I ask the Greffier to read the citation.

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

Draft Employment (Minimum Wage) (Amendment No. 15) (Jersey) Regulations 201-. The States, in pursuance of Articles 17, 18 and 104 of the Employment (Jersey) Law 2003, have made the following Regulations.

#### **11.1 Deputy J.A. Martin of St. Helier (The Minister for Social Security):**

This amendment to the Minimum Wage Regulations would increase the maximum amount that an employer can charge minimum wage-earning staff for tied accommodation and meals. We know that around a third of minimum wage earners in the hospitality and agricultural sectors receive these benefits in kind as part of their employment package. Members will be aware that I have accepted the Employment Forum's recommendations for 2019 and I have made an Order that will deliver the biggest minimum wage increase in the last 10 years. As well as the higher minimum wage and trainee rates, the forum also recommended that the maximum charges for accommodation and meals should also increase twice in 2019 at the same time as the minimum wage which will be April and October. I propose the principles.

### **The Deputy Bailiff:**

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

#### **11.1.1 Senator S.Y. Mézec:**

This is the first year of me being a States Member where I have not lodged my own proposition to set an increase in the minimum wage. The reason that neither I nor any of my party colleagues have chosen to do so this time is because what is being proposed by the Employment Forum this time is a substantial improvement on what has been proposed previously. It is a very good step in the direction and we support the 2-step suggestion for next year. I just wanted to stand to raise one point, since it goes back to some points that have been made in an earlier debate, that our manifesto commitment was to see a £10 an hour minimum wage by 2022. Should things appear to not be going in that direction with future recommendations, then of course we would be forced to bring forward a proposition to achieve our manifesto commitment. That proposition is not raised this time around because this is a good step forward that we are satisfied with but in future if it does not look to be the case, we will bring that proposition forward. It will not be political theatre; it will simply be trying to fulfil a manifesto commitment.

### **The Deputy Bailiff:**

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

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

I, along with my Assistant Ministers, were very grateful that this was not going to be a massive debate because it was the biggest rise in the last 10 years, that we have not got anybody proposing a few

pence either way. I know what Senator Mézec says, if that is in his manifesto to do £10 an hour by 2022, that is what they will try and do. I will follow as under law what the Employment Forum do do, and I would like to thank the Employment Forum who literally do go out for 6 weeks, and all the people they also consulted and made comments on what would be the best minimum wage and what they think they can live with. I think also in mind, we had a States debate to be at 45 per cent of average, I think, by next year, maybe the following year, so all these things are coming together and the minimum wage is going up which is very good news. I have been a very lucky Minister because they have recommended the highest rate in 10 years and it had nothing to do with me but I was very, very glad to accept it. Thank you.

**The Deputy Bailiff:**

Those in favour of adopting the principles, kindly show. Those against? The principles are adopted. Deputy Le Hegarat, does your committee wish to call this in?

**Deputy M.R. Le Hegarat of St. Helier (Chairman, Health and Social Services Scrutiny Panel):**

No, we have had the full brief from the Social Security Department and our panel are happy to support this amendment. Thank you.

**The Deputy Bailiff:**

Do you deal with the matter in Second Reading then, Minister?

**11.2 Deputy J.A. Martin:**

Yes, there are only 2 Regulations and if the Assembly is okay, I will just take them *en bloc*. If anybody has any questions, I will happily answer them. Thank you.

**The Deputy Bailiff:**

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

<b>POUR: 34</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator K.L. Moore				
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 Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
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 S.J. Pinel (C)				
Deputy L.M.C. Doublet (S)				

Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy K.G. Pamplin (S)				

**The Deputy Bailiff:**

Do you deal with the matter in Third Reading, Minister?

**Deputy J.A. Martin:**

Yes, there is really not much to say. I maintain the Regulations and I ask for the ... well obviously if anyone has got any questions in the Third Reading. Thank you.

**The Deputy Bailiff.**

Yes. Are they 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.

<b>POUR: 35</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator S.C. Ferguson		
Senator K.L. Moore		
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 Trinity		
Connétable of St. Peter		
Connétable of St. Mary		
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 S.J. Pinel (C)		
Deputy L.M.C. Doublet (S)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy J.H. Young (B)		
Deputy L.B.E. Ash (C)		
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 R.J. Ward (H)				
Deputy K.G. Pamplin (S)				

## 12. Public Finances (Jersey) Law 2005: amendment to Medium Term Financial Plan for 2019 (P.137/2018)

### The Deputy Bailiff:

The final item of Public Business is the Public Finances (Jersey) Law 2005: amendment to Medium Term Financial Plan for 2019 - P.137 - lodged by Deputy Southern, and I ask the Greffier to read the proposition.

### The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion that the Minister for Treasury and Resources is requested to bring forward an amendment to the Public Finances (Jersey) Law 2005 in order to provide for there to be a revised Medium Term Financial Plan for 2019, in which the maximum amount of net States expenditure from the Consolidated Fund is increased above the limit set in 2015, so that additional monies can be made available to fund public sector pay claims, or additional investment to deliver C.S.P. priorities such as “children first”; and the Council of Ministers is accordingly requested to bring forward a draft Medium Term Financial Plan for 2019.

### 12.1 Deputy G.P. Southern:

I am going to pose the question today: how did we get here? By “here”, I mean: how come we are at loggerheads with our own employees? The answer is that their incomes have fallen by 10 per cent over the years 2009 to 2016 and by 13.2 per cent - that is almost one in 7 - real terms of value of their wages have fallen, and that has occurred over the past 10 years. We have been running austerity, or one of the weapons of austerity is to reduce wages to keep people’s pay claims down. We have successfully done that. If you look down the list of the questions I asked in 2017, we get a 0 per cent rise; frozen, 2 per cent, 2 per cent, frozen again, 1 per cent, 4 per cent - a bit of catch-up there; they must have been negotiating - 0 per cent again; frozen, 1 per cent, and the last 2 years, 1 per cent and 1 per cent. No wonder our wages are going down because all we do is say: “There is no money.” There is no money, and yet we have been in there, pretending, pretending to negotiate. That should not be happening because what we are saying to them is: “There is no more money.” Now, before I start on the main thrust of what I am going to say, can I just comment briefly on the comments which have come from the Council of Ministers - which obviously have been to Treasury but probably not to anybody else - wherein I am reminded of the old days when I used to joust, cross swords with Senator Walker in the day, which was a jolly good experience because he would repeatedly describe me as “irresponsible” and on a few occasions “dangerous” the things that I brought forward. I look at these comments and I think: “This is a hark back to the Walker days” because “irresponsible” is all over this text. I am being irresponsible. No, we are being irresponsible by not negotiating properly with our workforce. **[Approbation]** The statement there early on, if you have got it in front of you, do have a look: “The current staff bill of £359 million a year already accounts for nearly half of the States annual budget.” Well there is a surprise. The biggest thing in expenditure is people’s wages. Yes, but why is that? Because we have a got a dedicated, highly-skilled and trained workforce which delivers first-class service to most people. That is why it costs money because we deliver service and we do it - we do it - with goodwill. Education: schools run on goodwill. Everything that is not prescribed happens because people give up their time and do it. Imagine, if you can, if we break the goodwill of our workforce. Imagine trying to get your officer to do something at 4.30 p.m. when he

has already done his hours in the week. Or work over the weekend. It often happens, officers are busy all the hours you can use them. They do, and they do it willingly. Get rid of that goodwill, a lot of services will suffer and that is what we must ... it is priceless, the goodwill offered by our employees.

[15:30]

Also, we are changing the system from this year. By 2020 we are going to have a new system which brings back together again expenditure and income at the same time. That is the right way to do things: what do we want to deliver? How much is it going to cost? Make sure we get the balance. What we are operating on at the moment is a cap on spending decided 4 years ago. It is unreliable and it does not work and yet we are saying to people there is no more money. There is no more money only because we imposed that cap; we cannot reach it. So no matter what the state of play in people's wages, we cannot do anything about it because it is our limit. I am suggesting today we can, it is a very simple process, we amend where we have to and free-up some of this money. I say it because it seems to me that the operating surplus I mentioned in an earlier debate that we have got operating at the moment allows us to do that. So, the sheets I circulated, I hope everybody has got them; I believe they have. If you look at the sheet labelled A, what we have got here is a part page out of a report by Corporate Services Scrutiny Panel - it is this one here - it just came out recently. It entirely reinforces the case I am trying to make as to what we should do. It is always wonderful to have the backing of Scrutiny even if it is not your own Scrutiny Panel. It happens. You see there some of the questions and some of the findings in this particular investigation and the question: "Chief Minister, so given you are constrained by the Medium Term Financial Plan in accessing large balances on the Consolidated Fund, have you looked at how you could reprioritise money from existing budgets to fund pay rises?" Came the reply: "So the discussions, as I said, which are being led obviously by States Employment Board and then obviously the chief executive and the human resources team are trying to continue to work in the envelope they have." There is no more money, the envelope is fixed. The panel then concludes: "Within a 4-year financial planning cycle, it is highly likely that funding pressures will emerge, particularly towards the final year, that would not have been predicted at the start of the cycle" clearly what is wrong with a 4-year plan. It is almost like the Soviet Union with their 5-year plans except their 5-year plans always worked efficiently; a 4-year plan, this 4-year plan, does not. "With 2019 being the final year of the current 4-year M.T.F.P., we asked Treasury officials what flexibility there was to amend the M.T.F.P. to take account of new spending pressures such as those we have identified." Deputy Ahier asked: "What is preventing you coming back to the States Assembly to ask for approval for additional expenditure over what was approved in the Medium Term Financial Plan?" The Director for Financial Planning says: "Basically, the Public Finances (Jersey) Law, as it is written, does not allow the Minister to ask to spend more money without it meeting certain criteria and they have to be extraordinary matters, as opposed to just general matters." We will examine that in a minute: what do we mean by "extraordinary matters"? But then we go to the bottom of this particular sheet and the findings of this Corporate Services Scrutiny Panel: "The structuring of the M.T.F.P. in the Public Finances (Jersey) Law is restrictive and has led to constraints on expenditure in the final year of the M.T.F.P., even when there are surplus funds accumulated in the Consolidated Fund and the States Reserves. Finding: it is the panel's view that the Minister for Treasury and Resources has the tools available to amend the M.T.F.P. to tackle the constraints on expenditure if the Council of Ministers is determined to do so." We have the power to do it; we could do it. Why do we not, is the question? Their recommendation, very clear again: "The Minister for Treasury and Resources should bring forward a proposition as soon as possible to amend the M.T.F.P. in accordance with Article 9(2)(ca) of the Public Finances (Jersey) Law on the basis that there is an urgent need for expenditure in 2019 to fund emerging priorities in relation to the Common Strategic Policy and to resolve the public sector pay dispute." There is a way to do it, why is it not being done? I am suggesting the way we could do it, and I hope you will agree with me that we should, we must, get rid of this impasse that we have

between us and our employees. Of course, the power to amend the law is clear in the law itself: 69A of the laws says “subject to paragraph (2)” which is: “Only the Minister may lodge Regulations under paragraph (1)” so: “Subject to paragraph (2), the States may by Regulations amend Parts 3 and 4 of the law.” Parts 3 and 4 are these bits that have been amended themselves to include the cap. So back in 2015 the Minister amended in Article 8A, if people will turn the page to Article 8A, they will see a very simple mechanism there, amendments of some 6 paragraphs, very straightforward, which set up the 4-year cap in the first place. It is very simple, it is very easy, if we wish to we could amend the law - this is in Part 3 - we can amend the law to make a new M.T.F.P. for 2019 standing on its own. How do we do that, is the question? If Members will turn the page over to the back page, page 17 of 58, whereas the Corporate Services Scrutiny Panel suggested that we amend Article 9(2)(ca), you can see that that is a difficult, high hurdle to jump: “The Council of Ministers may only lodge a proposition for the purposes described in paragraph (1), (a) if a state of emergency has been declared under the Emergency Powers and Planning (Jersey) Law 1990.” I do not think this is an emergency. A serious issue but it is not an emergency. They may only lodge a proposition: “(b) if the Council is satisfied that there exists an immediate threat to the health or safety of all or any of the inhabitants of Jersey.” Again, relatively easy to dismiss that. Ministers can easily dismiss that. This is not a threat to health or safety: “(c) if the Council of Ministers is satisfied that there is a serious threat to the economic, environmental or social well-being of Jersey which requires an immediate response.” I could argue that one. Certainly that looks a bit more inviting but it is still a fairly high bar. Sitting around the Council of Ministers, that is not a guaranteed way to get over things. Then here is (2)(ca): “If the Council of Ministers is satisfied, on the recommendation of the Minister that (i) there is an urgent need for expenditure” and that, A and B, the balance and the expenditure cannot be funded another way. Again, a difficult task to convince anybody. But we do not need to do that because the law itself says you can amend any part of the law in this section, and that is what I am recommending; that is what my proposition does. So, how did we get here? By this I mean, how did we get in a position of having to tell our dedicated public service employees, after a decade more of austerity, pay freezes, pay restraint, imposed and unconsolidated pay awards that there is no more money? They have all seen their salaries steadily reduced in real terms, the latest figure is, as I say, over 13 per cent reduction in real terms of their wages. The tale of how we did get here starts back in 2015 when the then Chief Minister, Senator Gorst, introduced a new M.T.F.P. for the years 2016 to 2019 in the following terms. He said then: “This debate is an important one for our Island. The decisions the Assembly makes this week will set the direction of the Island’s public finances for the next 4 years and it is vital that we get it right. Now that we can see the economy recovering ...” and indeed it has more than recovered, it has grown enormously. We are carrying an active surplus and I will remind Members of those figures. Predicted 2017, operating surplus for 2018, £49 million in 2018, and now £91 million in 2019. This is an enormous surplus and yet we are still going to the unions and saying: “There is no more money.” They know there is money there. We put £50 million in the Stabilisation Fund. How could we afford to do that and then say there is no money? The then Chief Minister continued: “It proposes our overall finances for 4 years, setting the spending limits for 2017, 2018 and 2019, as well as the detail for 2016. This is a sensible way to approach public finances.” At the time it was described as “sensible”. It turned out, with hindsight, to be wrong. No blame there, hindsight is a wonderful thing; they did make a mess: “That is why we will present detailed departmental plans in the M.T.F.P. Addition next June, but today or tomorrow or the day after we are asking the Assembly to agree caps on spending for 2017, 2018 and 2019.” There he is saying: “We are not going to give you the detailed spend in departments in 2015, we will just give you 2016, both on those, and then we will come back” and they did come back with the M.T.F.P. Addition. The then Chief Minister proposed a 4-year plan and the Assembly accepted it, the tax-raising and spending measures, when the detailed departmental spending figures were only available for the first year, 2016. The current Minister for Treasury and Resources recently reinforced the 4-year plan when she said: “The current Finance Law means that spending limits are fixed for 4 years and cannot be adjusted upwards in the event of a temporary or permanent increase in income.” There

has been that increase in income. Back in 2015, leading the opposition to this cavalier treatment was our current Chief Minister. He had an amendment to break the years up so that each year could be treated separately. A 4-year plan means that by the fourth year, it gets wobbly. It will have moved. This will not be what the 4-year plan says; it will have moved. He then was saying: "Do each year separately because you cannot rely effectively on a 4-year plan, especially if you make a cap on spending." He said: "All we are asking at this stage for this amendment is to allow the Assembly to vote on each year separately." That is why certainly for the expenditure side, where there is no detail with 3 of the 4 years' service we are being asked to approve, the Corporate Services Scrutiny Panel felt it was appropriate to suggest to the Assembly that they might wish to have the ability to approve each individual year. That would have been sensible, with hindsight. There then followed an argument about whether the estimates of income were accurate or not. At the end of the day, his proposition to do each year separately, which gave the possibility of not accepting the fourth year if it is going to be wobbly, was defeated by the narrowest of margins, 24 votes to 23: "Do not do them separately, do them all at once, put the cap on for 4 years."

[15:45]

As it turned out, neither estimate of income proved trustworthy. With hindsight, the lesson that we should have learned from the M.T.F.P. process in 2015, and certainly now in 2019, is that the fixing of figures and caps, whether on income or expenditure, is not to be relied on: 4-year estimates do not work; 4-year plans do not work. But we have already learnt that lesson. The current Minister for Treasury and Resources is already involved in moving on from the 4-year plan when she recently stated: "Early next year I will be proposing a new Finance Law that will allow more flexibility to adjust to changes in income", abandoning this 4-year plan, and from 2020 we will have a new plan which better links income and expenditure. We will know what we are doing because we will do it a year at a time. That is the way to do it. From 2020, we will see a return to annual adjustments to changes. My proposal simply covers the so-called transition year 2019, because the problem is with us today. It is no use waiting for the new plan in 2020 because we have lost the goodwill, we have lost our workforce. What has happened over the past M.T.F.P. is that the Council of Ministers failed to get its plans for raising £40 million through a health tax and a waste charge. Members might legitimately expect that this failure would leave a £40 million hole in the Budget. It is not the case, because we have seen totally unexpected growth of income. If we compare the operating surplus of the Consolidated Fund with the Budget - I have already given those figures - we are talking about some £91 million operating surplus in 2019. That is a large amount of money. But we cannot afford to pay our workforce properly. We say, we repeat: "There is no more money." We cannot engage in honest negotiations with public sector representatives because there is no more money. To the teachers who have had their starting salaries reduced, there is no more money. To the nurses, they are probably the angriest of our workers, because they have been waiting for equal work to mean equal pay for at least 4 years and it has not happened, and yet here we are saying to them: "There is no more money." To the civil servants in here, the physiotherapists, the classroom assistants, the occupational therapists, the specialists who deal with the queues, and those who deal with the queues on the front line at Social Security, the clerks, our workers have had enough. They are balloting for action. We expect some of that action to be seen tomorrow. We have backed them into a corner. We are in a corner ourselves. What are we doing playing hardball with our employees? Is this some form of macho posturing, get into confrontation and see each other down, eyeball to eyeball? Is this what is happening? Is that what we want in terms of a relationship with our employees? I do not believe it is. Do we really want 2019 to be remembered for months and months of grinding industrial action because there is no more money? There is only no more money because we decided to set a cap on spending 4 years ago. To assent to a rigid cap based on a 4-year estimate was a mistake. It was a well-intentioned mistake, but it was a mistake. This is our own arbitrary limit on spending. We made a rule and we can end it. There is more money. We know that, and so do our employees. They have seen the transfer of £50 million to the Stabilisation Fund. They know there is money and

yet we keep telling them, falsely, there is no money. As of next year, we will have a joined-up system in which income and expenditure will be planned together and planned a year in advance. We do not have to spend this coming year in a battle with our employees. There will be no winners from that. We can and should, I say, avoid such a fight. Please vote for this proposition today. Failure to do so is to put at risk the single ingredient upon which the whole public sector functions. That ingredient is goodwill. If we lose it now, we may never get that goodwill back. A vote for P.137 opens the door to honest relations with our employees. It means we can get around the table again and negotiate honestly. My experience as a trade unionist in negotiations is that the best solution is one where each party comes away satisfied, win-win. At the moment, we are on a fight for win-lose. Please vote for this proposition.

### **The Deputy Bailiff:**

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

#### **12.1.1 Senator K.L. Moore:**

I wanted to rise early in this debate to show my support for Deputy Southern. Some might find that rather surprising, but I guess they will not know that Deputy Southern has referred so helpfully to the findings of the Scrutiny Panel, for which I am grateful to him. Members might be aware of the Kübler-Ross curve, which is a change management term. It started off its life as a curve that explained the process of grief. I am sure most Members are familiar with that, but it has been modified to reflect the process that an organisation can go through when it is experiencing change. Of course one part of that process is anger and then defending the status quo. It could be said that we are currently finding ourselves in somewhat of this position, given the changes going on in the public sector at the moment, but I draw Members' attention to this curve because I reflected upon it after hearing from the 4 union representatives who attended upon a Scrutiny Panel hearing not very long ago. I shall read a statement that the chairman of the J.C.S.A. (Jersey Civil Service Association) Prospect made to the Assembly and Members can draw their own conclusions as to whether they think that this is a group of people who are behaving in an angry or defensive way. The chairman said: "If I may, the action we have been forced into, and it has been forced, has been taken with the greatest reluctance and the deepest regret. The public sector workforce is committed to providing the best public service it can to the people of this Island, who mostly we have connections with either by family, by friends. The vast majority of Islanders have connections with people working in the public sector. We want to provide a good service for them, not only for today, for tomorrow, for our children and the day after, when they have children. We want to see Jersey being at the level of public sector service that it deserves and it has currently. To put anything in place that would jeopardise that flies completely in the face of the loyalty of staff towards the people they serve, but unfortunately one gets to a position where one is backed into a wall and one has nowhere else to go." Then I can continue to another change management term or business advice term, really, which says: "An organisation must ensure it has resources to pay staff properly to (a) run its business, and (b) incentivise." Pay of course is an extremely important part of that. Some may argue that offering a greater pay deal would be inflationary, but if we look at the simple economics of pay, it does not feed into the supply and demand theory, which is what sets a price. It could possibly be - and I am sure I have heard Deputy Southern say this on many occasions - good for the economy for public sector workers to have some additional pennies in their pockets and to have a feel-good factor that comes with it. The average earnings index, as the Deputy has alluded to, has been, on the whole, flat over the past 10 years, but when you divide it out and look at the comparisons that are available on gov.je and look at public sector pay versus private sector pay, the public sector pay has consistently lagged behind that of the private sector, creating a cumulative effect. We then go on to those who say: "We have not the money" and of course even if we did have the money now, because of course the Scrutiny Panel's findings and the Budget itself shows very clearly that after putting a transfer of £50 million into the Stabilisation Fund, there is still a considerable sum, £126 million, in the Consolidated Fund

for next year. That is simply being put aside for distribution next year in the Government Plan, when we know that not only is there a public sector pay issue to deal with, but there are also many people who struggle and require services that it could help to prevent them from falling into a crisis in their lives, which is one of the things that motivates most of us to sit here for days on end and help in our way to serve our community. Going back to why we have a recurring cost available, I have shown you that we have the money available for next year. Going forward, I do suggest to Members that we can solve the recurring cost issue, because nobody yet has told us how much money is to be saved from the current public sector change programme. We are told it could be tens of millions. There is a figure of £30 million being suggested, but that is not sure, and neither is it sure how much we are spending on this public sector change programme currently at the moment, so we need those figures to be able to satisfy our budgetary needs, but if what we are being told is correct, there should be money available to cover recurring costs going forward. The proposition also neatly maintains options for negotiation and I think that is helpful of the Deputy because it shows that there can potentially be some negotiation on the part of the employer and of course that is what we have appointed the States Employment Board members to do. I do not think this proposition is short-termist. In fact, I think it is sometimes the way we cope with our finances that encourages us to have short-termist approaches to services. We have all come across people who time and time again are turned away from or are not able to receive help until they reach a crisis in their lives. I have reminded Members a couple of times at least of Brighter Futures and the fact that they have been providing a service for Tier 3 and 4 families, those who are most at need. A Tier 3 family is when children are at risk of being taken into care and Tier 4 is when they are now on the at-risk register. It could be argued that the States of Jersey ought to be providing that service. Brighter Futures, who have had these families referred to them, have had to turn away some people because they simply have not been able to cope with the burden that dealing with it has put upon them. In the spirit of putting children first, I would ask the Minister for Children and Housing to speak to his Minister for Treasury and Resources at the earliest possible convenience and I hope that this proposition is agreed by the Assembly.

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

Can I ask for a ruling?

**The Deputy Bailiff:**

Yes, most certainly, Deputy.

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

Those of us that share a household with a States employee who might have their pay increased as a result of this proposition, do we need to declare that and do we need to withdraw from the debate?

**Deputy M.R. Le Hegarat:**

Sorry, Sir, excuse me. I raised this 2 days ago with the Greffier because there are a number of us that on Tuesday I think may not have alluded to the fact. My apologies, but I have to confess it was only on Tuesday night when I realised, because my husband was working for the Civil Service or for the States at that time, and had noticed a differential in pay. But of course it is more important than that. There are a number of us that sit in the Assembly that were employed by the States between 1st January and the middle of April.

[16:00]

Therefore should it have excluded us from this debate, but more importantly, does it also retract from the fact of we decided to debate it earlier in the week? That is why I have been a bit hot-footing, trying to raise this matter.

**The Deputy Bailiff:**

Thank you very much. First to deal with your second point, Deputy Le Hegarat. I do not think it is open to us to revisit any resolution passed by the Assembly earlier and therefore I do not think anything that should have been declared - although I will come on to mention that in just a moment - would have invalidated the vote taken and it is appropriate that we debate the matter now. The matter of declaration of interests is covered by Standing Order 106, which is: "A Member of the States who has or whose spouse or civil partner or cohabitee has an interest in the subject matter of a proposition must (a) if it is a direct financial interest declare the interest and withdraw from the Chamber for the duration of the debate and any vote, or if it is not a direct financial interest, but a financial interest which is general, indirect or shared with a large class of persons declare the interest or if it is an interest which is not financial, declare the interest." As I read the proposition, there is no direct requirement as a result of the proposition that anyone is paid any more money. What the proposition is doing, if it is passed, it will free-up money so that a negotiation will continue. I do not think that there is a direct financial interest; there is a potential financial interest, but it is not direct. I think the correct way to resolve this is for anyone who personally or whose spouse might benefit from this would declare it as a possibility, but would not be required to withdraw from the debate.

**Deputy J.H. Young:**

May I seek clarification of your ruling?

**The Deputy Bailiff:**

Yes.

**Deputy J.H. Young:**

You have explained the meaning of the proposition, the interpretation of it. You have referred to it may allow additional money to be available for pay awards. The proposition refers also to the C.S.P. priorities.

**The Deputy Bailiff:**

Yes, indeed.

**Deputy J.H. Young:**

Does that indicate, Sir, that you consider that either of those possibilities would be possible in resolution 6: "To bring an amendment to the law to enable" and then a comma and it then goes on to say certain things? I would appreciate a bit more clarification of what would be the effect of that proposition in terms of whether or not it specifically binds us on a pay award matter or whether it allows flexibility generally on that C.S.P. and other matters.

**The Deputy Bailiff:**

I do not think that if this proposition is passed it binds the negotiating bodies to any particular offer, pay acceptance or indeed any particular movement in the direction of paying money to meet the commitments of children first. I think what it does is provide money that can be used for those and related purposes presumably, but none of which commits anyone to use the money for those purposes, which is why I have made the ruling that I have in connection with interests. Does that assist you? Perhaps not, Deputy.

**Deputy J.H. Young:**

It does, Sir, as long as I can reserve the right to speak later.

**The Deputy Bailiff:**

Yes. This is a request for a ruling, it is not a speech, so yes.

**Deputy J.A. Martin:**

I really do not want to offend anybody, but I was looking back on the last debate on money and interests were declared by anyone who had their wife as a teacher or was a civil servant. The Deputy's proposition does not say in the words, but all I heard when the Deputy was presenting the proposition and he mentioned nurses, teachers, civil servants to get more money. I am just very unclear on your ruling because this is definitely for people to get more money and the Deputy spoke for 15, 20 minutes telling us who it is directed to.

**The Deputy Bailiff:**

The proposition is also directed to children's matters as well, but in my judgment, it does not provide anyone who votes for it with a direct pecuniary advantage. It may provide them with an indirect pecuniary advantage and in those circumstances they should declare that they may have such an advantage, but they may still continue to participate in the debate. For right or wrong, that is my ruling on the matter.

**Deputy M. Tadier:**

Is it not also the case that Deputy Southern has pursued one line of argument, but the very technical nature, the specific nature of this is to amend the Public Finances Law, which would free-up money for anything? There is a mention of putting children first. We could spend the money on shops and the public domain in town, so ...

**The Deputy Bailiff:**

Yes, Deputy. I think that is inherent in the proposition. Deputy Hegarat, further clarification?

**Deputy M.R. Le Hegarat:**

I can accept the indirect as a partner, but if this was approved and if there was more money given to Civil Service... I will get more money. I do not know about anybody else, but I certainly would not want to vote for something if it was perceived that I am going to get more money. I am not comfortable with that, but I can abstain if that is the rule.

**The Deputy Bailiff:**

Deputy, you are entirely entitled to. You have declared that interest and you are entitled to say you do not propose to take any further part. That is a perfectly proper course for you to take. Very well, I had you down to speak, Deputy. I am assuming that that was what you wanted to say.

**Deputy M.R. Le Hegarat:**

That was what I wanted to say.

**12.1.2 Senator J.A.N. Le Fondré:**

This is going to be a hard debate, no question. We had some good and respectful debates through the time period this week. This is going to be one of the hard ones. I just want to pay tribute ... I will say more stuff in the middle, but I do want to say one thing, which is about the States Employment Board, because I suspect they are going to be targeted about various things and how we got to where we are. They have found this a very difficult position to be in - no question - and they have worked tirelessly to try and work with what they have to use. By and large, I think they are ... we will leave it to them to speak, but I just wanted, as Chief Minister, to thank them for their time on this matter. Irrespective of where we end up today, I think we need to pay tribute to the fact that the States Employment Board acts as the employer on behalf of public and obviously there are Members that represent the Assembly on there. I know it has been a difficult time period for them to go through. There are obviously other sectors of the public as well who have also found it very difficult, so we are going to have a tough debate today, I think. I will start off dealing with a couple of things. Certainly Deputy Southern made reference to a proposition that the previous Corporate Services Panel brought to the Assembly some time ago. I think what we were concerned about was about

voting in one vote on a whole period of time but without the detail attached. The detail then came back the following year. Members may recall this was a bit too late at that point, but that was the concern. It was about committing to too much expenditure, and I will say without knowing the consequences, and I will say to an extent that is backed up by what we are seeing in the Budget and what I alluded to earlier today in that table that identified the deficits we start seeing in 2020. I will touch on that a little later, but it is about that lack of clarity and not knowing the consequences of our actions and the concerns of committing to ongoing revenue expenditure and how it is going to be funded. Here we will know the consequences of our actions, because broadly speaking, if it goes down the line and it is an inflation award, it is an extra £9 million a year. Be in no doubt about that, that is roughly where we are. Now, in the last debate I said I was delighted to follow Senator Moore and I agreed with her in certain areas. I am delighted to follow Senator Moore, but unfortunately I will not be agreeing with her on certain areas this time around. There are a couple of points I want to make. We have made reference to the £50 million transfer. The reason we changed it, the previous Council of Ministers locked-up the money in the Strategic Reserve. This Council of Ministers have just released it fractionally to deal with some of the potential uncertainty we have ahead as a result of things like Brexit. Do not forget the period of uncertainty we have coming down the line. The second point I want to make, which is dealing with possibly what Senator Moore was referring to, she talked about: "We can cover ourselves, because it will be coming out of the savings that we are going to do." She made references to all the things we want to do can potentially be covered by savings. What I am concerned about is one-off pots of money being used to fund recurring expenditure. As I said, I referred to this before, and I walked into a conversation last night around that very decision having been taken by a department some time ago and suddenly the recurring expenditure was not available to them. They then had a problem. To pick up the points of what about Children's Services, what about education, we have heard about Brighter Futures; I do agree with that. Those are all going to be priorities that we want to do and that will all require resource and that is where the detail comes back to the Government Plan. We have been very clear on there. That is where the detail comes through. I am concerned about the kind of approach of let us call it jam tomorrow, which is saying: "We are going to spend the money today and bank on the savings tomorrow to cover it" because that is how we got into part of the mess that we have got into. Members may remember that in the past we had overestimates of income and people spent to that limit. We did not achieve those. That is not what we are seeing at the end of this M.T.F.P., it was the previous one. It required critical measures to be taken at the time. To an extent, what we are seeing on the tail end of this M.T.F.P. is the banking on savings and they may achieve cash savings, but they may not be recurring. That is the message the Treasurer was saying to new Members of this Chamber in the induction weeks; that is the message we are getting now. Some departments are still not making savings that are already booked in the plan. That is why there is uncertainty around the figures coming through. That is the financial context, that it is always a caution: if one goes to a full inflation award, it is £9 million a year recurring for ever. I will return to my speech now. That was really just to address some of the points that were coming up as part of the earlier speeches. There are clearly concerns about 2018-19 pay review and whether offers made to States employees are sufficient in current circumstances. The unions are concerned that offers that do not meet their aspirations for cost of living increases and I do understand that. Even though we are going to get criticism, we absolutely understand that, because at time of relatively high inflation public sector workers naturally want to keep pace with increasing living costs but at the same time, as a reasonable Government, we have to ensure we do not spend more on public sector pay rises than we can afford. I make no apologies about going back to that figure 29 in the Budget it discussed earlier today where from 2020 onwards, we are showing deficits in the order of £30 million up to £40 million a year each and every year up to 2023. A pay rise on top of that which generates an extra £9 million is really going to cause some problems. It is all very well saying: "Well, we can. We believe we can manage the existing deficits" but when one wants to make the improvements to the public sector that we need to make - as we have said, we talked about Children's Services, we have talked about education and I can name

a whole range of things - that money does have to come from somewhere. Every accountant knows the mantra there is no magic money tree so there are consequences to those actions. Therefore, we have to make sure the approach we take and how we distribute the funds that we have available is fair and we will have disagreements around that approach. No question. Through the awards we are making, we are addressing for the first time some fundamental legacy issues which have developed over many years, if not, for decades. I will talk about legacy issues a little bit later. What I did want to just address before I go slightly further, is there has also been comments made about: "I am really fed up. We are not treating our staff right and because we have imported all these people in from the U.K., which is a waste of money, we should be looking after our local staff." Something along those lines. Now there are 2 aspects to that. One is in terms of the senior posts of the director generals. Let us get the right numbers here, and I am talking about the permanent appointments generally. Of the 7 director generals that have been appointed, 5 are from on-Island, 2 are off-Island and there is an outstanding post in there. Of the directors and group directors, of which there are about 32 in total, 22 have been completed and of those 22, 14 are on-Island appointments and 8-are off Island.

[16:15]

One of those 8, one is a returner to the Island. The rest are loosely outstanding. I just want to put that on the table because it is not all about: "Everybody new coming in", *et cetera*. What I would also say and bear that in mind - I have said it in public already about the legacy stuff - it feels like every time we touch something at the moment, we find a problem. It is, as I said, we are dealing with some fundamental legacy issues, not from the previous Council of Ministers or the one before that but stuff that has built up over decades potentially. Basically if you want to try and achieve the change which means you get a better system that is a better system not only for the taxpayer but also for those people working in it, you have to make those changes. You are probably not going to get the level of change you need by having the same people who have been in that system for years to make those changes. That is why you have an organisational change happening now. One of the areas we are trying to address is the historical unfair differences in pay between groups of employees and that is leading towards what is called equal pay for work of equal value. We are addressing historical low pay for some groups by directing money, where we can, to the lowest paid. We are setting up - and it is urgent in a request from the S.E.B. - a top to bottom review of pay and reward so we address and resolve once and for all those issues of pay, terms and conditions and inequality that have built up over a generation and that means making some hard choices. We want people whose pay has been held back the most to receive, where possible, a disproportionately higher pay award and that is why we have made the highest offers to nurses and midwives and to manual and energy recovery workers. Nurses have been offered 6.1 per cent over the 2 years and manual and energy recovery workers have been offered 6.7 per cent, the highest increase of any group. All of this is consolidated so it is a permanent pensionable increase in pay. R.P.I. over the same period is 7.4 per cent and these offers are as close as we can get to that figure. Teachers and head teachers and fire, police and prison officers have been offered 4 per cent over the period with a further one-off lump sum worth 2.1 per cent. That is fair given their current pay levels which are higher than the nurses and midwives and manual and energy recovery workers. The States Employment Board has also considered fairness in determining what should be paid to civil servants and it is worth listening to this bit. This is our highest paid employee group in general and they receive an average of 4 per cent more than other employees. In fact, civil servants have managed to build up and retain this differential over time as previous pay settlements maintain this bargaining group's differentials over other groups. This lead has developed over many years and it is not fair, even though it is difficult, to other groups. That runs against the need - and it has now almost become a statutory need - to achieve equal pay for work of equal value. Now the States Employment Board also recognises that our existing pay, terms and conditions arrangements are outdated. That is why they have directed officials to develop new arrangements for the board to consider at the end of March next year. This work is urgent and it is being prioritised and all unions will be invited to contribute to the review so

that we can establish a workforce there and, most importantly, a sustainable set of pay and award arrangements that work for all. S.E.B.'s clear directions are to ensure that changes are implemented on 1st January 2020 and have said will work to ensure that we have arrangements in place to track, retain and motivate the talent we need. From discussions with officers and unions, S.E.B. is already aware of many priority issues but some of these issues do not have to wait and this is again worth listening to. I am pleased to set out the following areas for more urgent attention. We know that our current pay groups do not work for all. For example, the teaching assistants who are classed by the States as civil servants. Because they are classed as civil servants, teaching assistants receive some of the lowest pay increases although they are also among the lowest paid in that pay group. Yet, as we know, teaching assistants are pivotal in helping to deliver a priority of putting children first working alongside teachers and head teachers in delivering education to our children. Following discussions with the States Employment Board, we will now give teaching assistants the same increases we have offered to teachers backdated to 1st January 2018. **[Approbation]** That will double their consolidated pensionable pay increases from 2 per cent over 2018 to 2019 to 4 per cent and they will still receive their lump sums and 1.1 per cent has already been paid and another 1 per cent is coming in January. There has been a degree of movement even very recently and Members will have seen there is a press release that has been emailed, so this is now in the public domain and it was emailed to States Members in advance I believe. We also believe that all health workers should be part of the health pay group. This means moving some people from the Civil Service on to the same pay arrangements as their health colleagues who they are working alongside. This is equal pay for work of equal value in action and S.E.B. will prioritise this work so that the transfer happens on 1st January 2020 and in the same timescale, we will review the pay of the lowest paid workers in health with a view to giving them further increases backdated to 1st January 2019. This is about making proper informed choices and decisions about where our priorities lie and targeting pay increases of those groups of employees who have been left behind over many years and redressing historical inequalities, and that is difficult. It is doing so in a way which does not place unsustainable burdens on the public purse at a time when there is a substantial budget deficit heading towards us in 2020 which I have alluded to already. These changes which recognise the specific circumstances of some specific employee groups are appropriate, reasonable and fair but I recognise that while the pay issues that are the focus of the discontent that is bringing some civil servants out on a 2-hour strike on Friday is not the only issue. There is a legacy culture in the States, which we know is problematic. Now while we think it is now improving with investment in communications, the States has not got a great track record of being open with its employees. It has not always shared information, staff have not always felt they are in a safe environment to speak out and we know there have been serious concerns about bullying and harassment which are currently being addressed. Employees are understandably worried about restructuring and modernisation. They are uncertain about what this means to their jobs and their futures and this is what happens when any organisation goes through change. When an organisation as big as our public service is going through changes at the scale and pace that we are, of course employees will be unsettled and morale will fall but these changes are necessary because we need to sort out the legacy of antiquated and inefficient structures and processes that should have been dealt with years ago. It cannot be right that with around 7,000 employees, we have around 3,200 individual job descriptions or that our payroll system does not talk to our finance system and that neither talk to our H.R. (Human Resources) system. I think Deputy Wickenden was talked about as a "spreadsheet king" so he may know this already, but we have to do a huge number of manual general transfers every year across hundreds of spreadsheets in order to close our accounts. This is something that should be done at the click of a button with modern, properly integrated systems. We are way behind the Island's businesses in our administrative effectiveness and we are way behind other public sector organisations as well, and so we have to make these changes and we are doing this at the same time as we are tackling the legacy pay, terms and conditions issues. In fact, the Council of Ministers is very keen on this. We are recognising the difficult time we are going through and so we have invested in what we call the Team Jersey Programme which we launched in

October, and that is about going out accepting we are in difficult conditions and times now, listening to employees in what they call “a safe space” and starting to help them engage with the changes we are making. Now this is a sustained programme over 3 or 4 years and, for the first time, it is about investing in all employees, not just the most senior managers. We have embarked on the biggest changes in our public service for generations and we need to see them through. We will sort out the legacy structural issues and the legacy pay issues and we will do so in the right way. This modernisation is a crucial test for Government and today’s vote on P.137 is a crucial test for this Assembly. As I alluded to at the beginning of my speech, we must not repeat the mistakes of the past which is taking a short-term tactical approach to issues which really do need a long-term solution. We cannot keep kicking the can down the road. Now we have that solution. We are actively working on it. It is difficult. We accept that. We are going to hear impassioned speeches today but I really do urge the Assembly to vote against this proposition and let us get on with the crucial task of modernisation, which Members unanimously endorsed as part of the Common Strategic Policy only on Tuesday. That concludes my speech, and thank you.

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

Before we move to the next speaker, I wonder if I could ask Members, in light of the Deputy Bailiff’s ruling, those who feel it appropriate that they have an interest to declare can do so so that we can keep a record of it for the minutes. If you could stay standing just while the Assistant Greffier notes your name.

**Deputy R.J. Ward:**

Yes, do we need to explain? I can explain.

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

If you wish to, Deputy.

**Deputy R.J. Ward:**

Yes, my wife is a teacher. I was a teacher obviously. I would also like to point out that in order to stand for election, I had 2 months of unpaid leave and if anyone wants to question my integrity, even the question of that affecting me, I did not even think of because that is not the way I understand things. I think it is very important to point that out and I will point out that my other colleagues who may be too nice to say that also did the same. Thank you.

**Deputy J.H. Young:**

Yes, I have 2 family members who are teachers and one is a civil servant but they are not spouses or whatever it was so I do not think that I should raise it.

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

Thank you, Deputy. I have noted Deputy Perchard. Did you want to say something, Deputy?

**Deputy J.H. Perchard:**

Yes, I had a 4-year long career as a teacher in a States school that ended when my unpaid leave started at the election this year and this is many “ifs”, but I think it is important to state now that if this was passed and if the money were then to be used for pay and if it were to be backdated to January, any money that I would be given as a pay reward that is backdated for that period of time where I was still in employment will be donated. Thank you.

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

Thank you, Deputy.

**Deputy H.C. Raymond of Trinity:**

I have 2 children, one in 2 separate departments. The only thing I will say, just to add a little humour, if she does get more money, at least I will not have to pay her so much.

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

Thank you, Deputy.

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

My partner who I co-habit with is a police officer.

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

Thank you, and the Constable of St. Ouen.

**The Solicitor General:**

As a law officer, I am also paid as a public employee.

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

Thank you.

**The Connétable of St. Ouen:**

My glasses are working well as you can see this afternoon. Yes, I have to declare an interest in that my son-in-law is a civil servant working for the States.

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

Thank you.

**The Connétable of St. Helier:**

I am married to a teacher.

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

Thank you.

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

Like my colleagues Deputy Ward and Deputy Perchard, I was employed as a teacher.

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

Thank you, Deputy, and the Chief Minister, sorry.

**Senator J.A.N. Le Fondré:**

I do not think I have a potential interest, but I am just clarifying that a member of my family does work in a teaching role but I believe they are on a zero-hour contract and it is not directly by the States.

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

It is not a direct pecuniary interest that you benefit from.

**The Deputy of St. Mary:**

I have a daughter and son-in-law who work for the States.

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

Thank you. Anybody else?

**Deputy T. Pointon of St. John:**

I retired from the Health and Social Services 5 years ago.

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

I do not think that is necessary then, Deputy, thank you. **[Laughter]** I think not tenuously for the Civil Service but thank you. The next on the list, if that is everyone having declared their interest, I have listed as the Constable of St. Helier to speak.

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

The Chief Minister has predicted impassioned speeches and this is not going to be a long speech but I hope it will be impassioned. I attended last night a play at Jersey College for Girls where my wife is a teacher. If Members have a chance, it is a professional ... it is West End standard. I was really struck during the performance by the obvious amount of time that the staff had put in way over and above their contracted hours. I was not able to go to Haute Vallée's production this year but I have been in previous years and, again, the Haute Vallée theatrical productions would not happen without huge commitment beyond the contracted hours of the staff who work to produce these events and this is just one example of the kind of work that teachers do.

[16:30]

I found it really quite salutary to be there last night and then to read today on social media, extremely sobering, a list of school closures tomorrow morning. I do not think I have ever read one of those before since I have been a Member of this Assembly and to think of the disruption those notices are going to cause, particularly the primary schools, but also to some secondary schools as parents across the Island have to make arrangements for their children tomorrow morning not to be in school. I think it is a very dark day for the Island that we have come to this. Of course I am not a Member of the Council of Ministers or S.E.B. I do not know all of the reasoning that goes behind it and I do not for a minute blame the Ministers for the situation that we are in. I speak more as a member of the public and what the public has seen since towards the beginning of this year is a gold rush going on as consultants and U.K. chiefs have been coming into the Island. I have heard this from a number of quarters and it dismays the public that, on the one hand, they are being told there is no more money and on the other hand, they see highly paid people coming in from the U.K. to take up these new very important sounding roles. I am always suspicious, as Members know, when departments change their names and I suppose it is the same when posts are changed. These terribly important sounding and expensive sounding roles are director generals. That is almost scary, that term. It is not very user-friendly, is it? Who would call yourself a "director general" in any form of public life? These are important matters because the public do not believe the States when we say: "There is no money." They do not believe us. There are too many examples of wastage and Members that have been in the Assembly as long as I have, have seen this before. There is a kind of cycle. Every 5 years or so, we have a new person at the top. A whole lot of local civil servants are offered redundancy. A whole lot of people come in from the U.K. and takeover. Five years later, they are the ones that are taking voluntary redundancy and a whole lot of new people come in because there is a new chief of staff. I do not know if we are using the phrase "chief of staff" yet but I am sure we will be soon. I am not convinced that there is no money for the teachers and there is no money for the nurses and the radiographers and the many other civil servants who have contacted us in the last few weeks. While I appreciate the position that the S.E.B. is in, I just remind Members that this morning I spoke to the Assembly about the complete failure of the Government to introduce environmental taxes. If we had introduced them when former Senator Kinnard was investigating them for former Chief Minister Senator Walker, we would have lots of surplus money to pay our teachers better and to pay our nurses better but whenever there is a problem with introducing a tax, we all turn tail and of course then we have not got the money we need to pay for these important services. I believe if we look at the proposition, it is carefully worded. Additional monies can be made available to fund public sector pay claims or additional investment to deliver C.S.P. priorities. The position that will put the States in is not that we have to write the cheques but when we go in for negotiation or when S.E.B. goes back to the table - as they will have to because we cannot have our staff striking for ever, we cannot

have our families disrupted for ever as they try to organise their children's school routines - and when we go back into the negotiating room, there will be money on the table because we will know that there is. It does not mean we have to write the cheque but it means that we have the ability to have a meaningful negotiation. I do support this proposition. I think we are in a desperate situation. We have, as I say, a difficult morning tomorrow for the Island and I think if we could send out the message today that we are listening and that we will find the money if it is needed, then I think that would certainly help in the current impasse. Thank you. **[Approbation]**

#### **12.1.4 Deputy M. Tadier:**

I agree with these new titles. It is remarkable I am still not sure which department that I work with either. It seems to be changing all the time. George Orwell gets quoted quite often in this Assembly and he has been recently but we do not get too many or quite as often quotations from Aldous Huxley and thinking about the *Brave New World* book which I am most familiar with of his works, I am looking around trying to figure out where the director of hatcheries and conditioning is at the moment - I did see her in the coffee room - or the Minister for Hatcheries and Conditioning. She is not here. I believe she has been advised not to take part in the debate. The difficulty is she did top the poll and I think she has got a lot of respect from the public and she is also the Minister for, as I have said, what is soon to be called "hatcheries and conditioning" which used to be called the Education Department. So I would like to know what she has got to say. So I was out when I think the declarations of interest were declared and I have to declare that I have a partner. Neither of us are married or have been married, including to each other, but we nonetheless co-habit in the same domicile and she is a teacher at a local States school. I just put that on the record. Seriously, the point under discussion here today is not simply just about giving the staff more money, and Deputy Southern has quite rightly said that there is a strong argument for treating our employees properly. The negotiations are not down to us and that is why I am slightly disappointed that Deputy Le Hegarat has interpreted that as an instruction that she should leave because we are not the ones who make the decisions about what and whether the public sector pay staff ultimately get a pay increase. It is the States Employment Board who will be doing that. Earlier in the other debates, we had references to not wanting to tie the Minister for Treasury and Resources' hands for whatever reason and for whatever debates those were and we have inherited a system which Deputy Southern has realised quite early on, and he has been working very hard to try and find a way to get us out of this potential looming disaster, this long potential period of civil unrest that we are teetering on, by doing something proactive and practical that could mean that we could have meaningful negotiations between the States Employment Board and our very valued or what should be our very valued public sector staff. This proposition simply seeks to untie the hands firstly of the Minister for Treasury and Resources so that there is potential money on the table. That money does not have to be spent. We know the money is there and the analogy is a bit like you have got a bank account but you cannot touch this money in your bank account so you have done really well in this year. You have put your money in an account which you have said that you cannot touch without getting some kind of penalty so, in the meantime, you are going to sell your car which you need for the next year to get around. Then it is going to incur lots of expenses and you might have to hire a chauffeur to drive you around for a little while until you can find out whether you have got enough money to employ somebody on a permanent contract when you could just be driving around in your car. Just change the rules that allow you to access the money that you have already got in the bank. That is essentially what Deputy Southern is saying. At the same time, we have tied the hands of the chairman of the States Employment Board because she and the other board members cannot enter into proper negotiations. They are effectively sham negotiations saying: "Okay, we are listening but we cannot do anything about it." Those are not proper negotiations. I have to declare an interest. I am also a trade union member. I am a member of Unite so I think put that on the record for complete transparency. I always find it slightly strange when they have balloted - and some have balloted and some have taken indicative ballots - and are now working to rule. You should be working to rule anyway and definitely

at a time if you know that you are not necessarily being valued properly, you should always be doing what is in your contract and you should be going home when you have finished your day at work and you should be spending time with your family. You should not necessarily be answering emails anyway. That is just normal. If the States want people to do extra work if there is not enough staff there, then they should be looking to recruit more. There are 2 types of inefficiencies, are there not? There are inefficiencies when you have got people that you do not need. You have got posts that exists that you do not need and that could be cut back and there could be a redesign of your Civil Service, or there are inefficiencies when you have not got enough staff and when people are doing too much work when you have not got the requisite amount of doctors or nurses or you have not got the requisite amount of T.A.s (teaching assistants) in the classrooms. Your teachers who should be concentrating on academic pursuits are having to do work, to do lunch duties, to act as nurses in some cases and social workers which is becoming more and more the norm in Jersey and elsewhere, and it is not a surprise if they feel stressed and undervalued. I think what Deputy Southern is doing here is simply giving us a reasonable way out so that we do not have to have those face-to-face confrontations. Rather we should be having face-to-face negotiations. I have looked through many manifestos and I am not going to bore Members by reading them out. I wanted to play a little game but I think it is getting late in the day to say: "Can we guess who wrote what in their manifestos?" Of the key themes that came out - and let us divide them into 2 - one of the key themes was standard of living. Some said: "We want to make sure that the standard of living is increased for people. We want the cost of living to come down." Some people talked specifically about G.S.T. (Goods and Services Tax) and I know Deputy Ahier in front of me specifically talks about removing food from G.S.T. The Deputy of Trinity also talks about that. Absolutely we will fully support that. There is a difficulty of course in all of these things because they are not on the table now and it is very likely that if these things were to come to the Assembly, they would fail in the sense that we have got a policy of broad, low, simple. What can we do that is tangible to potentially help our public sector staff and those that are employed under our care to make sure that they get the cost of living increases that they deserve? We can make sure that we have proper negotiations with them potentially with a view from their end to giving them the pay increases that they deserve because they will be spending that money in the local economy if they do get their pay increases. They will be spending it, for the most part, locally. They will be going into town in our shops supporting shops locally and that will trickle back into the economy. I think those are the main points but there is another point, of course, which Deputy Southern alludes to. This is not simply about pay negotiations, it is also about the fact that we are tied as a Government to figures that we did not set for this year, so we do not know, as I have said before, exactly how our money is going to be divided up among the new departments next year and we have no way to increase the spend. So when we have all these priorities that many of us stood on, education, healthcare, the arts and culture ... I notice that Senator Gorst stood on a platform, he put it in his manifesto, about supporting the arts and culture. How can we get money for those areas if we have a very fixed envelope of money for the next year? We cannot do that. Again, Deputy Southern's amendment to the Public Finances (Jersey) Law just means that we can no longer be tied by a very narrow straitjacket when we know that there is money there which could be put to good use, both for pay negotiations and for other urgent areas that need up-to-date investment. So I do ask Members to support this for all of those reasons.

#### **12.1.5 Deputy S.M. Wickenden:**

I come from the private sector and in the private sector we do performance-based pay awards and at the beginning of the year you will set what targets you are supposed to meet and how to do certain things. We have just done our Common Strategic Policy; the Common Strategic Policy is the top-line document. Then what should happen next is the departments set out their business plans for each of the departments that is based on the Common Strategic Policy and how they are going to deliver against that. Then it goes further down to the next levels of staff and they each have targets to meet that will eventually lead into to the Common Strategic Policy. That is how everything should work

in a kind of corporate world. I do not agree with the idea that if you have just been in a job for 12 months you should get a cost of living pay rise. That is not something I agree with. I find it hard to deal with it in that way, I think we should be moving to a much more target and delivery base.

[16:45]

But also at the same time we are where we are. We have a planned budget and we planned it over 4 years and we are being told we cannot deviate from that planned 4-year budget because we have agreed it and that has already been set out, but maybe there are some large retailers out there who had a 4-year planned budget and they were ready to stick to their 4-year planned budget and we threw a 20 per cent tax on them and said: "Tough." Where are the rules different? I disagree that we should be going into negotiations for our very hardworking workforce with our hands tied behind our back. We should be able to change, like we expect people like the large retailers to change. Everything moves year on year and sticking to a 4-year plan when things are clearly different now is madness to me. I am definitely going to be supporting this proposal and for the reason I laid out I think we all should too. Thank you.

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

This is not the first time that Deputy Southern has tried to help our workers. In 2007-2008, just a little bit of a history lesson, I am not sure if you were in the Assembly at the time, we were in dire straits and we had to freeze States workers' pay. But there was consultation, we said we could freeze your pay or we would have to lose some jobs because the wages cannot be any more than they are. The workers said: "No, please, do not lose any jobs, we are fine, freeze the pay for a couple of years" which we did. In 2009 we decided that there was a little bit more money and we would bring 2 per cent to most ... it was not across board, I am just trying to keep it simple. Deputy Southern, his P.68/2009, was not happy so he brought a proposition to put across the board £7.5 million into workers' pay. On that occasion there was 32 votes against, 8 for, there were 7 not in the Assembly and 6 people who had to declare an interest because they were either married to or living with a States worker. This is the theme where it is never enough. Did you listen very, very carefully to what Deputy Tadier said. It is not just about pay, let us open the purse, let us give the arts more, let us do this in 2019. He is in this Government but he is rewriting the rules because we are supposed to be bringing back a Government Plan that is costed, together with our C.S.P. priorities. Everyone yesterday ... I will start with Deputy Young and the Constable of St. Helier, they want environmental taxes. Who do you think pays them? I will leave that there. We know from the Minister for Health and Social Services, we absolutely need more money to provide a different health service, a better health service, across the board health service, we need the money. Education, money, money, money. It is all going to be costed in this Government Plan. I am pretty lucky at the moment. We have done fantastically well down at Social Security, we have 980 unemployed. Only in 2013 we had 2,050. Just a figure that you might like to hear, if Brexit does go a bit up the wall and we end up with only another 800 unemployed, I need by law just over £10 million a year. £10 million just to keep people in their homes and fed. Not higher paid wages, it is a very, very simple figure. I was shocked at the Constable of St. Helier. The Constable of St. Helier is going to support ... he is the Constable of the biggest Parish ... I asked him yesterday: "Will this not knock on to our workers? More rates, more wages for our workers?" "Mm, I had not thought of that." I said: "Well, you have to find out, Sir, because we have a massive workforce." Then what about other Parishes. All this knock on, knock on. Senator Moore said she had seen the light. Give our workers more pay and it will trickle down. She absolutely agrees with Deputy Southern now. I heard her also say ... not a lot trickles up in this Assembly. Deputy Tadier thinks things trickle up in some of his speeches. Anyway, the interesting thing which really Senator Moore said: "There is a private sector getting more money and the public sector not getting so much money." Is she comparing like to like? Is anyone in the private sector on a 16 per cent pension? Is anyone in the private sector working a 35-hour week? Some of the hard earning private sector people are working 40, 50, 60-hour weeks, they

do not go home until the job is finished. Let me say a few numbers as well because I absolutely think that Deputy Southern thinks we have magic money. Across the total of the Island we have 62,000 workers, 7,000 of them are in the public service so we have 55,000 hardworking taxpayers supporting their wages, supplying their wages. Who is speaking up for these? Has any one of those 55,000 private sector workers emailed us? We got a few emails, did we not? But is any one of the other taxpayers? Fifty-five thousand who are bringing in ... these are not our workers; the public service workers are employed to serve those 55,000 plus the elderly and plus the children. I said the Constable I might even give out my mobile because there might be somebody out there who is not a public sector worker paying tax who really wants me to give out £9 million more a year. Do not kid yourself, I know it has been really worded well with the “or” in there so we could not have conflicts, could we? We could not have conflicts because we could spend this money on our children or the arts or whatever. Deputy Southern never mentioned a child at all in his opening speech, not once. In his proposition he gets to it in the very penultimate paragraph and says: “I have not mentioned it much but think of the children.” However you look at this, dressed up this will open up ... it is not about ... as far as we know and as far as it goes, our public servants do do a good job. But as I said, there is nobody for the other 55,000 hardworking taxpayers. What union are they in? Who is negotiating their rights? Very many are single entities. They have a couple of employees, they are all self-employed. A lot are. Then there is the big finance. Again, finance is not what it used to be. I am being quiet because I cannot hear myself talk because Reform are talking behind me. Obviously disagreeing with everything I say. I want to be able to face the 62,000 workers. I absolutely understand 7,000 provide a public service, paid for by their taxes, our taxes and the other 55,000 workers. Please think hard who do you listen to, the loudest shout in the most represented who says: “Oh, we are not going to go into work tomorrow but we want those other workers to pay more money.” Just one final point, Senator Moore said again when she was summing up on the Budget, we should be giving workers out there hope, businesses hope, not threatening extra taxes without explaining them. Suddenly this afternoon she forgot we have to give everyone hope and we should not be ... let us spend another £9 million a year. We do not have it. It looks a big figure in the bank. You know when we come back for all these things that we know we want, we have talked about around the Council of Ministers, we have promised to people that we will deliver but ongoing it will not be the beginning and it is not one year, it will be ongoing and I represent the 7,000 States workers but I also have a voice for the 55,000 other hardworking taxpayers and I will not support this proposition. Thank you.

#### **12.1.7 Deputy J.H. Young:**

I struggle with this. As a newly elected Member, parachuted unexpectedly into the Council of Ministers, there have been discussions about pay policy being led by S.E.B. but I have not been party to the ins and outs of it, nor do I want to be. That is why we elect S.E.B. and I am prepared to trust them. I have made it plain that I am really not comfortable with the situation we find ourselves in. I am certainly not comfortable with the inflexibility. It is a shame that the debate ... and I would ask, please, do not degenerate into a divisive debate between public sector and private sector. In my life I have been a public servant since I was 16, out of that time I spent 7 years in the private sector. I managed, led a firm, 100 people for 7 years, I have been a politician, I have seen it from all sides. Often people asked me what careers did you want to go into? Children, grandchildren, they talk to me about career options. My advice to them is if you want to be wealthy and you want to be really well-off, one of the top echelons of money people, do not go into the public sector, take your opportunities in the commercial world and if you get it right and live on the edge of your performance you can do extremely well. Somehow or another there must be something wrong in my make-up. It has never motivated me, I have always felt much more comfortable in the public service and I think it is a sense of what are one’s personal - we are all different - core values. In my experience of working with thousands of public sector workers right across different ... not just here but in Guernsey and in Alderney, throughout the U.K. in many places, you see those people and they

commit to their tasks and in my experience ... there are exceptions, there are lazy people but they are in a very small minority. The vast majority are committing to going above and beyond and there is a huge amount of unpaid labour. Since I have been in Jersey, I came to Jersey in 1979, I have seen nothing else but that and it is all around the evidence. I am very unhappy, so I want to reserve my position on this because I said to them: "Look, we need to find a solution." We need to find a solution because we have got all these big problems that Deputy Martin has outlined about latent costs, huge bills ahead of us, but my view is that we do not need to go into that process with this massive issue, this huge issue, of pay and disputes on our plate. We need to put it behind us and move on. I have had people say to me, very wealthy people, unsolicited: "John, please look after our Jersey family, our people" because this is not the U.K. When pressures come on your job or you do not like your job in the U.K., you leave, you go down the road, you go to the next authority, it is easily done. No problem, minimum disruption. I know that managers and senior officers can live in the U.K. and work in one area and have their homes somewhere else and the 2 do not connect. Island life is not like that. What comes around goes around. The local scale is inescapable, whatever you do you have to live with it, you have to live with the consequences of it.

[17:00]

That is why I think to take a view that says: "Take it or leave it" I think is awful. I cannot live with that because it is families, it is people's homes and I do not want that distraction but I want a solution. So I do not like a management style that says: "Take it or leave it", I have never adopted it in my life. There are 2 approaches, you either bully people and you kick their backsides ... I do not know if that is parliamentary, Sir.

**The Deputy Bailiff:**

Perhaps you could change the word.

**Deputy J.H. Young:**

Apologies. You either bully people and intimidate them and push them into doing things they do not want to do or you try and win their hearts and minds. In my view, if you win hearts and minds you can persuade people to do things. I have been able to persuade people to take pay cuts, I have been able to persuade people to have their pension schemes on hold and I can tell you now that ... I must deal with Deputy Martin's points, I know that nobody ... yes, the public sector have pensions but, in my view, the part of pensions are deferred wage because the private sector has the advantage of bonuses and pension benefits that the public sector does not have. If you take the broad picture that dispute is fruitless because it irons-out. For what it is worth, if I had stayed working with the private firm that I left, I would have had share options in Jersey that would have been worth millions to me. I do not regret leaving. I am going on and I see people losing interest. But it is not just about pay. This proposition is about also flexibility to be able to bring forward a change, if it is needed, including the common strategic priorities. I think that is a sensible provision. I was surprised to find that it was not in the law but we have heard some clarification from the Solicitor General that there is some provision and Deputy Southern's proposition seeks to widen it. I think that is a reasonable thing. Years ago - this may be old-fashioned - I can remember, Members will be astonished by this, we used to have an annual spending budget and we used to have quarterly supply days. Every quarter additional funds came forward. Never mind, there was a discipline because the monies that were approved were politically debated and they were, in my memory, scrutinised very carefully. I am not saying we should go back to that but it seems to be between that and the situation of absolute inflexibility. To have a proposition, to have an amendment in our law - because I think that is what the proposition says, unless I am wrong - to bring forward an amendment to the Public Finances (Jersey) Law to enable. How that is used would be for the Minister for Treasury and Resources to be convinced, and obviously the Council of Ministers, as to whether the proposals should come here, whether they are worth hearing or not and it is for the vote of Members here whether they are taken

up. That seems to be a simple procedural device. Why would we not have that? That is my question. I have struggled with this. If somebody could give me an answer, please, as to why such a measure in our law is not needed or not beneficial then I will have a rethink but I would like to hear from Members.

#### **12.1.8 Senator S.Y. Mézec:**

I have to be honest, when I first saw the wording of this proposition my instant reaction is that this is an absolute no brainer. Where we are as an Assembly, this could not possibly be more convenient, more useful or more democratic. What is at the root of this is this democratic principle where this Assembly, elected in May of this year, is constrained by limits which were set to us 3 years ago by a different Assembly whose mandate has now expired, which has no rights to continue to play a role in governing this Island because a new election took place electing new Members who are constitutionally and legally being prevented from doing our job. That is what is at the heart of this. In the U.K. they have this principle called parliamentary sovereignty, which basically means that no Parliament can be bound by a previous Parliament and no Parliament can bind a future Parliament, yet here we are knowing that we face a year next year where we are not allowed to spend money in the way that we want to spend it because of what some other people said 3 years ago. That is democratically absurd and it ties our hands behind our back and stops us from doing our job. This proposition from Deputy Southern frees us to do what we want. We will have tough discussions about what we want to do because we know there are all sorts of challenges facing Jersey, not just the state of the public sector pay negotiations but funding in all sorts of areas, and there are competing priorities. But it is for us to reconcile those priorities and determine how we move forward, not the Assembly 3 years ago. I was quite heartened at the start of this seeing how many Members had to stand up to declare an interest in some form or another, whether it was because they worked in the public sector or whether it is because people they know work in the public sector. I was half tempted to make that declaration myself because I use public services. I am somebody who benefits from those public services, whether that is the people who maintain the roads that I drive on, whether it is the nurses who looked after my grandad earlier this year when he spent a considerable amount of time in hospital, who were absolutely incredible. They were angels is what they were, looking after a vulnerable person, not paid the amount they should be frankly and our family benefited from those people. I think about the teachers in Jersey who are educating the young people who when they grow up and become workers will be paying my pension, that is of course if pensions still exist when I am that old. That is why I was so incensed by the speech given by Deputy Martin, who I really hope thinks back and reflects on what she said, because it was disgraceful. This attempt to play divide and conquer between our public sector workers and our private sector workers. We are one Island, we are one community. We sink together or we swim together and to pit workers against one another like that is not the right thing to do, especially when you think of how many families there will be out there in the Island who have 2 earners, one of whom is in the private sector, one of whom is in the public sector. We are inextricably intertwined and our success is dependent on one another. Those public sector workers who are as hardworking as anyone else, who are not institutionally lazy because it happens to be the States they work for rather than a business that is motivated by profits, where do they spend their money? They spend it in the private sector, they spend it in the High Street, they spend it on services that are provided by those businesses. Here is another point that is often forgotten is that when you give a pay increase to public sector workers, we get a quarter of it back anyway in tax because that is all above the tax allowance that will be paid. This is money that swirls around our economy. That is good for the economy. That point is simply not understood too often. She asked this question: "Who supports the private sector?" Surely we all support the private sector. I want to see the private sector in Jersey flourish, I want to see it grow, I want to see it employ people on good terms and conditions, I want to see it offer its workers pay rises so that we all share in the prosperity that Jersey creates instead of having all of the wealth that is created in this Island go to a small number of people who do not spend the money in the local economy and do not contribute

back in the way that so many public and private sector workers do. She asked what union they are in. I thought that was such a funny question. They are in the same unions as the public sector workers are. Unite Union, I know, has a large membership based in the finance industry, finance industry workers who act as Unite union reps I know contribute very much to what that union does in its activism in the community. To use one example, there is one - I will not name it just in case I am not allowed - large supermarket that supports all of its workers being members of the union and that is an organisation that has workers who, generally speaking, are very happy and have excellent relations with their employer, and who play an important part in our community. This attempt to divide us is so wrong. She used this example of the private sector worker who works 40 hours a week and I just thought: "Has she not heard of teachers?" How many teachers do we know who are working 40 hours a week because of the lesson planning they have to do, all of the extra admin that makes no sense but they are still required to do anyway. She spoke about the reduction in unemployment in Jersey over recent years. Of course we all welcome a reduction in unemployment but what has gone up in that time? Zero-hours contracts, people living day-to-day not knowing how much they are going to be paid, not having the security in work. Who is representing those private sector employees on zero-hours? Well, there are voices in this Assembly that want to see action taken against that so that every worker on the Island has a decent standard of living and can benefit from those workers' rights. What we are arguing about here is whether we have a race to the bottom. I ask: "In whose interest does that serve to say times are tough so we cut back on the public sector and we just expect that to have no unintended consequences." That is the opposite of what you should do when times are tough. You try to lift everyone because if you hold one section down that will be the excuse used for holding every other section down. I know Members will be fed up of these statistics but the economic standard of living, real time earnings, in Jersey has been frozen for a decade. Do we want another decade of that? Do we want to see life not improve for the people who have elected us to be in this privileged position? Do we want to see at the next Income Distribution Survey greater poverty in Jersey, bearing in mind that our levels of poverty are even worse than the U.K. now? Those are the issues that I ask Members to consider because if we approve the proposition from Deputy Southern we have the opportunity to do something different, we have the opportunity to do what we were elected to do, which is to govern the Island according to the principles that the public expect from us as they cast their votes for us. Right now we have a States Employment Board whose hands are tied behind their back. They go into those negotiations and those are not negotiations because the parameters in which they can operate were set 3 years ago and do not reflect the reality of where we are today. How can that possibly be called a negotiation? Of course negotiations are always going to be tough. There is always going to be give and take. My experience, when I speak to those public sector workers, many of whom I will be going to see tomorrow morning at 9.00 a.m. in Liberation Square and I hope Members of this Assembly will be going down to speak to them too, is that they are proud of their Island, they care about their community, and they accept that when times are tough that they should be asked to share the burden along with others. They know that no institution can stand still, that things do have to change and often in those changes there are winners and losers; they understand that. They are not entering negotiations in a greedy way or expecting to win everything but what they do expect is to be respected. They expect to go in and know that they can have an honest conversation from people who are both well-meaning and who want to reach an agreement which is in the best interests not just of the public sector but of the whole of Jersey, the Island and community that we care about so much. This proposition allows them to do that. I cannot accept a single argument against this proposition because to oppose it is to accept the undemocratic situation that has been imposed upon us from an Assembly that has expired its mandate. It offers us no ability to act in a conciliatory way to those hardworking men and women who help take this community forward, those who educate our children, those who care for us when we are sick, those who go out in the pouring rain and terrible weather to maintain our infrastructure when things get bad. I can remember seeing those incredible pictures of waves coming across the shoreline and workers trying to make sure that the infrastructure was repaired as quickly as possible so those

private sector workers could go to work in the morning. We are all intertwined. There is no us and them. I ask Members to support this proposition, vote in favour of it, allow us to move forward as a community; because if we do not do so we face a long time of disruption to our lives. Those in those such important jobs in the Health Department, in Children's Services, in the Education Department who provide such valued and important public services that we all benefit from will see the value of their careers reduced and we risk losing some of the brilliant people, we risk losing the goodwill of the many whom go that extra mile.

[17:15]

As they take on work to rule we will notice it; we will notice how many people stay that extra half hour or hour afterwards because they know they need to get the job done. We know those who will not go home early because they have that client coming in who is vulnerable, who they need to take care of, and just because they are meant to clock off at a certain time they are not going to do it because they genuinely care about those people. So please, I urge my colleagues in this Assembly, do not take advantage of it. Let us show these people the respect they deserve, let us enter those meaningful negotiations and support the proposition to free our hands to do so in a democratic way. I urge Members to support the proposition.

#### **12.1.9 Deputy L.B.E. Ash:**

It is interesting really, we are now at the pantomime season and I thought Deputy Martin during her rather fiery speech was let down a little bit by the Constables who should have been shouting out: "They're behind you" in a loud and impressive voice. I am not going to say an awful lot but I do feel I just need to add on what Deputy Martin said. One of the stats that 84 per cent of civil servants are paid above the Jersey private sector. Strangely the Jersey private sector only pays the senior people more than the senior civil servants, so it is only the senior civil servants that are worse off. I sympathise greatly with the States workers and I think everybody in here does, but I also sympathise greatly with the people in the private sector. I was talking to someone today, in the last 8 years they have not had one cost of living rise and in fact in the vast majority of those years they have had no rises at all. This is not merely a States issue, it is an overall issue. In fact this Chamber, those of you who have been in this Chamber for some years, I do not think you have had a rise either. I was quite surprised because Deputy Southern has always struck me as rather a frugal man, looking at his panama hat that he has worn for all those years, so I was rather surprised that he is suddenly looking to give away all this money. What he is overlooking - and he is an economics teacher - is these are recurring costs. We are not looking at a one-off thing. If you are, it is like in the old days in the City when bonuses were rife. The reason that people like Goldmans paid out massive bonuses but not very big salaries is that when they had that money they could pay out one-off bonuses. They were not recurring costs; they were not committing to pay those salaries year after year after year. But that is what we are committing whenever we provide these pay rises, we are committing down the line with recurring costs. We can go out and get that money; we can go out and borrow that money, but that is Wonga economics. Let us borrow today, think about the consequences later; and I do not think any of us really wish to go there. So I would strongly advise the Assembly to reject this.

#### **12.1.10 Deputy S.J. Pinel:**

I am pleased to follow on from the Assistant Minister for Treasury and Resources. Calling for changes to legislation and the development of a completely new financial plan for 2019 little more than 3 weeks before the start of the year is irresponsible and unnecessary. Calling for recurring expenditure without a plan to fund that expenditure beyond the first year is irresponsible, unsustainable and unaffordable. Forward forecasts already show deficits of £30 million to £40 million in part arising from the failure to deliver on measures within the current Medium Term Financial Plan. The proposition essentially calls for growing this deficit. Paying for recurring expenditure out of reserves leads us down a dangerous path. Reserves are needed for cushioning us

from significant shocks to our economy, such as the financial crash. With the impacts of Brexit around the corner it would be madness to burn through those reserves to pay for increases when we might need them to support our economy and public services. So can we pay for them from our current departmental budgets? Quite simply, no. We already need to deliver efficiencies to meet the structural deficit challenges. So how would such increases to the permanent cost base be paid for? Is the Assembly willing to commit to increases in taxes and charges? We should not repeat the error of last time when expenditure was agreed without income measures being delivered on. We have not delivered all the savings either. Additional flexibility will be a feature of the future Government Plan framework, but that is not the point; agreeing to significant increases in expenditure without a sustainable funding plan is the point. It is not responsible financial management. This proposition does not untie my hands; it binds them even tighter by growing our expenditure in excess of our income. With the risks facing us it would be foolhardy to be continually hoping that extra income will bail us out. No one wants to see workers not receiving a fair wage for a fair day's pay; that is not why I got involved in politics. I have every admiration for the hard work, care and determination day in and day out by our colleagues to do their best for Islanders. Equally, we want to deliver equal pay for equal value. In the past, some pay groups have benefited colleagues in other services; in fact around half of our workforce are paid less than the value they deliver, than their better paid colleagues. As the Chief Minister said, civil servants earn on average 4 per cent more than other employees at each grade. The pay decisions this year go towards addressing these inequities and the pay and reward review will go further by proposing solutions to concerns regarding equal pay for work of equal value. S.E.B. has asked for these proposals to be in place by March next year so that they can be negotiated during the year and implemented on 1st January 2020. Let us say ahead of that work that the will of the Assembly is to proceed in line with the proposition, how would it be delivered and how will it impact on the delivery of the Government's promises? The Government Plan will be ready in draft by spring of 2019, alongside a plan to deliver sustainable finances. It is not realistic to expect this deadline to be achieved while also rewriting a plan for 2019. By the time that plan was ready and agreed at least 3 months of the year will already have gone, as it has been commented. But that is not the key argument; it is the threat to sustainable finances. We must learn the lesson from the current Medium Term Financial Plan, and to always make the difficult funding decisions at the same time that we make the easier decisions about spending more of our taxpayers' money. To be clear, I would not hesitate to use the powers in the Public Finances Law, cited by the Corporate Services Scrutiny Panel, if there was an urgent need for that expenditure and no other way of paying for it. After all, that is exactly what was done in 2015 to provide funding for the independent care inquiry. The key difference is that was a one-off expenditure. That was the right decision; doing so for recurring expenditure would be the wrong decision. Finally, the report to the proposition cites the Fiscal Policy Panel, presumably to gain some credibility for what is proposed, and yet I invite Members to find any advice of that independent panel that promotes growing the deficit beyond 2020 and using reserves to plug that gap. Quite the contrary, and I quote from recommendation 8 of the F.P.P.'s (Fiscal Policy Panel) October report: "The improved position on the Consolidated Fund should not at this stage lead to any changes in the proposed measures to balance the Budget, either on the revenue or the expenditure. Surplus funds should in the first instance be used to replenish the Stabilisation Fund." I think this sound advice speaks for itself and I leave Members to consider whether it is advice consistent with balancing the books or with the philosophy of raiding reserves to meet ongoing expenditure without a plan to pay for it.

#### **12.1.11 Deputy J.H. Perchard:**

I just thought I needed to address some of the things that were said earlier but also some of the things I have heard in the run-up to this debate. I am going to talk about teachers because that is what I know, not because it is more important than anything else obviously. But in a recent ballot by the Teacher's Union it was discovered that teachers work an average of 72 hours a week. As a teacher my contract stated that I was employed for 25 hours a week because they count the hours of your

lessons and then your 4 or 5 free periods where you supposedly do all your marking and preparation for the week. But of course that disparity is absolutely massive. Teachers are contracted to do about a third of the hours that they actually do. I think that it is just unhelpful to compare professions in the way that has been done because obviously every profession, whether public or private, is going to have its idiosyncrasies in this regard; but I think that is a particularly surprising one. In addition to that - and I imagine this is the case for anyone working in the public sector, as it is rightly so for us as well - when it comes to things like staff dos or Christmas meals or any kind of event, as a member of a teaching staff I would always pay for my own ticket. The money is so, so tight in schools there is not enough money to pay for resources and staff adequately, and I think that we have to acknowledge that education is a cornerstone of our society, it is where we teach young people to be good, kind, humane, professional adults. That is where they learn those skills. Alongside all their academic subjects, we are shaping the people of the future and the citizens of the future and the society of the future. The work of schools, and of course of health organisations, cannot be undervalued. In order to become a teacher, for example, you have to have a degree in the subject in which you wish to teach, which is obviously therefore a specialism. So physics teachers have physics degrees, English teachers have English degrees, and so on; and then on top of that you complete another 2 years of training. In Jersey we have a fantastic training scheme for teachers called the J.G.T.T.P. (Jersey Graduate Teacher Training Programme) but when you get on to that you can apply for a small grant but it is about £5,000 per year I believe, or it was when I was doing it - I did not get the grant either because I was just an independent person living in my parents' house so I did not deserve the grant, if you like - and you are off salary for a year. I think it is just really, really important to remember that out of 5 years of training, specialising, studying and taking a year of unpaid training as an option, and sometimes if you want to go off-Island to train you pay for that extra training; to then somehow imply or suggest that these impending strikes or industrial action or dissatisfaction are somehow a reflection on people as being greedy or unfairly asking for a pay rise is really quite upsetting and a little offensive. It is not a conspiracy; unions have not gathered together to squeeze the States for extra money. Apart from one year in the last 10, in real terms teachers have had a pay cut. That means that their standard of living, their quality of life, has decreased year on year on year, and continues to do so. I read in one submission that was sent to me carried out by a union - they did the maths it is not my own - but they suggested to me that Jersey teachers could take a 20 per cent cut in pay, move to the U.K. and still be better off than they are here and now. Comparisons with the U.K. across our professions we know is unhelpful, we know it is not a fair comparison; and I think that overwhelming statistic just says how bad a situation is in Jersey for these people. Teaching is a vocation, as I am sure is nursing, as I am sure are many of the professions which we are talking about. It is not just about imparting knowledge or teaching your subject, you form relationships with the children around you, you care for them in a very, very special and meaningful personal manner, you get to know them, you see them change, particularly in secondary school when you watch an 11 year-old turn into a teenager and turn into a young adult.

[17:30]

If you think about all the changes that occur at that time of their lives, the formative changes you encounter and the part you play in teaching them how to react to one another, to live their lives, to deal with grief ... every year there are students who lose parents. I used to teach 100 students a day and so statistically you are going to encounter a lot of grief, a lot of loss; every single year I had 2 or 3 students who lost a parent, lost a sibling. You help that student; you nurture them through those experiences. These people, people who work in vocations, are not doing it for the money and they do not stick at it for the money. It is the best job in the world, teaching; it is the absolute best job in the world and I miss it but I am here because some of the treatment of staff in the public sector is just unacceptable. It has gone on for too long, it is unacceptable. **[Approbation]** It is really easy for us to just make it about numbers and technicalities and formalities and politics and bureaucracy and paperwork; all of these things that are important - they are important - in the same way that exam

results are important in schools. But the most important thing for me about a child when I was teacher was that they were happy, safe and equipped to live a life that they want to live. That is the same for all of us; we are all human beings and if we feel happy, safe and well equipped to live our lives in the way that we want we will be happy. I completely appreciate the restraints outlined by the Minister and she knows that I am a huge fan and supporter; but in this particular case I do implore you to see reason, to consider voting for it, because as far as I can understand it this is just opening a door of opportunity. This money is not guaranteed to go in that space but it is opening a door of opportunity and that is why I do, I urge you and I implore you to meet with those who do go on strike, go and speak to them and hear their stories and hear their concerns, humanise them in person and put your weight behind this proposition. Thank you.

#### **12.1.12 Senator S.W. Pallett:**

I came in today with an open mind on this proposition. I was not quite sure where I was going to go. I have been contacted - I think like many - by many in the public sector, some of whom I knew, many of whom I have met and heard their views face to face. Virtually all I respect greatly for the job that they do in the public sector and many of them are not just at the higher levels of the Civil Service, they are in fact people that - as we have already said today - sweep the streets, look after all sorts of areas of our public sector. But there are one or 2 I did speak to that are in the higher echelons of the public service, one was a teacher and one was a civil servant, and they just are not the type of people who would even consider industrial action of any type without really considering what the consequences of that were. I respect that because they clearly have thought a lot about what was the right thing to do. This is not just about high paid civil servants; this is about - as I say - all levels of our public sector. One thing they certainly do not want - and I heard the word used - is they do not want sympathy. They want to be heard and they want to be treated fairly. They have had lower than inflation rises for many years; they have played their part for a great period of time now in helping Government through austerity measures, all sorts of efficiency savings, and I am not saying we are totally out of that but we are certainly in, I think, a better place than we maybe were 4 or 5 years ago. There were 2 speeches that I felt really got to the point and changed my mind. One was Deputy Young's, who asked the question about how did we get here, and I think that is an important point. I think the communication has been woeful and I think the negotiation has not been the type of negotiation that I believe is what we would expect. It has almost been threatening from one side and that is just not acceptable. There needs to be negotiation; negotiation is about a 2-way discussion and I do not think we have done that. The other speech I thought was absolutely excellent, really got to the point and I think we all listened to quite intently, was from Senator Mézec - I know he is not here at the moment - but it really set the stall out about how committed our public sector are in serving the public, and no decisions they take are taken lightly. Many in here I think believe this will set a precedent, it will open a floodgate of similar type claims or going to the Treasury for every type of issue under the sun. I do not think that needs to be the case. This is an issue that I have not known get to this level since I have had anything to do with politics or taken an interest locally in public affairs. Frankly, our public sector deserve better than this. I do not like intransigence - and it feels like that - but I understand the need to be prudent and the Minister for Treasury and Resources is quite right, we do need to be very careful about where we spend. But as Deputy Perchard has just said, this has gone on for far too long. This should have gone away a long time ago, but it has not, and I think it has boiled-up to a point now where it needs to be dealt with and it needs to be dealt with fairly and it probably is going to need to be dealt with by offering more money, whether we like it or not. I am going to support this proposition. I have had to fight really hard with myself over this because there were parts of this that I think do worry me, but I am going to support it. But that support does not mean this is going to be an open buffet on Treasury for the next 3 or 4 years. It has got to be specific around dealing with a specific issue, but this issue does need to be dealt with. The morale in the public service is at an all-time low. I do not like saying things like that, but having met people at all levels it breaks my heart sometimes to see the way that some people are being treated,

the uncertainty that they have with their job descriptions and whether they will even be in the public service in months to come. That has to change. I have got confidence in the chief executive, he is going to do that, but we have really got to move on with this and we have got to move on with this quickly. So I would urge Members to support this proposition, but there are some caveats around that, but I think it is important that we finally get to deal with this pay dispute. We have to deal with this, otherwise this is going to be really damaging and it is something that is going to take a long time to get over if we do not deal with it.

#### **12.1.13 The Deputy of St. Ouen:**

This proposition is of course attractive, but only superficially so. It is possible to give rousing speeches, emotive speeches, and they hit home because everything is heartfelt. But I would urge Members to take care because here we could achieve a short-term gain but incur long term pain. It is discomfoting; it is discomfoting I feel because it would be so good to say: "Let us solve a problem now, we have got an easy fix" but it is so hard to say: "Let us plan consistently for the future." We have appointed members of the States Employment Board, they represent us, they act on our behalf, and it seems that by approving this proposition we would cut the ground from under them. They have the hard task of setting priorities which are sustainable into future years in the context of a huge change programme which is going through the public service. We should allow them, the States Employment Board, to work that out because a better employment structure is being negotiated. We should not go for the short-term fix, which seems so enticing just at this moment. That is tough to say but sometimes it is important to stand firm in a storm because we do need to meet the expenditure that we incur on our services. So if the recurring cost of this additional pay claim is £9 million per annum repeated year after year, and if, as is the case, approximately one-third of the States workforce is within health and community services, then how is health and community services to meet the third of that £9 million? Well, you will need to guide me as to what services we must pare down upon, what waiting times we can increase, because something has to give. This is the dilemma. We want to achieve a position where our public service workers receive equal pay for work of equal value and we recognise that at the moment there are huge inequalities. That means it is necessary to adjust one group against the other. Our civil servants are vital public service workers and we highly respect them, we work closely with them, but they are the highest paid of our groupings. The nurses and midwives who work in the health service feel that they are carrying out equal work - and they are in many cases - but they do not feel that they are equally valued. In the health service we have a whole range of allied health professionals who are paid on the Civil Service grade, which is sometimes up to 11 per cent different to the nurses and the midwife grade pay. So by adopting short-term measures what do we do? We just perpetuate that. But the pay offer that S.E.B. are trying to maintain begins to address this discrepancy and the States Employment Board are putting forward a strategy so that over the next year, we understand from the Minister for Treasury and Resources just now, that by the beginning of 2020 we could implement equal pay of equal value but adopting this short-termism measure will disrupt States Employment Board's plan, will entrench those salary gaps and will just perpetuate this problem. Again, we create long-term pain in return for short-term gain. I would urge Members not to approve this proposition.

#### **12.1.14 The Connétable of St. Ouen:**

I will refrain from repeating the arguments that my colleagues made before, particularly I refer to our Minister for Treasury and Resources, and, as she has very eloquently pointed out, the financial position that S.E.B. find themselves in, and it has nothing to do with the M.T.F.P. It has to do with the amount of money that we earn each year and how we distribute that among our ... and I have to say I take great issue with the people who suggest that S.E.B. do not value our States workers. We very much do and we are trying our best to do for them with what we have but let us just look at the numbers a second. If we paid R.P.I. this year it would add another £80 million to the already £33.6 million pay bill we have incurred already this year. Our pay bill before that is £359 million

and that is about half the States revenue so it is a sizeable amount. The pay awards that we have authorised are very much within the constraints set out by the Minister for Treasury and Resources and ones that we sympathise with. These awards, quite properly, seek to address historical differences of pay which the Minister for Health and Social Services addressed, some employee groups and unfair differences in pay between different groups.

[17:45]

These unfair inequities have arisen precisely because we have failed to take the necessary and difficult decisions in the past and that is very much a legacy. Manual workers, energy recovery facility workers, nurses and midwives, are paid substantially less than civil servants for work of equal value. So the pay offers that have been made to them we have directly targeted the highest paid offers with the groups that have fallen behind. So nurses have been offered 6.1 per cent over 2 years. The manual workers have been offered 6.7 per cent and these are the highest of any pay group. We also listened to the concerns about some specific groups of employees who are in the wrong pay groups and, as the Chief Minister mentioned, we are fixing those too. So immediately teacher's assistants will now get the same increases as their teacher colleagues backdated to 1st January 2018. This means 4 per cent consolidated increases and 2.1 per cent non-consolidated increases over the 2 years. We are also going to review the pay group of the lowest paid workers in health next year with a view to giving them further increases backed to 1st January 2019. We are going to move health workers, who are currently outside the health pay group, into that group so they will be on the same pay arrangements from 1st January 2020. It is very much our evidence that States employees, particularly the Civil Service, who are paid £50,000 and downwards, are slightly ahead of the private sector so I would contradict Senator Moore's note on that. So if we just look at some examples because I think that is always helpful. A typical staff nurse who is paid £41,992 per annum compared with a civil servant at the same grade is paid £46,524. That is a difference of £4,537 per annum; it is 10 per cent higher just simply because that individual is in the Civil Service grade. The salary of a manual worker technician is £35,241 and a comparable civil servant in the same pay grade is £40,145. That is nearly £5,000 more for the civil servant. So I think, as I have illustrated, there are some serious differentials which we need to address and we, at S.E.B., are very much committed to doing that. I can assure you the pay offers ... there has been a lot of negotiation despite some contrary suggestion in the past. For the first time ever S.E.B. met the unions directly and engaged with them and listened to their concerns. The pay offer that we put to them has been revised several times and, unfortunately, we still have yet to reach agreement but there are some pay groups that we are very close to reaching agreement with, and I am not going to jeopardise those negotiations by mentioning them now. We want to resolve these long-term issues but we want to do it properly. We do not want to do a short-term fix which the Minister for Health and Social Services alluded to because those really are the mistakes of the past. So S.E.B. does have a solution for dealing with these issues. We recently approved a top to bottom review of pay and reward. This will identify issues of pay, terms and conditions and inequality that the States need to sort out. During the next year the States will sort out these issues in negotiation with the unions. We, at S.E.B., believe that is the responsible approach and we would urge Members not to support this proposition, not least because it cuts the very ground from underneath our feet at a time where we need as much support as we can get. As the Chief Minister said, this is a very crucial test for this Assembly and I would urge Members not to fail that test and support S.E.B. in their efforts to ensure a fair deal for all civil servants who I hasten to add we value very highly.

#### **12.1.15 Deputy R.J. Ward:**

I am sorry, Sir, I thought I had pressed my button. I will be speaking in support of this proposition for a number of reasons. First of all, we are in the time of unprecedented change, uncertainty and unrest in our public services and beyond. The failure of negotiation due to our hands being tied by the constraints of the current M.T.F.P. has led us to the brink of strike action. Indeed 6 schools will

be closed tomorrow, the first time I have ever seen that, and there will be a demonstration in Liberation Square of valuable workers. Now, I would like to be very daring and correct Deputy Southern, which is always a risky thing to do. We have had an atmosphere of pay constraint since 2001. The 2015 current M.T.F.P. was passed in the Chamber in order to bring certainty to States finances. An integral part of this was the continuation of pay restraint and the restructure of ...

**The Deputy Bailiff:**

I am sorry, could you pause please, Deputy? We are not quorate, I think. We need to check. No we need 2 more Members to become quorate. Could I ask Members to return to the Chamber please? We are not quorate.

**The Deputy of Grouville:**

Can we have the roll call please?

**The Deputy Bailiff:**

I will allow a moment or 2 for Members to come back in. Very well, we are now quorate again. Please do continue, Deputy.

**Deputy R.J. Ward:**

As I was saying, the atmosphere of pay constraint has been with us since 2001 and the current 2015 M.T.F.P. was passed in this Chamber in order to bring certainty to States finances. An integral part of this was continuation of pay restraint and restructuring of the public sector. These 2 factors have led to a huge uncertainty, low morale and erosion of the services we all rely on. The reality of pay restraint since 2001 must be understood. It is here that I confess to being a bit of a geek and as such I do love a spreadsheet. If we analyse the real effects of pay and what has happened in the public services we get some striking figures. Since 2001, since there have been consistent below R.P.I. pay rises, with the exception of 2001 and 2009, which were matched R.P.I., and 2007 which was just above, it has meant that in real terms the value of wages in the public sector has dropped. Now, if you compare what has been earned against what would have been earned if R.P.I. was being consistently paid this is what you get. If you were earning £20,000 you have had a shortfall of £9,200 in that time against if you received an R.P.I. pay rise. If you were earning £30,000 you have received £13,800 less. If you were earning £40,000; £18,400 less. If you were on £50,000 you have received £23,000 less and if you were on £60,000 the figure is £27,600 less in that time. Now, I have not extended this to the £250,000 pay band and it is only relevant to one or 2 exceptional salaries and perhaps a few consultants. The comparison with private sector pay increases in this time for the same bands, so comparably, show an even greater difference and that is an important factor that we need to look at. So this means that working in the public sector has become less valued in real terms, and I will say that again. In real terms. It is public service workers who have borne the brunt of cuts consistently and relentlessly. This downward pressure on pay has been explained by the need to have more efficient public services and since 2015 by the limitations of the M.T.F.P. and spending limits set within it. I would like to mention the process of equal work for equal pay that did attempt to be happening with workforce modernisation and a few million pounds was spent on that. I was involved in it myself. What happened was we were very close to getting there and then all of a sudden the S.E.B. just thought: "Well, that does not work so we will just level it all up" and the whole process was destroyed. That is what happened for equal pay of equal work. So the promise of it happening again is very concerning and not trusted. But let us note, that there is simply plenty of money for new senior posts, consultant after consultant, communication units and P.R. (public relations) and I am going to mention Orwellian double speak, that will assimilate our public sector into workforce, into Team Jersey. I do not know if you watch "Star Trek" but as a science fiction fan I am increasingly concerned by the building of what looks like a Borg cube to burn our waste and other's waste and then the assimilation of our workforce, but let us move on. Now, given the place that we

find ourselves it was with alarm that the main argument against this proposition is the notion that any pay rise of R.P.I. or above is unsustainable long-term and that releasing that £50 million will not offer a solution. What does this mean then? This means there will never be an R.P.I. pay rise because it will never be sustainable and so we will always devalue our public services. Let us get to the logical conclusion of what that means and the application of logic would be a really good idea in this Assembly at this time. At the same time, the main argument used in flawed negotiations is that there is no money. For too long the shackles of the M.T.F.P. have provided a barricade for the S.E.B. to hide behind in order to impose pay and service cuts. This barrier needs to be removed for 2019 so that real negotiations can take place and we can start to repair the relationship with a workforce that is essential to Jersey as a successful and a thriving community. A couple of points here. Sorry I have got my notes caught up. Retaining and recruiting staff ... sorry, just bear with me one second. Retaining and recruiting staff is incredibly difficult, particularly in health and in mental health services and that has been shown in the review, and look at the state of our mental health services because they are at breaking point. Our reliance on U.K. nursing agencies to the tune £6 million for the last just over 2 years. In education where head teachers are pleased to get one applicant for a post, let alone a genuine field to choose from, and across the myriad of services that we rely upon day to day, all of us. I would like to publicly thank the nursing staff at the General Hospital who looked after my son when he had to have his jaw realigned who were absolutely fantastic. **[Approbation]** So if we are going to go down that road let us go with that one as well. At the same time we are looking at cutting 467 jobs, unspecified, to save £30 million while we put aside £50 million with no clear picture of the effect this will have on services and no clear plan for where these job cuts will happen. It is Cloud Cuckooland. What will this mean? It will mean that staff will leave. They will go to the private sector or to other jurisdictions that are more affordable. My serious concern is this: if we cross a tipping point, we will find it almost impossible to return from it. This has happened in so many areas of the U.K. where crisis after crisis arises in the delivery of service with headline after headline. All we seem to do is import the architects of these failing models and pay them exorbitant salaries. This will do nothing for the reputation of this Island, as a place to do business, a place to visit and a place to live. This is not about allocating money now. This is about giving the opportunity to free-up money that is there. I would like to say this as a new Member to this House, I am not happy to stand here and represent my constituents and the wider community and public service workers with my hands tied behind my back because we are in the remnants of an M.T.F.P. that I did not vote for and I did not create. Indeed, a number of the Members of this Assembly that were here and voted for that either chose not to be re-elected or not successful in re-election. We need to have the say and we need to take back the opportunity in this Assembly to have a say in our finances in 2019 and that may well mean the decision that is made is the same. But the point is this, if that is the decision that you make it is your responsibility; you made that decision. You cannot hide behind somebody else's decision and I am not happy to do that. If we make a different decision then we take the responsibility long term for that different decision and that is the thing that we have to do. We have to take responsibility for our actions in this Assembly if we are genuinely to be respected outside of this Chamber in the wider community, both in the private and the public sector. I absolutely deny that it is split between the 2. You can do something, you can do something today, this evening. You can vote for this proposition. You can press the button with P on it at the right time. You can start to work together to find a solution to disputes that are growing. Give the Assembly back a say in the 2019 spend and look to make the crucial decisions for the future of our Island now. We cannot afford to leave this at this time. It is time to step up to the plate, move forward together. I urge you to support this proposition.

[18:00]

**12.1.16 Senator L.J. Farnham:**

I was not here before, just to declare that my daughter is a teacher at Les Quennevais School; a very good one too, if I may say so, as they all are. Reference has been made in the debate today to the

fact that the public sector is not a place where you would go to work to earn big money. I cannot remember where that came from but that has been suggested. But I hope people who join the public service do so for a higher purpose as well, as many people do in the private sector and, of course, as we do here in this States Assembly. But if many Jersey people who work in the private sector ... and I was particularly interested in Deputy Martin's speech, which reminded us that out of the 62,000 people that are employed in Jersey, 55,000 are employed in the private sector in a huge myriad of professions with a huge range of pay scales; some getting exponential increases, some struggling. We must remember that since the world recession in 2008 the private sector has been a very difficult place to work. We all know that businesses have had to make big, big decisions and that has filtered through to the private sector. All employees in businesses, I think, have felt and had to share some of the challenges and some of the pain. The private sector employees do not often enjoy the same security that employees working in the public sector do. Of course, I have always been a big fan of the public sector. I have worked closely with many civil servants and other staff and I have generally found them excellent and very professional. I want to make that absolutely clear, I have huge respect in regard for our public sector, for our Civil Service, our nurses and doctors and manual workers and our teachers, especially our teachers and especially our teaching assistants. That is something that has to be looked at very closely, in fact is going to be looked at very closely. Not only have they been offered the increased pay offer but, importantly, the teachers' assistants, their whole pay structure is going to be reviewed because it is too low, in my opinion. They are extremely valued and important members of support staff and so I am very pleased that that is happening, and the same with some medical staff. But I wanted just to point out that after the latest 2018-2019 pay offers a typical, manual ... sorry, I just want to go back to the private sector where, I think, Deputy Perchard mentioned the average pay in the private sector was £29,000, something like that, £27,000. If people working in the private sector are earning in the mid-£20,000s to low £30,000s they should consider a career in the public sector because after the current pay offer a typical manual worker will earn is about £37,500, nurses will earn about £44,500 and civil servants about £47,500. I just wanted to make the point that there are opportunities in the public sector for good employment, for good pay, for fair pay, with good pensions, secure jobs and I would like to see more local people from the private sector perhaps looking to the public sector for a career change in the new restructured sector that we are all driving towards and I just wanted to make that point.

#### **12.1.17 Deputy G.J. Truscott:**

Just, first of all, to explain I am a non-executive member of the States Employment Board; there are 2 of us who sit on the board and I am one of them. The Chief Minister, the Minister for Treasury and Resources and the Minister for Health and Social Services, they have all put out and made the case for not supporting this particular proposition. I have been 30 years an employer and I treasured my staff. I alluded to the fact the other day that I am no longer involved in business but I did treasure my staff while I was there. A lot of them stayed with me in the business for over 20 years, so we had loyalty there because we looked after them. I have got to say I really value all of the States workers, manual, blue light, nurses, teachers, all of them. I stated the other day that I had been in for day surgery and they were just wonderful, they really were. I have nothing but praise for these people. Being in business all that time I have been through all the recessions pretty much and the worst one, I have got to say, was 2008, the financial collapse. It was near bankruptcy for just about everybody and really tough times. In the 10 years preceding that it has been tough as well. I do know private businesses, small private businesses most certainly, where they have not given their staff a pay rise in over 10 years since that, so it has been tough out there. Thankfully, inflation has been running at very low levels, which was a blessing in many ways because the fact that people were not getting a pay rise and inflation was remaining low, it kind of mitigated the fact that people were not getting pay rises. I have not much more to add than what has already been said by the Chief Minister and the Ministers, as you say, that they have laid out our stall and put the case. I can only say there is no magic money tree and I do wish though that there was. I have been a businessman, I ran a very tight

ship; we have run a very successful business. My finances were always spot on, *et cetera*, and that is the way to do it. I have been a Jersey boy, brought up by 2 Occupation parents. You are taught to value money and look after your money. Being in that business and being that Jerseyman, I really look at sustainability of public finances and we have done extremely well, considering the fact that we have been through this for 10 years. I think we made some important decisions in the previous Government that really put us in this position where we are today. But I do look at the 2020 where we go into the red and that is something I find quite difficult to comprehend; about £27 million into the red, 2021 £37 million, 2022 £39 million and 2023 £40 million. That is eye-watering amounts of money that we are in deficit to. As I say, the world has changed, I do not know if it is going to get any better. Again, we have got great instability in the world. We have got America and China. We have got markets in turmoil. We have got Italy, Europe, high debt levels, *et cetera*. I have got concerns and I think we do need to keep a tight ship and fiscal discipline and that is hopefully in going forward. Members keep saying that there is no money, well there is. I want to remind Members that there is £33 million on the table currently and adding an extra £9 million, plus £9 million, over the 2 years to be able to afford to pay the outgoing increase, I think will just add and exacerbate our deficit going forward and I do not think that is something personally I can sign up to. On that basis, we are in the hands of the Assembly plainly and I, for one, obviously will be following the said line.

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

I would like to go back to what the Deputy Bailiff said at one point when he was being questioned about the proposition itself. He said that the proposition, if passed, would enable more money to be made available but there was no compulsion to spend it. Basically, all we are saying here, if this proposition is passed, then the States Employment Board, who have had their hands tied behind their back, not only because of the Medium Term Financial Plan but because of the outgoing Council of Ministers. Before the election Senator Green, who was the chairman of the States Employment Board... they did not get round to sorting out and negotiating their position. They did it very late in the day, February, elections in May. The existing States Employment Board did not get into position until July and they are being told: "This is the position you have got to adopt." That is not healthy for a start. What we are saying is we have a system whereby under the Medium Term Financial Plan they are locked-in, there is no more money; you cannot do anything. One thing we have heard throughout the time of the negotiations over the last year or so is they are not really in negotiations. Because what is happening is the unions have been going in to meetings with the S.E.B., they have been discussing various matters and there is nothing coming back; they have had no mandate to negotiate. At the present time, as I say, we have got a situation where we have this restriction because of the M.T.F.P. We have the ability of trying to properly negotiate because I do not consider what is going on at the present time negotiation. To my mind, and it was mentioned, I think, by Senator Pallett, that negotiations are a 2-way process, both sides get involved, ideas go back and forth and you eventually try to arrive at a compromise. What we appear to have is diktat; basically they are being told: "You will do this" and there is no compromise at all; this is the position. I once was a buyer for Sir Alfred McAlpine at their head office and we were negotiating multi-million-pound contracts. One lesson I learned was that when you go into negotiations with the suppliers ... and, by the way, we had muscle, we were a large construction company and we could go in and - it probably is not a parliamentary term - but screw-down the opposition, drive down price ... I take it back, Sir. To drive down prices ... [Laughter]

#### **The Bailiff:**

What word do you take back, Deputy? Was it perhaps the word "screw", was it?

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

Yes, it was, Sir, yes.

#### **The Bailiff:**

Right.

**Deputy M.R. Higgins:**

We were going to negotiate and obviously for every pound that we saved as a buyer it was an extra pound of profit for the company. We went in there and we used the muscle, the purchasing power of the company, and the fact that people really wanted to deal with them because they thought they were going to make money. The truth of the matter was by and large they did not make money. Some of the buyers - and I did not follow their tactics - drove down the prices so far that the people who eventually entered into the contract with the company went bankrupt. That was a loss for the company as well because you have to start again. The contract is delayed and you may have all sorts of liquidated damages that you are going to have to pay if the contract is not delivered on time. Now, our situation is different in one sense. Yes, there are not liquidated damages. People are not going bankrupt. Well, maybe some of our public sector workers are going bankrupt, I do not know. We have withheld pay for many of them or given them less than the cost of living for 10 years. You just imagine. I know others have said people in the private sector have maybe suffered that as well. I think that is wrong as well, the same as I believe strongly how zero-hours contracts and the lack of security that people have ... oh, it is funny. I am sorry, I just had a look at Deputy Martin. Deputy Martin, since she has become a Minister, has changed her views 180 per cent. I am sorry, I heard the Minister's speech and I thought ... and I am not political or extreme left-wing, Trotskyite or anything else, but I could imagine that people who are would call her a class traitor [**Members: Oh!**] because she has really reversed everything. Anyway, let me go back to what I was saying.

**Senator I.J. Gorst:**

I wonder if the Deputy would consider withdrawing that, please.

**Deputy M.R. Higgins:**

I will withdraw it. I am sorry, I will withdraw the comment.

**Senator I.J. Gorst:**

It is totally inappropriate and out of order.

**Deputy M.R. Higgins:**

I must say I did feel it but I do withdraw the comment.

**The Bailiff:**

Is it more than just a question of withdrawing it? You are sorry that you made it?

**Deputy M.R. Higgins:**

Yes, I think I am in the context and I hope she is sorry for what she said to the States as well. Anyway, going back to what I was saying, I believe in true negotiations. We have had a situation where we have not had true negotiations with the public sector, and I feel for them. One of the reasons I feel for them is the fact that many, many years ago I was in a similar situation. I was a lecturer at Highlands College and we went for years where, in fact, we had no pay rises at all because the Education Department was trying to really put the workers down. I know, I have been on the receiving end of what it is like.

[18:15]

I wonder if the States will ever learn the lesson. It is not a question of coercion, of trying to dictate to people and drive them down. This workforce modernisation I agree with. We have to modernise. We have to advance. But I believe in taking people with you. A true leader leads and takes people with them. They do not beat them down with a stick. So, I am fundamentally opposed to the policy that we have of trying to force the public sector through below cost of living wage rises and all the

other sort of techniques they have used to try and drive them into a particular position. I would like to see everybody in this Island better off and I believe that is what our aim should be. But I would like to see leadership in the States, as I say, rather than coercion. I might also say, too, the Chief Minister was talking about legacy issues. I can remember the legacy issues that we had when we were lecturers at Highlands. We were being told by the Education Department that we were earning more money than lecturers in the U.K. Well, yes, we were and there were 2 reasons for that: the cost of living was higher over here and we were given it, but also there was an arbitration that took place and one of the members of staff discovered that if we got more than 1 per cent in the negotiation we would trigger off this other clause that meant that a lot more money than they were expecting would be given to lecturers. In the interests of co-operation with the Education Department, members of staff went across and told them. Did they realise that if we got more than this 1 per cent in the arbitration this was going to be the thing? We were told: "Then so be it." But the same director of Education later was saying: "The lecturers are overpaid. We have to drive their pay down." They knew what they entered into. They knew what the consequences were, but then they misrepresented the position thereafter. I am afraid a lot of what I hear from the representatives of the S.E.B. and others, certainly in the past, has been a misrepresentation of what the position is. I do not want to see our workforce demoralised any further than they are. They are demoralised. Many of them will leave the ... I was going to say industry, the professions, and to be honest again, as Deputy Young was saying, would you recommend to people they go in the public sector? I think I would say no as well. We are told that they have security. Sorry, nobody has security at the present time. The way that the world is advancing, nobody has security, private or public sector. I have talked in this Assembly in the past about the impact of artificial intelligence, the idea of robotics, of machine learning, *et cetera*. All these things are going to impact both jobs in the private and the public sector, so do not use the argument being in the public sector is more secure than in the private sector. No one is secure. The other thing I feel very strongly about is not only should leaders lead but also you should show your workers respect. I think the one thing that really annoys me about the way that the negotiations have gone on in the public sector has been the lack of respect that we have shown to our employees. Remember, these are the same employees who if we are ill we are going to be depending on their expertise when we go into hospital. The future that we want for our children, the teachers are the ones who are going to be teaching them the skills and the ... I expect many of those are going to go as well because it will not be just knowledge, we will be using machines. But the point is that we rely on our teaching staff to prepare people with the skills that they are going to require in the future and we have to adapt our education because of the changing nature of the world. Just other things as I have been listening to the various people speaking. I do believe very strongly in the idea of the parliamentary sovereignty argument that was put forward - I think by Senator Mézec - about how one States should not be binding another States. We should not be bound by the decisions of the last Council of Ministers and the last States. It should be determined here. I happen to like American politics. I have been following it very closely. What we are doing is the equivalent of the Republicans in Wisconsin who at the moment are passing laws. They just lost the election and a new governor is going to come in in January. What are they doing? They are taking away his powers so they can try and make him less effective. So this is an outgoing Administration trying to shackle the hands of the incoming Administration. We effectively have that. What I am saying is if we can agree this proposition it does not mean to say that more money will be given out. There have to be negotiations but at least the people who are negotiating on the public sector side have the flexibility and the ability to enter into agreements, and hopefully on the basis of getting away from this distrust we can get mutual agreements and we can get perhaps a common vision going forward. I would just like to say 2 other things before I sit down. Obviously, I am going to be supporting the proposition. I know a lot of the older Members will know, they had no doubt I was going to do it. It is in my D.N.A. (deoxyribonucleic acid) that I believe in treating people fairly and equitably. I was surprised by Deputy Renouf, the Minister for Health and Social Services, basically trying to imply that ... he mentioned about the recurring cost element. Yes, there is a recurring cost, there always will be, but

there will be changes within the economy, within the public sector workforce, caused by A.I. (artificial intelligence) and others. We are going to lose jobs anyway. Those wage bills will not always be there, things will be changing, but we have to find mechanisms to deal with those who are made unemployed or will not be employed in the sector. What he was saying is that basically he mentioned of the £9 million recurring bill £3 million of it will be in health and something has to give. Basically, he is going to say we cannot give the staff the money. We will rely on the staff. It is all right having a building, a very expensive building, but if you do not have the people with the equipment and the skills to be able to use it, then I do not know why ... I was going to say why you are in the job, to be honest, because you have to balance both. It should not be one or the other. It is both. I will support obviously health any way I can, but I also believe we have to pay the people who are there. The only other thing I would say is I have been watching with very great interest, and I will say this to the people outside. I had great hopes for this new Assembly in the sense that some of the older ways that have gone on in the past are not here now and there is a new sort of feeling. I have been watching Ministers running around and ex-Ministers running around and doing the briefings of individual Members, trying to bend their arms, anyone who they think might be possibly supportive or wavering, trying to get them ... not necessarily twist the arm, but they are doing it. I have been watching people go round, and also, so people know, we have an awful lot of highly paid senior executives in the back of this Chamber who are sending out the speeches to the Ministers and telling them what to say. Some of the speeches have been very eloquent. I cannot write a speech as I am listening to it, but when you hear Ministers talk: prepared speeches. Who is running the Island? The civil servants or the Ministers who are supposed to be in charge? Anyway, I have had one of my usual little rants from the past, but I do feel very, very strongly we have created a situation where we have demoralised our public sector. It will take a long time to get their trust back and we may have a lot of pain in terms of industrial action before we get back to a reasonable equilibrium. What I would say is do not shackle the hands of negotiators. Let them get in there and try and get a negotiated settlement because you will not get the support of the workforce with imposition.

#### **12.1.19 Deputy R.E. Huelin of St. Peter:**

This is very tough. When I put myself up for election back in February, and subsequently I thanked the Parish of St. Peter for giving me this opportunity to represent them in the Assembly, I knew the day would dawn when there would be something that really, really would be hard, and this is today. I am torn obviously between the emotions and the money, and that is always going to be difficult. I have had many emails from nurses from my Parish who I have spoken to subsequently by email, phone and visited. I have had, as we all have had, many, many emails and stories asking us to support this amendment, and I have sympathy and I have understanding. However, the question I have is a practical one: do we need this amendment? If anybody can remember Tuesday, I asked that question of the Solicitor General. Senator Moore at the same time reminded me of the Corporate Services Scrutiny report, and putting those 2 together and reading 109 - thank you very much, Deputy Southern, for sending it to me or printing it out so I do not have to read it - I am satisfied, and with confirmation from the Minister for Treasury and Resources, that this amendment is not necessary. It is within the gift of the Minister for Treasury and Resources and the Council of Ministers to liberate funds should they feel it is correct. I think that is very, very important. Now, I accept there have been many years of austerity. In 2008 I was in Canary Wharf when Lehmans were taking their boxes out of their offices, 5,000 of them unemployed on one particular day. I can see Deputy Ash; he was probably there as well. **[Interruption]** I am not suggesting he worked for Lehmans. He was the other side of the road. That has been the start of austerity. It has also been a bull market since then because we dropped to unprecedented lows. I look at the way this pay has been handled and it has not been very pretty. I am uncomfortable with a lot of the “take it or leave it” principles of the negotiation, not the way I would do it. I am uncomfortable with ... in case anybody does not know, I lived in London for 35 years, not a small Island economy like this, and there are fundamental differences. The biggest difference that I can think of that is relevant is if you are working somewhere

in London, greater London, and you are disillusioned with your employer, you have a choice. Because if you live in your house in Thornton Heath or Uxbridge, you get up, you go to work to wherever you work. If you decide to go elsewhere, it is highly likely that you may just turn right out of your drive instead of left out of your drive, but you do not have to go through the upheaval of moving your family from one place to another. All you have to do is you take control of your own life and you go to work where you feel your services are rewarded. I am uncomfortable with that and that makes me feel concerned. However, on the other side, we have a perfect storm of uncertainty. Locally, we have, as has been debated, the workforce modernisation or target operating model, whatever consultant jargon wants to be associated to it, but it is going on today. It is real and it has come to us at this particular time. We have a relatively new - I think 6 months old - Assembly and a relatively new States Employment Board taking something that they have fundamentally inherited. On the wider scheme, I contacted some City contacts, and what is interesting is the top 3 things in order of priority that concern them, and the global markets are relevant because we have large reserves and we rely on the return of those large reserves. If, as I personally think - and I am not a financial adviser - there will be a major restructuring early on in the New Year, and I am not going to bore you with my reasons why, but if you think that, that is going to be of great concern to the funds and the resources we have. Now, asked the priority 1, 2, 3, what I was amazed by, number 3 priority or worry of the City is Brexit. We all talk about it as being the worst thing that we are not in control of. It is number 3. Number 1, as has been alluded to, is U.S. (United States) and China trade, and number 2 is the U.S. interest rates and subsequent dollar rising. Those are the real concerns that are going to affect the money that we have ... sorry, Deputy Pinel has in order to apportion to our organisation. Now, do not get me wrong, we owe it to our States employees to sort this out. We absolutely do. I genuinely believe the Council of Ministers will continue - bigger term, States Employment Board, Treasury will continue - with the progress they are making, and we have heard great progress from many people today. I am not going to repeat the figures; I do not have them to hand. I believe that they will continue with that progress over a period of time as and when uncertainty lessens. A lot of this debate has been very, very passionate, and I am hoping those outside realise that and realise there is genuine support if this amendment does not go in the way of Deputy Southern, they realise there is genuine support, care and compassion here to address this situation.

[18:30]

But again it is about timing. It is for that reason and no other that I will vote against this and offer my support to Treasury, the Council of Ministers and the States Employment Board to address this situation satisfactorily in a reasonable period of time.

**The Bailiff:**

Can I ask how many Members still wish to speak? I have 2 down who wish to speak so far, Deputy Morel and Deputy Doublet. Are there any other Members who wish to speak because that may have an impact on whether or not we are going to finish tonight? There are 5 Members wishing to speak, and then a summing up, and then more to come after that.

**Deputy J.A. Martin:**

No, just your comments there, we did say 7.00 p.m. You have 5 Members who wish to speak and the summing up, but this is the sort of debate you cannot go home until it is finished.

**The Bailiff:**

I am just testing the mood of the Members, that is fine.

**Deputy M. Tadier:**

I think if our workforce are expected to do flexitime we can at least sit on a Friday, which is a normal working day for most people.

### 12.1.20 Deputy K.F. Morel:

What I hear when I listen to the arguments against Deputy Southern's proposition is that we are blaming the past and fearing for the future, and all of that comes at the cost of today. As I keep reminding people, the promise of food tomorrow does not sate today's hunger. For at least a decade I have heard Governments talk of the need to make cuts, to make savings, yet here we are 10 years later ... in fact, I think it is more than a decade; I think it is far more than that. Yet here we are 10 year later, or however many years later, hearing the same story. That is because of the failure of successive Governments, in my view. Two weeks ago I noticed the Minister for Treasury and Resources referred to these times of austerity. I wondered, sorry, what times of austerity. I am sorry, we are living in much better economic times than we were 10 years ago. Austerity is a political choice and it is a choice that has been made by the current Government because successive previous Governments have failed to deal with what they see as costs which are too high. Yes, I agree, we need to be cautious and the Deputy of St. Peter is absolutely correct when he refers to Brexit as a threat and a major challenge on the horizon. But when the cost of living is rising ... and I do know that pay rises could potentially fuel that, but I also believe that pay rises which only meet R.P.I. just help us to keep pace rather than pushing it forward. Sorry, I lost myself there. When I hear them talk about Brexit, I think you need a motivated workforce behind you if you are to survive those challenges. We need a workforce that wants to work for Jersey, that wants to live here and build an even better Island. Believe me, devaluing them will not do that. Devaluing them will make them leave, which comes to my main point in what will be a short speech if we all want to go home tonight: the loss of talent in Jersey is, I believe, one of our greatest threats. It is a failure to meet these modest demands - because cost of living pay rise demands are modest demands - and a failure to meet those demands will only fuel an exodus. We will not have much of an Island without talented people. We will not have much of a government without talented people. It was a constituent who brought this very much to my attention, although I had been thinking about it beforehand. To finish, I would just like to read some extracts from the message they sent me, and I apologise if it is slightly stilted. I have to edit because obviously I do not want to identify them en route. So, this person runs a team working in the States of Jersey, a specialised team, and he says: "For at least the past 5 years we have struggled to recruit people with the right skillsets for our teams. We only have a small pool of potential candidates available [because of the specialism that he works in] and private companies are paying a lot more than us, 20 per cent to 30 per cent more. The last time we advertised we had no responses at all from qualified people. In the past year, we have had to bend the rules to pay our senior manual workers at civil servant rates just to stop them being poached. Across the U.K. there is a shortage of experienced people in our profession, and almost every time I go to the U.K. on business I am approached with job offers. My daughter is finishing school and when that happens I will have to re-evaluate my position here in Jersey. Our teams have been under-resourced for years. For the first half of this year I averaged 68 hours per week just trying to stay on top of things. Myself and one of my colleagues are the only people who know the systems in the Island and so when we need support we have to bring it in from the U.K. at a cost of between £800 to £1,000 a day. That is when I can get them due to the shortage across the industry. It can take months to get people over." £800 to £1,000 a day just to fill roles, so if we do not meet these cost of living pay rises, in my view that is no doubt a false efficiency: "Now we have talk of wholesale job cuts and pay cuts. We cannot get people to do what we are supposed to do now. How are we going to in the future? If the Island wants quality infrastructure, it has to be realistic about what that costs." I urge you all today when you come to vote on this, think about that. If the Island wants quality infrastructure, if it wants a quality of life that we all wish to enjoy into the future, we have to pay people to get that. As the Government, I think we need to set that standard. Right now, 4.5 per cent cost of living, we cannot keep them below that for another year. We need to meet that and we need to help people feed their families. We need to help people enjoy the quality of life that will keep them here. So I urge you to think about that when you vote this evening.

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

My speech is very brief because Deputy Perchard and Deputy Ward covered much of what I am feeling today. I think the Deputy of St. Peter summed up some of what the debate has been around today and he said it was about emotions versus money. I just wanted to add a practical angle and a pragmatic view on this. My understanding of the situation is that we cannot win this. The public employees are so resolute in this, that is the feeling that I am getting. I do not think that S.E.B. and the States are going to win this fight. We can either tackle the problem now and resolve it now or we can put the Island through a lot of stress, we can put the Island through strikes and the cost impact of that. I do not want to go down that road. I want to see the realities of this situation. The reality is that we have hit a wall and we need to make some concessions. This is a very small concession. It is not giving a set sum of money. It is a very small step and I think if anybody is on the fence with this one or wavering slightly, I think it would be quite dangerous to not take this small step this evening. I think we will be seeing a lot of the States employees feel crushed tonight and it will make them even more resolute and it will make them dig in even further. So I think let us take this small step tonight just to make things not worse, just make things a little bit better. Yes, it might be speaking to people's emotions but it is human beings that we are dealing with here and they do have feelings and they do have emotions. They are feeling quite downtrodden at the moment, so I really urge anybody who is on the fence to support this proposition today so that we can meet the public sector employees in the middle and have a proper conversation with them.

### **12.1.22 Deputy K.G. Pamplin of St. Saviour:**

It is a pleasure to be speaking this week. I know some people have come up to me and asked me if I have lost my voice, I seem very quiet, but I am fine. I am one of the new States Members. In fact, 6 months ago I started with an optimistic outlook and a fresh face; 6 months later I have a beard. That is no reflection on this job, which I am enjoying immensely and am proud to stand up, as others have said, representing those who have put me here. I just want to interject and talk about one sector that has not been talked about. We have heard about private and we have heard about public. I would like to talk about the charity sector, in which I was a manager of 2 worthwhile and important charities. The charity sector is made up of some incredible people, people who volunteer their time and do not get paid. There are people like myself who left a job where many people asked me: "What are you doing? This is something you love to do, that was your career" and to be paid less money. There are other people who look over us and are paid a reasonable amount of money to ensure that we do our job well. What combines us all is doing the right thing for those who need us. There are times, and at one particular charity, when you have really tough times and you are sitting with families who have gone through some terrible things. You get affected by that and you have to ask yourself: "Why am I doing that?" You are certainly not paid lots and lots of money to do this. I had to turn to some of the volunteers and the staff and the workers there and I could see it in their eyes. I had to motivate them and I had to inspire them and I had to encourage them. I see what happens when people realise they are not valued or they do not think they are valued. You can turn that tide by hope and aspiration and leadership to say things are not great now but if we commit and we come back tomorrow and look after each other, it will get better. You have to back that up, of course, by action, words and deeds and taking very difficult decisions. I believe this moment is one of them. Also I would like to add that one of the things I am very passionate about is mental health. I am proud that one of the very first things I did when joining my Health and Social Services Scrutiny Panel within a couple of weeks of taking the oath of standing here today is to launch our mental health review of the Island's services. I can tell you now - we will not spoil what we are discovering; that is further down the line - when you bring everyday folk, members of the public who have been brave enough to come and talk to us about what they are going through right now, it reminds me why I made the difficult decision to stand here today as well. If you have not seen today's front page of the *Jersey Evening Post*, I urge everybody listening and everybody here to read it. There are people out there who are taking terrible choices because they have been let down - financially, morally - and they look

upwards, and they look to people like us to say there is hope. It is not easy. Since my time here people have said to me: "Ooh, you are an interesting fellow. What is your motivation? Are you an establishment person? Are you left? Are you right? You are surely somebody's spy because you voted that way." I can assure anybody listening, anybody who knows me, that I am not. I am me. I am not red or blue, I am Jersey, and I am my grandparent's son, and I am father to my children who I am trying to teach them accountability and making tough decisions. I urge everybody today to vote with their conscience and I believe everybody here will. I have been heartened by my experience here and I have really learnt valuable lessons from people who have been here many years. Deputy Martin, Deputy Higgins, Senator Pallett, Senator Gorst, Deputy Truscott and Deputy Southern, and many more. I hope I will be here in many years' time and if not, I hope I have made my mark. I will be supporting Deputy Southern's proposition.

### **12.1.23 The Connétable of St. Mary:**

I did not really expect to be speaking.

#### **The Bailiff:**

It is not compulsory.

#### **The Connétable of St. Mary:**

May I first declare that I am not a Trotsky, a leftie or indeed a member of the Reform Party. I do believe in fairness for all. We have already heard from the Attorney General, who has confirmed that funding could be provided to supplement this cost of living increase.

[18:45]

We can do this regardless of any time that this will take to implement, so that does not matter. To our workforce this would be a massive gesture of support just knowing that we care. Our workforce have been very patient over the years. I remember being a member of S.E.B. (States Employment Board) in 2011. The situation has not changed. The reasons for not giving a pay award then was austerity. Austerity has passed. We are now back into growth. Growth has to be inspired by a reward. Only that reward is not forthcoming. In fact, this is not about reward, it is about keeping in pace with cost of living. Eight years later our workforce have not been able to keep their pay in line with cost of living inflation. This is not about paying extra. This is about keeping up with what earnings were in order to maintain a decent standard of living. It is too easy to dismiss cost of living pay awards to our workforce. That seems to be an easy option. Our workforce have been very patient but they cannot be ignored year after year. We are lucky. Just across the water is an example of a disgruntled workforce. The protests, the riots in Paris. I do not believe that our workforce would ever resort to such measures, however, we should take note of the example of people driven by desperation. I employed people for 40 years. In any business, your workforce is the key to survival. The key to efficiency. The key to profit. This only works if it is properly managed. Do you all, in this Assembly, really think that our workforce is being properly managed while now being a strike situation? We should be able to have a content workforce who are confident that we are taking their pay seriously. We are not talking about a massive pay rise, just a token to keep pace with inflation. I would not advocate backpay but we need to reassure that a token will be forthcoming as soon as possible. Of course, discussions need to be ongoing. We are not listening to our staff. We are not listening to our electorate. Public perception of this issue indicates that what is happening to our workforce is wrong. It may be that they do not understand the issue but that is a communication problem throughout the States. It is a cynical observation by many that this reluctance to pay is part of a strategy to wear the workforce down, to encourage resignations rather than rely on redundancies. This is not about a pay award. This is about maintaining a standard of living and giving confidence to our workforce. Treasury will forever plead that there is no money for this. This has been going on for 8 years and I know that means the Treasury have not been budgeting very well or totally

ignoring our workforce in the process. This is not the fault of the Treasury. The fault lies with management failing to address this issue year after year. It is possible for Treasury to put this right by providing the funds. It is possible for the States Employment Board to negotiate and repair the lost trust, the loyalty and goodwill that only becomes possible if this Assembly gets behind this proposition. The simple fact is: are you all prepared to back our workforce or, again, listen to the political spin that tries to prevent that happening. There comes a time when we need to say enough is enough. Though if you are one of the people out there in the square tomorrow, enough is not enough. Their pay is reducing due to bad management. We need to put that right.

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

Not many people will know this but yesterday marked an anniversary for Deputy Lewis, Senators Le Fondré and Gorst and myself. This was the anniversary of our first being sworn to the States of Jersey and, of course, during those intervening years we have all held a number of quite responsible roles within this Assembly. I mention this in acknowledging the words of the Chief Minister when he spoke earlier regarding the members of the States Employment Board, because in my experience and opinion, sitting on that board as the employer of a vast public sector workforce is the most difficult and arguably the most responsible job of all. We all take that responsibility and approach it with the seriousness that it deserves. It is clear to me that the Constable of St. Mary may remember sitting on the States Employment Board in 2011 but I am not sure if he remembers the discussions that took place during his time there. But this debate provides an opportunity to clarify the approach and the decisions that the States has taken on public sector pay with the full approval of the States Employment Board. By way of background, in 2017, after 3 years of discussions and negotiations, the States proposed comprehensive reforms to pay, terms and conditions, to harmonise them across the public service. This reform package known as “workforce modernisation” was accepted by some groups but overwhelmingly rejected by the majority of employees. As a result, the package was taken off the table by the new chief executive who announced that the States would instead bring forward 2-year pay offers for all groups, except for those earning £100,000 or more, who would have a 2-year pay freeze, and that may apply to some people not too far from myself. So some States employees, the high earners, let us remember, are on a 2-year pay freeze. During the summer, the States and the unions have been discussing the offers for the different groups. Those offers were discussed and approved by the States Employment Board. We sought to make the best use of the money that was available, having been approved under the Medium Term Financial Plan. At this point, I think I need to stress that there is a difference between the Budget that was approved for pay rises under the M.T.F.P.2 and the actual funding available to pay for it. In fact, even now there is a significant shortfall, which can only be bridged through departmental efficiencies in order to fund the pay offers that are now on the table. The newly constituted S.E.B. knew from the start that we could not meet union aspirations for cost of living increases within the financial envelope set for us in the Medium Term Financial Plan. We therefore took the approach that we should make the best and fairest offer with the money that was available by agreeing some clear principles for the pay offers. They should be targeted at the lowest paid employees. They should make progress towards equal pay for work of equal value. They should take account of equivalent market rates of pay for similar roles within Jersey and in the U.K. The pay offers that were made did just that. They targeted more money at the lowest paid employees; nurses and midwives, manual workers and energy recovery facility workers. As a result of continued discussions between the States and unions about how the pay offer for these lower paid groups were structured, we approved revised offers. We have heard today that these are worth 6.1 per cent for nurses and midwives over the 2 years, and 6.7 per cent for manual and energy recovery facility workers. I understand that the offers have been well received by nurses. The pay offers for teachers, head teachers, and uniform services, are worth 4 per cent consolidated plus 2.1 per cent non-consolidated. But we held back pay rises for higher paid groups, civil servants, who are on average 4 per cent better paid than their colleagues for work of equal value. So we offered civil servants 2 per cent consolidated, plus 2.1 non-consolidated over the

2 years. I understand that recent benchmarking shows that 84 per cent of civil servants are paid above the Jersey private sector, and only some senior civil servants are paid less than their private sector counterparts. I want to make clear that these differentiated pay offers are not just fairer, they are necessary to mitigate significant potential equal pay liabilities. Of course we understood that the pay offers would not be popular with civil servants because they hold their pay back to allow the pay of other groups to catch up. We do appreciate that at a time of rising inflation employees view pay increases below R.P.I. as unfair. But as the States Employment Board, we have a responsibility to take the wider impact of our pay policy into account, and quite simply we cannot pay more than we can sustainably afford. We cannot load substantial additional costs on to the public sector pay bill, which would require new sources of revenue funding to pay for them. In short, we cannot pay for higher pay rises without introducing higher taxes. I am conscious of the time but I would like to address some misperceptions that have been frequently raised by the unions and indeed by some States Members. For instance, why can we not fund higher pay rises from the extra tax revenues that are forecast to come in this year? The answer is straightforward. It is because this is a one-off increase in revenues. One-off. They cannot be guaranteed every year although we can guarantee the costs of higher pay rises every year.

[19:00]

So what about the consultants and interims flying over from the U.K., as the Constable of St. Helier referred to them “the gold rush”. Why not use the money spent on them on pay rises instead? Good question but again these are non-recurring costs. Those specialists who have been brought in are on short-term or fixed-term contracts and when they and the projects they are working on have finished those costs will go. These people and the One Government modernisation programme are needed in order to achieve the efficiencies needed to transform the States. Those changes were proposed by the previous Government and supported by the then Assembly when they approved P.1, and which we as a new Assembly have supported by approving unanimously only on Tuesday of this week the Common Strategic Policy. We are also being asked, what about reserves? Why do we not take money from there? That is at the base of Deputy Southern’s proposition. Of course we have already heard the answer to that from Members over the past few days and indeed again today, and Deputy Southern himself knows it. Our reserves are not unlimited. They are there to help us at times of economic shock and to support investment in infrastructure. We as an Assembly need to exercise prudence in our public finances. Reserves cannot be used for ongoing increases in revenue spending. Finally we are asked: what about using the efficiencies to be delivered by the One Government programme to pay for these pay rises? Members may be surprised to learn that this is in part what is going to happen, and to respond to some of the comments made by Senator Moore earlier, the shortfall between the approved spending on pay and the actual budget to pay for it will have to come out of the £30 million efficiencies that we have heard that we need to make. So to be clear, and so that there can be no doubt in the minds of Members here today, the States Employment Board has considered and discussed all of these issues carefully, thoroughly and by challenge to the officers. Each time our conclusion is that we are taking a fair and responsible approach. So not only does our approach target pay rises to where they are needed, to where there is the greatest need, to the lower paid members of our workforce, but our approach has the benefit of being financially sustainable. If this proposition was to be supported it would achieve, as we have heard, a short-term solution only. We have also heard that this is a short-term concession, it is a small step; but I would argue against that. I argue against what Deputy Doublet told us earlier. The long-term consequence - and there is a long-term consequence for us all - is that we would be committed to significant recurring expenditure that simply could not be sustained without raising taxes. The long-term consequence for us all is that we would be committed to significant recurring expenditure that simply could not be sustained without raising taxes. It would also jeopardise our future stability at what is a critical time for our public finances. I believe that in the long term if we are not a responsible custodian we will

create even greater problems not only for our staff but also for our Island. With those significant consequences in mind - significant consequences - I urge Members to reject this proposition.

**The Bailiff:**

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

**12.1.25 Deputy G.P. Southern:**

May I, as I start, thank everybody who has contributed to this long debate. I think it was a long debate because it is a serious debate of an important issue and everyone should be congratulated for their contributions. I shall try and take a look at some of the more germane points during this speech. The first person to contribute was Senator Moore and I was very pleased to hear from her because, as she said, she had led the Scrutiny Panel which addressed this issue and pointed out, among other things, that the Consolidated Fund - effectively the current account for the States - is £126 million after payment of £50 million into the Stabilisation Fund. We do have the money. What we do not have is the ability under this M.T.F.P., and I remind Members it was devised 4 years ago on 4-year estimates - to pay a penny more while that is still in place. She also reminded us that what this is about is negotiation. It is not a sum of money, it does not say pay £9 million - and I will address that in a minute - it says use this potential money to open the door to real negotiations, treat your workforce with respect and dignity and properly negotiate. That does not mean going in there with £9 million and saying: "Here is £9 million on the table, you want cost of living, there it is." I want to see our negotiators really working hard and driving down that number. Note there is no figure in my proposition; £9 million came solely and uniquely from the comments from the Council of Ministers. Again it is back to the old days. I remember debates where somebody would pick the frightening figure, the biggest figure they could, and just repeat it, repeat it, repeat it: "You are in danger of £9 million." We notice that all over the Chamber today, a repeat of that £9 million. It is not necessarily £9 million; it is something that is negotiated with respect. The Chief Minister made a speech where he repeated, as many have, the numbers that have been offered to various sectors and I noticed as he went through his numbers - as others also repeated those numbers - that they were all below R.P.I. figures. They were 2-year deals, they did not sound too bad just said like that but all of them below R.P.I. So effectively he is saying: "Look, we are paying this amount." Yes, again, after 10 years below R.P.I., therefore, making your employees worse off. Deputy Wickenden, I am pleased that he mentioned this effect of tying the hands of the S.E.B. There is no point in going into people time and time again saying: "There is no more money in the pot." There is no point really in jiggling that about because what you have ended up with is not agreement but imposition. You have imposed a set of figures on the various bodies and, again, that is no way to treat your workforce. This is essentially about what is happening; how are you going to get the trust of your employees back? Because believe you me, this Assembly has lost that trust. How can we keep on saying we are putting £50 million in the Stabilisation Fund and then in the next breath saying: "We have no money." We have no money - and I repeat this again - because we decided what the limit was 4 years ago and we will not budge from it. Members will know that I have had people sitting on my papers all afternoon. I deliberately included the last amendment to the law, Article 8(a), because I wanted to demonstrate how relatively straightforward it was. This is just 6 paragraphs to do more things than I am suggesting here. It would be simpler than that, and yet we still had this argument that we could not possibly do that in the coming 3 months before, let us say, April next year. Could not possibly do that because we are busy doing everything else. I am seriously questioning whether you can get an amendment of a few lines which is all it needs to free-up this money in that time. Of course you can. It is not impossible; it is difficult but it is not impossible. So all this doomsaying, saying: "We could not possibly do that, we would have to stop everything else, we would have to cut other services" is just what it is; it is just doom-mongering. Deputy Martin had an interesting time today and she compared the 54,000 private sector workers with the 6,500 public sector works and said: "They are paying for these public sector workers." Yes, indeed they are. So are the public sector workers paying. We all

pay taxes. But she asked: "What do they do for us?" and the answer is when the 55,000 workers fall ill they look after us, when the 55,000 workers have children the public sector educates them, when they drive to work in the morning it is the public sector which has surfaced the road. There are all sorts of ways public sector and private sector are together. We should not be trying to separate them and put one up against the other. Deputy Young, it is an increasingly joyful process to listen to Deputy Young nowadays. He seems to have taken on a new lease of life. But I think his interesting point of would I recommend my sons or daughters, would I recommend people to apply to the public sector; and the answer is probably no, with an experience of private sector and public sector. You look at what is happening with the public sector, you wonder why. The public sector are wondering whether they are going to have a job, whether they will be told to reapply for their old job, whether the team or the leadership will be the same. The private sector take one look at the public sector, and giving the uncertainty that we have got, who is going to be applying? That was a remark from others, and I cannot remember who it was, saying: "Where is our recruitment coming from? How are we going to get good quality workers into our workforce when they are threatened with swimming down and we are holding down wages to make those places seem completely unattractive? Who is going to be applying?" Before long we will be talking about our middle classes, our teachers, our nurses; where are we going to get them from. It becomes increasingly difficult if we hold down wages the way we have done, and appear to be willing to continue to do. We are hearing people say there is more austerity to come; it is going to get worse.

[19:15]

The problem is that it is all very well proposing solutions by 2020, the problem that we have is now. Now our workers are disillusioned and feeling very vulnerable, and we need to deal with that now, and this simple amendment can do that. Of course immediately the response in the comments started talking about our expenditure and saying this is unsustainable. So is the goodwill of our members. That is sustainable if we act properly now, but if we are to lose goodwill from our workforce we will be in a serious situation because we know a great chunk of the public sector relies on that goodwill. The nurse who is not replaced for 3 hours because somebody has fallen ill, if they are not there that endangers those patients; the member of staff that we all know, the people who help us with whatever it is, whether it is ministerial duties or with Scrutiny duties, doing the extra hour, working over the weekend. Do we really want to get rid of that mentality from our workforce? Because we will. Senator Farnham talked about secure jobs and I have written a big question mark after it; what security is that? At the moment we are very vulnerable and jobs do not look secure at all. In fact one of the questions I asked last week said how many people are on zero-hours contracts or short-term contracts or on other temporary work, and it turns out to be a quarter of our workforce are on such temporary contracts. It looks like we are preparing to get rid of significant numbers. The issue over how much our civil servants pay and are paid and the fact that they are 4 per cent better off than the private sector came up on 2 or 3 comments and the answer is, of course, because generally they are better qualified, better trained and more experienced than their equivalents in the private sector, universally known and that is true. The Deputy of St. Peter made an interesting speech and managed to link us into the world situation. I cannot believe that us paying an extra little or enabling our Government to negotiate properly will have a serious effect on those 3 serious issues. If they come to a head then I think we are going to be in a sorry state anyway whether we spend an extra £9 million or not now. Deputy Perchard made a very good speech and pointed out what actually happens in schools and the level of caring that takes place. He also said this is not a conspiracy. We have got a workforce over there that is desperate to avoid what it is doing but we forced it, we forced it on them because we have not listened and we have imposed pay rather than negotiate properly. I ask Deputy Pinel how it is that when she said: "A fair day's pay for a fair day's work" it applies when we are not giving proper pay rises and we have got a commitment to slimming down the workforce in the very near future. It seems to me that we can at least reopen the door to proper negotiation with our workforce, restore the trust that they have lost, I believe, in us and make the most of our excellent

public sector. The way to do that, I believe, is to vote for this simple amendment that I am proposing today and I urge all Members to vote that way and I call for the appel. **[Approbation]**

**The Connétable of St. Helier:**

Sir, could I ask your guidance on a point of order? The Deputy Bailiff gave a ruling at the beginning of the debate in relation to Members who are, for example, married to teachers and I am still slightly confused about whether it is appropriate for someone in that position to vote in this matter as there may well be a direct pecuniary interest, depending on the outcome of this vote. I would appreciate your further guidance.

**The Bailiff:**

I am sorry for the delay. I am just being briefed on the detail of the Deputy Bailiff’s ruling, which as I understand it was to the effect that adopting this proposition would not directly involve payment of any additional funds to any Member or their spouse and that in those circumstances, his construction of the proposition was that Standing Order 106 required the interest as an indirect financial interest to be declared but did not prevent a Member from voting on the matter. Looking at the proposition, I think that is the correct construction of it and, therefore, as long as Members have declared their interests, they are entitled to remain, and indeed they have remained, and are entitled to vote. I invite all Members to return to their seats. Are we all clear? If not, the vote is on P.137/2018, the proposition of Deputy Southern, and I ask the Greffier to open the voting.

<b>POUR: 20</b>		<b>CONTRE: 21</b>		<b>ABSTAIN: 1</b>
Senator K.L. Moore		Senator I.J. Gorst		Senator T.A. Vallois
Senator S.W. Pallett		Senator L.J. Farnham		
Senator S.Y. Mézec		Senator S.C. Ferguson		
Connétable of St. Helier		Senator J.A.N. Le Fondré		
Connétable of St. Saviour		Connétable of St. Clement		
Connétable of St. Mary		Connétable of St. Lawrence		
Deputy G.P. Southern (H)		Connétable of St. Brelade		
Deputy M. Tadier (B)		Connétable of Grouville		
Deputy M.R. Higgins (H)		Connétable of St. John		
Deputy J.M. Maçon (S)		Connétable of St. Peter		
Deputy L.M.C. Doublet (S)		Connétable of St. Ouen		
Deputy S.M. Wickenden (H)		Deputy J.A. Martin (H)		
Deputy of St. Mary		Deputy of Grouville		
Deputy J.H. Young (B)		Deputy K.C. Lewis (S)		
Deputy K.F. Morel (L)		Deputy S.J. Pinel (C)		
Deputy of St. John		Deputy of St. Ouen		
Deputy J.H. Perchard (S)		Deputy G.J. Truscott (B)		
Deputy R.J. Ward (H)		Deputy L.B.E. Ash (C)		
Deputy C.S. Alves (H)		Deputy of St. Peter		
Deputy K.G. Pamplin (S)		Deputy of Trinity		
		Deputy S.M. Ahier (H)		

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Bailiff:**

Vice-chairman of Privileges and Procedures, do you wish to propose the arrangement of public business for January 2019?

**13. Deputy S.M. Wickenden (Vice-Chairman, Privileges and Procedures Committee):**

Looking at the Order Paper, there are 2 more items that have been lodged that will be seen, which is the Draft Air Navigation (Rules of the Air) and Jèrriais promotion. From what I see on the Order Paper with those 9 items, I do not suspect at the moment that it will go any further than one day.

**The Bailiff:**

There are no questions from Members? Very well. Thank you very much.

**CHRISTMAS GREETINGS**

**14.1 Senator I.J. Gorst:**

I will try to be brief, bearing in mind the hour, but Christmas comes but once a year. It is said that Christmas appears to be arriving earlier and earlier every year. Well, of course, we know for certain that that is the case in this Assembly this year because last year the Christmas messages of goodwill were not delivered until 14th December and yet we find ourselves giving Christmas messages of goodwill here today on the 6th, so the States can officially consider that Christmas has arrived early. It was Churchill who said that Christmas is a season not only for rejoicing but for reflection. I see some Members appear to be leaving to go and do some Christmas shopping, so another great event that the Parish of St. Helier is putting on for Islanders. **[Approbation]** But like Churchill, this time of year is a time when we look forward but it is also a time when we look back, and 2018 has indeed been an eventful year. For me, I think the most memorable part of the year has been the centenary of the end of the Great War, because that is about remembering those who gave their lives for the freedom that we in this Assembly defend and for the freedom that all Islanders enjoy. I was honoured earlier this year to represent the Chief Minister at the cathedral in Amiens where we commemorated the start of the end of the Great War. Of course, Sir, here you led a weekend of commemorations, which I think culminated in the return of the heart of the Guillemont stone into the Royal Square and I congratulate you for instigating that and in ensuring it returned home. **[Approbation]** So we had again the Parish of St. Helier and the unveiling of the new memorial in Parade Gardens, and I think that that is a fitting tribute to those Islanders who gave their lives. In November I also represented Jersey at the National Service of Remembrance in Westminster Abbey. All of these events were about paying tribute, as I have said, to those who gave their lives, without thought, for others and we still today benefit from their decisions. It is traditional during the Christmas message to wish good tidings to the media. I will let you into a secret. I find that quite tricky but I have absolutely no difficulty at all in commending the *Jersey Evening Post's* coverage of the centenary of the end of the Great War. I think that was journalism at its best. It told real stories about real Islanders, about how their lives, their families had been affected by the Great War. I wish them all the best at Christmas well as all the other media outlets.

[19:30]

We had an election. Perhaps I will not say too much about that but I would, on behalf of the Senators, like to thank all of those long-serving Members who stood down and, in many cases, served their Island for decades. We are grateful for that service. **[Approbation]** We also remember those who are no longer with us and we cannot, I do not think, have our Christmas messages and our Christmas greetings without our thoughts turning, if I may use this term, to Richard. Tributes have been paid elsewhere and I just want to say that as we see our Island lit up with the Christmas lights and decorations, for me they are this year a little bit dimmer. There is a light missing which will never light again and our thoughts and our prayers are with Richard's sons at this Christmas time. We also look forward. We have only this week agreed a new Common Strategic Policy, which has set the foundation, I would say this building on past good work, for a positive future for the next 4 years for the Island. But let us be clear, 2019 will bring change and uncertainty. We are truly living through historic days and historic times. Which of us knows what the Brexit decision will result in over the

next 12 months, not to mention, as the Deputy of St. Peter did earlier, the Chinese-US trade wars, the effect of interest rates, the global uncertainty that we are surrounded with? But I am optimistic about our future because I believe that a future that draws on our past, that allows us to work together, can provide for all Islanders a positive future. At this time we celebrate the birth of Christ and however we decide or choose to celebrate, I hope that we will celebrate it with family, with friends and with the wider community because we have been reminded once again that they are the truly important things in life. They are, for my mind, what makes this Island unique and great, our families, our friends and the strong sense of community. It normally falls to the Connétable of St. Helier to thank the Honorary Police but I want to perhaps get ahead of him, anyway he can do it again. But they, to my mind, the Parish system and the Honorary Police, embody that principle of putting others first and of understanding the need for a strong community that we can all be a part of. I know that they, along with many other voluntary workers and those working for the States, will go out whatever the weather on Christmas Day and we thank them for that and we send them our good wishes. It is traditional that the Senators send you, Sir, and Lady Bailhache Christmas greetings, His Excellency and Lady Dalton, the Deputy Bailiff, the Attorney General, the Solicitor General, the Viscount and all members of the Law Office, the Dean and Mrs. Keirle, Constables and Deputies, ushers and the tea lady; we send our very warmest Christmas wishes to you all. I heard the bells on Christmas Day, their old, familiar carols play and wild and sweet the words repeat of peace on earth, goodwill to men. That was written in the 19th century by Longfellow but, as far as the Senators are concerned, we wish to all Constables and Deputies and to all Islanders peace on earth, goodwill to all. **[Approbation]**

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

It is with great pleasure that I extend the Constables' greetings of the season to all Members of the Assembly. The Constables have been particularly busy since the general election, as no fewer than 3 of our number have been catapulted into the Council of Ministers. Constables have taken ministerial roles before and in the halcyon days of the committee system Constables were frequently given presidential responsibilities. But our new inclusive Council of Ministers has seen not only 3 members of the Reform Party brought on board, it has also been seasoned with the addition of a pair of Constables as Assistant Chief Ministers. We can imagine them sitting on either side of the Chief Minister in order to keep a hand on the tiller of the ship of State, just as the Procureurs du Bien Publique do in the Parish system. **[Laughter]** Whether it was a good thing to have Reform inside the tent remains to be seen but I am confident that the Constable senior roles in Government can only help keep the Council of Ministers in touch with the community, given how proximate and accountable we are in our Parish roles. The fact that our automatic right to sit in this Assembly makes voter equity unachievable is by the by. Speaking of the election in May, we were delighted to receive a good report on the way elections are run in the Parishes from the election observers and we offer our thanks and Christmas wishes to everyone involved in the election, including the Jurats, officers of the Greffe and Judicial Greffe and the dozens of volunteers, Honorary Police officers, who assisted, some of them working into the small hours. It is a matter of enormous regret that the late Deputy Richard Rondel, having topped the poll in his District of St. Helier, was not able to enjoy more of his third term of office. He was highly regarded by all of the Constables and is much missed. The election also produced a considerable shake-up on the Constables' benches, with the mother of the Parish being elected to chair the Comité for only the second time in its history. I am indebted to the secretary of the Comité for pointing out that on both occasions the Madam la Connétable has hailed from the leafy valleys and crystal waters of St. Lawrence, an interesting point; 5 new Constables joined the Assembly this year, although 2 have returned after lying fallow for the previous term of office. If our former colleagues are listening, and I suspect some of them are, as former States Members probably do find it hard to quit this habit, I would like to wish 4 of the 5 former Constables for St. Ouen, St. Peter, St. Mary and St. Martin a very happy Christmas. The fifth one, the former Constable of St. Brelade, has of course returned as a Senator and we wish him and his fellow Senators

and the Deputies the compliments of the season. This year has seen the conclusion of 4 years' commemorations of the centenary of the First World War. You, Sir, and your predecessor have championed and facilitated several memorable events, culminating in the return of the Heart of the Guillemont Stone to its resting place at the front of this building. We are most grateful to you and your staff for these occasions. As you have announced your retirement next year, this is the last time the Constables will be able to wish you, Lady Bailhache and your family a very happy Christmas and a restful new year. We know, Sir, how much you enjoy chairing this Assembly and you will no doubt be counting off the days until we are back in the middle of January. We also thank the Deputy Bailiff, the Greffier, Deputy Greffier and Assistant Greffier for the occasions when they have taken the Chair and we wish them and their families a happy Christmas. **[Approbation]** His Excellency, the Lieutenant Governor, has, I am sure, enjoyed his membership of the States this year, while he and Lady Dalton followed an enormously full programme of visits around the Island, especially in support of the hundreds of charities, schools and the like. We wish them a well-deserved rest and a happy Christmas with their family. We hope that the Dean and Mrs. Keirle enjoy the season, in spite of his numerous duties, as well as the rectors of the 12 Parishes. We also extend our Christmas wishes to the other faith leaders of the Island who provide such a great deal of support for the community, especially the new leader of the Catholic community, Canon Golding, who will be experiencing his first Jersey Christmas and the Methodist community, the Baptist community, the Muslim community and all other faiths. As you know, the Island's Honorary Police epitomises all that is best in our long tradition of voluntary service **[Approbation]** playing a unique and vital role in Jersey's criminal justice system, facilitating the numerous events that take place throughout the year in Jersey and assisting the States Police and maintaining public order and community safety when these crucial components of our quality of life are under threat in many parts of the world. The Constables are extremely grateful to the Honorary Police for the work they do and we also express our thanks and our good wishes at Christmas to the many others in each Parish, both members of the municipality and members of the third sector who give their time, their skills and their money in support of the community. The Constables thank the Attorney General and Solicitor General for their advice this past year and wish them a well-deserved break with their families and a chance to unknot their brows after all the questions Deputy Higgins throws at them. We extend warm Christmas greetings to the Viscount and his staff, the ushers, Stewart, Paul and Marios, and the media. We wish Jan, our tea lady, a merry Christmas, as we do the press and the many other people associated with the efficient running of the Assembly. We wish all our parishioners a peaceful and enjoyable Christmas and best wishes for a peaceful and fulfilling 2019. **[Approbation]**

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

I will be brief. I have not been that well today. If we had not had such an important debate earlier I may in fact have gone home but I will try and say a few words from the Deputies. It has been a new Assembly since May and I, like many other Members, think that we have a really, really inclusive Assembly; we have some really younger Members, we have new Constables and we have right across the board some different input from perhaps the last 3 to 6 years. But I have been here 18 years and I can go back and remember some fantastic characters and some really great debates. Over the years, as I think Senator Gorst said, we have, one way or the other, lost some really fantastic States Members who will be missed. I did want to say - Deputy Higgins said it the other day - we do have some really, as I say, new people and it is just a lovely place to be. It should not and does not get personal. I hope we can all just carry on. As I say, we have had a really long debate and it was very close but I respect everybody who voted on - 20 - Deputy Southern's amendment. Because that is the way I like to be, I do not try to get too personal; obviously sometimes I do when I am speaking. But I really have not written much down this year. I would be remiss if I did not say Deputy Doublet and Deputy Perchard are very impassioned on getting more diversity and absolutely more women in the States. But also, I would say I think the women we have, it is about quality, absolute quality. **[Approbation]** I think all our female States Members, from whatever political spectrum they are, absolutely bring

some much needed common sense sometimes and we can bang our fellow male States Members heads together when and if needed. Sir, all I would like to say, on behalf of all the Deputies here, is to you and Lady Bailhache, a very, very merry Christmas, also to the Deputy Bailiff, the Attorney General, the Lieutenant Governor and Lady Dalton, Her Majesty's Solicitor General, the Dean and Mrs. Keirle, the Viscounts, the Deputy Viscounts, the Assistant Greffier and the staff at the Greffe and especially the clerks who help Scrutiny; they are all fantastic. **[Approbation]**

[19:45]

Obviously, our ushers, Stewart, Paul, Dean and Marios and, of course, our tea lady, Jan. To the Senators' benches and the Constables' benches, it has been a really, really great year. This is my 18th Christmas, Sir. I told Deputy Morel I was his age when I started. **[Laughter]** I do not think he believes me. But I cannot finish without saying ... I am sorry, Sir, I cannot say it. I am so sorry, I wanted to say to Deputy Rondel's family I was so sad I had to miss the funeral. But my dad met him once and my dad was a lifelong Spurs supporter and he walked away and said: "That man has got shares in Arsenal but what a gentleman, what a gentleman." I am sorry I did that. To his family and, as Senator Gorst said, we will miss him, miss him. He was the most lovely person and the Deputies' benches are very much sad for not having him here. **[Approbation]**

#### **14.4 The Bailiff:**

Senator Gorst, the Connétable of St. Helier, Deputy Martin, thank you very much for your remarks, which you have made. Can I say to the Senator, and particularly your comments in relation to the World War I centenary, where the staff and my department really put together a magnificent series of events? If I have not thanked them publicly, I am pleased to do so now because they have put on a tremendous job. **[Approbation]** In that context, the staff in my department, of course, includes the ushers and I am very pleased that we have at least one usher here tonight. It gives me an opportunity to thank him and the States Greffe staff, who have stayed late tonight because the Assembly has been debating an important proposition from Deputy Southern, and it is absolutely right that we have stayed late, but nonetheless, staff members have had to stay and support the Assembly. I would like to express our thanks to you, **[Approbation]** and while I am doing that, to express thanks generally to the Greffier and the Deputy Greffier, the Assistant Greffier and all the staff in the Greffe for the help they give us through the year. **[Approbation]** I am glad the Connétable mentioned the Jurats in the context of the review of the elections by the Commonwealth observers. The Jurats are quite good at doing elections and they also put in an enormous amount of time at other parts of the year, as you will all know. We did a calculation the other day and roughly it is equivalent to about half a full-time job, being a Jurat, and it is unpaid. They do that for service of the community, which is a tremendous gift on their behalf to their community. **[Approbation]** At the time of the broken shard debates, when President Bush was elected in America some years ago, it was suggested that perhaps the Jurat should be sent out there to manage the American presidential elections. This other question that you raise, Connétable, that maybe I did not enjoy being in the Assembly is of course absolutely wrong. I have been counting the days to the next meeting. There are going to be 40 of them, and it is a rather biblical thing, usually 40 days of Lent rather than 40 days of anything else, so despite the brilliance of Christmas, we will be going without the Assembly for 40 days. I am sure that means that we will return in the New Year full of vigour and energy to celebrate, as the end of Lent often always does result as well in a celebration. This is a relatively new Assembly as an Assembly, as they have really only just started work in the last couple of months, debating the issues which have needed to be debated, although the work on those issues has of course been going on since the elections took place last May. It is an Assembly which is going to be looking inwards and outwards. Inwards, at a personal level, mention has already been made, but I wanted to say as well from the Chair that we all grieve for the loss of Deputy Rondel and wish his family as good a Christmas - and it is going to be a difficult one - as they could possibly hope for this year. Now, at a business level, look inwards for the Assembly over the next year, there

will be things to think about no doubt on the constitution of the elected Assembly, no doubt on the role of the Bailiff and the part which the Bailiff ought to play, and I hope that I will be making some sensible contribution in that matter in respect of myself. In fact, I have already made some suggestions to the working party, which obviously will be for Members to consider in due course. There may be other things which Members might want to think about in terms of the construction of the States. One of them is the election timing, because there undoubtedly have been some advantages in having such a long delay between July and the next sitting in September, when it means ministerial colleagues can get together and start doing some hard work on the Strategic Plan. On the other hand, that long gap after the elections themselves and the new Council of Ministers has been elected does leave the public with the view that not much is happening in the States for a long time. I think there is a tension there which just needs to be considered a little bit in terms of election timing. I think added to that there is a possible question which needs to be addressed as to whether there ought to be some provision in the States of Jersey Law which would allow the calling of earlier elections than the fixed-term election that we have at 4 years. It is possible to imagine circumstances where, for one reason or another, the Assembly's governance just no longer works properly and everyone could agree with that, but could not find a solution, and at that time another election would be the right thing to do. The mechanism for how that is done is a different issue, but these are things which I respectfully suggest to Members ought to get attention early on in a parliamentary session, because if you leave it until the last 6 months, it will be too difficult and it will not be done. I am sure that it is something that the Privileges and Procedures Committee will want to give consideration to. The new Assembly is going to be looking outwards, of course, too, to the community of the Island, for the really positive contribution which all have made to the Strategic Plan. As Deputy Martin has mentioned, the feeling of goodwill around the Chamber I can tell you from the Chair has been absolutely palpable, you can touch it, and it is a great pleasure to see. Of course there will be arguments, there will be debates, and we have just had one, and there were some very good debates on the Budget as well. There will be debates about our obligations to communities outside the Island too, whether it is through overseas aid or otherwise. Those debates generally will focus about how money should be spent and how it should be raised and it will inspire different views and passionate speeches and there will be debates about the Island's identity and perhaps about constitutional privileges and how they can be protected. Sometimes there will be debates about where the line should be drawn between preserving traditional Jersey and ensuring the Island operates in a modern and efficient and human rights consistent way. So those arguments will produce passionate speeches and differences and that is the way it should be, because this Assembly is about a democracy. It is the lifeblood of a healthy democracy, which it is the job of all of us to defend. Although with passion people sometimes say things they do not always mean, sometimes they frame their remarks in a way which carries unintended offence; Deputy Martin was absolutely right to stress that in this Assembly. We are to make our contributions and as far as possible look for the good in what others have said and not take offence from a different point of view. The Christmas break gives us time to do that, to regroup, to refocus on our core objectives for our lives in the coming year. The raging torrents of the Assembly over the next few weeks will become a murmuring, gently gurgling brook and I myself am looking forward to that. For myself and on behalf His Excellency, the Deputy Bailiff, the Dean, the Law Officers and our respective spouses and partners, I thank Members for their good wishes and in return I wish you all the peace and joy of Christmas and a restful break before the challenges of the New Year. **[Approval]** Now the States will stand adjourned until 9.30 a.m. on 15th January.

## **ADJOURNMENT**

[19:56]