

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 9th DECEMBER 2014

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[9:30]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

1.1 Welcome to His Excellency The Lieutenant Governor

The Bailiff:

I am delighted to welcome His Excellency to this last sitting of the Assembly before the recess.
[Approbation]

1.2 Welcome to the Chief Minister of Guernsey, Deputy Jonathan Le Tocq

The Bailiff:

It is also, I think, increasingly important in these days of international matters that the Channel Islands work closely together and I know that our Government seeks to work closely with the Government of Guernsey. So it is particularly appropriate I think, and a great pleasure for us, that the Chief Minister of Guernsey, Deputy Jonathan Le Tocq, is in the Chamber, in the public gallery and I am sure Members would wish to welcome him today. **[Approbation]** Very well, I have no other matters under A. Under B and C, matters are as set out in the Order Paper.

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

2. Election of a Member and an Associate Member to represent the States of Jersey on the British-Irish Parliamentary Assembly

The Bailiff:

Then we come, under F, to Appointment of Ministers, Committees and Panels and the first matter is election of a member and associate member to represent the States of Jersey on the British-Irish Parliamentary Council. The Greffier has set out the procedure in a note so that nominations are invited from the floor and each nomination needs to be seconded. If there is more than one nomination a secret ballot will be held. So I invite nominations for the position of member, first of all, of the British-Irish Council.

2.1 Senator I.J. Gorst:

Sir, I should like to nominate Deputy Le Fondré.

The Bailiff:

Deputy Le Fondré. Is that nomination seconded? **[Seconded]** Are there any other nominations?

2.2 Connétable L. Norman of St. Clement:

Yes, Sir, I would like to nominate Deputy Andrew Lewis.

The Bailiff:

Deputy Andrew Lewis. Is that nomination seconded? **[Seconded]** Any other nominations? No. Very well. So we have 2 nominations so we therefore have to move to a secret ballot and I will ask that ballot papers be distributed. Now, this is a secret ballot so can I just remind Members, you write on one name and that is the name of the candidate whom you wish to support. Have all Members received ballot papers? Very well. I ask for the ballot papers to be collected then. Very well. Then I ask the Solicitor General and the Viscount to act as scrutineers, please. Now, we also have to elect an associate member but may I suggest for the moment we defer that perhaps until we know the result of the election for membership of the Assembly.

3. Nomination of Deputy J.A. Martin of St. Helier as a member of the Environment, Housing and Technical Services Scrutiny Panel

The Bailiff:

So we will move on to the next matter which is the nomination of Deputy Martin as a member of the Environment, Housing and Technical Services Scrutiny Panel. Connétable.

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

Yes, I would like to propose Deputy Martin. I am very grateful to her for being willing to serve on the panel and I think I need the States approval to increase the membership to 4 to allow that to happen.

The Bailiff:

To 4, very well. Is the nomination seconded? **[Seconded]** Any other nominations? Very well, then I declare that Deputy Martin is elected as a member of the Environment, Housing and Technical Services Scrutiny Panel. **[Approbation]**

4. Resignation of Deputy S.M. Wickenden of St. Helier as a member of the Education and Home Affairs Scrutiny Panel

The Bailiff:

I can also inform Members that Deputy Wickenden has resigned as a member of the Education and Home Affairs Scrutiny Panel. Deputy Doublet.

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

Could I just say thank you to Deputy Wickenden for the time that he did spend with us. **[Laughter]** We do understand that his reasons were that he had a conflict because he was on the Police Authority so we are grateful for that openness and that was the reason. I invite Members to come and join us as we do have a space now, so please come and talk to me if you wish to be on the panel. Thank you.

5. Nomination of Deputy K.C. Lewis of St. Saviour as a member of the Corporate Services Scrutiny Panel

The Bailiff:

Very well, and then there is a nomination of Deputy Kevin Lewis as a member of the Corporate Services Scrutiny Panel.

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

I would like to increase the size of the corporate panel to 4, please, Sir, and then to also nominate Deputy Kevin Lewis as a member of the panel.

The Bailiff:

Is that seconded? **[Seconded]** Are there any other nominations? Very well, I declare that Deputy Kevin Lewis is appointed as a member of the Corporate Services Scrutiny Panel. **[Approbation]** While we await the result I suggest we move on to questions.

[9:45]

QUESTIONS

6. Written Questions

6.1 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING MANAGEMENT OF THE CONSOLIDATED FUND:

Question

Following the publication of the measures proposed to manage the Consolidated Fund (as amended) in the Addendum and Budget Statement (pages 75 to 78), will the Chief Minister inform members when he expects Ministers to report how they will deliver the measures that apply to their respective departments and whether he will undertake to publish a summary document of their responses, paying particular attention to:

- proposed 2% savings on departmental budgets;
- measures to deliver the 1% reduction in pay budgets;
- introduction/increases in user pays charges;

and if not why not?

Answer

It is important that Ministers take ownership of these efficiency savings and work together to minimise the impact on services. The Council of Ministers will receive a report early in 2015, which will identify how each department is delivering the required 2% savings for 2015.

The measures departments will use to deliver these savings on a recurring basis from 2016 will be required in order to provide an appropriate starting point for the next MTFP 2016-2019. The intention is that a summary of these measures will be provided in the MTFP Department Annex for 2016-2019 together with details of the progress of the 2015 pay negotiations.

The MTFP 2016-2019 is due to be presented to the States at the end of June 2015, 12 weeks before the proposed debate of 22 September 2015.

6.2 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING TAX REVENUES:

Question

Despite the fact that the shortfall in 2014 and 2015 tax revenues of some £75 million was partly put down to the mistaken expectation of a rise in interest rates, leading to growth in financial services profits, (Long Term Revenue Planning Review, R.136 /2014, page 11) what justification, if any, can the Minister give for a predicted increase in 2016 income tax revenues of 5% from £455 million to £475 million; to what extent is this estimate dependent on a rise in interest rates and what evidence does the Minister have that interest rates will rise significantly in the short term?

Answer

The figures referred to are the Income Tax Forecasting Group's May 2014 forecast for income tax revenues. They are based on the latest economic developments locally and internationally, and the most recent Fiscal Policy Panel growth forecasts for Jersey's economy.

The central income tax forecast is for £444m in 2014, £455m in 2015 and £475m in 2016. This forecast is lower than the central forecast in the MTFP by £31m in 2014 and £45m in 2015. This is mainly because the economy has performed less well than expected in 2012 and 2013 as a result of a much weaker than anticipated global economy and the unexpected depth and length of the euro crisis. In particular, this has meant that earnings and employment growth has been weaker than expected in Jersey with the consequence that personal tax has not recovered in line with previous expectations.

The estimated increases in income tax revenue in 2016 referred to by the Deputy are based on Jersey's economy returning to modest growth and in particular, continuation of the real earnings growth (1% above RPI) and employment growth (1.1%) seen in 2014.

The interest rate expectations used in the forecast are based on the market expectations published by the Bank of England in its quarterly Inflation Report. The expected rise in interest rates does lead to an increase in corporate tax revenue but this is smaller than the increase in personal tax that could arise if the economy performs as assumed.

6.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING TAX REVENUES:

Question

Will the Minister advise:

- (a) To what extent the shortfalls in tax revenues for 2014 and 2015 at a time when unemployment is reducing, are an indication that, like the United Kingdom, the jobs that are being created are in low paid sectors?
- (b) Whether the increase in grant aid from £3.2 million in 2013 to £4.4 million in 2015 (pages 34 to 35 of R.167/2014 refer) indicate that the current policy of supporting Jersey Finance Limited and growing the high value sectors is failing, and if not, why?
- (c) How the target of a 2% cut in the Department's budget referred to on page 35 of R.167/2014 is justified?

Answer

The Treasury and Resources Minister presented R.167/2014 (the MTFP Department Annex for 2015) to the States on the 25th November. This document identifies the approach being taken by all departments to address the 2015 budget measures.

- (a) The shortfalls in tax revenues forecast for 2014 and 2015 (relative to those in the MTFP) are because the economy has performed less well than expected in 2012 and 2013 as a result of a much weaker than anticipated global economy and the unexpected depth and length of the euro crisis. In particular, this has meant that earnings and employment growth has been weaker than expected in Jersey and this has impacted on personal tax revenues.

The indications from the most recent labour market data do not suggest that “the jobs that are being created are in low paid sectors”. ASW numbers peaked in early 2013 and have fallen over 20% since then. Between June 2013 and June 2014, employment in financial services increased by 110, with increases in trust and legal outweighing a fall in banking employment.

Employment in private sector health, education and other services increased by 410 and there were also small increases in employment in computing (40) and construction (30). In addition, average earnings in Jersey increased by 2.6% in 2014, representing the second consecutive year in which average earnings increased faster than inflation.

- (b) The current policy of supporting Jersey Finance Limited and growing the high value sectors through a combination of inward investment and skills development is not failing.

We are seeing an increase in financial services employment, positive indicators for the sector in the Business Tendency surveys and a strong and continuing interest in the Island as a jurisdiction of choice for financial services businesses, both in terms of physical establishment and use of products and services.

Jersey Finance runs an Employment and Growth survey with their members. The most recent survey undertaken in October 2014 shows that over the next five years the industry expects to increase headcount by in excess of 1,000 jobs.

Jersey Finance also has an active inward investment pipeline and success is coming from this. Since the beginning of 2013 the activity Jersey Finance has undertaken, working in collaboration with Locate Jersey, has resulted in both new entrants to the Island, including Carne Global, Kennedy Wilson and Stratton Street, and existing players increasing their levels of substance and investment in the Island for example CVC Capital Partners Jersey, Ardian, Brevan Howard and Abu Dhabi Commercial Bank.

A current example of a success story is the relocation of Bluecrest, one of Europe’s largest hedge funds, from Guernsey to Jersey bringing with it approximately £16bn of assets under management (AUM) and a number of high earning individuals. Inward investment creates a number of new employment opportunities for locals with Jersey Finance estimating that approximately 70 jobs have been created by new entrants since 2013.

Jersey Finance Limited as an organisation are often considered best in class amongst IFC promotional organisations. The significant scope of work that Jersey Finance undertakes - as well as business development and inward investment activity - includes technical development, innovation, and long term strategic planning for the financial services industry. Jersey Finance also delivers considerable schools and colleges liaison, and has been closely involved with the introduction of tertiary level financial services education choices in the Island. This has seen recruitment of local school leavers and graduates rise to 310 on the last reported figures, from a long term run rate of circa 220 – extra 90 net jobs for local young people.

An increase in the level of funding provided to Jersey Finance is therefore an indicator of success as well as confidence by Government that Jersey Finance will deliver a corresponding return on investment, that helps sustain the delivery of high quality frontline services to Islanders.

- (c) The target of a 2% cut in the Department's budget in 2015 is the same target as set for all departments and agreed by the Council of Ministers as part of the Budget measures to balance the Consolidated Fund.

The proposed measures will undoubtedly put significant pressure on the Department's budget and this is likely to have a direct impact on our ability to invest fully in measures designed to stimulate economic growth, support local businesses and increase productivity across all sectors of the economy.

The total value of savings allocated to Economic Development amounts to £420,000 and the Department is fully committed to achieving this target with discussions ongoing with Budget Managers regarding the range of detailed measures which could contribute towards the overall saving.

6.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING PROPOSALS TO DELIVER 2 PER CENT BUDGET REDUCTIONS ACROSS ALL DEPARTMENTS:

Question

Has the Minister yet finalised proposals to deliver the 2% reductions required of all departments, as shown on page 68 of R.167/2014, and, if not, when does he intend to consider:

- the re-phasing of the planned implementation of P82/2012;
- delays in other planned developments;
- a reduction in the provision of existing services;
- the risk of Health and Social Services no longer being able to follow United Kingdom standards for technologies, treatments and drugs;
- the potential increase in waiting times / reduction in patient satisfaction.

Will the Minister further state whether the extent of the budget reductions will be limited to the £4.7 million indicated on page 68 or the £10.5 million that is indicated elsewhere?

Is the Minister confident that a pay award for staff within the 1.5% limit for 2015 contained in the Addendum to the 2015 budget as amended can be achieved whilst maintaining the ability to recruit and retain properly trained and experienced staff?

Answer

The Department has commenced work on identifying how it will achieve the 2% reductions identified in the 2015 Budget. The full detailed planning is not yet complete.

The Department takes a very proactive approach to financial management and is constantly challenging itself to deliver cash releasing efficiencies and productivity improvements. This helps mitigate against the ever increasing demand and cost of health and social care through a combination of reallocating existing resources and delivering more care with the same or less resource.

Prior to the preparation of the 2015 Budget, the Department had already identified and planned to deliver savings and productivity improvements in excess of £3 million in 2015.

The 2015 Budget set out further proposals including a 2% reduction in gross expenditure budgets, amounting to £4.7 million and an overall reduction in carry forwards from 2014, which could be up to approximately £2.5 million for the Department. Together these figures could amount to up to £10.5 million.

Delivering services within this reduced level of spend will require a reworking of previous plans, including P82/2012 initiatives. This will be done in light of learning from pilot initiatives undertaken to date, feedback on new services already implemented and latest research.

The Department intends to continue targeting the same outcomes for patients, while acknowledging that there is a reduced level of funding available, and is committed to living within its means.

Patient safety and access to high quality care and services for all patients, residents and their families will always remain the priority, and all options to achieving these savings will continue to be carefully considered and assessed in terms of the impact on patients.

2015 staff pay, terms and conditions are a matter for the States Employment Board. Recruitment and retention is not solely related to pay; many factors impact upon individual decisions on changing jobs and/or relocating to or from the island. The Department is committed to continue working with SEB, other Departments and its staff on these issues.

6.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE BENEFITS ADMINISTERED BY THE DEPARTMENT:

Question

Does the Minister consider that any of the benefits administered by her Department are “generous” and would she outline how the reduction of Income Support from £86 million to £83 million in 2015, outlined on page 94 of R.167/2014, reconciles with the statement in the following paragraph that the number of new claims will continue to increase in current economic conditions requiring additional funding for staff?

Answer

R.167/2014 is the annual update to the MTFP Department annex for 2015. Page 94 of the annex provides information on the three-year funding plan for Social Security.

In approving the three year MTFP in 2012, the States noted that the island was facing the impact of a global recession and there were likely to be additional costs associated with an increase in unemployment amongst the local population. The prudent position suggested by the Treasury and Resources Minister and supported by the Minister for Social Security was endorsed. Substantial sums were allocated as part of the MTFP process for Back to Work initiatives and increases in weekly Income Support expenditure over the 2013 – 2015 period. The budget reduction of £3 million referred to in the question was also agreed in 2012 as part of the overall MTFP package.

The figures quoted in the question relate to the budget for Income Support, not the actual amount spent.

As anticipated, expenditure in this area has increased during the recession but, due to significant efforts by government and local businesses, the impact of the recession has not been as severe as

originally provided for. Expenditure did not reach the budgeted level in 2013 and it was possible to transfer £11.7 million from unspent budget in this area into the long-term care fund at the end of last year, to allow the Long-term Care scheme to commence, as planned, in July 2014.

The provision for additional staffing costs agreed in 2012 was based on the increase in benefit activity associated with a weak labour market. As claimants are more likely to be moving in and out of jobs, and as wages fluctuate, additional staff are needed to maintain the correct level of benefit for all claimants.

The island faces significant financial pressures over the next few years. All departments will need to review the services they provide and the income that they collect. We already know that changes are needed to the Social Security Fund to maintain the viability of our pension scheme. As Minister, I am committed to reviewing and updating benefits to ensure that we continue to strike the right balance between the benefit claimant, the taxpayer and the contributor.

6.6 DEPUTY M.R. HIGGINS OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE POWER TO DIRECTLY FILE OR INSTIGATE CHARGES IN THE MAGISTRATE'S COURT:

Question

Will H.M. Attorney General advise Members whether the Law Officers' Department has, at any time, given the Planning Department or Planning Enforcement Officers the power to directly file or instigate charges in the Magistrate's Court without first requiring the case files to be supplied to the Law Officers' Department for consideration and approval, and if so, would the Attorney General set out for Members:

- (a) why, when, and in what circumstances this occurred;
- (b) the number of cases involved;
- (c) how many cases were prosecuted by Centeniers on behalf of the Planning and Environment Department and the outcome of those cases (whether the defendant pleaded guilty or not guilty and whether the defendant was convicted or acquitted after trial);
- (d) how many cases, once commenced by a Centenier, were taken over by a legal adviser or representative of the Law Officers' Department and the outcome of those cases?

Answer

Guidance issued to States Departments is available on the Law Officers' Department website and it makes it clear that all matters considered appropriate for prosecution should be referred to my office for a legal adviser to decide whether a prosecution should be brought. That is and has been the almost invariable practice. However, I am aware that there have been two instances of proceedings being started in the Magistrate's Court – one in 2012 and one in 2013 – as a result of a direct approach by officials from the Planning and Environment Department to the Honorary Police. Both cases were dealt with initially by a Centenier in the Magistrate's Court. Both defendants pleaded not guilty and the matter was referred to the Legal Advisers at Police Headquarters who subsequently handled the cases on my behalf. In the one case, the charges were dropped and, in the other, the defendant changed his plea to guilty.

As a result of these cases, guidance was given to the Honorary Police that they should ensure that advice had been given on my behalf by a Legal Adviser before charging any cases which had been referred to them by States' Departments. I have no reason to believe that this practice is not being followed in all such cases.

6.7 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING OPERATION RECTANGLE:

Question

Will the Minister advise Members whether the milk teeth recovered during Operation Rectangle were subject to analysis to determine their age and other factors after 12th November 2008, and detail:

- (a) when they were tested and by whom;
- (b) what tests were carried out and the conclusions reached from those tests;
- (c) whether there has been an unbroken chain of signed custody for the teeth from the moment they were recovered to the present day;
- (d) whether the teeth remain in the custody of the States of Jersey Police or with another agency, and if the latter the name of the agency;

and if not, why not?

Answer

- (a) As the teeth were found, they were viewed in batches by Dr Paul Liddiard (local Forensic Odontologist) and confirmed to be human milk (deciduous) teeth. All of the teeth were then sent to Dr Freddie Martin (a UK based Forensic Odontologist) again in batches. He also confirmed the identification of the teeth. All examinations were carried out on various dates prior to 12th November 2008.
- (b) On all teeth – visual examination and identification as being human deciduous teeth.
- (c) Yes, there has been an unbroken custody and continuity of the all exhibits.
- (d) The teeth are retained and held by the States of Jersey Police.

6.8 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING TRUANCY:

Question

Will the Minister provide members with the following information regarding students who are absent from school without permission, and not related to illness:

- (a) any legislation which applies and the powers of the Department;
- (b) the Department's policy in respect of repeated and extended absences from school;

- (c) the number of staff directly employed in monitoring and dealing with such absence;
- (d) details of any liaison that takes place between the Department, schools, police and social workers in respect of this area;
- (e) a table showing the name of each school, the number of students in each school, and the number of children who have been absent without permission for:
 - (i) one week;
 - (ii) two weeks;
 - (iii) three weeks;
 - (iv) four weeks;
 - (v) four weeks or more;

during the school term from September 2013 to June 2014, together with the percentages of truancy for each school.

Answer

(a) any legislation which applies and the powers of the Department;

Good attendance is recognised as a major factor in a child's success in education so every effort is made by schools and ESC, working with families, to maximize attendance for every student. Unauthorized absence in Jersey is lower than the UK national average.

Under Article 12 of the Education (Jersey) Law 1999 parents or guardians are responsible for ensuring that any child of compulsory school age receives a full-time education. The law states:

A parent of a child of compulsory school age shall ensure that the child receives full-time education appropriate to the child's age, ability and aptitude, and any special educational needs the child may have, either by regular attendance at a school at which the child is a pupil or otherwise.

The law also states that a parent who fails to comply is guilty of an offence and liable to a fine not exceeding level 2 on the standard scale.

Under Article 14 the ESC Minister can seek an Education Supervision Order (ESO). This power is delegated to the ESC Attendance Panel, which can also recommend a referral to the Parish Hall with a view to prosecution.

(b) the Department's policy in respect of repeated and extended absences from school;

The aim of the Education Welfare Service (EWS) at Education, Sport and Culture is to prevent any absence from becoming repeated or extended where possible. Prosecution under the law is a last resort. The EWS works in close partnership with schools and families to provide support, advice and guidance to determine the appropriate action needed where concerns emerge regarding a child's attendance. The policy and procedure for dealing with absences is as follows:

Stage 1: School monitoring

Attendance is recorded twice a day in school and reasons for absence are monitored.

Stage 2 & 3: Initial assessments and multi-agency meetings

Where school strategies have been unsuccessful advice is sought from the Education Welfare Officer (EWOs) for primary schools, or Attendance Officers (AOs) in secondary schools.

Contact is made with parents/carers to establish the cause of absence. This often involves home visits to support the family and identify strategies to improve attendance. Where underlying problems exist, an assessment meeting is arranged and where necessary a multi-agency approach is taken to help meet the needs of the child and support the family to enable regular school attendance.

Stage 4: Warning Letter

If there is no significant improvement in attendance, a warning letter is sent by school to remind parents/carers of their legal responsibility to ensure their child attends school. If there is still no improvement the Senior Education Welfare Officer (SEWO) will send a formal warning letter.

Stage 5: School Attendance Meeting

Parents/carers are invited to a meeting in school to discuss their child's attendance and to explore ways of working together to improve the situation. An individual Action Plan (IAP) may be drawn up to assist the parents and the pupil in reaching agreed targets. Progress will be reviewed after an agreed period of time

Stage 6: Attendance Panel

If there is no significant improvement in attendance by a certain date the IAP can be reviewed or the case can be referred to an Attendance Panel at ESC. The criteria for referral to a panel include:

- Sporadic attendance below the level expected for the student's age
- Long term record of school refusal
- Where the parent/carer has not cooperated with actions designed to improve attendance
- Where poor punctuality is impacting significantly on school attendance

The panel consists of the Senior Education Welfare Officer, Head of Inclusion or Senior Manager from ESC, external agency manager, school staff and representatives of other departments as required

The parent/carer and child/children, if age appropriate, will be required to attend the Attendance Panel Meeting.

The panel has delegated powers to recommend a referral to the Parish Hall with a view to prosecution. It can also apply to the court for an Education Supervision Order.

(c) the number of staff directly employed in monitoring and dealing with such absence;

Primary schools: Four Education Welfare Officers work with the States primary schools as well as some of the private schools and they monitor and deal with absences as part of their role. One of the four also supports D’Hautree House School and the Alternative Curriculum. The team is managed by the Senior Education Welfare Officer.

Secondary schools: There is an Attendance Officer in each of the four 11-16 schools.

(d) details of any liaison that takes place between the Department, schools, police and social workers in respect of this area;

The circumstances of each child vary and a range of professionals will be consulted according to the needs of each individual student.

There is daily contact between the department and schools. This can include headteachers, heads of year, special educational needs co-ordinators and teachers who are designated safeguarding leads.

The role of the EWOs and AOs involves a high level of interagency working including liaison with social workers where children have an assigned social worker.

The four EWOs each work with the Multi-Agency Safeguarding Hub (MASH) for a full week on a rota basis. This involves close liaison with all schools, colleges, police and social workers.

More recently a community police officer has also been assigned to secondary schools.

(e) a table showing the name of each school, the number of students in each school, and the number of children who have been absent without permission for:

- (i) one week;**
- (ii) two weeks;**
- (iii) three weeks;**
- (iv) four weeks;**
- (v) four weeks or more;**

during the school term from September 2013 to June 2014, together with the percentages of truancy for each school.

Answer

Table 1 below shows attendance and absence (authorised and unauthorised) rates by school in Jersey. Please note that for secondary schools, sessions missed due to ‘study leave’ (authorised absence) have been removed from all calculations to provide an objective and fair comparison of attendance/absence behaviour; secondary schools in Jersey have different policies regarding the number of sessions that pupils are permitted to spend out of school in preparation for KS4 examinations.

Table 1: Attendance and absence rates by school in Jersey; academic year 2013/2014

	Attendance	Authorised absence	Unauthorised absence
Secondary schools			
Grainville Secondary School	93.6	4.9	1.5
Haute Vallee Secondary School	93.3	4.9	1.8
Les Quennevais Secondary School	93.3	5.3	1.4
Le Rocquier Secondary School	93.9	4.7	1.4
Hautlieu School	95.3	4.6	0.1
Jersey College for Girls	95.5	4.3	0.2
Victoria College	96.4	3.3	0.3
Primary schools			
Bel Royal Primary School	95.4	4.5	0.1
d'Auvergne Primary School	96.2	3.7	0.2
First Tower Primary School	96.2	3.7	0.1
Grands Vaux Primary School	95.3	4.3	0.4
Grouville Primary School	96.2	3.8	0.1
Janvrin Primary School	96.0	3.5	0.5
JCG Preparatory School	97.1	2.6	0.4
La Moye Primary School	96.4	3.2	0.4
Les Landes Primary School	96.4	3.6	0.1
Mont Nicolle Primary School	96.2	3.7	0.1
Plat Douet Primary School	96.1	3.8	0.1
Rouge Bouillon Primary School	94.8	4.7	0.5
Samares Primary School	95.8	3.9	0.3
Springfield Primary School	95.5	4.1	0.4
St Clement's Primary School	96.0	3.9	0.1
St John's Primary School	96.9	3.0	0.0

St Lawrence Primary School	95.9	3.9	0.2
St Luke's Primary School	96.3	3.6	0.2
St Martin's Primary School	96.4	3.6	0.0
St Mary's Primary School	95.5	4.5	0.0
St Peter's Primary School	95.8	4.1	0.1
St Saviour's Primary School	96.1	3.9	0.1
Trinity Primary School	96.3	3.7	0.0
Victoria College Preparatory School	96.7	3.2	0.1

❖ All numbers have been independently rounded to one decimal place

Primary schools

Table 2 shows the number of pupils that were absent from school without permission, during academic year 2013/2014, as well as the average number of pupils on roll throughout the year. Data reflects pupils in years 1 to 6 (reception class is not included because students do not all start at the same time) in Jersey primary schools. In the interests of disclosure control any number less than 10 (including 0) has been denoted by an x.

Please note that unauthorised absence includes;

- Family holidays that were not agreed or were in excess of any prior agreement
- No reason for the absence was provided
- Unauthorised absence (not covered by any other code/description)
- Late (more than 30 minutes after registration closed)

Table 2: Average number of pupils on roll and number of pupils that took unauthorised absence during academic year 2013/2014, by primary school in Jersey

	Number of pupils	Between 1 & 2 weeks	Between 2 & 3 weeks	Between 3 & 4 weeks	More than 4 weeks
Bel Royal Primary School	154	x	x	x	x
d'Auvergne Primary School	286	x	x	x	x
First Tower Primary School	293	x	x	x	x
Grands Vaux Primary School	121	x	x	x	x
Grouville Primary School	312	x	x	x	x
Janvrin Primary School	309	10	x	x	x

JCG Preparatory School	285	19	x	x	x
La Moye Primary School	275	18	x	x	x
Les Landes Primary School	143	x	x	x	x
Mont Nicolle Primary School	153	x	x	x	x
Plat Douet Primary School	299	x	x	x	x
Rouge Bouillon Primary School	319	15	x	x	x
Samares Primary School	215	x	x	x	x
Springfield Primary School	153	x	x	x	x
St Clement Primary School	152	x	x	x	x
St John's Primary School	146	x	x	x	x
St Lawrence Primary School	154	x	x	x	x
St Lukes Primary School	155	x	x	x	x
St Martin's Primary School	152	x	x	x	x
St Mary's Primary School	142	x	x	x	x
St Peters Primary School	171	x	x	x	x
St Saviour's Primary School	158	x	x	x	x
Trinity Primary School	155	x	x	x	x
Victoria College Preparatory School	287	x	x	x	x

Secondary schools

Table 3 shows the number of pupils that were absent from school without permission, during academic year 2013/2014, as well as the average number of pupils on roll throughout the year. Data reflects pupils in years 7 to 11 in Jersey secondary schools. Years 12 and 13 are not included because this is not part of compulsory education. In the interests of disclosure control any number less than 10 (including 0) has been denoted by an x.

There are 39 weeks in the school year (187 school days) and 4,118 students in these schools in these year groups.

Table 3: Average number of pupils on roll and number of pupils that took unauthorised absence during academic year 2013/2014, by secondary school in Jersey

	No. of pupils	Between 1 & 2 weeks	Between 2 & 3 weeks	Between 3 & 4 weeks	More than 4 weeks
Grainville Secondary School	542	36	x	x	13
Les Quennevais Secondary School	716	26	x	x	15
Haute Vallee Secondary School	643	38	13	x	26
Le Rocquier Secondary School	883	33	10	x	25
Hautlieu Secondary School	265	x	x	x	x
Jersey College for Girls	525	19	x	x	x
Victoria College	544	x	x	x	x

It is not possible to determine from the data currently held within the department the proportion of sessions missed by pupils due to 'truancy' however a proxy for this measure is the unauthorised absence rate i.e. the percentage of all sessions missed by pupils due to unauthorised absence.

Unauthorised absence includes;

- Family holidays that were not agreed or were in excess of any prior agreement
- No reason for the absence was provided
- Unauthorised absence (not covered by any other code/description)
- Late (more than 30 minutes after registration closed).

6.9 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING BURIALS:

Question

Will the Minister:

- provide an update on what steps, if any, he will take during his term of office to achieve zero mercury emissions at the crematorium;
- outline when and whether Jersey is likely to adopt Promession technology in respect of burials;
- advise what progress is being made with Ministerial colleagues to bring forward a new burial law?

Answer

- a) An order is already placed with an independent specialist company in the United Kingdom to carry out emissions monitoring, specifically for mercury, at the Crematorium. The timing of this monitoring is dependant on there being sufficient throughput.

This situation is likely to occur in early January, but is not something over which I have any influence.

These measurements will give us a baseline from which to work, and on which to base our plans for the future.

- b) HSSD is working with dentists to encourage use of alternative materials for use in dental work and a higher uptake of these products has been noted. Work continues in this area to encourage reduced inputs from dental amalgam. This will see a natural reduction in mercury emissions from the crematorium as practices change
- c) Promession technology remains unproven in a working crematorium setting, and is but one of several technologies developed, or being developed, to apply advanced techniques to the disposal of the dead.

Officers are kept updated on its development. Until these technologies are proven in use, it is too early to say when, or indeed if, they will come to Jersey.

- d) Officers are working on the legislation which deals with disposal of the dead. Regulations will be brought forward to bring into use the Burials Law 2004, as amended in 2008, which was enacted but never brought into use.

The Cremation (Jersey) Law 1953 will be brought up to date and future proofed to allow the introduction of new technologies and new arrangements for operation of crematoria should the States so decide.

It is this Law, suitably amended, which could allow for technology such as Promession to be used on Jersey, if it were determined by the States as the most appropriate and viable way forward.

6.10 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING NUISANCE CAUSED BY FEEDING SEAGULLS:

Question

Will the Minister advise how many complaints/inquiries, if any, have been received by the Department and recorded in the last 3 years concerning seagulls being fed and any related nuisance and what political options exist to minimize the nuisance caused by the feeding of seagulls in residential areas?

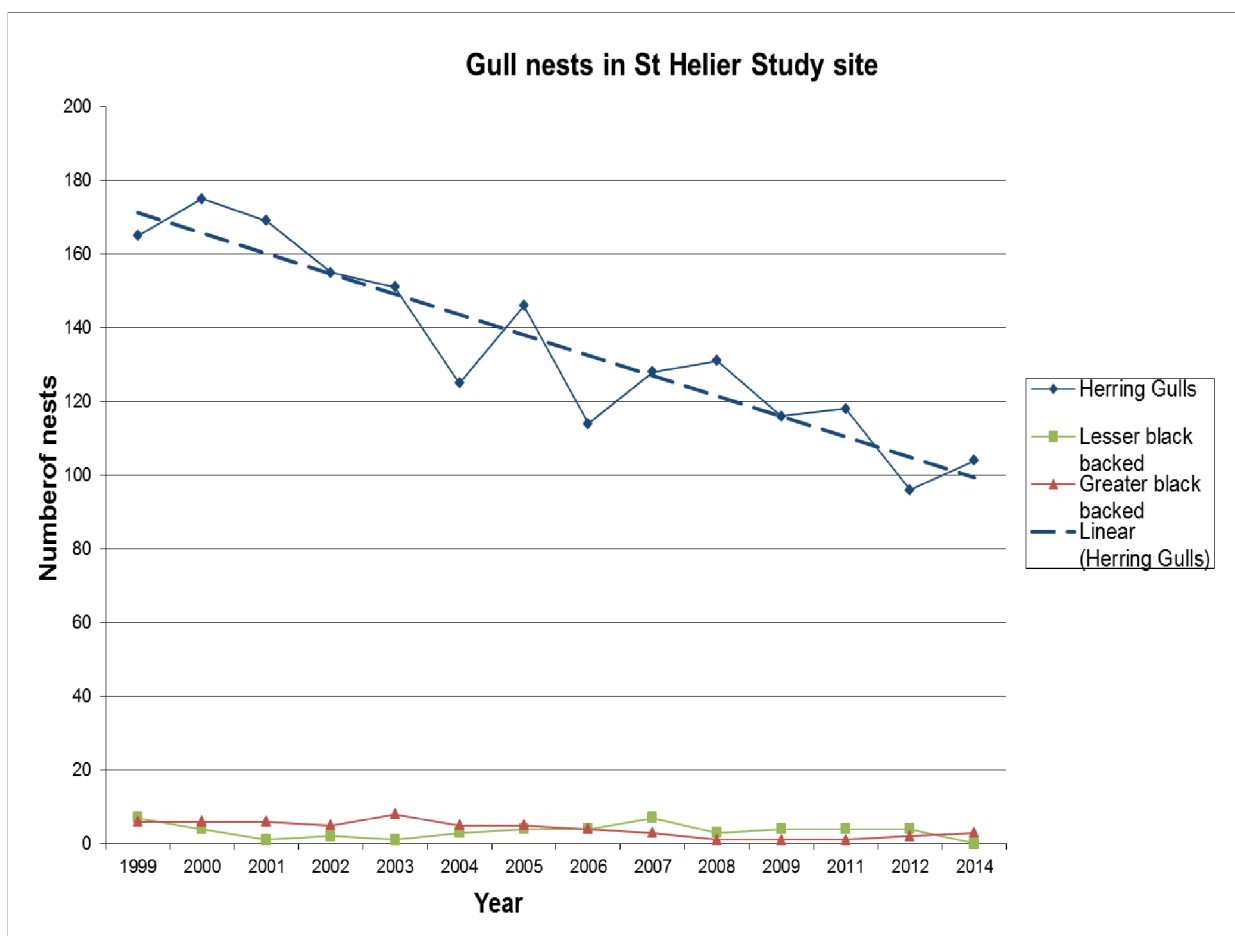
Answer

Records of complaints/inquiries concerning seagulls being fed are not held by the Department of the Environment. The feeding of gulls can cause a nuisance and manifest into a neighbourly dispute and inquiries received about feeding gulls are directed to the Environmental Health Department, as a nuisance issue under the Statutory Nuisances (Jersey) Law 1999.

Feeding gulls is not illegal under any current legislation and is not considered a wildlife issue. The Department along with other agencies receive many inquiries regarding seagulls, usually at the height of the breeding season in July and usually about gulls nesting on roofs. A very few inquiries yearly are from individuals about feeding gulls.

The Natural Environment Team within the Department of the Environment administers the Conservation of Wildlife (Jersey) Law 2000, and under the provisions of this legislation, qualified pest controllers are issued with annual licences which permit them to deal with nuisance gulls.

The Department have been monitoring urban gulls in St Helier for 16 years, and the data shows a



slight downward trend in the number of nests over this time.

Data which is held by the Department on gulls includes;

- the licensed activities of pest controllers and;
- the distribution and number of nests in a defined area in St Helier.

Advice on dealing with gulls, their nests and avoidance measures is provided by the Department through the pest controllers and on the States of Jersey website.

A gull information sheet is emailed to Parishes yearly containing details of licenced pest controllers along with frequently asked questions and answers and the department also issues information via the local media on an annual basis advising the public to look out for nesting gulls and not to feed gulls. The department also makes available 'STOP - DON'T FEED THE GULLS' signs for use by the public.

Background information:

Jersey has 3 species of gull that are found in urban environment, the herring gull, the greater and the lesser black-backed gulls with the herring gull being the most abundant.

The Royal Society for the Protection of Birds (RSPB) affords herring gulls a conservation status of red due to 'moderate declines over the past 25 years and over half of their UK breeding population is confined to fewer than ten sites'.

Jersey gull survey data from St Helier shows a reduction of urban nests of 42% since 2000

It is possible that continual feeding may contribute to the amount of gulls nesting in a location and that a high population of gulls may deter other garden bird species.

6.11 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING NUISANCE CAUSED BY FEEDING SEAGULLS:

Question

Will the Minister advise how many complaints and/or inquiries have been received and recorded in the last 3 years to do with seagulls being fed and any related nuisance that occurs?

Answer

Feeding wild birds is not a statutory nuisance.

The number of complaints/enquiries made to the Environmental health department about seagulls and related nuisance are:

2011 5

2012 8

2013 6

2014 (to date) 0

However these figures are not comprehensive as complaints not specifically about nuisance are referred to the Natural Environment Officer at the Environment Department.

6.12 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING TAXI PLATES:

Question

Will the Minister provide a current breakdown of taxi plates by category (white, yellow, red) including their allocation by company?

Answer

While not specifically requested by the Deputy, in order to be helpful, additional historic licencing data has been included in the answer to provide context and to highlight how changes in regulation introduced by successive Committees and Ministers have informed the licencing situation today, along with commercial activities such as the merger or buy-outs by companies.

Information on Taxicab Licences (Plates)

Type of Licence	2005	2009	2010	2012	2013	2014
Controlled taxi-cabs (rank Yellow Plate)	148	141 ¹	144 ⁴	151 ⁶	152 ⁴	152 ⁴
Restricted taxi-cabs (individual White Plate)	104	115 ²	109 ⁵	115	115 ⁵	115
Restricted taxi-cabs (company Red Plate)	66	55	51	45	44	45
Limousine taxi-cabs	28	33	35	35	32	32
Mobility taxi-cab (Yellow Plate)	1	1	1	1	1	0
Restricted taxi-cab companies operating	15 ³	4	6	6	7	8

¹ Deputy de Faye decided that number of controlled plates should be reduced by 10 in 2006.

² Company plates surrendered or revoked from 2006 were re-issued as individual (white) plates

³ 8 “companies” operated under one of the 5 larger companies

⁴ There were 140 permanent controlled licences, 20 of which for wheelchair accessible taxis. In addition, there were 5 licences awarded to individuals on compassionate grounds that will not be re-issued when the licensee is no longer granted a licence.

⁵ 115 permanent restricted licences are available – 2 are currently being allocated to the next suitable applicants.

⁶ Since 2010, an additional licence has been issued for every two “retired drivers” who returned less than half the average mileage. To date 7 additional licences have become available.

Company	Plates held in 2004	Plates held in 2005	Plates held in 2009	Plates held in 2010	Plates held in 2012	Plates held in 2013	Plates held in 2014
Arrow	1 ^L	1 ^L	-	-	-	-	-
Bee-line	1 ^D	1 ^D	-	-	-	-	-
Call a Cab	-	-	-	-	-	-	0
Citicabs	6	15	17	17	18	18	18
Clarendon Dragons	6	6 ^L	-	-	-	-	-
Dial a Cab	1 ^L	1 ^L	-	-	-	-	-
Domino	1	3	4	4	4	4	4
E Cabs	-	-	-	-	-	-	0
Gorey	1 ^L	1 ^L	-	-	-	-	-
Hail a Cab	2	2 ^C	-	-	-	-	-
Island	6	6	-	-	-	-	-
Jersey Taxis App	-	-	-	-	-	-	-
Luxicabs	7	18	34	30	21	21	21
Maufant	2 ^{CD}	2 ^L	-	-	-	-	-
Radio	3 ^L	3 ^L	-	-	-	-	-
St Mary	1 ^{CD}	1 ^L	-	-	-	-	-
St Ouen	1 ^{CD}	1 ^L	-	-	-	-	-
Tower	1 ^{CD}	1 ^L	-	-	-	-	-
Yellow	4	4	0	0	0	-	-
Grab-a-Cab	-	-	-	0	-	-	-
ABC Cabs	-	-	-	0	0	-	-

Liberty Cabs	-	-	-	-	2	2	2
Red Cabs	-	-	-	-	-	-	0

Greyed out – No longer operative

- Company not operative that year

^C operated and eventually merged under Citicabs

^{CD} operated and eventually merged under Clarendon Dragons

^D operated and eventually merged under Domino

^L operated and eventually merged under Luxicabs

At the end of 2004, the Home Affairs Committee issued 22 additional “red” company plates.

6.13 DEPUTY M. TADIER OF ST. BRELADE OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING THE PROVISION OF CHRISTMAS LUNCHES FOR SENIOR CITIZENS:

Question

Will the Chairman advise which parishes provide a senior citizens Christmas meal and detail, for each parish:

- (a) the eligibility criteria;
- (b) the total seating allocation;
- (c) how many people are on the waiting list;
- (d) the total number of eligible residents;
- (e) whether there are any plans to increase the provision for future years given the projected increase in the number of individuals over the age of 65?

Answer

The Parish of Trinity does not host a Senior citizens Christmas meal. The table below is collated from the replies provided by other parishes and relates to 2014/2015.

Parish	St Brelade	St Clement	Grouville	St Helier	St John	St Lawrence	St Martin	St Mary
General comment							Annual event end	

							of January, not a Christmas meal	
(a) the eligibility criteria;	Any person in receipt of old age pension	Parishioners in receipt of an old age pension	Senior citizens who live, or previously lived, in the parish	Senior citizens living in the Parish	Any senior citizen	Senior citizens	Any pensioners living in the parish	Parishioners over 60 years of age who live, or previously lived (and remain active in parish club) in the parish
(b) the total seating allocation;	360	360	Approx. 130	Approx. 390	90	130	140	Approx. 85
(c) how many people are on the waiting list;	Approx. 90	None	None	Not kept	None	None	Varies from year to year	None
(d) the total number of eligible residents;	Not known	Not known	Not known	Not known	Not known	Not known	Not known	Not known
(e) whether there are any plans to increase the provision for future years given the projected increase in the number of individuals over the age of 65?	No plans at present	Not necessary at present	If required an additional date will be considered	No plans at present	No plans at present	No plans at present	No plans at present	Event budget reviewed annually

6.14 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING TRUANCY:

Question

Will the Minister:

- (a) advise how much police time has been spent during the period 2010 to 2013 dealing with:
 - (i) children who are absent from school without permission;
 - (ii) adults with mental health needs;
 - (iii) children with mental health needs;
- (b) outline the relationship of each class of persons with the Education, Sport and Culture Department and the Health and Social Services Department?

Answer

(a) (i) Police records indicate that they responded to two incidents of school absence. One in 2011 and one in 2013. School attendance is addressed direct by ESC School Attendance Officers.

(a) (ii) and (iii) States of Jersey Police IT systems do not record this level of detail. However, I can indicate that during this period, the States of Jersey Police have continued to attend an increase in 'welfare' calls from across communities, which would include a range of scenarios, including mental health. The number of welfare calls during the period from 2010 are as follows:-

2010 – 716

2011 – 663

2012 – 747

2013 – 926

2014 – 877 (first 10 months to end of October)

(b) It is not clear what the Deputy is asking. The States of Jersey Police work closely with the Education, Sport and Culture Department and the Health and Social Services Department whenever they encounter children who are absent from school without permission, adults with mental health needs or children with mental health needs.

6.15 DEPUTY M. R. HIGGINS OF ST HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING TAX RATES:

Question

Will the Minister provide Members with the following information:

- (a) the total number of people paying income tax in Jersey each year from 2007 to 2013;
- (b) the total number of people paying tax at 20% in each year from 2007 to 2013;

- (c) the number of people paying a marginal rate of tax in each year from 2007 to 2013;
- (d) the total number of finance firms paying tax at 10% each year from 2007 to 2013 and the sums involved;
- (e) the number of finance firms not paying the 10% tax rate;
- (f) the total number of utility companies paying tax at 20% each year from 2007 to 2013 and the sums involved;
- (g) the number of non-finance and utility companies paying tax each year between 2007 and 2013 and the sums involved;
- (h) the estimated loss of tax receipts from the loss of deemed distribution from Jersey owned companies shareholders.
- (i) an explanation of the factors causing the changes in the tax figures outlined above for the period 2007 to 2013, and estimates of future changes assuming no further change to tax rates.

Answer

(a) to (c)

- (a) the total number of people paying income tax in Jersey each year from 2007 to 2013;**
- (b) the total number of people paying tax at 20% in each year from 2007 to 2013;**
- (c) the number of people paying a marginal rate of tax in each year from 2007 to 2013;**

2007	Individual Taxpayers Charged at 20% standard rate	Individual Taxpayers Charged at 27% marginal rate	Taxpayers Total
Single	8,372	21,306	29,678
Married	6,577	10,854	17,431
Grand Total	14,949	32,160	47,109

2008	Individual Taxpayers Charged at 20% standard	Individual Taxpayers Charged at 27% marginal	Taxpayers Total
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	rate	rate	
Single	5,948	24,199	30,147
Married	4,780	12,600	17,380
Grand Total	10,728	36,799	47,527

2009	Individual Taxpayers Charged at 20% standard rate	Individual Taxpayers Charged at 27% marginal rate	Taxpayers Total
Single	4,660	24,268	28,928
Married	3,954	13,127	17,081
Grand Total	8,614	37,395	46,009

2010	Individual Taxpayers Charged at 20% standard rate	Individual Taxpayers Charged at 27% marginal rate	Taxpayers Total
Single	4,096	24,856	28,952
Married	3,429	13,641	17,070
Grand Total	7,525	38,497	46,022

2011	Individual Taxpayers Charged at 20% standard rate	Individual Taxpayers Charged at 27% marginal rate	Taxpayers Total
Single	3,753	25,854	29,607
Married	3,109	13,906	17,015
Grand Total	6,862	39,760	46,622

2012	Individual Taxpayers Charged at 20% standard	Individual Taxpayers Charged at 27% marginal	Taxpayers Total
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	rate	rate	
Single	3,931	24,991	28,922
Married	2,913	13,532	16,445
Grand Total	6,844	38,523	45,367

2013	Individual Taxpayers Charged at 20% standard rate	Individual Taxpayers Charged at 27% marginal rate	Taxpayers Total
Single	3,647	24,622	28,269
Married	2,819	13,691	16,510
Grand Total	6,466	38,313	44,779

Notes:

- Based on Years of Assessment
- 2006-2011 marital status based on data base as at 15/09/2014, 2012 onwards based on data base as at year of assessment.
- Statistics inclusive of all ‘personal returns’ type, excluding non residents.
- Above statistics may vary slightly from previously released statistics due to ongoing reassessment of tax returns and variables used in analysis

Individual Taxpayer

An individual taxpayer is an individual or married couple / civil partnership calculated to have a positive income tax liability for the tax year, based on the income, allowances and deductions, for that year.

For the avoidance of doubt individual taxpayers without a positive income tax liability because their income is less than their allowances and deductions are not included in the tables above.

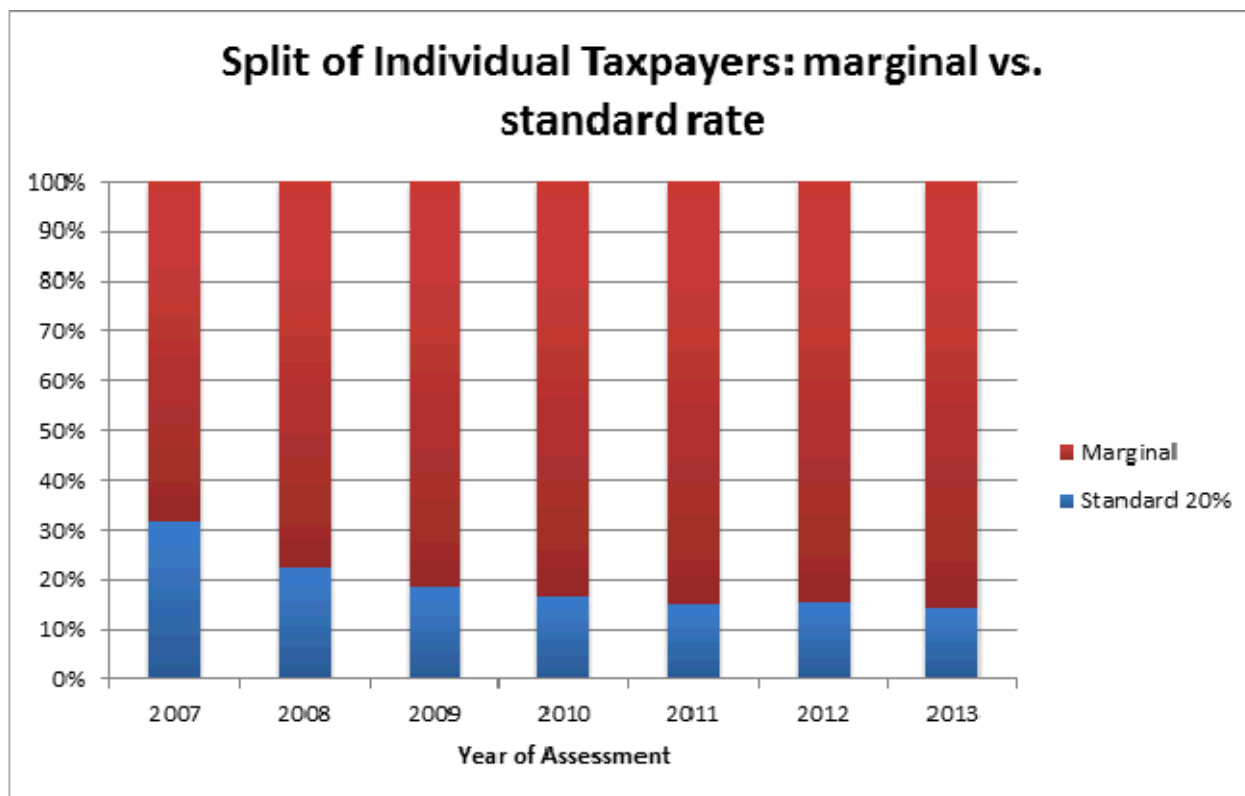
The tables include:

Single individuals

Married couples / civil partnerships (a married couple / civil partnership counts as one taxpayer as they do not have separate tax liabilities)

Married couples / civil partners that have opted for separate assessment will count as two taxpayers (as they have separate tax liabilities).

The increase in the proportion of taxpayers that pay tax at the marginal rate is primarily a function of two factors; (i) 20-means-20; and (ii) greater allowances available to marginal rate taxpayers whilst the allowances available to standard rate taxpayers have been frozen for an extended period of time. The trend in the number of taxpayers moving from standard rate to marginal rate is illustrated in the chart below:-



(d), (f), (g)

(d) the total number of finance firms paying tax at 10% each year from 2007 to 2013 and the sums involved;

(f) the total number of utility companies paying tax at 20% each year from 2007 to 2013 and the sums involved;

(g) the number of non-finance and utility companies paying tax each year between 2007 and 2013 and the sums involved;

The current corporate tax regime commenced on 3 June 2008 for companies registered after that date and from 1 January 2009 for companies registered before that date. The figures provided below therefore start from 2009 and not 2007 as requested.

Year	2009		2010		2011	
	Number of taxpaying companies	Tax Payable £	Number of taxpaying companies	Tax Payable £	Number of taxpaying companies	Tax Payable £
Financial Services Company	209	57,497,632	203	49,381,421	214	56,642,111
Utility	5	3,058,487	4	5,056,365	6	4,501,010

Other	1,480	21,290,504	1,518	22,032,992	1,479	18,271,347
Total	1,694	81,846,623	1,725	76,470,778	1,699	79,414,468

Year	2012		2013	
	Number of taxpaying companies	Tax Payable £	Number of taxpaying companies	Tax Payable £
Financial Services Company	201	67,135,838	223	62,067,483
Utility	5	3,460,942	6	2,835,099
Other	1,506	18,335,630	1,652	16,833,879
Total	1,712	89,932,410	1,881	81,736,461

Notes:

- A taxpaying company is defined as a company calculated to have a positive income tax liability for the tax year, based on the income, allowances and deductions, for the year.
- A financial services company is included above if it falls within the definition of a financial services company in the Income Tax Law.
- A financial services company is liable to tax at 10%. If, however, it is in receipt of income from Jersey property this source of income will be taxed at 20%. The tax payable figure shown is the tax from all sources.
- A utility company is also defined within the Income Tax Law and is liable to tax on all sources of income at 20%.
- Other companies will be companies that are not financial services companies or utility companies but that still pay tax on at least part of their profits. These will include companies that derive income from Jersey property (rental, development or quarrying) and companies involved in the importation and supply of hydrocarbon oil. The profits from all these sources are liable to Jersey tax at 20%.
- Tax payable is defined as the amount the taxpayer is due to pay to the Treasury.

(e) the number of finance firms not paying the 10% tax rate;

The Income Tax Law is very specific in its definition of a financial services company and the “Financial Services Companies” in the tables above only include (taxpaying) companies that come under that definition. There are a number of other companies that fall within the tax definition of financial services companies that do not make profits and do not therefore pay tax. Typically (but not exclusively) these are nominee or secretarial type companies within the trust industry. In 2013 there were 691 of these companies. If it is meant that the term “finance firms” in the question includes other companies whose activities could be considered to be within the broader spectrum of the finance sector and not limited by the Income Tax Law definition, whilst it is not easy from tax records to be specific, an estimate of the number of these additional firms is somewhere between 300 and 350.

For the purposes of this answer a finance sector firm will have been identified as being involved in at least one of the following industries:-

- Banking
- Treasury Wholesale
- Corporate Offshore

- Trust
- Fund Administration
- Investment Advisor
- Fund Manager
- Insurance/Finance Investment Services

(h) the estimated loss of tax receipts from the loss of deemed distribution from Jersey owned companies shareholders

Before answering this question it is worthwhile reminding all members how the deemed distribution and full attribution rules operated. Broadly where a Jersey resident shareholder owned shares in a Jersey company, the profits of the company could be deemed to be distributed to the shareholder and taxed on them personally. However the rules were complicated and the amount deemed was impacted by factors such as the activities of the company and whether the company paid actual dividends to an individual within a certain timeframe.

Because of the way in which deemed dividends/full attribution profits were declared on personal tax returns we can identify how much tax was declared under these provisions whilst they were in operation.

Based on an analysis of data extracted from tax records at March 2014 the **direct** tax impact from the repeal of deemed distribution (which in this answer includes the loss of attribution from investment holding companies) for the 2012 year of assessment is a reduction of revenue of approximately £8m. The 2013 year of assessment direct impact will be approximately £3m, meaning that the estimated direct long term tax “loss” (see qualification below) will be in the region of £11m.

It cannot be stated that this amount of tax will be “lost”. Taxable profits arising in companies are taxable when they are distributed to Jersey resident shareholders. The distribution rules introduced with effect from 1 January 2013 seek to prevent taxpayers avoiding or inappropriately deferring this tax by taking value from their companies in a way which may have been non-taxable before the distribution rules were introduced.

It is acknowledged however, that where distributions are deferred such that they take place when the individual recipient is not taxable in Jersey, no Jersey tax will arise on this distribution.

(i) an explanation of the factors causing the changes in the tax figures outlined above for the period 2007 to 2013, and estimates of future changes assuming no further change to tax rates.

Factors affecting the changes in the number of taxpayers paying tax at the standard and marginal rates are dealt with above.

Other factors that may have had an effect on tax figures are:

Local economic environment, including:

- Inflation
- Earnings
- Employment
- Population
- Age Profile
- Exceptionally low interest rates

- GVA

Global Economic Environment, including:

- Impact of Global economic downturn and subsequent recovery.
- Impact of banking sector changes

Looking ahead the Minister would reiterate his answer to Deputy Southern's question which was tabled on 25 November 2014 as follows:-

The Treasury are in the process of updating the States income forecasts to ensure that work beginning on the new MTFP 2016-2019 and Strategic Plan are as up to date as possible. This work is being informed by new economic assumptions to 2019 provided by the States Economics Unit which take account of the latest information on the global economic outlook, including that highlighted by the OECD ahead of the G20 meeting. A further full update of all States income forecasts will be carried out in February/March 2015, following the provisional 2014 outturn figures.

Ahead of these revised figures, the current forecast of tax revenues for 2016 was provided in R136/2014, Long-Term Revenue Planning Review, alongside the 2015 Budget debate. These figures have been updated for the tax and duty proposals agreed at the budget debate in September.

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS - resumption

7. Election of a Member and an Associate Member to represent the States of Jersey on the British-Irish Parliamentary Assembly - resumption

The Bailiff:

I can now announce the result of the ballot for the member of the British-Irish Parliamentary Assembly. The votes cast were: Deputy Le Fondré, 31 votes, Deputy Lewis, 15 votes. I therefore declare that Deputy Le Fondré is elected. **[Approbation]**

Deputy J.A.N. Le Fondré:

Can I just thank those who voted for me and congratulate Deputy Lewis?

The Bailiff:

Very well, and we also need to appoint an associate member. I invite nominations to the position of associate member.

7.1 Senator I.J. Gorst:

Could I nominate Deputy Truscott?

The Bailiff:

Is that seconded? **[Seconded]** Any other nominations?

7.2 Deputy L.M.C. Doublet:

I would like to nominate Deputy Kevin Lewis of St. Saviour.

The Bailiff:

Is that seconded? **[Seconded]** Any other nominations? Very well. We will pause on question time then and ask for a ballot in relation to this so I ask that ballot papers be distributed. Again, just to remind Members, you write one name on it, the name of your preferred candidate. Have all Members returned their ballot papers? Yes. Then I ask the Solicitor General and the Viscount to act as scrutineers, please. We will resume questions and Deputy Hilton will ask a question of the Minister for Treasury and Resources.

QUESTIONS - resumption

8. Oral Questions

8.1 Deputy G.P. Southern of St. Helier of the Minister for Health and Social Services regarding contracts agreed with third sector or private companies to deliver residential support:

Will the Minister inform Members what contracts have been agreed with which third sector or private companies to deliver residential support or healthcare services in the community as per P.82/2012 and will he inform Members what mechanisms are in place to ensure contracts are subject to robust tendering processes, contain S.L.A.s (Service Level Agreements) which ensure value for money, and that tenders are not dependent on poor terms and conditions for employees?

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

Contracts for the provision of residential support or healthcare services in the community are based on the States standard contract. Staff terms and conditions are commercial decisions for the individual organisations and the States do not seek to influence or intervene in these decisions. It would be entirely inappropriate for the States to constrain organisations in this way. Contracts do however specify that organisations must comply with good practice, good recruitment; including that organisations must have personnel checks, employ or engage sufficiently competent and appropriately qualified staff, provide training, supervision and support to all staff. Health and Social Services has grants and contracts with over 20 voluntary and community sector organisations. There are 10 organisations on the framework for adult respite and 20 for homecare services. I am sure Members would not want me to read them all out; I am happy to do so if they wish me to, otherwise I can provide that separately. The contractual relationship is with individual patients through the Long-Term Care Scheme. Organisations are chosen primarily on the basis of their ability to provide services with the specifications in P.82/2012. These services were agreed with the former Minister for Health and Social Services and a robust process involving States procurement was implemented.

8.1.1 Deputy G.P. Southern:

I thank the Member for agreeing to circulate the list of organisations concerned but I particularly want to focus on the last part of this question. To what extent does the Minister examine the terms and conditions used in order to achieve a particular bid or tender? For example, I understand that one of the organisations with which he is dealing has no breaks built into the daily work routine which I think runs against employment law. To what extent is the Minister responsible for the delivery of terms and conditions which are appropriate for the job being done?

Senator A.K.F. Green:

My department write out the specification in terms of the service delivery and we expect the organisations to comply with current good practice, be that employment or care practice. We expect them to comply with that good practice but that is a matter for the organisation; that is operational for the organisation and something that we would leave entirely to them. However, if

the Member has a particular concern about a particular organisation; if he wants to come forward and discuss it with me I would be happy to discuss it with that provider.

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

Is the Minister for Health and Social Services able to tell Members whether there is any evidence to suggest that private companies are abusing employees' rights?

Senator A.K.F. Green:

Sorry, I did not catch the end of the question.

Deputy J.A. Hilton:

The question was: has the Minister for Health and Social Services got any evidence that private employers in the care industry are abusing employees' rights?

Senator A.K.F. Green:

None whatsoever. But, again, if the Deputy has information she would like to share with me, I would be happy to discuss it with her.

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

One of the facts that has recently been highlighted in the United Kingdom and is also present in Jersey is the fact that as long as you have low pay and very few increases in pay then it is going to make the economy harder to get out of the recession. Does the Minister not think that by at least trying to encourage employers to pay a good wage, which not only results in good service and less skimping, but it might help the economy come forward and therefore the Minister should take an interest in the contracts that are there to try to encourage us to come out of the recession that we have been in for 6 years?

Senator A.K.F. Green:

Again, this is entirely a matter for the organisation that is providing the service. Of course I expect them to meet the minimum standards and at least meet minimum wages. But what will determine the wages that they pay will be the qualifications needed for the job and the availability of those skills in this Island. That determines it, not the Minister for Health and Social Services.

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

Does the Minister agree that when tendering out these services to private companies that is the perfect opportunity to be promoting things like a living wage and good contract terms; lack of zero-hours contracts, and would he agree that when this is done in future that should be one of the criteria that is looked at for potential service providers and those that do give good conditions to their employees should be given priority?

Senator A.K.F. Green:

Again, the conditions of service that the providers have is entirely a matter for them provided that they meet statutory requirements and good practice. Interesting comment there about the zero-hours. Zero-hour contracts have a use in covering temporarily, for example, nurses that you might need to call in or care staff that you might need to call in occasionally. That is appropriate use of zero-hours so I would never ban it completely but anything else, I think, does require looking at.

8.1.5 Deputy S.Y. Mézec:

Supplementary, Sir. Is the Minister really saying that he does not believe that, in his role as Minister, he should have a duty of care to make sure that these service providers are not abusing

their employees, are not making them stay on shifts for God knows how long, and are not being overworked like that especially when they have ...

The Bailiff:

That is not a parliamentary expression, Deputy.

Deputy S.Y. Mézec:

Okay, Sir, I withdraw that then. But does the Minister not agree that he should have a duty of care to these employees and that the Health Ministry in general should be trying to see that these service providers provide good terms and conditions for their employees?

Senator A.K.F. Green:

I do not think the Deputy was listening to me. I said that I would expect all the organisations, in fact it is a contractual arrangement with them, to comply with good practice and legislation. Beyond that, I do not think it is my role to interfere in the running of private organisations. I might add that care organisations are also regulated and we have an independent regulation inspection.

8.1.6 Deputy M. Tadier of St. Brelade:

I was going to ask the Minister whether he thinks that, contrary to his statement, it is not entirely a matter for private companies when it comes to the provision of a health service which otherwise these services could and would, perhaps in a different ideologically-run jurisdiction, be the direct responsibility of the State, and when we outsource these provision of services to the private sector the Minister does have an obligation - a duty of care, as has already been said - to make sure that working conditions which will potentially and likely have an impact on service provision, it is then the Minister's role to make sure that working conditions do not lead to a detrimental delivery of service. Does the Minister not agree with that statement?

Senator A.K.F. Green:

I do not think the Deputy has been listening again. I said that the contracts would insist on having best practice and statutory requirements met, and when it comes to providing care to the service users that is clearly regulated.

8.1.7 Deputy G.P. Southern:

The Minister is aware that I have put a request in to meet with him and one of these organisations in the near future. Could we have exemplars of what he calls good practice circulated so that we can see what standards indirectly or directly his Ministry is providing? Secondly, is he aware that one particular company, which I believe is the single provider of nursing care in the community, in people's homes, is heavily reliant on zero-hours contracts for many of its positions and zero-hours contracts in the U.K. (United Kingdom) in this particular sector, the delivery of home care, are subject to serious worries on the part of anyone in government?

Senator A.K.F. Green:

Yes, indeed, the Deputy has requested to meet with me. I received that request yesterday afternoon. It was not his fault that it was late getting to me, he had accidentally sent it to the wrong Andrew. So I have that request and I will meet with the Deputy to discuss it. I am happy to point and direct the Deputy to good practice such as minimum wages and good practice within the care industry and they are all industry norms, and I am quite happy to direct the Assembly to. I am not going to discuss individual organisations on this floor but I am happy and already have agreed to meet with the Deputy to discuss the particular issue that he has in mind.

8.1.8 Deputy G.P. Southern:

Final supplementary, if I may. Will the Minister accept to investigate the extent and the use or abuse of zero-hours contracts in this particular sector of the economy that he has responsibility for and not give up his responsibility by contracting out to third parties in the way he is doing?

Senator A.K.F. Green:

As I understand it, there is some work going on across the Island on zero-hour contracts and I will seek to see whether that is included in this sector.

The Bailiff:

Very well, that brings that question to an end.

8.2 Deputy J.A. Hilton of the Minister for Treasury and Resources regarding the proposed Zephyrus scheme of flats and alternative uses for the site:

In view of the recent decision by the States of Jersey Development Company to renew the planning permit for the proposed Zephyrus scheme of flats, does the Minister feel it is now appropriate to review this so as to direct the company to allocate the site area to public use such as a hospital?

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

No, I do not because at this stage renewing the planning permit on this site is simply protecting the site value for the public. It does not preclude the site being used for alternative public use, subject to the necessary approvals in the future. Thank you.

8.2.1 Deputy J.A. Hilton:

The site is owned by the public. Would the Minister for Treasury and Resources agree with me that in view of this serious consideration should be given in siting the new hospital on this land, and also would the Minister for Treasury and Resources agree now is an appropriate time for the Council of Ministers to request the Minister for Planning and Environment to review the Waterfront master plan, and if not, why not?

[10:00]

Senator A.J.H. Maclean:

With regard to this site as a potential site for a future hospital, I have been in contact with my good friend and colleague, the new Minister for Health and Social Services, and I understand that Gleeds have been appointed to look at potential sites. There are up to 5 sites, I can tell the Deputy, including this particular site, which are going to be reviewed as potential sites for a new hospital. I am also told that that review will be complete by the second quarter of 2015 at which stage the preferred option will be brought forward and will come to this Assembly for consideration. With regard to the second aspect of reviewing the masterplan: the masterplan has of course been approved by this Assembly. I will speak, of course, to my colleague, the Minister for Planning and Environment, but I see no reason at this stage for a review to be undertaken but I am sure he will be happy to discuss the matter and give it due consideration.

Deputy G.P. Southern:

Point of clarification, Sir, if I may. I missed the ... Gleeds, is the company that was looking at the sites?

Senator A.J.H. Maclean:

Yes, Gleeds. G and then Leeds.

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

Does the Minister not agree that this site has huge value to the public purse, therefore to use it for such items as a hospital would be detrimental to the States' budgets and the infrastructure budgets in general, and therefore selling or leasing that site and then contributing those funds to such facilities as a hospital would be far more desirable?

Senator A.J.H. Maclean:

That may well be the outcome in due course. Of course, the Waterfront is extremely valuable land but it is going to be considered as one of up to 5 sites in total and I am sure that consideration will give all those matters due relevance when arriving at a preferred option for a potential hospital site.

8.2.3 Deputy G.P. Southern:

If I just may. While he may be familiar, but the Minister for Health and Social Services might be more familiar with this company, could he explain what sort of company it is and what it does?

Senator A.J.H. Maclean:

It is broadly a management consultancy company, as I understand it. I was not involved as the Deputy will appreciate, with appointing it. It is a Health matter and they are looking, as I have said, into the 5 potential sites but I am sure information will be readily available and I am sure my colleague, the Minister for Health and Social Services, would provide Members with any information they may require about this particular organisation.

8.2.4 Deputy J.A.N. Le Fondré:

Just a clarification from the Minister. He made reference to ... obviously the question at the moment is about the Zephyrus sites which is being, I understand, reviewed by Gleeds. He made mention to 5 sites; does that review also encompass the Esplanade car park site?

Senator A.J.H. Maclean:

With regard to the hospital site I have not got to hand all the 5 options that are being considered as part of the review but I am happy to supply that to the Deputy.

8.2.5 Deputy J.A. Hilton:

It would be helpful if the Minister for Treasury and Resources would supply the information surrounding the 5 sites to all Members. An extensive piece of work was carried out by the Health Department previously and I am just a little bit mystified as where they think they are going to produce a site to deliver a new hospital on other than the ones that have already been discussed. I am also a little bit disappointed that the States of Jersey always seem to know the cost of everything but the value of nothing and that is really disappointing to me that Members can stand up in this Assembly and say about the cost to the public purse of delivering a hospital on the Waterfront. Health issues are of paramount importance to everybody on this Island ...

The Bailiff:

You are coming to your question, Deputy, please.

Deputy J.A. Hilton:

... and due consideration should be given to that fact. What I would like to ask the Minister for Treasury and Resources is: does he not agree with me that £300 million to deliver only 40 per cent of new-build across 2 sites is not good value for money for the taxpayer? **[Approbation]**

Senator A.J.H. Maclean:

Sorry, it is always hard not to agree with the Deputy when she puts her point across so forcefully but I am not in possession of enough facts to give a fair answer to that particular question. What I

can tell the Deputy is that I have had a brief conversation with the new Minister for Health and Social Services. We both are sharing one view and that is that the matter of a 2-site option should be looked at in some detail. Part of the review being undertaken by Gleeds, as I have pointed out, is looking at 5 potential options for sites. The Minister and I are also in discussions. I am happy to support him as best I can, clearly with the funding options available for a future hospital, and clearly if it is a one-site option the upfront cost, potentially, and if it is delivered in a shorter timescale, could be significantly more and we are going to have to be, if we are going to go down that option, looking at all the factors relevant and see what option is best for the people of Jersey.

8.3 Deputy L.M.C. Doublet of the Minister for Health and Social Services regarding home births and birth plans:

I would like to ask what percentage of women who request a home birth are medically eligible and what is the criteria for this, and could the Minister please detail what provision is available for women in Jersey to have the birth plan they want? Thank you.

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

Can I ask my Assistant Minister, the Constable of St. Peter, to answer this one; he takes responsibility for this area?

The Bailiff:

Very well. The Connétable of St. Peter will answer for the Minister.

Connétable J.M. Refault of St. Peter (Assistant Minister for Health and Social Services - Rapporteur):

Thank you to Deputy Doublet for bringing this question forward. I can advise that all women discuss their birth plan with the Maternity Unit staff and each woman has a personalised risk assessment. The midwives and doctors have a professional responsibility to discuss the benefits and risks of all options with mothers, to enable them to make informed choices. Birth plans are mutually agreed and adhered to whenever it is safe to do so. Occasionally, for clinical or personal reasons, a birth plan may need amending. This is done in conjunction with the mother. The criteria for consideration of a home birth include: a mother who is free from pre-existing medical conditions, a mother who is assessed as likely to have a low risk of pregnancy ... sorry, not risk of pregnancy, a low risk during pregnancy **[Laughter]** - apologies for that one - and a mother who progresses with a problem-free pregnancy. Around about 45 per cent of all pregnant women would be considered to be low risk. Choice of where they deliver ultimately rests with the mother and the availability of suitable facilities. Women in Jersey have similar options for delivery available to them as in other jurisdictions. For example, hospital or home, choice of pain relief including water birth, choice of birthing partner and how involved they may be, the choice of immediate mother/baby contact, for example, skin to skin or through swaddling clothes, and a choice of support for feeding options. Thank you.

The Bailiff:

Do you wish a supplementary, Deputy?

8.3.1 Deputy L.M.C. Doublet:

Yes, please. Does a woman have a right to have maternity services provided in her home even if she does not meet the criteria that have been set out?

The Connétable of St. Peter:

The final choice for where a woman will have her child is her choice. The difficulty for Health and Social Services is providing facilities depending on where she wants to have that done. Wherever we possibly can support her choice, we will. Just to aid the Deputy, out of the 25 home births that occurred last year, 6 of those ultimately had to be delivered back in the hospital.

8.3.2 Deputy L.M.C. Doublet:

Are women ever denied a home birth or any other provision such as water birth in Jersey due to lack of resourcing of staff?

The Connétable of St. Peter:

I am unaware of anyone that has been denied facilities for home birth because of shortage of staff. I am aware that some mothers were advised not to have home births if it is best for them and their child if they come into the hospital for those births. If that mother still insists on having a home birth, then she will have a home birth.

Deputy L.M.C. Doublet:

Sorry, I am not sure that question was answered fully. Are any other provisions ever denied such as water births?

The Connétable of St. Peter:

Only on the basis of a lack of the bathing facilities; we do provide it. If there is a huge demand at some time then maybe there is an occasion where one will not be available and that would be the only reason.

8.4 Deputy S.Y. Mézec of the Chief Minister regarding long-term population policy and inward migration of graduates:

When will the Chief Minister bring a sustainable long-term population policy to the Assembly for consideration and will this include the need for inward migration of up to 150 graduates annually as indicated by representatives in the finance sector?

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

The Council of Ministers is working to establish a long-term direction for Jersey providing the confidence and certainty which is important for all our industries in enabling us to plan for a successful future. This will include population, skills, education, housing and our environment. We will also review how we can support our existing industries, ensuring enough graduates for financial services while also developing our emerging industries. I would like us to debate these issues as an Assembly next year.

8.4.1 Deputy S.Y. Mézec:

Could he just indicate when around next year? Does he think it will be early next year or likely to be in the later half?

Senator I.J. Gorst:

I am not sure. We are in the process of making those decisions and they will be made over the next few weeks.

8.4.2 Deputy G.P. Southern:

Does the Minister not accept that a lot of decisions hinge on the fundamental levels at which we permit inward migration, and does he not accept that if we carry on with the interim policy as it is, that by 2023 we will require something like 4,000 additional homes to be built which, I remind

him, is the equivalent of 1.2 Maufant estates or around 60 Le Marais high rise, and if so, if he wishes to continue with these sort of numbers, where does he intend to put those houses?

Senator I.J. Gorst:

I do not accept that those issues hinge upon it. I accept that the issues are inter-related and we cannot simply have a debate about population with all the other important issues about what sort of Jersey do we want to have in the future.

8.4.3 Deputy M. Tadier:

How does the Chief Minister plan to balance the 2 competing and conflicting interests, on the one hand some elements of the business community which favour a complete open door liberal policy with the, I believe, the majority of Islanders who believe that Jersey, in terms of population, is already at saturation point?

Senator I.J. Gorst:

People are concerned about inward migration; we absolutely accept that and that is why we brought forward the Interim Population Policy which is working well. Recently, Skills Jersey have produced the report which has led to this question which says that financial services, while in some areas is continuing to consolidate, in other areas is growing and has a continued need and a greater need for graduates coming to work in their industry. There are a number of ways that we need to deal with that, not least of which and the most important one, is the work that the Minister for Education, Sport and Culture will be doing and is currently doing in tracking Jersey graduates and encouraging them to come back. It is not an either or, we have got to pull all the levers available to us.

8.4.4 Deputy M. Tadier:

Would the Chief Minister clarify when he says it is not an either or? So we can reduce the population, which is what I believe the majority of the population want, at the same time as increasing the population to give success to the business community, which is what they are asking? We can do both of those things, can we?

Senator I.J. Gorst:

The Deputy and the previous Deputy who asked the question would like it to be a simple straightforward question. For the first time they seem to be mentioning reducing the population. When we look at countries around the world that are suffering reducing population I do not believe that we would want to be in that position. What we want to do is allow appropriate and managed immigration into our community to deliver economic growth, to deliver jobs, to deliver a good standard of living and not simply talk about one single issue. There are lots of things that we are going to have to do to address the concerns of the community and one of those is encouraging graduates to come back into our successful industry.

8.4.5 Deputy S.Y. Mézec:

How does the Chief Minister reconcile his determination to grow the population with the fact we have decreasing revenues? Is it not the case that, particularly with there being a focus on graduates coming into the Island, they are inevitably going to be paid less than people who have been in the job for 20 years, and with this higher demand for public services it is just going to make this Island's expenditure even more squeezed than it already is at the moment. So how does he reconcile this, particularly in the short-term?

Senator I.J. Gorst:

I have been on record before saying that I do not accept or support the economic and tax policies of the Reform Party and I think we have just seen this morning why that is the case. We want sensible, managed inward migration which is what the Interim Population Policy does. **[Approbation]** We want to see economic growth and we want to support important income-generating sections of our economy, of which we know that financial services is one of them. There is a lot of work to be done. The Deputy would try to simply say it is a matter of one thing or the other; that is not the case. The Education Department is already pioneering - which inward investment companies are impressed with - a programme that follows Jersey graduates when they go off the Island to do their degrees and other work and then encourage them to come back. We have got to do more of that. We have got to accept that the industries in our community now require a high-skilled workforce and we have a responsibility to help to deliver that.

[10:15]

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS - resumption

Election of an Associate Member to represent the States of Jersey on the British-Irish Parliamentary Assembly – result of ballot

The Bailiff:

Very well. Before we move to the next question I can inform Members of the result of the ballot for the associate member of the British-Irish Parliamentary Assembly. The votes cast were as follows: Deputy Truscott, 15 votes, Deputy Kevin Lewis, 28 votes. There was one spoilt paper. I therefore declare that Deputy Kevin Lewis is appointed as an associate member. **[Approbation]**

Deputy K.C. Lewis of St. Saviour:

May I thank everyone who voted, Sir? Thank you.

QUESTIONS – resumption

Oral questions - resumption

8.5 Deputy M.R. Higgins of the Minister for Health and Social Services regarding the duty of care of officers to vulnerable people:

With regard to Social Services, will the Minister explain to Members the duty of care officers have to the vulnerable people that they deal with and explain the circumstances, if any, in which the duty of care owed to staff overrides the duty of care to a vulnerable person?

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

It goes without saying that ensuring the right care for vulnerable people, whether children or adults, is paramount in everything we do. Officers exercise their duty of care to vulnerable people by carrying out assessments of need and providing packages of care or intervention tailored and appropriate to each individual. There are many vulnerable adults, however, who have capacity and who do not make nor want contact with Social Services. These individuals have an absolute right to choose which services they wish to avail themselves of. Health and Social Services also has a clear duty of care to our staff as prescribed in the 1989 Health and Safety at Work Law and policies such as lone worker policies. With the exception of circumstances involving the 1969 Mental Health Law, services can only ever be delivered effectively through working together between staff and the individual and ensuring the safety and welfare of everybody. Service users and staff, in providing safe appropriate care, will always be top priority.

8.5.1 Deputy M.R. Higgins:

Supplementary, Sir. Does the Minister think that it is acceptable for the Social Services Department to use the duty of care to a member of staff overriding that of a vulnerable person simply because the vulnerable person wants to meet with a social worker who invited them to a meeting, was going to follow up on the following day and arrange the meeting, but never did so. That vulnerable person contacted the social worker repeatedly over a period of time; no answers. I have asked questions in this House before, I have asked it of Social Services. Their excuse is, and they put it in writing, that they believe that the duty of care to the social worker overrides the duty of care to the vulnerable person. Now that vulnerable person cannot move on. They have been let down by the department so many times and they cannot move on to another social worker and trust them because of the failure of the department to deal with the problem. I have offered a meeting with the Director of Social Services, with a social worker, me with the vulnerable person, just to simply find an answer and that has been turned down on these grounds: the duty of care to the member of staff is greater than that to the vulnerable person. Is that acceptable?

Senator A.K.F. Green:

What the Member describes does not sound acceptable but if he really wanted to move this on we could have dealt with this 3 weeks ago when I was appointed Minister for Health and Social Services. He could have phoned me up and we could have sorted it out. This is not the place to sort out individual concerns. I will meet with the Deputy straight after this Assembly and find out what it is he wants to talk about and arrange the meeting.

8.6 Deputy M. Tadier of the Minister for Planning and Environment regarding the maintenance of the former Odeon Cinema as a Class 1 listed building:

Following the decision earlier this year to designate the former Odeon Cinema as a Class 1 listed building, what steps will the Minister take, if any, to ensure that the building is maintained in an acceptable condition by its current owners?

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

It is a common misconception that the listing of a building or place imposes onerous requirements upon an owner. That is not the case. I have been charged by this Assembly with a duty to identify and designate the Island's heritage assets. This is what the listing process achieves and the former Odeon Cinema was first included on the list in 2011 and has been retained following a review earlier this year. The listing of a building or place does not impose in itself any requirements to maintain a property, either on myself or the owner. The only additional obligation is to apply for consent to undertake works that might affect the special heritage interest of the site that would not otherwise require permission.

8.6.1 Deputy M. Tadier:

So we have just learnt that we have listed buildings of different categories but there is no obligation to maintain those very important historical buildings, either by the owner or the Minister. Does the Minister think that this is a sensible arrangement?

The Deputy of St. Martin:

This is a difficult arrangement. I have discretionary powers to award funds to preserve important buildings, but this is not specific to listed buildings and is of course dependent on the availability of funds which are particularly difficult to come by at the moment. I remain of the view that the best way for an historic building to retain its essential heritage character is to remain in a viable use but this of course is difficult and challenging with buildings, especially such as cinemas and churches.

But I remain committed to working with the owners of listed buildings to explore how the maintenance of those buildings might be best achieved on a case-by-case basis.

8.6.2 Deputy M. Tadier:

The Minister was on record when he stood for this post as saying: "I am not prepared to see historic buildings fall into disrepair because there is no money available to do it." So the question is, whether it is relating to the Odeon which, I believe, is falling into disrepair externally, is, how does the Minister propose to do that in the absence of any centralised pot of money which the Minister said he would not be necessarily averse to? Does the Minister agree that perhaps when it comes to the acquisition of a listed building that there should be an onus on the prospective owner to prove that they are in a position to maintain the building or, if not, what does the Minister suggest as the proposed way forward?

The Deputy of St. Martin:

I do not have a suggestion today as the proposed way forward. The maintenance of historic buildings, the maintenance of listed buildings, the maintenance of any buildings is a challenge for the owner in this day and age and I do not think that listed or historic buildings are any different from any others. There is an onus on the owner, obviously, to maintain a building but this is expensive. I cannot see that it is my place to tell somebody what they must do with their building, whether they must keep it wind and watertight. I do know that under the Planning Law that if a building falls into ruin or into a dilapidated state I do have powers but that would obviously be, in the case of the Odeon, falling down before I could do something. It is something I will endeavour... and I say to the Deputy I will endeavour to look at again but I think it is very difficult for me to force people to do anything to their buildings at all.

8.6.3 Deputy M. Tadier:

Can I raise a point of order and I do not think it was intentional? The Minister must have misled the Assembly unintentionally because his first answer said there was no onus on the owner to maintain a property and in the final answer he said: "There is clearly an onus on the owner" which I think Hansard will show. So will the Minister perhaps take this opportunity to clarify which one of those statements is true if either is true?

The Deputy of St. Martin:

I think it is probably due to the definition of maintenance but certainly powers that I have under the Article 84 of the law, if a building becomes ruinous or dilapidated I can take action but I think the word "maintenance" in itself - to me anyway - describes keeping a building wind and watertight.

8.7 Deputy G.P. Southern of the Minister for Treasury and Resources regarding meetings held between the Minister and representatives of Jersey Telecom in respect of the Gigabit project:

Will the Minister release the notes or minutes of the quarterly meetings held between the Minister and the representatives of Jersey Telecom throughout the period over which the Gigabit project was developed and agreed, that is from 2011 to date, and if not, why not?

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

The answer is no because the shareholder minutes and notes of the meetings are prepared for internal use and not published due to the generally confidential nature of their contents.

8.7.1 Deputy G.P. Southern:

In that case, the Minister is telling us that he is allowed to have minuted meetings with other public bodies, which are recorded and fully minuted, and yet we cannot hold the Minister to account. I am told that the Minister does have the power to call for an extraordinary general meeting and I have a proposition in process of being formed which does that. But I am then told that at an A.G.M. (annual general meeting) or E.G.M. (extraordinary general meeting) the only person allowed to be present who represents the shareholders, i.e. the public of Jersey and the States of Jersey through them, is the Minister himself. Is there any way that we, as a body, can hold the Minister to account over the issue of Gigabit Jersey on which he has just withdrawn £6 million of funding and put it into deficit possibly; how can we hold the Minister to account? When will the Minister come to this body and say what is going on with Gigabit Jersey?

Senator A.J.H. Maclean:

The Deputy and any Member of this Assembly can hold the Minister to account at any time, indeed question times are exactly for that purpose. I would go on to say that J.T. (Jersey Telecom) hold regular briefings for Members of this Assembly, and specifically on the Gigabit project. Not only that, they invite Members to go round to J.T. to meet members of the staff, to see the facilities and to ask whichever questions they so desire. I am also advised that to date the Deputy has not taken up any of these invites to visit J.T., and I think as a starting point that might be quite valuable. But I am always available to meet him as well if he would like to make an arrangement to come and see me and discuss any concerns he might have.

8.7.2 Deputy G.P. Southern:

Supplementary, if I may. Does the Minister assure the House that the progress of Gigabit Jersey is on time and being delivered on budget and that there are no problems with the funding of Gigabit Jersey going forward?

Senator A.J.H. Maclean:

A project of this size and magnitude and complexity is always going to have problems. It would be impossible to expect anything else to be the case. What I can tell the Deputy and Members is that so far this project - which is a fantastic opportunity for this Island, striving to be and to develop a digital economy - is world leading. So far 98 per cent of premises have been passed by fibre. One-third of all homes have been connected. We are more connected in Jersey with fibre than anywhere else in the whole of Europe, and that, surely, is something to be celebrated. There have been problems with this project but, as far as I am aware, I have been told by the company that the project is progressing. There is going to be a review undertaken within the next 6 months and I am happy to report back to Members on that when I receive it.

The Bailiff:

Final question, Deputy Southern? I am so sorry, Deputy Higgins.

8.7.3 Deputy M.R. Higgins:

Sorry, a bit late. Will the Minister publish the figures for broadband connections in Jersey relative to the U.K. and other centres? He mentions we are ahead of everybody else. I have heard contradictory figures. Will he produce for Members the full figures showing how we relate to the rest of the U.K. and other centres in the U.K.?

Senator A.J.H. Maclean:

I was talking about the whole of Europe, but yes, I am sure there are some statistics available that support the data that I have given to Members which was supplied to me by J.T., and I am happy to circulate that.

8.7.4 Deputy G.P. Southern:

Just for absolute clarification, the Minister has just given an assurance that there are not budgetary or financial problems likely to get in the way of the final delivery of Gigabit Jersey.

Senator A.J.H. Maclean:

I said: "Not that I was aware of", to the Deputy, and I said that there is a review being undertaken to update us. I did give him further details that the project so far is progressing very well but by the middle of next year we will have had a review undertaken by J.T. on the entire project, and I am happy to update Members further at that point

8.8 Deputy M. Tadier of the Minister for Education, Sport and Culture regarding progress towards Chinese language tuition in schools and the establishment of a Confucius Institute:

Will the Minister state what progress is being made towards Chinese language tuition in schools and what steps, if any, are being taken with Ministerial colleagues for the establishment of a Confucius Institute or similar in the Island?

Deputy R.G. Bryans of St. Helier (The Minister for Education, Sport and Culture):

Officers and head teachers are currently working together to produce a detailed plan to address a number of key issues within the Island's education system. Reshaping the curriculum to better reflect Jersey's economy, history and culture is one of the key issues. I am of the view that children's acquisition of languages is important, both in terms of the Island's economy and its culture. The teaching of modern languages is therefore a key aspect of this work.

[10:30]

A recent review into the teaching of modern languages will inform the debate. However, there is no assumption that the teaching of Chinese will be an outcome of this work and I am not able, therefore, to give a commitment to its inclusion within the curriculum. I can however confirm that it will feature in the discussion and the debate. I can also confirm there are no current plans to establish a Confucius Institute on the Island.

8.8.1 Deputy M. Tadier:

I thank the Minister for that comprehensive answer. He said that there is no assumption that Chinese will play a part in the curriculum. Could he answer then perhaps whether he thinks that China and Chinese culture, whether it is to do with the business that is going on, will play an impact in the Jersey economy and in Jersey society going forward. If that is the case, then the Chinese, so to speak, are here to stay when it comes to business in the Island. Would it not make sense for us to making sure that our graduates, whether from schools here or from university coming back to the Island, have at least a cursory understanding of Chinese language and culture, at least in terms of business for the Island?

Deputy R.G. Bryans:

I think the Deputy raises a very valid point. Going back to the Confucius Institute for a second, I was not aware of the Confucius Institute and googled it - like most Members do when they have to refer to oracle that can give them the best information that is available - it seems to me that there are a thousand of these around the world now. There have been some concerns over what the Confucius Institutes attempt to do in displaying the language and the culture throughout America in particular. I think he has got a point and I think it is really relevant. I can tell you that conversational Chinese classes are available at Hautlieu, De La Salle and J.C.G. (Jersey College for

Girls). We have 2 teachers who have just returned from an exchange with J.C.G. and over 100 Chinese students are visiting in February from Beijing to Hautlieu, where we have twinned-up the schools. I think he has a relevant point and I will be speaking to Locate Jersey in particular to amplify his particular concerns.

8.8.2 Deputy M. Tadier:

I think generally the Minister and myself are on the same wavelength so I would just ask for a reaffirmation of the fact that there will be genuine joined-up thinking when it comes to his department. As the Minister for Education, and at the moment Sport and Culture, he does have a vital role to play in making sure that Chinese language and culture in the overarching scheme of things is taught one way or another in our schools and it is taught at the optimum ages, which is younger rather than older. If the Minister is happy to confirm that I look forward to working with him.

Deputy R.G. Bryans:

Yes, I am happy to confirm that. Thank you.

8.9 Deputy S.Y. Mézec of the Chief Minister regarding the creation of the new post of Minister for Finance, Digital and Competition, and changes to the “Troy Rule”:

What timetable does the Chief Minister envisage for the creation of the new post of Minister for Finance, Digital and Competition, and will any changes to the “Troy Rule” be recommended to facilitate this?

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

Draft Regulations were to be lodged today for debate on 20th January, however Scrutiny have asked to undertake a speedy review prior to lodging. I am therefore liaising with Scrutiny about an appropriate lodging date, which I hope will be in a matter of weeks. The Regulations do not change the Troy Rule.

8.9.1 Deputy S.Y. Mézec:

I am delighted to hear that. Does he envisage any change to the Troy Rule in the future, short or long term, as a consequence of this change, regardless of whether it is in the Regulations?

Senator I.J. Gorst:

Just to be quite clear, this change does not require any change to the Troy Rule whatsoever. However, the Deputy knows that I have made comments about the importance of minority government from a purely mathematical standpoint rather than the current standpoint which is mathematical and minus 10 per cent. I will be having discussions with P.P.C. (Privileges and Procedures Committee) about that in due course.

8.9.2 Deputy J.A. Hilton:

Can the Chief Minister just confirm that no current Minister will be losing their portfolio?

Senator I.J. Gorst:

That is right. The Troy Rule requires there to be no more currently than 21, I think it is, as Ministers or Assistant Ministers. The proposal for setting up the new Ministry is that I would propose an existing Assistant Minister to go into that role, therefore the numbers would remain at 21, therefore requiring no change to the Troy Rule.

8.9.3 Deputy J.A. Hilton:

A supplementary? What consideration did the Chief Minister and Council of Ministers give to appointing a Children's Minister?

Senator I.J. Gorst:

At this stage there was not any consideration given but lots of consideration has been given, particularly by the individual that did a report a number of years ago who suggested that might be the way forward. I have personally spoken to that individual about the feasibility and possibility of the creation of such a role. This highlights one of the issues with the current Troy Rule which is mathematical minus 10 per cent. If we took away the 10 per cent and had a mathematical minority government, so anything under 25, then we would be able to consider the creation of other either Ministerial or Assistant Ministerial roles to include more people who might wish to take on such a role.

8.9.4 Deputy T.A. Vallois of St. John:

Could the Chief Minister advise exactly what discussions have been had around moving portfolios and creating new portfolios, and when these took place?

Senator I.J. Gorst:

Yes, there have been a number of discussions that took place and they took place as the Deputy might suggest between the elections on whatever day it was in November and the appointments of Ministers on whatever day that was in November as well.

8.9.5 The Deputy of St. John:

On that basis, could the Chief Minister advise whether there is any information pertaining to those discussions and whether it is available to Members to see and assess for themselves?

Senator I.J. Gorst:

As I have just said, Scrutiny are going to undertake a review of how Ministers or particularly myself are brought to the point of making those changes that I did. I think they are important changes and it is important that portfolios are aligned. Those portfolios that are perhaps too large have been moved. We need an absolute important focus on delivering the income line, which is what the creation of the new Ministry is all about and arising from that a number of other changes I think will deliver focus in various departments as well.

8.9.6 Deputy A.D. Lewis:

I wonder if the Chief Minister could give us an indication as to why he feels that digital and competition - these 3 elements in fact - should be moved out of the Economic Development area and into this new Ministry? I assume it is in the proposition that you were going to lay before us today but could the Minister give us some indication as to what his thinking around this is?

Deputy M. Tadier:

Sir, a point of order. That seems to be too wide of the question, this is about the Troy Rule, it is not about the creation of that particular portfolio and the merits of it.

The Bailiff:

It is very kind of you to offer your views, Deputy, [Laughter] but I will make the decisions on what is a supplementary.

Deputy M. Tadier:

I know I have been pulled up for less, Sir.

The Bailiff:

I am going to allow that question. Chief Minister.

Senator I.J. Gorst:

Perhaps for a moment I have been aligned with Deputy Tadier. I thought the original question was about the timeline of the lodging of Regulations to give effect to the creation of the Ministry and not the Ministry itself, but I am quite happy to, of course, answer the question. There has been acceptance that the Department of Economic Development, as was, was an extremely wide-ranging and yet at the same time important department. Many Members and members of the community felt that the Minister was doing a valiant job of trying to keep all the balls in the air, as it were, by the fact that there were so many issues to be considered. By necessity some of them were not able to be focused on as we might have liked. I believe that innovation and technology are going to be in the future a very important part of our economy and we need to create the focus on delivering that and we need to have Ministerial focus to do that. I think we all accept as well that while Gigabit Jersey is an important starting point, that will give the foundations to a technology sector in our community, but there are other important competition issues, particularly in the telecoms market, that again are going to need Ministerial focus and 100 per cent undivided attention. At the same time we know that financial services drive the income line in our economy. As I said earlier, certain areas of that are suffering from consolidation around the world, other areas we need to continue to grow, and that is why we are in a unique position now of being able to put resource, to put Ministerial resource and focus on to driving up that income line.

8.9.7 Deputy A.D. Lewis:

Supplementary? I can understand why competition may come out of this Ministry but the other 2 elements almost suggest the Minister does not have confidence in his Economic Development Department to run with these 2 issues, which are 2 very important economic development issues. Does he have confidence in his department?

Senator I.J. Gorst:

I could simply say yes.

The Bailiff:

Well, why do you not? **[Laughter]**

Senator I.J. Gorst:

It goes with the job, Sir, I do not like simply saying yes. That is not the case, the Economic Development Department as currently formed or as previously formed was extremely wide-ranging and how many times have I heard in this Assembly and out in the community that they did not focus enough on tourism, they did not focus enough on agriculture? The changes to the departmental portfolio mean that there is going to be appropriate focus on all those important aspects of our economy. They are just going to be separated out and have the appropriate Ministerial focus, drive and determination applied to them.

8.9.8 Deputy M. Tadier:

To focus on the second part of the question, when the Minister talks about the Troy Rule, does he agree that it is not simply a question of mathematics but the spirit of what was envisaged in what might have otherwise been called the Clothier Rule, that the balance of power is critical in this kind of Assembly? At the moment the Ministers, if we think that there is collective responsibility of some kind, only need currently 4 other Member of the Non-Executive to be able to control Scrutiny; under his plans it may be that they only need to co-opt one or 2 other Members to be able to dominate what the Scrutiny function does for the terms that they are in office. Does he agree

that it is important that maybe we should be moving towards a point where Ministers and Assistant Ministers do not have any say on who is appointed to the scrutiny positions?

Senator I.J. Gorst:

I do not accept that last point. This is a problem that this Assembly has addressed previously and the Deputy is being slightly disingenuous because he knows that collective responsibility does not deliver 21 voting Members to the Executive. He knows it does not work like that. The problem of course is that we have this issue of whether Members feel included in Government decisions. Currently many Members - and I see some of them shaking their heads now - do not feel included and I think that is a problem. So we need to have Scrutiny allowed to do the work that it wishes to do unfettered by any Executive interference, that is what we have got. But perhaps if we are going to deliver a more inclusive system then we need to rethink whether just a mathematical minus 10 per cent is the appropriate model, whether it is simply mathematical might be an appropriate model and whether Assistant Ministers cannot support scrutiny as well where they are not conflicted. I think we have to consider those issues again.

8.9.9 Deputy M. Tadier:

Supplementary. If it is to do with mathematics we could also consider a mathematical plus 20 solution, so there could be a 20 per cent division between Executive and Non-Executive rather than reducing it. Would the Minister give that some consideration, if only to be even-handed in his deliberations?

Senator I.J. Gorst:

As I said, I will be discussing these matters with P.P.C. and it will be, I hope, for them to bring forward changes. No doubt they will be discussing the equation that he just put before the Assembly in light of what I asked them to consider.

8.9.10 Deputy S.Y. Mézec:

I am struggling to contain my excitement knowing that the lodging of these proposals is imminent. Could the Chief Minister indicate whether this new Ministerial post will have its own Assistant Minister and, if so, which current Assistant Minister will have to lose their job to facilitate this?

Senator I.J. Gorst:

As the Deputy points out, there is the possibility to take an existing Assistant Minister and propose them to this Assembly to become the Minister, there is no other latitude available.

8.9.11 Deputy S.Y. Mézec:

Just a point of clarification, he is able to get rid of someone who is currently an Assistant Minister to bring someone new in. So leave one department that currently has an Assistant Minister without one so that this new department will have an Assistant Minister. That is something he is capable of doing and would he consider that?

[10:45]

Senator I.J. Gorst:

Of course that is something that I could consider with the individual that I propose to be the Minister and that this Assembly supports to be the Minister but I have given it no consideration up to this point. I have not intended to do such a thing. Can I just say, I am slightly surprised that the Deputy does not appear to be interested in this issue, as he said in his final supplementary, and yet he felt it was important enough to ask the question.

8.10 Deputy M.R. Higgins of the Minister for Home Affairs regarding the procedures of the Police in respect of child protection matters:

What are the procedures of the police if independent expert witnesses opine that clear child protection concerns and risks to children are present, but these expert views conflict with those of their officers or representatives?

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

In the event that any new information or evidence came to light in a child protection case it would be considered by both Children's Services, the lead child protection agency, and the police in respect of any potential criminality.

8.10.1 Deputy M.R. Higgins:

Thank you for a very vague answer from the Minister for Home Affairs. We are not talking about criminality, we are talking about children protection issues and the case that I am referring to is one in which the police advised the Jersey Child Protection Committee that they felt that: one, a crime had not been committed but; secondly, they felt there were no child protection issues. This, by the way for Members, is the one that I have raised before where a couple, unmarried, were having oral sex in front of 2 young children, it was videoed, on video, it was seen by the police and they still said they had no child protection issues. Yet a consultant clinical psychologist who had viewed it could not understand how anybody who had viewed the tape could have come to that conclusion. At the present time the police are refusing to accept his view and want to close the case. I might add that this information was provided to the court, through the Jersey Child Protection Agency, the police view - not the clinical psychologist - and as a result the court made decisions based on that information. What is the situation when information contrary to the police, in terms of a clinical psychologist, comes forward? Should the police not reveal that to the child protection agency and also to the courts?

The Deputy of St. Peter:

As I said, this matter has gone through the M.A.S.H. (Multi-Agency Safeguarding Hub) and it has been discussed with the relevant child protection authorities. This is the fourth time the Deputy has brought this matter to the States Assembly in question time and this is not the appropriate place to discuss an individual matter. I would ask the Deputy to discuss this with the Chief of Police as I am not able to give any further operational details.

8.10.2 Deputy M.R. Higgins:

First of all, I would say it is the place to bring it forward when the police are not doing their job properly and it is a matter of concern to the entire public. This is just one case illustrating some police failures. In fact I am going to give a copy of the consultant psychologist's letter to the Minister so she can see the facts herself. What is of concern here is the fact that information is being put to the courts but is not correct. The agencies concerned, and the police in particular, are not prepared to make any changes or to disclose information they should disclose. Will the Minister, upon seeing this letter, please review this and come back and inform this House that the police are going to comply first of all with the Data Protection Law and report the information they should, and also forward to the courts, through the Jersey Child Protection Committee, the full facts so they have a complete picture?

The Deputy of St. Peter:

A number of different points have been made during that question. I would be very happy to receive a copy of the report and I will discuss with the Chief of Police and the relevant

superintendent. It is my understanding that this has been properly through the family court as well as being dealt with by the police. We will leave it there.

8.11 Deputy J.A. Hilton of the Minister for Treasury and Resources regarding the pre-letting of buildings on the Esplanade car park site:

In light of the indications by the previous Minister that the States of Jersey Development Company had to have substantial interest by companies in pre-letting the majority of the gross areas in the proposed Buildings 1 or 4 that were approved by the previous Minister for Planning and Environment, before proceeding to construction on the Esplanade car park site, can the Minister confirm that this is still the case?

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

I am delighted to be able to say on this occasion to the Deputy, yes, I can.

8.11.1 Deputy J.A. Hilton:

The objective of the States of Jersey Development Company is to deliver projects in the most beneficial and risk-adverse manner. It was proposed, before committing to construction costs, the States of Jersey Development Company will have to secure a sufficient level of legally binding pre-lets to fund the cost of construction in the first phase of this scheme. Are there any in place and, if so, are they as per assurances given by the Minister for Treasury and Resources on 4th February 2014 in answer to a question to Deputy John Le Fondré where he spoke about pre-lets totalling 180,000 square feet?

Senator A.J.H. Maclean:

There are a number of interested parties for the building to which the Deputy is referring. I can say that of the total of 470,000 square feet that are available across the entire Esplanade Square development that there are expressions of interest - early stage some of them, I accept - of around about 370,000 square feet. There is significant interest in development on Esplanade Quarter and the Deputy would be, I am sure, interested - as indeed Members will be - to know that in the first quarter of next year we hope that the States of Jersey Development Company will be in a position to secure enough pre-lets, as per the undertaking contained within the M.O.U. (Memorandum of Understanding) that will allow development to progress.

The Bailiff:

Final question?

Deputy J.A. Hilton:

Final, Sir?

The Bailiff:

Yes, this will be your third. The Minister answered yes to your first question.

8.11.2 Deputy J.A. Hilton:

I deduce from that answer to the question that there is not any pre-lets in place, legally binding pre-lets, at the moment. So the question I would like to ask the Minister is: can he tell Members how much money has been spent starting construction of the temporary car park adjacent to the Radisson Hotel to date? That is part of the construction element and from what he has just said there are no legally binding pre-lets in place but, despite that, public money is being spent delivering the temporary car park.

Senator A.J.H. Maclean:

I cannot give the Deputy, as I am sure she would appreciate, a figure off the top of my head on that specific item. What I can say is that approximately £4 million has been spent so far on this project in design and planning applications and such like. As Members would expect, it is an expensive business getting involved in developments; £4 million of which approximately £1 million went to our own Planning Department. I can tell Members further that - and this has been put in the public domain before - this development is estimated to generate in excess of £50 million of profit for the taxpayer. This is our land. This is the land belonging to the Islanders of Jersey and to extract value that would not otherwise be possible by developing it to support our economy, a desperate need for Grade A office space. Some may disagree with that. The facts are very clear, there is a desperate need for Grade A office space. There is only about 15,000 square feet available and I can tell Members as an example that a very recent inward investment company, a high value company, looked at all those 15,000 square feet of so-called available Grade A office space, none of which was suitable and the only way that they were able to find suitable space was the States of Jersey Development Company gave up their own offices in order to secure that opportunity for the Island.

8.11.3 Deputy J.A. Hilton:

I need to come back there because the Minister spoke about the £50 million worth of profit that this development is going to deliver. But that profit is not going to be delivered until 2035 and the people of St. Helier do not want to wait until 2035 before the profits of this development are delivered in infrastructure benefits for the Parish.

The Bailiff:

So the question is?

Deputy J.A. Hilton:

So the question is: my belief is that private industry can deliver the Grade A office space that is required and is the Minister for Treasury and Resources certain that there is not some Grade A office development being built right at this moment that will be available?

Senator A.J.H. Maclean:

I can go further. I can tell the Deputy that aside from the 15,000 square feet that is currently available - and in the example I have just given was for different reasons not suitable for the inward investment company that I referred to - there are hundreds of thousands of square feet that have been approved but not built. Some, for example, have been available for some time. The bottom line is they are not being built for different reasons, the design might not be suitable, the location might not be suitable. The fact of the matter is, very fortunately for the people of Jersey, this particular site that the States of Jersey Development Company has is a top site. It is the International Finance Centre, it is going to be a stimulant to our financial services sector and economy generally. The site is needed, the value is there, it has been assessed and reassessed, the States of Jersey Development Company was approved by this Assembly. The terms under which it operates was approved by this Assembly, it is trying to get on with its job, it is being hampered at every turn and that is one of the reasons why it has become increasingly difficult to get this first building away. I have little doubt that once this first building starts and comes out of the ground some of the significant additional expressions of interest will start to materialise and it will all be to the benefit of the Island. I can finally, if I may, just say that there has been, as Members would be aware, a considerable amount of disquiet from certain sectors of the industry. Members will be aware of the letter that was written the Chief Minister signed by, I believe, 10 professional surveyors and such like within industry. There were inaccuracies in that letter and it is going to be responded to. The fact of the matter is there were 7, 8, 10 professionals who were the authors, there

are in fact more than 60 professionals who were not party to that particular view, and those that did write the letter have interests in competing businesses and competing organisations that they represent. It is a competitive world, that is why that letter has been written. We have to look after the best interests of this Island. I believe Esplanade Quarter will demonstrate considerable gain for the Island and Islanders.

9. Questions to Ministers without notice - The Minister for Education, Sport and Culture

The Bailiff:

Very well. We will come to Questions without notice and the first period is to the Minister for Education, Sport and Culture.

9.1 Deputy R. Labey of St. Helier:

As the format for school inspections is going to change, can we take it that the Minister acknowledges the previous experiment went on for far too long and was ineffective in identifying the strengths and weaknesses in Jersey schools?

Deputy R.G. Bryans (The Minister for Education, Sport and Culture):

Could the Deputy just outline to me what he means by “the previous experiment?”

Deputy R. Labey:

The system of internal inspections in schools and professional partners to hold the hand, if you like, of the headmasters.

Deputy R.G. Bryans:

To the contrary, we are already working to improve the quality and range of data that we collect. Education now has its own specialist statistician and a small insight team spearheading this. The problem we had originally is that we were not containing enough data. A publication schedule has been prepared that will put more information in the public domain. It will start next year and it will mirror the dates that education data is released nationally. It will include exam results, attendance, *et cetera*. The department is also about to invest in a new data management system which will be key to these improvements. Ofsted is an English system for English schools, not necessarily here provided we have the right degree of challenge locally, which is what I recognise the Deputy is asking me. In our professional partner system, each school has a professional partner who visits at least once a term. There is a robust system of evaluation that all school and professional partners use. This is a key element in driving-up standards. I was witness to this myself as a governor of Haute Vallée for some years. The proof is particularly evident in primary schools where results have been steadily improving since the professional partner system was introduced in 2009. The system is constructive, not damaging, and gives a more realistic picture of how a school is doing than one-off irregular inspections or, worse, statistics. Most of our professional partners are Ofsted trained or H.M.I. (Her Majesty’s Inspectorate) inspectors. Schools will tell you it is robust, challenging and useful.

9.1.1 Deputy R. Labey:

I see the Minister has a prepared answer, probably understandable, but he did not answer my question. Let us go on from that. It is not just about data and data collection, it is about what goes on in the classrooms too. Saying that the professional partners visit the school once a term I find is quite extraordinary. I believe they do not go into the classrooms on those visits, they go to the headmaster’s office. So how can a new system of school inspections, which is once again in-house

and in the employ of the department, be as rigorous and accountable as a series of Ofsted inspections?

[11:00]

Deputy R.G. Bryans:

The Deputy is quite right; I did have a prepared speech. But the reality was that the information that was provided here was one I prepared myself. The way the professional partners work - and again this is pure experience from being the chair of governors at Haut Vallée - is to go in there and question the headmasters. What we are trying to do or trying to achieve in education at the moment is more autonomy for schools. The ability for a headmaster to govern the school in the way they would expect and to raise the standards. So what they do is they go on a termly basis, they sit down, they quantify the information that they have been given by the headmasters and verify if that information is improving or has remained static or is in fact reducing. In the majority of cases we have now seen over this period of time the effect of professional partners really raising standards to a very high level, particularly in the primary schools. It has been less accepted in the secondary schools but I think this is now more pervasive. At the end of the day, he is right to say it is not just about data, it really is about the opportunity for heads and for teachers - because do not forget that even though it is not that the inspectors go into sit with the teachers, it is the direct report from the teachers to the headmaster and that autonomy, which is important.

9.2 Deputy G.P. Southern:

Is the Minister aware that there is a request from one of the U.K. unions in the U.K. for annual reviews of teacher workload. Does the Minister have under consideration the prospect of annual reviews of workload and can he state what the last review of workload revealed about the number of extra hours teachers are working?

Deputy R.G. Bryans:

To take the last part first, I have not seen that review and I do not know what it would reveal but I will have a look at it in context. What I can say to the Deputy, and I understand where he is coming from, we have spoken to the unions, we have further meetings to be had with them, we have an educational partnership that has been agreed by the Chief Minister about terms and conditions for teachers, and I have made it a priority for myself, having gone around 10 schools over the last 2 weeks asking the heads of the schools what it is they expect from me. Very high on their list is the reduction of bureaucracy. So in consideration of what I asked for within the first 100 days is to look at that subject matter.

The Bailiff:

Now, the next light I had seen was the Deputy of St. Martin but, as this is a new Assembly, Deputy, just to remind everyone that the chair does not normally allow questions from one Minister to another unless there is absolute silence from all other Members. So I am going to pass you over for the moment.

9.3 Deputy M.R. Higgins:

Today I asked a written question of the Minister regarding truancy rates and the powers of the department to deal with it. Reading through the powers, they all relate to actions that can be taken against the parent and yet very often the parents are doing their very best to try and get their children to attend school. Can I ask the Minister what powers they have to compel children who are refusing to attend school to attend school?

Deputy R.G. Bryans:

I am a little confused with that question. What powers who has?

Deputy M.R. Higgins:

What powers the Education Department has. How can you encourage children who are refusing to attend school, and their parents are doing their best to get them to attend school but it is the child who is refusing? It is no good prosecuting the parent for the child's actions. What can the department do? What legal powers or other powers do you have to get the children to attend school?

Deputy R.G. Bryans:

The legal power would relate to Article 14, which is that the Minister for Education can seek an education supervision order with regard to the child. What we try to do - and it is imperative that we make this clear - is to get every child into school so they receive a full education. We have 2 forms of opportunity to do that. One is if it is in a secondary school, we have attendance officers, and if it is in a primary school we have the education welfare officers who ... it is about the well-being of the child at the end of the day. It is difficult, I totally agree with the Deputy, to force a child to go to school. But I think our system has been quite successful. Our figures relate that we have very little truancy in relation to the particular matters the Deputy has mentioned.

9.3.1 Deputy M.R. Higgins:

I have recently gone to the States of Jersey Police with a parent whose daughter was not attending school. The police did find the girl concerned, took her to school that day and then she disappeared the following day and I believe is not attending since. We do have some students who are particularly difficult to get into school. Rather than prosecuting the parents, what action is being taken? This is not an isolated case, there are others. The Minister says these reviews take place and there are officers, but I would ask the Minister to look at in more detail and come back to the House and give us a full explanation of the numbers of persistently truant - if I use that term - students and the measures that the department is using to get them back at school.

Deputy R.G. Bryans:

As with the Minister for Health and Social Services, I fully welcome the opportunity for the Deputy to come into the department and discuss it if it is a particular matter. I am not aware of a large rate of truancy throughout the schools, in fact, like I just said, the reverse is true. So if he is willing to come in and discuss it, I am more than willing to sit down and listen to him.

9.4 The Deputy of St. John:

Approximately 3 years ago there was some form of coloured paper that was produced - some would call it a Green Paper, some would call it other colours - on education. It was responded to by many parents across the Island, particularly in regards to secondary education. Could the Minister advise what the position is in terms of the answers to that paper and whether anything has been implemented? If not, whether there will be a Green Paper going forward.

Deputy R.G. Bryans:

Yes, back when I was an Assistant Minister I saw the Green Paper. I attended all of the discussions with the parents at the time and I thought a great deal of the information that was provided was quite ambiguous, I have to say. It was felt that we needed to take a breath, as it were, and come back and revisit that. So I welcome the Deputy's question. I have already alliterated that what we are trying to do at the moment is focus back on those 4 things that the director has outlined as his principles, which are standards, curriculum, family and - I have forgotten what the fourth one is now - autonomy. It is through that process we will revisit the Green Paper and look at the

information that was provided there and see if it is relevant to what we are doing and then we will come back with a strategic plan in, I think it will be, mid-February.

9.5 Deputy L.M.C. Doublet:

Does the Minister have any plans at the moment, or will he ever consider in the future, to introduce performance-related pay for teachers?

Deputy R.G. Bryans:

I think that is really in relation to the States Employment Board, the considerations that we have going forward and the discussions that we have with the union. So I would not like to discuss that at this point in time, but if there is a consideration I will certainly be on top of that.

9.5.1 Deputy L.M.C. Doublet:

Could the Minister just briefly describe whether he is for or against performance-related pay for teachers in principle?

Deputy R.G. Bryans:

To be honest, I do not have a view on it at the moment. I need to sit down and discuss it in more detail with my director.

9.6 Deputy D. Johnson of St. Mary:

My question to the Minister relates to his position as still Minister for Sport. In relation to the proposed development at Les Galots, could you please advise what consultations there have been with sporting bodies that might be interested in using that development in the future?

Deputy R.G. Bryans:

We are in a transition phase, but with regard to Les Galots I am unaware of any discussions that have related to that particular aspect.

9.6.1 The Deputy of St. Mary:

Can you, please, therefore clarify have there been any consultations between members of his department as Sport, with bodies using those facilities of any kind?

Deputy R.G. Bryans:

I think the Deputy is aware that my relationship with Sport is through my Assistant Minister, Constable Pallett, who has had some discussion, I believe, with the various bodies but I am unaware of those particular discussions myself.

9.7 Deputy A.D. Lewis:

I wonder if the Minister could advise, what professional development opportunities are there for teachers to, for example, go on secondment to other schools, not necessarily just in Jersey but in other places as well? Is this something that is well-established and could he perhaps describe what it consists of at the moment?

Deputy R.G. Bryans:

This gives me the opportunity to talk about something the director and I are embarking on, which is for the first time ever we are hoping to create annual conferences where teachers will be allowed to see some of the good practice shared across the U.K. We have done it once previously but it was not set up as an annual conference. With regard to teachers, I believe they can be seconded as part of their continued professional development. To go off-Island, I think there are 2 visits they can do a year, I could be wrong on that. I do not know the actual detail of it but I have had discussions

with some of the head teachers about increasing the access to teachers to allow their training to be fully complete. It relates to what we are suggesting with regard to standards.

9.7.1 Deputy A.D. Lewis:

Is this a contractual obligation, this type of professional development, or if it is not does he consider that it should be?

Deputy R.G. Bryans:

I believe it is a contractual ... part of the development of teachers. Certainly from our perspective if it was not we would certainly be attempting to get more access to the information that is provided by schools from the U.K., which is why we are so focused on wanting to create at least this annual opportunity for teachers to share good practice from around the world effectively.

9.8 Deputy C.F. Labey of Grouville:

Will Education have any input into culture, arts and heritage once it has been transferred to Economic Development? How enthusiastic is he to make the transfer?

Deputy R.G. Bryans:

I thank the Deputy for that. I was not particularly enthusiastic. I think most Members are aware I am a bit of a culture vulture when it comes down to it and it is very much in my heartland. That said, I think the transfer will go well. I have spoken to the Chief Minister and Senator Farnham, the new Minister for Economic Development, and he has his ideas, which I fully support. I think culture is so intrinsically woven into the fabric of education it will not disappear. It is so important, particularly in relation to the statements we have made by increasing the exposure of Jersey children or Jersey students to the history of the Island. That kind of opportunity will still exist. The other benefit we have is that the Chief Officer in relation to culture is someone I have known particularly well for many years and that conversation between us will carry on. For the moment I am still effectively an Assistant Minister to the Minister for Economic Development so I hope moving forward that he will do extremely well and that culture will still reside as a very important feature of the Jersey curriculum.

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

The Bailiff:

Very well, I am afraid that brings question to this Minister to a close. So we move now to questions to the Minister for Health and Social Services. The Connétable of St. Mary.

10.1 Connétable J. Gallichan of St. Mary:

While the Minister may feel this is probably a small point in view of other things he has under his control, does he acknowledge the continued difficulty in accessing the hospital from the Newgate Street entrance? The only public car parking in the vicinity is at Patriotic Street and yet the entrance is not open during all visiting hours.

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

I am aware of this and I promise the Constable I will have another look at it. It is a balance between providing security for people at the weekends when the hospital outpatients department is not staffed and providing the access to the nearest car park. If they had done as I suggested 20 years ago and put a link from the car park into the hospital all the problems would have been solved, but that is something we can look at in the future not now.

10.2 Deputy J.A. Hilton:

Our Minister for Health and Social Services has been in post now for approximately 6 weeks. The question I would like to ask is whether he has discussed the dual hospital site option with his senior officers? I am interested to know what his general opinion is on spending £300 million across 2 sites to deliver just 40 per cent new-build.

Senator A.K.F. Green:

I could spend the whole of question time on this but I am sure you will not allow me to. I promised when I both stood in the general election for Senator and at the election for Minister for Health and Social Services that this would be one of the matters that I would review and report back to the Assembly on. Clearly there have been discussions with officers. I am very concerned that the 2-site option might be the cheaper option now but in the long term the more expensive option. We might be just kicking the ball 10 years down the road. I have not seen all the facts and that is being worked on at the moment. As the Minister for Treasury and Resources said before, we have got 5 sites under review and when that work is done, when all the costings are looked at, I want a sustainable hospital that will be good for generations to come. Not one that just solves the problem for the next 10 years.

[11:15]

10.3 Deputy R.J. Renouf of St. Ouen:

Considering the location of a new General Hospital, is the Minister giving equal consideration to the location of mental health services in buildings suitable to the proper care of those suffering from mental health conditions?

Senator A.K.F. Green:

Absolutely. I do not see mental health as any different to any other physical illness. If you have a broken leg, you are ill; if you have mental health issues, you are ill. We need to tackle this issue head-on and that means a lot of work not only in the provision of services wherever appropriate but it means a lot of work in our schools, in the work place and in the health service. I intend to lead on that.

10.4 Deputy A.D. Lewis:

Once our own population's health needs have been fully met, will the Minister, in conjunction with perhaps the Minister for Economic Development, give consideration to the possibility of developing Jersey as a world class centre of excellence for specialist health care which could attract foreign nationals to visit Jersey and thus creating a whole Economic Development opportunity? Is this something that he would consider and, if so, would he see it as a contributor to the cost of running the health service in the future?

Senator A.K.F. Green:

I wonder if my office is bugged. I wonder where the Deputy got that information from. Of course that is something we have to look at. Alongside providing affordable, safe, sustainable care for our own community, I believe that there is a substantial market there in private medicine within our own community and outside of that. It would certainly be another leg to our economic stool.

10.5 Deputy G.P. Southern:

Browsing through previous questions to his predecessor the other day - what a sad person I am - I came across a commitment back in March and April last year to improve the psychological services offered to residents and reference to 14 new positions. Can he update Members on those 14 new positions and inform Members what the state of the psychology service now is in the Island?

Senator A.K.F. Green:

I am afraid I cannot answer the detail about the 14 posts as I do not yet have that information; I am fairly new in post. But like mental health services, psychological services are important to me and I have a planned visit to the department to see what is going on and talk to the staff and officers there.

10.6 Senator Z.A. Cameron:

Can the Minister for Health reassure the Assembly that he intends to ensure that we have the relevant expertise and resources in place to be able to respond to disclosures of physical or sexual abuse by members of staff employed in the public sector in accordance to best practice elsewhere, in the light of some of the evidence being presented to the care inquiry?

Senator A.K.F. Green:

This is obviously something that concerns all of us and we have recently appointed 2 external interim directors, one for adult care and one for child care, who are advising me in ensuring that we have sufficient resources available and the right skills available to tackle exactly the issues that the Senator is talking about. We still have a lot to learn.

10.7 Deputy L.M.C. Doublet:

With the plans for the new hospital, and given the research that has come to light recently about birthing arrangements, will there be plans to include a midwife-led Maternity Unit in, nearby or separate to the new hospital?

Senator A.K.F. Green:

I was interested to read about this from N.I.C.E. (National Institute for Health and Care Excellence) recently, and I suspect that is where the Deputy is coming from. It is something we will look at. It is not always possible for Jersey to provide absolutely everything and have a dedicated maternity wing and a midwife-led service. But the maternity wing that I know - or the ward, we used to call it a wing - is primarily midwife-led. I understand the philosophy that the Deputy is trying to get. I will look at it but I cannot promise to deliver everything within a constrained budget. We will put the patient and their families at the centre of everything we do and try and deliver the best service possible.

10.8 The Deputy of St. Ouen:

Has the Minister found room in his business plan to bring forward a Social Services Law to underpin the Minister's duties in this area and, if so, what is his timetable for this?

Senator A.K.F. Green:

I was discussing the legislation programme yesterday and I am not quite sure what aspect of the Social Services Law the Deputy wants me to comment on.

10.8.1 The Deputy of St. Ouen:

Following up on the previous Scrutiny report - the Health and Social Security Panel on respite care - one of the recommendations was to implement a Social Services Law to place a duty on the States to provide information registers, policies and eligibility criteria surrounding access to care services.

Senator A.K.F. Green:

I am with the Deputy now. Yes, this is work underway, but I do not have to hand the actual programme. I would be happy to provide that to Members later, but certainly it is well on the way.

10.9 Deputy G.P. Southern:

Could the Minister release his terms of reference for the Gleeds inquiry into the 5 sites he referred to earlier?

Senator A.K.F. Green:

The terms of reference are not mine, although obviously my department have an influence with them. The Gleeds are contracted by Property Holdings. Members were asking earlier who they are. They are management experts in designing and building hospitals, from the site right through to the actual delivery of the ward using medical experts as well. They have done a lot of work in designing and building a new health infrastructure in Wales.

10.9.1 Deputy G.P. Southern:

Will the Minister commit himself to requesting that Property Holdings release the terms of reference?

Senator A.K.F. Green:

Of course.

10.10 Deputy J.A. Hilton:

I am told that the Community Services Department at Overdale Hospital are moving premises and I was wondering if the Minister for Health is in a position to tell Members why this is.

Senator A.K.F. Green:

The Deputy is told more than I am told on this occasion but I will find out about it.

10.11 Deputy G.P. Southern:

In response to a previous Scrutiny report the previous Minister acted to improve the provision of respite care for young people in the community, can the Minister update Members on the progress made with those measures, in particular with reference to the Island's old person's home which was providing some respite care?

Senator A.K.F. Green:

Considerable work was done by the previous Minister - good work I might add - and the department and we now have 10 providers of respite care. Not necessarily all residential care, some of it is about young people being appropriately entertained or taken out to allow the families to have a day off. Ten new providers in respite care. There is more work to be done, particularly around adult care, I feel, but that is something that my officers and I are working on.

10.11.1 Deputy G.P. Southern:

Could he provide Members with some evaluation of the success or otherwise of those 10 providers that he so proudly speaks of?

Senator A.K.F. Green:

Of course I proudly speak of it, although I cannot take the credit for the work. I am happy to provide the list of who those providers are but this has only been in place - some a bit before but the majority - for about 6 weeks.

10.12 Senator Z.A. Cameron:

In the light of the headlines in yesterday's *J.E.P. (Jersey Evening Post)* regarding the fact that the Health Service is now being sued by a previous job applicant, what measures have been put in place to prevent this happening in the future?

Senator A.K.F. Green:

It would not be right for me at this time to discuss any aspect of this case when it is going to the courts. I have made changes to procedures but I am not going to discuss it before the case goes to court.

10.13 Deputy J.A. Hilton:

I was wondering whether the Minister for Health and Social services had had an opportunity to visit Le Geyt Centre up at Five Oaks, run by amazing staff but in very poor buildings, and what his plans are for the future for delivering services to special needs adults.

Senator A.K.F. Green:

I have visited Le Geyt Centre, not in my role as Minister but when I was providing some training some time back. I am aware that this is a Cinderella service and works need to be done. We are developing a strategy for the whole health service and the whole of our community. I do feel that sometimes the community services have been a little forgotten in the past and it is something that I as Minister tend to ensure does not happen again. Lots of work to be done, I say to the Deputy, but they are not forgotten.

10.14 Deputy G.P. Southern:

Has the Minister had time in his short tenure so far to examine the ability of staff in the Health Service to whistle-blow in safety? If not, is this a priority for him and what does he see as the way forward to protect whistleblowers which seem to be necessary to the efficient running of most health services?

Senator A.K.F. Green:

I have not had time to examine it but it is something that is fairly close to my heart and I would like to see a culture within all the public services, not just the Health Service, similar to that in Seattle where people can whistle-blow, as the Deputy puts it, but say: "I made a mistake here, what can we learn from it?" in a culture of safety. That is the sort of culture that I want, not just for the Health Service but for the public sector as a whole.

10.14.1 Deputy G.P. Southern:

I think the critical question there is not that: "I made a mistake" but: "My senior in the management line made a mistake" is the safety that is required.

Senator A.K.F. Green:

Of course the Deputy is right, but in a mature culture where it is safe to admit you have made a mistake. They will not need people below them or above them pointing it out, they will feel safe to say: "What can we learn from this, I did that." That is what is happening in Seattle and that is what I would like to see right through our public sector.

The Bailiff:

Are there any other questions? No? We will bring the questions to the Minister to an end. There is one further matter. I have given leave for an urgent oral question to be asked by Deputy Mézec of the Minister for Social Security.

11. Urgent Oral Question

11.1 Deputy S.Y. Mézec of the Minister for Social Security regarding revocation of the Employment (Qualifying Period) (Jersey) Order 2014:

Would the Minister agree to revoke the Employment (Qualifying Period) (Jersey) Order 2014, which is due to come into force on 1st January 2015 and instead bring a proposition to the Assembly to seek States approval before any changes are made to the qualifying period for unfair dismissal?

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

No, I am not willing to revoke the Order. The Employment Law enables the Minister to make an Order that prescribes the qualifying period for protection against unfair dismissal. I have exercised that Order-making power and there is nothing unusual in this. Ministers routinely make Ministerial Orders to deal with legislative matters quickly and efficiently. I have not acted inappropriately in making a Ministerial Order without first seeking the approval of the Assembly. It would be unusual for a Minister to ask the States to give its approval when the Minister has been given the power to make that decision. I have taken this decision with the support of the Council of Ministers; any Member may of course bring a proposition to force a States debate if they wish.

11.1.1 Deputy S.Y. Mézec:

Which is absolutely what we shall be doing. I have in my hand here the report accompanying this Order which is a measly 2 pages and it does not quote a single piece of evidence to suggest that this is the right thing to do. I have here the report from the Employment Forum, which considered this last year, which said: “The Forum has found no evidence that a longer qualifying period would have a positive impact on employment and job opportunities. The Forum considered whether the consultation revealed any other reasons that might support a longer qualifying period. The Forum has concluded that the potentially detrimental impact of a longer qualifying period outweighs the potentially positive factors to such an extent that the Forum cannot recommend a longer qualifying period.” So, can I ask the Minister, since this report came out, what new evidence has come to light or is it still the case that this will not have a positive impact on employment prospects for Islanders?

Deputy S.J. Pinel:

At that time, which is 18 months ago, the Forum recommended a 26-week qualifying period should remain, however the Forum accepted that a longer qualifying period could persuade an employer to give an inexperienced or young employee a chance. I think it is important that we encourage that possible chance and this is the appropriate way to do that. At that time 18 months ago, the Forum felt that the negative indications around business activity were likely to be more influential in an employer’s decision about whether to employ staff. The indications in the latest Business Tendency Survey, however, show an improvement. The latest report for September 2014 shows that the all-sector business activity indicator remains positive. Essentially unchanged from the previous quarter, which had recorded the highest levels since the survey was introduced.

[11:30]

11.1.2 Deputy G.P. Southern:

As a point of clarification, because I believe the Minister may be in danger of misleading the House, could she point to the section of the report from the Employment Forum indicating, in the words of the Employment Forum and not in the words an employer, the statement she made about encouraging people to be taken on? I believe she is seriously at risk of misleading the House, because I have read it.

Deputy S.J. Pinel:

The Forum said that it was not opposed in principle to a one-year qualifying period but one of its primary concerns was that a one-year qualifying period would potentially remove unfair dismissal rights from thousands of employees in Jersey. Existing employees, however, will be protected.

Any employee under the current 6 month – 26-week - contract will be unaffected by the new proposal which comes in on 1st January.

11.1.3 Deputy G.P. Southern:

I have read the document she is referring to and tends to quote from, could she point to the page where she found the Employment Forum stating what she first said, the first sentence that she said when she first stood about encouraging the take up of jobs, because I do not believe that exists. I think that is the words of an employer and its opinion, not the Employment Forum's opinion and I think that is a serious risk of misleading the House.

Deputy S.J. Pinel:

The Forum found the U.K. and Northern Ireland Governments have concluded that it has not been possible to establish the likely impact of extending the qualifying period or to establish a direct link between the changes in the qualifying period, growth and employment. Some of the Forum's U.K.-based evidence relating to the potential negative impact of a longer qualifying period relates to the U.K.'s move from a one-year period to a 2-year qualifying period. It has to be said that the reaction to the announcement from employers and their representatives has been good evidence of the expected boost to employer confidence.

The Bailiff:

Minister, I think the Deputy's question is a fair one. In your first answer you quoted from something which I think many Members thought was a quote from the report of the Employment Forum. I think the Deputy is saying was that quote from the Forum itself or was it in the document but quoting something said by a particular employer? I think you need to answer that question.

Deputy S.J. Pinel:

Can the Deputy reaffirm which quotes he was referring to, please? Or which part of the Forum's report?

Deputy G.P. Southern:

The statement was, I believe - without Hansard it is difficult to say - that the move from 6 months to a year would encourage the provision of more employment particularly those on work schemes, or words to that effect. She referred to that as the opinion of the Employment Forum. I do not believe it was. Could she point to the page on which that quote is so we can check it was the Employment Forum and not reporting of the witnesses?

Deputy S.J. Pinel:

Thank you. I think the Deputy is referring to page 9 of the report headed "Potential Negatives". As I have said, there is no direct evidence provided in the U.K., Northern Ireland, Guernsey, Isle of Man, to say that any qualifying period, be it 26 weeks, a year or 2 years, is evidence-based. What we have established here is to move to one year instead of 26 weeks in order to give the employers confidence in a growth economy.

11.1.4 Deputy G.P. Southern:

Can I go on to my question then? I find it unsatisfactory because in referring to page 9, it refers to potential negatives. There is nothing on this page that suggests that the Minister in future might be persuaded to increase the period of qualification. Page 9 is full of negatives saying why you should not do it, I believe.

The Bailiff:

Minister, one's memory of course is not perfect but I understood you to be quoting from something in your first answer. If it was a quote, can we just be clear whether it is a quote from the report of the Employment Forum or a quote from a view of an employer? I think that is the only question.

Deputy S.J. Pinel:

Sir, 18 months ago the Forum recommended a 26-week qualifying period, which was no change from the previous recommendation. I think the Assembly and the community as a whole will recognise that a huge amount has changed in 18 months. The Forum accepted that a longer qualifying period could persuade an employer to give an inexperienced or young employee a chance.

The Bailiff:

Let us just be clear, that is a quote from the Employment Forum itself, is it?

Deputy S.J. Pinel:

It is, Sir.

Deputy G.P. Southern:

Could she point to the page on which it is because I think she is now misleading the House?

Senator I.J. Gorst:

Perhaps I could come to the Minister's aid. It is very difficult for Ministers to read through a report while answering questions at the same time. It is on page 17.

Deputy S.J. Pinel:

It is the fifth paragraph down.

The Bailiff:

If that is right, Deputy ...

Deputy G.P. Southern:

"The Forum accepts that a longer period could encourage an employer to give an experienced or young employee a chance, that employers might prefer a longer period in which to determine if the person is suitable for the job and the other jurisdictions have longer qualifying periods. However, the recommendation was not ..."

The Bailiff:

Deputy, first of all, you must withdraw your suggestion that she misled the House because it is quite clear she did not.

Deputy G.P. Southern:

"That employers might prefer a longer period." Yes, Sir, that is a statement by the Employment Forum and I withdraw my accusation.

11.1.5 Deputy M. Tadier:

The Minister, I think, has quoted selectively from what can simply only be considered a truism. Of course they are acknowledging a technical possibility but every piece of evidence in the report on the same page 17, for example, says that: "Changes to the qualifying period in U.K. have been politically driven rather than evidence-based." On the next page of the report it says: "Some of the potential disadvantages of a longer qualifying period appear to contradict the stated intentions of increased growth", which is exactly what the Minister is now proposing "and that there may

potential longer-term disadvantages”, which are listed on page 18. While it might be entirely within the Minister’s powers to make a Ministerial Decision for this, what I believe is a significant change, does she accept that it also might be politically wise to bring this decision to the Assembly herself - so we do not need to debate a revocation - given the fact she was the Assistant Minister under the Minister who decided distinctly not to go for this extension, and when the report distinctly says that all the evidence favours 26 weeks rather than a year, and given the fact that nothing has changed in terms of the Employment Forum’s evidence?

Deputy S.J. Pinel:

I have said before in this question that any of the qualifying periods, be they 6 months, a year or 2 years, are not and cannot be evidenced-based. There is not the evidence to support any of this. As Assistant Minister with the former Minister for Social Security, we agreed to go with the recommendation of the Forum at that time, which was 18 months ago. Since then much has changed considerably. This was not decided on a whim. This has been discussed with the Forum and notified to the Chamber of Commerce - who are fully in support - the Employment Forum and the Employment Tribunal. But, as I said, the proposed change does not affect existing employees, it will only affect new employees from 1st January, and so the affected numbers are much smaller than they would have been had we extended the period 18 months ago.

11.1.6 Deputy M. Tadier:

The fact remains that the report says there is no evidence to suggest that this would do what the Minister is hoping it will do, but there is a suggestion that it would, of course, make it easier to dismiss somebody unfairly for an extra 6 months rather than the existing 6 months. Given the potential gravity and unintended consequences that have been highlighted in that, would the Minister at least give consideration to bringing this back so it can be an informed decision of this Assembly rather than what seems be a political ideological decision that has been made, albeit with some discussion with some sectors of society?

Deputy S.J. Pinel:

No, I will not agree to that for the reasons I stated beforehand. It is within Ministerial powers to extend this qualifying period and I intend to keep it that way as a boost to business in a time when we are trying to support economic growth.

11.1.7 Deputy S.Y. Mézec:

Throughout all of those answers I had clutching at straws. The fact is there is not a single piece of evidence, not 18 months ago nor today, that says this will do anything to help employers employ more people. In fact the report itself, when it heard contributions from employers, spoke of a perception and reality gap. It acknowledged that employers have legitimate concerns about taking on new people in this economic climate but extending the qualifying period itself does nothing. So would she agree with me that she is better off spending her time focusing on things that will genuinely help businesses in this current economic climate, like protection against vexatious claims at the Employment Tribunal, like potentially considering an insurance scheme for new start-up business or businesses with a revenue below a certain point so that they can take on people without having to worry about these risks? Would she not agree that is a productive approach that would achieve good things rather than this approach which simply does nothing apart from erode our already minimal employment protection rules that we have in Jersey that have been hard fought for by the labour movement in the past?

Deputy S.J. Pinel:

The Deputy is quite right, and it is what I said before, that this is not evidence-based, but it is proven to be a boost for industry and business of which there is very many small businesses in this

Island who have supported this move. That is what we are trying to do, is to get people back into work and support the growth of the small business. The change has not been made to any exclusion of other additional measures to help businesses and boost job opportunities, it is in conjunction with.

Deputy G.P. Southern:

Point of clarification, if I may. The Minister has just said this move has been proven to do something, where is that proof?

The Bailiff:

That is not a point of clarification, she has answered the question. It is for Ministers how they answer questions, Deputy.

Deputy G.P. Southern:

Just to inform Members that I have lodged the draft Act annulling the Employment Qualifying Period Order today, P.169, and we will take Members through pages 26 and 27 of my document which shows that the overall summation of the arguments say that it will not do anything to improve jobs.

The Bailiff:

Very well, so that completes the extra question. There are no matters under J or K.

Senator A.J.H. Maclean:

Sir, if I may, could I just clarify something that I said earlier. I inadvertently misled Members with a comment I made about Gleeds. I think it was in response to Deputy Southern's supplementary question. I suggested that the Health Department had appointed Gleeds, in fact it came as a result of the previous Ministerial oversight group for health transformation. It is a minor point but I just wanted to clarify for Members that it was not directly Health but came as a result of that Ministerial oversight group on health transformation.

Deputy G.P. Southern:

The terms of reference of that group examining the 5 sites will be made available to Members?

Senator A.J.H. Maclean:

The answer that the Minister for Health gave stands, we will certainly look at that and report back.

ARRANGEMENT OF PUBLIC BUSINESS

The Bailiff:

Very well, so we come to Public Business and the first ...

12. Senator I.J. Gorst:

Before we start, could I just make a suggestion with regard to Public Business today? I know that Deputy Tadier has ... I am not sure if he has emailed all Members but he would prefer to take his 3 items, the 3 petitions that is, all together and therefore after lunch if possible. I wonder if we could start this morning and take P.162, P.153, they are the 2 Freedom of Information items. I understand that Senator Bailhache may be happy to take P.164, the Draft Air Navigation. I am not sure whether the Minister for Social Security would be happy thereafter to take her 2 items and see where we get to.

The Bailiff:

What about your P.151, are you happy to do that?

Senator I.J. Gorst:

I was going to ask my Assistant Minister to take that, who will not be arriving into the Assembly until after lunch but if need be and we get pushed I could do.

The Bailiff:

Do Members agree to try and do as many of other items as possible and then leave Deputy Tadier to start after lunch? Very well.

[11:45]

12.1 Deputy M. Tadier:

Could I just thank the Minister for that helpful proposition. A minor point, but it is probably worth giving it notice, I would like to take P.127 first. I think in terms of the logic of the 3 debates it is easier for me to take Sativex, P.127, first, then P.128 and then P.126. It should not make any material difference.

The Bailiff:

Do Members agree to take them in that order? So we will start with Projet 127.

PUBLIC BUSINESS

13. Draft Freedom of Information (Exemptions - Amendment of Law) (Jersey) Regulations 201- (P.162/2014)

The Bailiff:

Very well, then on that basis we will take first of all Projet 162 then, Chief Minister? So I will ask the Greffier to read that. That is Draft Freedom of Information (Exceptions - Amendment of Law) (Jersey) Regulations lodged by the Chief Minister and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

The Draft Freedom of Information (Exemptions – Amendment of Law) (Jersey) Regulations 201-. The States, in pursuance of Article 6 and 53 of the Freedom of Information (Jersey) Law 2011, have made the following Regulation.

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

The purpose of this Regulation is to add Article 26A, an additional absolute exemption to the Freedom of Information Law regarding information supplied by or related to bodies dealing with security matters. The U.K. police service and security agencies share important information, with particularly the States of Jersey Police and, in the absence of this absolute exemption to mirror that in the U.K., it has been suggested that that information will no longer be shared with the Island, therefore it is most important to amend the law to include this amendment which will allow us to maintain that important relationship.

The Bailiff:

Are the principles seconded? **[Seconded]** Does any other Member wish to speak on the principles? Yes, Deputy Higgins.

13.1.1 Deputy M.R. Higgins:

I might say, while I have no objections to this particular amendment, I do question the Chief Minister: is he really saying that Her Majesty's Government would not share intelligence to the Island if it involved a danger to the public of this Island on terrorism?

The Bailiff:

Does any other Member wish to speak on the principles? Then I invite the Chief Minister to reply.

13.1.2 Senator I.J. Gorst:

He is asking the wrong person the question. We are the recipients of such important information and it was indicated that the best course of action would be to mirror the absolute exemption that is in the United Kingdom law otherwise we would get into the realm of looking at other exemptions and trying to work through the information supplied into those exemptions. This absolute exemption would mean that that is not the case and everyone can take comfort and satisfaction that our law will then mirror what is in the United Kingdom.

Deputy M.R. Higgins:

Sir, can I just seek clarification on that, because the Minister did not answer the question? Would he believe that Her Majesty's Government would not provide information to the Island if it really would jeopardise the wellbeing of Islanders from a threat from terrorism?

Senator I.J. Gorst:

I did answer that question. He is asking me; I am not the holder of the information that is going to be passing it on. We hope to be the recipients of the information and I would say why leave the question in place? We can simply put this absolute exemption into our law and therefore there will be no question, and therefore the Deputy does not need to be concerned about his question if we accept this exemption.

The Bailiff:

Very well. All those in favour of adopting the principles, kindly show? Those against? The principles are adopted. This matter falls within the Corporate Services Scrutiny Panel. The Chairman is not here, Deputy Le Fondré. Deputy Bree, I seem to recall you are a member of this panel?

Deputy S.M. Bree of St. Clement (Member, Corporate Services Scrutiny Panel):

I am afraid so, Sir, yes.

The Bailiff:

Do you wish the matter referred to your panel?

Deputy S.M. Bree:

No, we do not, Sir. Thank you.

The Bailiff:

Very well. Chief Minister, do you wish to propose Regulations 1 to 4, then?

13.2 Senator I.J. Gorst:

If I may, Sir, and I will propose them *en bloc*. As I have just described, 26A is quite a lengthy description of various bodies arising from descriptions in U.K. legislation and I maintain the Article, Sir.

The Bailiff:

Are Regulations 1 to 4 seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? Very well, all those in favour of adopting Regulations 1 to 4, please show? Those against? They are adopted. Do you propose the Regulations in Third Reading?

Senator I.J. Gorst:

If I may, Sir, thank you very much, and I wonder if the Deputy Chief Minister might second them? **[Seconded]**

The Bailiff:

Does any Member wish to speak in Third Reading? Very well, all those in favour of adopting the Regulations in Third Reading, kindly show? Those against? They are adopted in Third Reading.

14. Draft Freedom of Information (Jersey) Law 2011 (Appointed Day) Act 201-(P.153/2014)

The Bailiff:

Then we will move next to Projet 153 - Draft Freedom of Information (Jersey) Law 2011 (Appointed Day) Act - lodged by the Chief Minister. I will ask the Greffier to read the Act.

The Deputy Greffier of the States:

Draft Freedom of Information (Jersey) Law 2011 (Appointed Day) Act 201-. The States, in pursuance of Article 57 of the Freedom of Information (Jersey) Law 2011, have made the following Act.

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

This is an important day, if the States agree to this Act, because this will bring into force the Freedom of Information Law from 1st January 2015, and that is simply what it does. I think it is a case of speak now or for ever hold your peace. I think this is an important step forward in our relationship, or the relationship between government and the public, and I hope that in due course, once inevitable teething issues settle down, that we will be able to work into a flow of providing information to the public in an appropriate manner. What it will ultimately, of course, lead to is more information being available prior to request and more information being available in the public domain and on websites, *et cetera*. Government will get into a routine of publishing information so that it does not need to be requested, and that in itself can only be a positive step forward. I would like to thank staff in my department who have worked hard to get us to the point right across government to be able to implement and introduce this legislation. I would like to thank staff at the Law Officers' Department - and, in fact, a specific individual - who have been working on the implementation and refinement of this law full time. I think that has probably been one of the most difficult jobs to do: to live and breathe every working hour this particular piece of legislation. Just as importantly, I would like to thank previous P.P.C.s (Privileges and Procedures Committees) who worked hard, particularly the current Connétable of St. Mary, who worked incredibly hard to bring forward a workable piece of legislation, albeit that it needed refinement, and of course for the continuing support of the Assembly, and therefore I recommend the Act to the Assembly.

The Bailiff:

Is the Act seconded? **[Seconded]** Does any Member wish to speak on the Act? All those in favour of adopting the Act, kindly show?

Senator I.J. Gorst:

Sir, could we have the appel, please?

The Bailiff:

Yes. The appel is called for then in relation to the adoption of the Act, Project 153. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 38		CONTRE: 0		ABSTAIN: 0
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

15. Draft Air Navigation (Jersey) Law 2014 (Appointed Day) Act 201- (P.164/2014)

The Bailiff:

We come next to Projet 164 - Draft Air Navigation (Jersey) Law 2014 (Appointed Day) Act - lodged by the Minister for External Relations, and I will ask the Greffier to read the Act.

The Deputy Greffier of the States:

Draft Air Navigation (Jersey) Law 2014 (Appointed Day) Act 201-. The States, in pursuance of Article 183 of the Air Navigation (Jersey) Law 2014, have made the following Act.

15.1 Senator P.M. Bailhache (The Minister for External Relations):

The Air Navigation (Jersey) Law 2014 (Appointed Day) Act 2014 is a draft Act to bring into force the 2014 Air Navigation (Jersey) Law, which was passed by this Assembly earlier this year and registered in the Royal Court in August. The law was the subject of debate at the time when it was approved by the Assembly, and I do not think it is necessary for me to explain the law again in any detail. Perhaps I could just say that, for the benefit particularly of new Members of the Assembly, the new law updates the regulation of Civil Aviation in Jersey in 3 important ways: first, it enables the creation of an aircraft registry in Jersey, which meets the International Civil Aviation Organisation obligations. Secondly, it introduces a number of changes in line with most recent changes in international standards for aviation safety and includes provisions for the standard European Rules of the Air. Thirdly, it transfers the legislative capacity for civil aviation in Jersey from the United Kingdom, under Orders in Council, to this Assembly under primary legislation, which can be supplemented, of course, and amended from time to time, and supplemented by Regulations made by this Assembly. I move the proposition.

The Bailiff:

Is the Act seconded? [**Seconded**] Does any other Member wish to speak on the Act? Yes, Deputy Southern?

15.1.1 Deputy G.P. Southern:

I was just wondering, given the oft-repeated sentiments that we should be co-operating wherever possible with our sister island, why this is not a Channel Islands-wide registry. Is it something to do with the fact that we are charging G.S.T. (Goods and Services Tax) on the registrations whereas Guernsey will not be?

The Bailiff:

Does any other Member wish to speak upon the Act? Then I invite the Minister to reply.

15.1.2 Senator P.M. Bailhache:

I am assured by the previous Minister for Economic Development, who had responsibility for the development of the Civil Aviation Registry, that the inability to agree terms for a Channel Islands registry had absolutely nothing to do with G.S.T. It was unfortunate, I think many Members would agree, that it was impossible to agree terms with our sister bailiwick but, there we are. It was not possible to agree terms and it was necessary for us to promote our own registry in the light of the fact that Guernsey was going to follow the same course.

Deputy G.P. Southern:

Could I seek some clarification as to why the breakdown occurred; why we could not do a joint C.I. (Channel Island)? Is the Minister aware of those reasons?

Senator P.M. Bailhache:

I do not think it would be appropriate in the context of a debate on whether to bring into force the 2014 Law to articulate in any detail the difficulties which led to a breakdown in negotiations with our sister bailiwick. The fact of the matter was that it was not possible to reach agreement, and there we are.

The Bailiff:

Very well. All those in favour of adopting the Act, kindly show. The appel is called for then in relation to the adoption of the Draft Air Navigation (Jersey) Law 2014 (Appointed Day) Act, Projet 164. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 40		CONTRE: 3		ABSTAIN: 0
Senator A.J.H. Maclean		Deputy G.P. Southern (H)		
Senator I.J. Gorst		Deputy M. Tadier (B)		
Senator L.J. Farnham		Deputy S.Y. Mézec (H)		
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator Z.A. Cameron				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

16. Draft Employment (Minimum Wage) (Amendment No. 11) (Jersey) Regulations 201-(P.157/2014)

The Bailiff:

Very well. Now, Deputy Pinel, are you in a position to take forward your projets, either Projet 157 or P.165?

Deputy S.J. Pinel:

Yes, Sir; which would you prefer?

The Bailiff:

You are ready to go on those, yes. Very well. Well, shall we take them in order, P.157 first?

[12:00]

We will take Projet 157, Draft Employment (Minimum Wage) (Amendment No. 11) (Jersey) Regulations, lodged by the Minister, and I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Employment (Minimum Wage) (Amendment No. 11) (Jersey) Regulations 201-. The States, in pursuance of Articles 17, 18 and 104 of the Employment (Jersey) Law 2003, have made the following Regulations.

16.1 Deputy S.J. Pinel (The Minister for Social Security):

This amendment to the Minimum Wage Regulations will increase the maximum amount that may be offset against minimum wage pay in order to calculate whether an employee has received the correct hourly minimum wage or trainee rate. An employer may count only 2 benefits in kind towards minimum wage pay: either living accommodation or living accommodation with 3 meals each day. This amendment to the Regulations reflect the unanimous recommendation of the Employment Forum, which the former Minister for Social Security accepted and presented to the States on 23rd September. I think that Members would agree that the Employment Forum could use the thorough reports again this year. From 1st April next year, the minimum wage will increase by 2.3 per cent to £6.78, and I propose to increase the maximum value of the offsets proportionately on the same date. I propose the principles.

The Bailiff:

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

16.1.1 Deputy G.P. Southern:

Yes. It is just to inform Members that I have a proposition being lodged at the moment to annul this particular Regulation. It is an annulment, not because I wish to do it that way, but because this Order has been lodged since October, in the time of the previous Minister, to make sure that it was as difficult as possible for it to be amended. I will just simply forewarn people that I will be bringing this annulment, and I will just briefly read the 2 paragraphs of my proposition before we go any further: "The States are asked to decide whether they are of the opinion to request the Minister for Social Security to revoke the Employment (Minimum Wage) (Amendment No. 8) (Jersey) Order 2014, scheduled to come in force on 1st April 2015 and, having sought the further views of the Employment Forum as required by Article 8(1) of the Employment (Jersey) Law 2003, to make a new Order fixing the minimum wage at £6.88 per hour from 1st April 2015. As this figure is different from the £6.78 rate originally recommended by the Forum, to report to the States, as required by Article 18(4) of the Employment (Jersey) Law 2003; (b) to investigate the impact of a significant rise in the minimum wage, sufficient to lift recipients out of relative low income on the tax and benefit systems to assess the impact that any changes arising from the review of the U.K. minimum wage to be conducted by Sir George Bain in association with the Resolution Foundation, might have on the structure and level of the Jersey minimum wage and to report to the States by September 2015." I shall be lodging that for debate as early as possible; I think by 20th January, so I will be bringing this back to the House as a matter of principle on 2 levels: the rate and the

changes about to happen probably to the U.K. system, which will have an impact on the Jersey minimum wage in future.

The Bailiff:

Does any other Member wish to speak on the principles? Deputy Andrew Lewis, do you wish to say anything?

16.1.2 Deputy A.D. Lewis:

I did not think I would stand and ever say this in this Assembly, but much talk has been made about living wages in the past rather than minimum wages. The proposition, at the end of it, says it has no financial implication for the States. However, of course, we all know - and Members behind me are quite vociferous on this particular issue - that once you pay the minimum wage, it is often then topped-up by benefits. So has the Minister established what the real cost is to her department in terms of supplementation? In other words, upping the amount that people need to live with benefits? What is the real cost of having a minimum wage at this level and is there going to be a more open debate in the future about the difference between minimum wage and living wage?

16.1.3 Deputy M. Tadier:

I think it is important to echo those points and to explain why obviously, understandably, I will be having to abstain on this particular proposal. It is interesting to note though that we are told time and time again that we must listen to the report and recommendations of the Forum and that it is not for us to interfere in that, but it seems that, of course, we have seen it today, there is one rule for one, one for another when, ideologically, the Minister happens to be opposed to the recommendations of the most recent Forums, in a different Forum in a different context. She is quite happy to override that with a Ministerial Decision that does not come to this Assembly. But there clearly is a wider political debate, and that was alluded to by Deputy Andrew Lewis, because if there is a gap between the minimum wage and the living wage, which we know there is, then who picks up that bill? It is the Assembly and it is the taxpayer. Surely any good Conservative politician would want to make sure that we are not wasting taxpayers' money when we do not need to be doing that. If there is to be a subsidy, of course, there is the counter argument that it is better to have people in work paid a low wage under the living wage than no wage at all, because that is more helpful than people being unemployed, but if that is the case, that begs the question: where should the subsidy come from? Maybe the subsidy should be to those industries which have proven that they cannot afford to pay a living wage. If it is the case that we constantly get lobbied from the agricultural sector in the Island, which is of course a very important industry, and if it is genuinely the case that agriculture cannot afford to pay a living wage - which has not been determined yet; the living wage may well be, I suspect, probably £8.50 towards £11 an hour, depending on the circumstances - then maybe that is an argument to say that we should be propping up more directly agriculture in the Island. Possibly, of course, by state capitalism, which we know the Council of Ministers likes; they like to do that when it comes to building development, maybe we can have Government-owned farms which we can put people to work on rather than necessarily claiming benefit, because that seems to be what this Council of Ministers likes to do. I would be interested to see, of course, whether that works. The gap there does need to be looked at. We do not seem to be making the progress to this 45 per cent of the actual average wage earnings that we were told we were. Something that I find particularly distasteful and needs to be put on record - and it is used as an argument for proponents of a lower minimum wage, if you like, than it could be - is that it does not matter about the minimum wage and the fact that we may have to pay people income support, because those who work on the minimum wage are foreigners, they are immigrants, they work for the minimum wage and they cannot claim till they have been here for 5 years. I think that sends out a distasteful message that we should not be sending out from this

Assembly, but which I do hear far too often publicly: “We do not need to worry about them because they cannot claim benefits anyway.” That obviously underpins a much wider debate to do with population, employment and the 2-tier society that we have, not just in terms of the economic divide, but in terms of some humans being valued more widely, more validly, than others depending where they come from. With those comments made, I will be abstaining from this. I think we need to fundamentally rethink the minimum wage and the wider impact that it has in our society economically and socially, and I look forward to one day having a proper debate about a living wage, whether that is voluntary or, as it should be at some point, that the minimum wage and living wage should be the same thing.

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

I echo much of what Deputy Tadier and Deputy Lewis have said, but I think that is a debate we will need to have; we need to look at the £30 million a year in rent rebates and whatever people are getting. As I say, to me, the Forum always looks at what the employee is able ... not to live on, because there is the safety net of subsidy, but what the employer can afford before we are told that these poor employers go to the wall, but then in the middle you have got the other taxpayers picking up. My actual question though to the second part of the Deputy’s proposition about the uprating for disregard of accommodation and food, is what is there in legislation to check the facilities that are provided in much of this substandard accommodation and some of these so-called 3 hearty meals a day? I do not think there is any. It is across the board, and this was what was said in the Minister’s speech, and I hope that she will take this on board. It may be that it may be in farming and it may be in Tourism and it may be, in some cases, fantastic facilities, but what is there to protect? We are just following uprating it, so more money will be taken out. You have got your leaky roof, you have got your shared toilet for 10 people and you are just uprating it. I would like the Minister to answer that question. If there is not anything in legislation ... and sorry about being the red-tape queen, but it needs to be looked at. It does not matter if people are not from Jersey or they are newly-arrived; accommodation and what people’s standards are should be monitored and should be taken into consideration and not to be just across the board.

The Bailiff:

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

16.1.5 Deputy S.J. Pinel:

In answer to Deputy Southern; of course, he is at liberty to bring a proposition if he wishes to. In answer to Deputy Lewis, the supplementation programme, which raises the contribution rate between the lower earnings limit to the standard earnings limit - the lower earnings limit, from memory, I think is about £808 a month - to ensure that the contributions of the people on minimum wage are not interrupted or prevented from being paid towards their benefits and eventual pensions. Supplementation depends, of course, largely on how many people are in the situation, which fluctuates, and it is a state-funded grant which supplements that. Deputy Tadier: the living wage which he mentioned is under review, as the Deputy will know, and I was assured when I asked the officers at Social Security earlier this week, that it will be presented at the end of this year. The 45 per cent of average wage; at the moment this new proposal of an increase of 2.3 per cent will put us back up to 40.5 per cent. There was a 5 to 15-year proposal to get it to 45 per cent, which is what we all aspire to, but in the past few years it has dipped from 40.5 and is now back up to 40.5 with this proposal. Deputy Martin: it is obviously very, very difficult to check that offsets are being provided. There is a 2-tier offset system: one is just for accommodation, one is for accommodation plus 3 square meals a day. It is obviously very difficult to check if this is being provided on all occasions, but officers do make sure, as far as possible, that these offsets reach the limits that they are supposed to do.

The Bailiff:

Very well, all those in favour of adopting the principles ... the appel is called for in relation to the principles of Projet 157. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 36		CONTRE: 2		ABSTAIN: 3
Senator I.J. Gorst		Deputy G.P. Southern (H)		Deputy M. Tadier (B)
Senator L.J. Farnham		Deputy S.Y. Mézec (H)		Deputy M.R. Higgins (H)
Senator P.M. Bailhache				Deputy L.M.C. Doublet (S)
Senator A.K.F. Green				
Senator Z.A. Cameron				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Bailiff:

Very well. Deputy of St. Ouen, do you wish this matter referred to your Scrutiny Panel?

The Deputy of St. Ouen (Chairman, Health and Social Security Scrutiny Panel):

No, Sir.

The Bailiff:

Then, Minister, do you wish to propose the Regulations 1 and 2?

16.2 Deputy S.J. Pinel:

Yes, please, Sir. The amendment to the Regulation simply sets out the maximum values that may be attributed to the 2 benefits in kind for the purpose of calculating minimum wage pay and training pay.

[12:15]

The Bailiff:

Are Regulations 1 and 2 seconded? **[Seconded]** Does any Member wish to speak on either of the Regulations? Very well, all those in favour of adopting Regulations 1 and 2, kindly show. The appel is called for again in relation to Regulations 1 and 2. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 36		CONTRE: 1		ABSTAIN: 4
Senator I.J. Gorst		Deputy G.P. Southern (H)		Deputy M. Tadier (B)
Senator L.J. Farnham				Deputy M.R. Higgins (H)
Senator P.M. Bailhache				Deputy S.Y. Mézec (H)
Senator A.K.F. Green				Deputy L.M.C. Doublet (S)
Senator Z.A. Cameron				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Bailiff:

Do you propose the Regulations in Third Reading, Minister?

16.3 Deputy S.J. Pinel:

Yes, Sir. May I take this opportunity to thank the Members of the Employment Forum for their honorary service and may I have the appel, please, Sir?

The Bailiff:

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

POUR: 37	CONTRE: 1	ABSTAIN: 4
Senator A.J.H. Maclean	Deputy G.P. Southern (H)	Deputy M. Tadier (B)
Senator I.J. Gorst		Deputy M.R. Higgins (H)
Senator L.J. Farnham		Deputy S.Y. Mézec (H)
Senator P.M. Bailhache		Deputy L.M.C. Doublet (S)
Senator A.K.F. Green		
Senator Z.A. Cameron		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Deputy J.A. Martin (H)		
Deputy of Grouville		
Deputy of Trinity		
Deputy K.C. Lewis (S)		
Deputy E.J. Noel (L)		
Deputy of St. John		
Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy of St. Peter		
Deputy R.J. Rondel (H)		
Deputy A.D. Lewis (H)		
Deputy of St. Ouen		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy S.M. Brée (C)		
Deputy M.J. Norton (B)		
Deputy T.A. McDonald (S)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy P.D. McLinton (S)		

17. Jersey Employment and Discrimination Tribunal: appointment of members (P.165/2014)

The Bailiff:

Minister, are you in a position to take Projet 165, which is your other matter?

Deputy S.J. Pinel:

You are a hard taskmaster, Sir.

The Bailiff:

Very well, then we will ask the Greffier to read the proposition of Projet 165 - Jersey Employment and Discrimination Tribunal: appointment of members - lodged by the Minister for Social Security.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to appoint, further to a process overseen by the Jersey Appointments Commission and in accordance with the Employment and Discrimination Tribunal (Jersey) Regulations 2014, the following persons as Members of the Jersey Employment and Discrimination Tribunal, each for a period of 5 years, to begin from the date of States approval: Mrs. Elizabeth Adams, Mrs. Janet Brothertom, Mrs. Melanie Cavey, Mrs. Claire Follain-Metcalf, Mr. Thomas Gales, Mr. Clive Holloway, Mr. Mandlenkosi Mlambo, Miss Tamburai Mouni, Miss Daria Sawicka.

17.1 Deputy S.J. Pinel (The Minister for Social Security):

I am pleased to propose the appointment of 9 new side members to the Jersey Employment and Discrimination Tribunal. When we introduced the Discrimination Law earlier this year, we also updated the tribunal regulations to enable us to appoint an additional pool of up to 8 Discrimination side members. These members must have knowledge or experience of equality and discrimination matters either generally or in relation to specific characteristics. To hear a case, 2 Discrimination side members will be selected to form a panel of 3 alongside the legally-qualified chairman or one of the 3 legally-qualified deputy chairmen. These 8 members will hear complaints about acts of discrimination that occur in areas other than the workplace, such as in education or in the provision of goods and services. The existing tribunal side members currently form 2 pools which consist of 8 side members who are representative of employers, and 8 side members who are representative of employees. These members will continue to hear complaints under the Employment Law as well as complaints about acts of discrimination that occur in the workplace. It is essential that the employer/employee balance is retained in these employment-related cases, but the employer/employee balance is not appropriate in a discrimination case that does not relate to the workplace. As well as the 8 proposed new discrimination side members, I am pleased to propose one candidate to fill a vacancy for an employee representative side member. The tribunal positions were openly advertised and I understand that the recruitment panel was very impressed with the quality of the applicants. Formal interviews took place in September and October 2014 and the recruitment panel consisted of a Jersey Appointments Commissioner as chairman of the Recruitment Panel, the Assistant Judicial Greffier, and the chairman of the Employment and Discrimination Tribunal. I am satisfied that each of the recommended candidates has a wide range of relevant knowledge and experience of equality and discrimination matters that they will bring to the tribunal. I am grateful to each of the 9 candidates for taking on the responsibility of this new important position of office. If this proposition is adopted, the members will be appointed to the Employment and Discrimination Tribunal, each for a 5-year term of office, and training will be provided in January. I ask Members support the proposition.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? Very well, all those in favour of adopting the proposition kindly show? Those against?

The Bailiff:

It is adopted.

18. Planning Applications Panel: appointment of members (P.166/2014)

The Bailiff:

Deputy of St. Martin, would you be in a position to take Projet 166?

The Deputy of St. Martin:

Absolutely, yes, Sir.

The Bailiff:

Yes. Then we will take Projet 166 next - Planning Applications Panel: appointment of members - lodged by the Minister for Planning and Environment. I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to appoint, in accordance with Article 9A(2) of the Planning and Building (Jersey) Law 2002, the following persons as members of the Planning Applications Panel, P.A.P., with immediate effect, and until such time as the Planning and Building (Amendment No. 6) (Jersey) Law 2014 comes into force. The Connétable of St. Mary, nominated as chairman, Connétable of Trinity, nominated as vice-chairman, Deputy Jeremy Martin Maçon of St. Saviour, Deputy Richard John Rondel of St. Helier, Deputy Graham John Truscott of St. Brelade and Deputy Russell Labey of St. Helier.

18.1 The Deputy of St. Martin (The Minister for Planning and Environment):

Could I start off by thanking the previous members of the Planning Applications Panel, some of whom are no longer in this Assembly? That panel made a really excellent job of what is often a time-consuming and unappreciated role. I would like to thank each of them for performing their functions diligently and responsibly, but I am sure - indeed I know - that all of them found it rewarding, important and mostly enjoyable work. The proposition before the Assembly today is seeking the appointment of the Planning Applications Panel members, as per the requirements of the Building and Planning (Jersey) Law 2002. I am delighted to propose those members that have just been read out as members of the panel. I am particularly grateful to the 2 previous panel members for allowing their names to continue to go forward, especially the Constable of St. Mary who is going to provide, as chairman, continuity for those new members, and Deputy Maçon as well. Given that St. Helier is our capital, and I particularly have some plans for making St. Helier a better place to live and a better place to work, I am also delighted to have 2 St. Helier Deputies on the panel as well as the Deputy from St. Saviour. The Planning Panel is constituted to consider applications for planning permission and similar issues in a public forum where applicants and any other interested parties can make representations directly to the panel. The panel work within a clear set of protocols and make decisions in light of a recommendation from the Department of the Environment and the representations they have received. Some Members will be aware that following 2 States debates, we will be introducing a new process for appeals against decisions made under the Planning and Building Law. The law to enable the new appeals process will replace the Planning Applications Panel with the Planning Applications Committee. The committee will be established in accordance with Standing Orders under the States of Jersey Law and will operate independently of the Minister for Planning and Environment. The new appeals system is unlikely to come into force until the end of January next year, at the earliest, as it requires

changes to the law and further consideration by this Assembly, which I hope will occur during the States sitting commencing 3rd February. Given these changes, I propose that membership of the Planning Applications Panel, as I have nominated, will continue until such a time as the new appeals system comes into force and the Planning Applications Committee is established. I just draw Members' attention to the law that allows for nominations only to be made by the Minister. If the Assembly rejects my nominations I will need to nominate other States Members until the vacancies are filled, but I hope that will not be necessary. I am happy to recommend my nominations *en bloc* as the new Planning Applications Panel and make the proposition.

The Bailiff:

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

19. Draft Proceeds of Crime (Amendment - Financial Intelligence) (Jersey) Law 201-(P.158/2014)

The Bailiff:

Chief Minister, I fear that means that we are coming to your 2 matters. Which one would you prefer to take first?

Senator I.J. Gorst:

Shall we take P.158, Sir?

The Bailiff:

Yes, very well. We will take Projet 158, the Draft Proceeds of Crime (Amendment - Financial Intelligence) (Jersey) Law 201-, lodged by the Chief Minister. I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Proceeds of Crime (Amendment - Financial Intelligence) (Jersey) Law 201-. A Law to amend further the Proceeds of Crime (Jersey) Law 1999. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

In 2009, the International Monetary Fund published a report on Jersey's compliance with the recommendations of the Financial Action Task Force on anti-money laundering and countering the finance of terrorism. As Members will be aware, we are shortly to be subject to a mutual evaluation review by MONEYVAL, and this amendment, together with the Civil Penalties amendment, is in part preparation for that evaluation. The draft law makes amendments to the Proceeds of Crime (Jersey) Law 1999 by introducing and enabling how to make regulations for the specific purpose of establishing a financial intelligence unit in legislation. A Financial Intelligence Unit of course already exists in Jersey in the format of the Joint Financial Crime Unit; the purpose of this amendment is to allow for regulations to be drafted, setting out the existence of that unit in legislation and providing for powers and functions of the said unit. The purpose behind the draft regulations will be to facilitate the Island's continued compliance with the evolving recommendations of F.A.T.F. (Financial Actions Task Force) in respect of the ability of the Financial Intelligence Unit to obtain information from financial institutions in certain prescribed circumstances. As I have said, this is an enabling law, and regulations will need to be brought

forward in due course when there will be opportunity to scrutinise and consider those substantive regulations. I propose the amendment.

The Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Very well, all those in favour of adopting the principles, kindly show? Those against? They are adopted. Deputy Bree, in the absence of your Chairman, do you wish this matter referred to your Scrutiny Panel?

Deputy S.M. Bree (Chairman, Corporate Services Scrutiny Panel):

No, Sir, we do not.

The Bailiff:

Very well. Do you wish to propose the Articles together, then, Chief Minister?

19.2 Senator I.J. Gorst:

If I may, Sir; they are straightforward, as I have simply said, prescribing that in due course regulations will be brought forward for the creation of the Financial Intelligence Unit, which we will intend to be - I will just get its name correct - the Joint Financial Crimes Unit, and the ability to bring forward regulations specifying circumstances in which information can be gathered from financial institutions.

The Bailiff:

Are Articles 1 and 2 seconded? **[Seconded]** Does any Member wish to speak on the individual Articles? Very well, all those in favour of adopting Articles 1 and 2, kindly show? Those against? They are adopted. Do you propose the Bill in Third Reading, Chief Minister?

Senator I.J. Gorst:

If I may, Sir; thank you.

The Bailiff:

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

The Bailiff:

Before we come to the other matters, there are 2 matters which have been lodged, Projet 171, Draft Financial Services Ombudsman (Case Fee and Levy) (Jersey) Regulations 201-, lodged by the Minister for Economic Development; and Projet 172, Jersey Financial Services Commission: appointment of commissioner, lodged by the Chief Minister.

20. Draft Financial Services Commission (Amendment No. 6) (Jersey) Law 201- P.151/2014

The Bailiff:

Chief Minister, then are you content that we move to Projet 151?

Senator I.J. Gorst:

Sir, if I just test the mood of the Assembly. I am content to move; I am not sure we will complete it before lunch, although I can endeavour to try to do so.

[12:30]

The Bailiff:

Do Members wish to start it and we will see how we go? Yes. Very well, I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Financial Services Commission (Amendment No. 6) (Jersey) Law 201-. A Law to amend further the Financial Services Commission (Jersey) Law 1998 so as to introduce a civil financial penalty regime and to make minor amendments to related enactment. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

The Bailiff:

Yes, Chief Minister. Just before we do that, I am sorry, Greffier, I do not seem to have a copy of this one. Very well, Chief Minister, please proceed.

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

This is the second legislative change, as I indicated previously, which is required to help with the forthcoming mutual evaluation that MONEYVAL will be doing early next year of our ability to meet the standards of F.A.T.F. This enables the Jersey Financial Services Commission to apply civil financial penalties to regulated financial services businesses that commit serious contraventions of the codes of practice. The power to levy civil penalties is a power that is given to and exercised by most regulators internationally. After consultation I believe it is fair to say that this proposal is supported broadly by industry. The good parts of industry do not want to pay for the enforcement costs of dealing with the, shall we refer to them as, bad apples that surface from time to time. That would not seem to be fair. In addition, of course, international standards require that jurisdictions have such powers and, for this reason, whether the Jersey regulator has the ability to impose civil financial penalties will be considered by the forthcoming mutual evaluation to be undertaken, as I have just said, by MONEYVAL. The introduction of a power to impose financial penalties would respond to comments made by the I.M.F. (International Monetary Fund), as I said earlier, in its 2009 report on the Island's financial regulatory standards where it said: "While the Commission can and does use other means to enforce compliant behaviour, the restricted availability of fines as a sanction mechanism limits possible responses to misconduct. It may be useful to have in addition a fining power to ensure that breach of Commission regulations is damaging not only to a regulated firm's reputation, but also to the profitability of the activities in question." Further, of course, under F.A.T.F. Recommendation 17: "A jurisdiction's competent authorities are expected to have the ability to impose 'financial sanctions' against those persons that fail to comply with national requirements designed to counter money laundering and terrorist financing." It is important to show that we have progressed in this area and if we do not then it could of course colour the assessment's thoughts with regard to our whole assessment. As I have said, such power is not unique to the Jersey regulator. Regulators in the U.K., U.S. (United States), Hong Kong, Ireland, Luxembourg, Singapore and, close to home, Guernsey have similar such powers and the Isle of Man are currently consulting on bringing in such powers and passing similar legislation to this. There has been a full consultation process. There was a Green Paper in 2012 followed by a White Paper in 2014 and all those comments have been considered and changes made as a result of that consultation. It has been reviewed by the Law Officers Department, importantly, as being human rights compliant. I am very grateful to the Scrutiny Panel who, at very short notice since their creation, have found time to be fully briefed and consider, not only members of the Commission and members of my department briefing them, but also, importantly, members of industry. Therefore, I propose the principles are adopted.

The Bailiff:

Very well, are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Deputy Tadier.

20.1.1 Deputy M. Tadier:

I did attend the briefing, although I had to leave slightly early due to other commitments, which I found useful so thanks to the Minister for having put that on. I do have some questions which may be either easy to answer or, hopefully not naïve, but I think important. I think to preface this it is something that is obviously to be welcomed. It is in keeping with my belief that we support a well-regulated and therefore sustainable finance industry and that the healthiness and hopefully the longevity of the industry will be promoted by exactly these kinds of moves, which it has been highlighted that the civil penalties is something that is necessary as part of the portfolio of penalties. Question 1 relates to why it is only regulated financial providers rather than unregulated ones. Is that simply by definition it has to be that? Because the Chief Minister will know that there have been issues perhaps which in the future might be referred to a financial ombudsman where unregistered products have been either sold, mis-sold, *et cetera*. There have been issues for that. It seems it might be desirable for actual financial penalties also to be administered in those contexts where it is difficult currently to provide coercion or penalties as such in that area, so I am not sure if it is something that relates to this but maybe the Chief Minister can address that briefly. I did notice that there was a definition about serious breaches, and I think there is some discussion to be had at some point. Perhaps this is when it comes back in the regulations as to what “serious” means necessarily. Because presumably if there are both good and bad actors out there on the arena, and I completely agree that it should not be the good ones who are penalised for the minority of bads, what will constitute serious breaches? Because presumably we want to discourage bad behaviour across the board. If a financial penalty is seen as a moderate approach which is neither draconian nor too light-handed, then presumably we also need to take into account breaches which are not necessarily very serious but nonetheless significant and unhelpful to Jersey’s reputation. I also picked up a comment which does not seem to have been addressed here that there was a suggestion that excessive fees, if there was in a particular year a windfall, if you like, for penalties that were taken, then there would be a mechanism put in place so that the States could access those fees for general spending. So I do not know if the Chief Minister has picked up that part, but just to reiterate the fact that, did I hear correctly, if there is an excess - a windfall, if you like - of fees in a particular year there would be provisions that the States could use those monies? If so, it seems to beggar the question which needs to be asked: is that the purpose of it? Is this some kind of sales tax whereby we will be seeking to impose penalties for what would otherwise be general tax expenditure? What happens if the contrary is true and that we find out there are no penalties in a given period and that the cost of running the scheme is not returning any penalties? Then presumably that means that the burden of the scheme has to be picked up by all of the people within that scheme, therefore putting a burden on it. So have these areas been considered? I am sure they have to a certain degree but if the Chief Minister could provide any comfort in those points, I would be grateful.

The Bailiff:

Does any other Member wish to speak on the principles? Very well, I invite the Chief Minister to reply. Senator Bailhache, do you wish to ...?

20.1.2 Senator P.M. Bailhache:

Sorry, I was pressing my voting button instead of pressing my red light. I think that it is worth articulating and therefore placing into the public domain some of the discussions which took place among Ministers, and indeed others, in relation to this draft piece of legislation. I am sure the Chief

Minister will be dealing in his response with the points raised by Deputy Tadier. There was a concern that we should not introduce in Jersey the possibility for things to happen that do occasionally happen in other countries where huge sums of money are extracted from businesses for alleged criminal activities, but these arrangements are dealt with privately between the authority concerned and the financial institution. I shall not mention the country or countries concerned but they have been the subject of critical analysis in the press in recent months. It is important to underline that this amendment to the law would not, in my view, permit such activities to take place in Jersey. The power given to the Jersey Financial Services Commission is not to deal with criminal activity but to deal with activity which is in breach of a code of practice. If there were any suggestion of criminality then it would of course be the duty of the Jersey Financial Services Commission to refer the matter to the Attorney General and it would then be for the Attorney General to decide whether or not a prosecution should ensue. I will perhaps deal with one point raised by Deputy Tadier who was asking whether minor breaches of the codes of practice could be dealt with in this way or, if not, how could minor breaches of codes of practice be dealt with? What the relevant Article of the law will say is that the Commission must be satisfied that a registered person has, to a significant and material extent, contravened a code of practice. Those words will have to be given their natural meaning by the courts in the event that any appeal is made to the Royal Court following the imposition of a civil penalty. But clearly if a breach of a code of practice is not significant and material then it would be open to deal with the matter in the way in which the Commission now deals with the matter, which is to give a rap on the knuckles or otherwise to admonish the registered person and not take any further action than that. That seems to me to be a sensible distinction. It is not every breach of a code of practice which should render the registered person liable to a penalty and it would have to be something pretty serious for a civil penalty to ensue. I, obviously as a Member of the Government, support these amendments to the law.

The Bailiff:

Does any other Member wish to speak? Very well, I invite the Chief Minister to reply.

20.1.3 Senator I.J. Gorst:

I thank Senator Bailhache who I think largely has dealt with the issues raised by Deputy Tadier. The serious breaches test is, as Senator Bailhache has said, a significant and material, and ultimately so it is your side of the fence, if I may refer to it in that way, that will decide whether they have been interpreted correctly or not. When it comes to regulated, of course, when we refer to regulated we are talking about the entities undertaking the business, so the entities regulated have to comply with the codes of practice and if they are not then this particular penalty might come into play. Deputy Tadier also asked about costs and the ability of the States in an instance where the Commission might be building-up reserves because there were substantial fines being levied and paid.

[12:45]

There are no costs as such to introducing this legislation. This is giving the Commission an ability to levy fines. So it is not that this is driving costs, this is allowing fines to be levied rather than, as we have just said, either a slap on the hand or far more serious, stopping a business from operating, which are the 2 extremes largely of the current ability of the Commission when issues arise. It would not be right and it is appropriate that the Commission has a reserves policy and that reserves policy is reviewed from time to time. As I say, if there were substantial fines levied then it would be appropriate under certain circumstances for that money to flow back to the Treasury or the taxpayer as such. The initial application, however, to such fines would be to lower the fees for that particular sector of the financial services industry and that is what is intended. One would have to

have gone quite a long way down the line with substantial monies to get to the point where the Minister or the States felt it was appropriate to transfer that money to the taxpayer. So there would be a process to go through and that would be quite clearly set out. I again propose the principles.

The Bailiff:

Those in favour of adopting the principles kindly show? Those against? They are adopted. Connétable of Grouville, do you wish this matter to be referred to your Scrutiny Panel?

Connétable J.E. Le Maistre of Grouville (Chairman, Economic Affairs Scrutiny Panel):

No, we have been thoroughly briefed over the last week or so and we understand that the industry are quite content and so are we.

The Bailiff:

Very well, do you wish to propose Articles 1 to 3, Chief Minister, and the Schedules?

20.2 Senator I.J. Gorst:

I do that with a little bit of a heavy heart. I am happy to do it. This is an important piece of legislation and I hope that Members have understood that. I thank Members who have attended the briefings and been able to ask questions of the professionals and executives involved who will ultimately be administering this scheme. I am grateful this morning for Deputy Tadier's questions and clarifications and again, as I say, I am very grateful for the Scrutiny Panel who did a very speedy piece of work in reviewing the Articles in detail and speaking to members of industry as well. So, having said all that, I am happy to propose them *en bloc*, including the Schedules, but I do so recognising that this is an important change. It will bring us, I believe, into line with required international standards and show once again that we are a well-regulated centre and that we have a financial services industry that we can be proud of.

The Bailiff:

Are the Articles seconded? **[Seconded]** Does any Member wish to speak on the individual Articles or Schedules? Very well, all those in favour of adopting Articles 1 to 3 and Schedules 1 to 6 kindly show? Those against? They are adopted. Do you propose the Bill in Third Reading, Chief Minister?

20.3 Senator I.J. Gorst:

I do so and I thank all the officers, not only in my department, but the Commission, the Law Officers and members of industry who have spent a considerable amount of time responding to the consultation and refining the law that we have before us to allow us to arrive at the state that we are today. I wonder after if we could call for the appel.

The Bailiff:

Yes. Is the Bill seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? Very well, the appel is called for then in relation to the adoption of the Bill in Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 44		CONTRE: 0		ABSTAIN: 0
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator Z.A. Cameron				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Bailiff:

Very well, then is that a convenient moment to adjourn?

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

Yes, the adjournment is proposed. The Assembly will reconvene at 2.15 p.m.

[12:50]

LUNCHEON ADJOURNMENT

[14:17]

The Bailiff:

Before we resume our business I thought I would let Members know that there is a team going from the Jersey Overseas Aid Commission, or on their behalf, to Nepal in January. They are going to help make some improvements to the water supplies there up in Nepal and the team are here in the gallery. **[Approbation]**

21. Sativex: possession for treatment purposes - petition (P.127/2014)

The Bailiff:

Then we resume the Order Paper back to the projets lodged by Deputy Tadier. Now I think, Deputy, you said you wanted to take project 127 first, so I will ask the Greffier to read Projet 127, Sativex: possession for treatment purposes – petition, lodged by Deputy Tadier.

The Greffier of the States:

The States are asked to decide whether they are of opinion to request the Minister for Health and Social Services (a) to issue a licence to Mrs. Ann Christine Hill for her to be professionally prescribed and supplied with “Sativex” or similar proprietary treatment in accordance with the Minister’s discretionary powers under the Misuse of Drugs (General Provisions) (Jersey) Order 2009 and (b) to take the necessary steps to make “Sativex” more generally available in Jersey to those in need of this treatment, irrespective of their financial circumstances.

21.1 Deputy M. Tadier:

If I could again thank the Chief Minister this morning for moving business around. Hopefully it will prove to be effective but it certainly was helpful, especially for those who wish to attend in the gallery. I am presenting this petition not obviously on my own behalf, as is perhaps self-evident, but on the behalf of 3 individual petitioners who themselves have various different conditions, all of which are of course unique but which share some common themes. There also is a bigger context here today about how we best alleviate and care for those with chronic conditions and chronic suffering in our society. So the first proposition that I am presenting is to do with the medication which is called Sativex and I have asked to put this first because I think in one sense this should be the most straightforward of all the proposals for the reason that Sativex is already a licensed product. That means it has undergone clinical testing and, as such, it is already able to be prescribed both in Jersey and in the U.K. as well as in other jurisdictions. The argument today I think will focus on whether or not Sativex should be available on free prescription, on general prescription or rather, as it is currently prescribed, on a private prescription which of course involves a private cost to the individual, unlike other medication which is generally prescribed. To talk briefly about the petitioner herself. She is a 72 year-old lady who lives in Jersey; she has 2 daughters and a grandson and she suffers from a condition called M.S. (Multiple Sclerosis) of which some of us will know something about. It is a debilitating condition. That means it does not get any better but with the right kind of lifestyle, the right medication, it can be controlled but ultimately it is something that is debilitating; it gets worse, in other words. The petitioner also highlights the fact that she is just one of many. There are other locals, and some of you may have had a chance to meet some of them either at the presentation yesterday or just in general life in Jersey, who are in perhaps worse states than she. She sometimes uses a wheelchair; not all the time. So that really is just to contextualise the petitions. It is important to remember that under

these political discussions today there are individuals who are not defined by their illnesses but for whom that is a big part of their life and their struggle to live an ordinary life. If we may also look briefly at what Sativex is. Sativex is essentially a super-strong concentrated cannabis. It is nothing more; nothing less. It is produced by a company called GW Pharmaceuticals. It is a pharmaceutical solution formulated with the ability to deliver a precise dose with stringent standards of quality, safety and efficacy. In fact, what GW does, it grows high-quality cannabis under pretty much the same conditions as most illegal growers that uses clonal propagation to ensure consistent levels of cannabinoids, it uses similar techniques to do with lighting, hydroponic nutrition, *et cetera*. The difference is that it has been clinically tested. I emphasise this because in the next 2 propositions the debate, I feel, very much will focus on the fact that the Minister cannot possibly sanction or permit medications which have not been tested, which have not been licensed. That is a point of view; that is something which will be contested in the next 2 debates but this point is not an issue here. This is a product which has undergone those rigorous tests. To all intents and purposes it is really the only type of medicine of this type which is available in Jersey, in reality, to be prescribed. So why are we not prescribing it more generally? I would also emphasise that I think in terms of parts (a) and (b) of the proposition I am quite satisfied that, subject to comments which may come from the Solicitor General or other Members, I believe that part (a), I do accept, is redundant insofar as Sativex is already permitted and the focus of this debate therefore should hinge on whether or not part (b) says: "To take the necessary steps to make Sativex more generally available in Jersey to those in need of this treatment, irrespective of their financial circumstances." So we have an anomaly. Obviously Multiple Sclerosis is just one of the conditions for which a cannabis-based medicine can be useful, primarily to alleviate spasticity, muscle tenseness and other symptoms. This is something that this individual would like to be able to be prescribed but I think more generally there is a strong case that this kind of medication, the only licensed medication that we are discussing of the 3 today, should be made more generally available. It is incumbent I think on this Assembly to make sure that medicines that are out there which can and do help individuals should be given to them. I would even argue perhaps that there are human rights implications and more general issues about cruelty and a lack of compassion if we do not do that; we maintain a *status quo*. I am slightly reticent to do this but other individuals have mentioned the fact that there are other illegal substances in different contexts: methadone, subutex, which the Government does give out, which it pays for under a specific programme under treatment. So if somebody is a recovering, or trying to be a recovering, addict, whether it is from heroin, methadone or these substances, the taxpayer will fund these substances. I am not saying that is wrong; that is down to the medical advice and the choices that have been made but can we genuinely have a situation whereby not simply this 72 year-old who has lived in Jersey, who has contributed economically, socially to the Island, can be prevented from having a drug which might otherwise be prescribed freely to her when indeed we have other individuals in the Island who, for whatever reason, are being prescribed other drugs which, in that case, are opiate-based rather than cannabis-based? I do not think I need to say any more on this particular issue although before I sum-up on this part too quickly I will just check the comments of the Minister to see if there are any points that need to be addressed in that issue. I think there is an issue of cost which needs to be addressed. The Minister's comments say the cost to the taxpayer providing Sativex from the H.S.S. (Health and Social Services) fund pot would be in the region of £4,000 to £5,000 a year based on an assumed average dosage requirement. I do not think those figures are correct because users have told me that a prescription for the standard amount of Sativex which would last them for roughly a 3-month period is in the region of £450 to £500 which is not necessarily a lot of money when we think of States spending but it certainly is a lot of money when we think of the individual spending. So times the maximum £500 perhaps by 4, that gives us a sum of £2,000 as a maximum estimate. But I think this is not about the money; there are obviously cheaper and there are more expensive medications that are more generally made available. It is a politically-moot point whether or not

we should have free prescriptions. That was brought in at a certain time by a certain Minister for Social Security for no doubt certain ends, which I am sure all of which were laudable. But nonetheless the current politics that we have operating in this area are that we do have free prescriptions. You might have to pay to go to see your G.P. (General Practitioner) and it is tough if you cannot afford that but as for prescriptions, they will be free. So I think the question really that has to be the burden of proof, if you like, for this, in my opinion, is on the Minister for Health and Social Services saying why is this medication which is effective, which has been just approved in Wales, interestingly enough in very recent times, for a free prescription on the N.H.S. (National Health Service)? Why is it something that we in wealthy little Jersey cannot also provide? So I make that proposition and I look forward to Members' comments and their support.

The Bailiff:

Is the proposition seconded? [**Seconded**] Senator Green.

21.1.1 Senator A.K.F. Green:

I am mindful that this debate is about an individual person who evidently is suffering and who feels only the use of this product, not ordinarily available to the people in Jersey, can effectively address their specific medical needs. I would just like to deal with one comment that the Deputy made about costs. The costs come from the Pharmacy Department and I think they are probably in the best position to be able to put a reasonable cost on there. There is no point exaggerating it; that is the cost that they believe per patient. I am also alert to the fact that this request comes directly from an individual and not through a clinician. This proposition does differ in the others inasmuch as Sativex is already, as the Deputy said, a licensed medicinal product, the prescription and supply of which does not require me to issue an individual licence so, as the Deputy said, a member of the public can get a private prescription. Whether Sativex is the most suitable treatment for an individual however is not a matter for me as Minister or for this Assembly to determine. It is a clinical decision, not a political one.

[14:30]

The fundamental issue at the heart of this proposition is not therefore whether a licence should be issued for Sativex but whether the taxpayer should pick up the costs of supplying Sativex to an individual patient. There is an existing mechanism for a recognised and appropriate specialist consultant to make a request for public funding for treatment on behalf of a specific individual. I can tell you that to date I am advised we have had no application from a consultant. Where their clinical judgment can demonstrate that there are exceptional circumstances in an individual case which would support the prescribing of this licensed product, a special request can be made for the costs of treatment to be met through public funding. Treatment of patients must always - always - be based on clinical assessment and professional expertise. I would urge Members therefore to reject both part (a) - because as the Deputy said (a) is irrelevant because we already have a licence - and part (b) of this proposition as they are both unnecessary.

21.1.2 Senator Z.A. Cameron:

As a medical practitioner I am very well aware that there is a method by which any doctor, the patient's G.P., can approach the relevant committee which is the P.B.A.C. (Pharmaceutical Benefits Advisory Committee) to apply for this to go on to the approved list to be allowed to be prescribed by a specialist. I feel that that is a more appropriate forum for this discussion, where the board consists of lay members and then pharmacists and medical practitioners with sufficient expertise to make these decisions and the cost benefit analysis to the Island. Thank you.

The Bailiff:

Does any other Member wish to speak? No? Then I invite Deputy Tadier to reply.

21.1.3 Deputy M. Tadier:

Government efficiencies. I think we are in agreement with part (a). In fact, if it is within order I will not ask for (a) to be taken; I will simply ask for (b) to be taken as the part of the debate. I think it is very simple, this part then. Let me for clarification purposes just re-read what part (b) asks us to do because I think it is entirely uncontroversial. It is of course a political decision but I think it is something which is entirely, if that is the only thing we end up deciding this afternoon, a positive step forward. It is something which I think is fair. It asks the Minister to take the necessary steps to make Sativex more generally available in Jersey to those in need of this treatment, irrespective of their financial circumstances. Now if it turns out that we do not need to make it more generally available because it is all okay, the Minister will come back and tell us that but there clearly is some kind of disconnect here. Because we have heard on the one hand that despite the process which has been set up, despite the fact that we know there are (a) individuals in Jersey who want to use Sativex and (b) individuals in Jersey, numerous I would say, the ones who have come out of the woodwork, so to speak, are only the ones who have got the bravery to speak out on what could otherwise be a taboo issue, the ones we know about. So the fact that there has been no application from a consultant but yet we know there is demand, actual demand and latent demand, for Sativex use shows that the current system does not work. That is probably because it is an onerous process to go through for an individual, to have to go through the panel, ultimately ending up to see a consultant. Is this a good use of consultants' time anyway? We know that the waiting lists to see a consultant are long anyway but if it is anything like other departments where you have to maybe go and see your doctor, get referred to a consultant and wait, you could be waiting the best part of a year for this, and so far no application has been made from a consultant for Sativex. I think it is basically not the right way to do things. We should be entrusting discretion to G.P.s. They know what is best for their clients. If it needs to be done in consultation with consultants, that is fine, but the system clearly is not working. It is not fair that individuals like this petitioner, but also more widely in Jersey society who are just simply trying to deal with their conditions, are being penalised in this very unusual way when something is out there that can help them. Just one final remark: I have been very moved by the bravery of these individuals that I have seen in the last weeks and months. One comment that a different sufferer of M.S. who is in a worse condition than the petitioner said to me: "It is very important to take ownership of your illness." At first I thought: "That is a strange thing to say. What does she mean by that?" She says: "I cannot deny that it is there." When you are in chronic pain - and it is not something that I have suffered, so in that sense I am lucky, I can only think about what it must be like for these individuals who say the pain is so constant - how do you think about anything else? How do you function in society? We are surely trying to get people to take responsibility for themselves. We want to get people back into the workplace. We want people to be active both culturally, economically and socially. How can they work within their families when all they can think about is constant chronic pain when they know a drug is out there that can help them and when they are being deprived of it? So I make this proposition, I ask Members for their support and I think this would be a good step forward today if nothing else is agreed.

The Bailiff:

Two matters, Deputy. First of all, I think on paragraph (a) if you want to withdraw it you technically need the leave of the Assembly. Do you want to ask for that?

Deputy M. Tadier:

Yes.

The Bailiff:

Does the Assembly agree that he should have leave to withdraw paragraph (a)? Yes, I take that as an assent. Secondly, do you ask for the appel, Deputy?

Deputy M. Tadier:

Yes.

The Bailiff:

The appel is called for then in relation to paragraph (b) of the proposition of Deputy Tadier. I invite Members to return to their seats and the Greffier will now open the voting on paragraph (b).

POUR: 16	CONTRE: 29	ABSTAIN: 0
Senator L.J. Farnham	Senator A.J.H. Maclean	
Connétable of St. Lawrence	Senator I.J. Gorst	
Deputy J.A. Martin (H)	Senator P.M. Bailhache	
Deputy G.P. Southern (H)	Senator A.K.F. Green	
Deputy of Grouville	Senator Z.A. Cameron	
Deputy M. Tadier (B)	Connétable of St. Clement	
Deputy of St. John	Connétable of St. Peter	
Deputy M.R. Higgins (H)	Connétable of St. Mary	
Deputy J.M. Maçon (S)	Connétable of St. Ouen	
Deputy R.J. Rondel (H)	Connétable of St. Brelade	
Deputy S.Y. Mézec (H)	Connétable of St. Martin	
Deputy L.M.C. Doublet (S)	Connétable of St. Saviour	
Deputy R. Labey (H)	Connétable of Grouville	
Deputy S.M. Brée (C)	Connétable of St. John	
Deputy of St. Mary	Connétable of Trinity	
Deputy G.J. Truscott (B)	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy K.C. Lewis (S)	
	Deputy E.J. Noel (L)	
	Deputy S.J. Pinel (C)	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy A.D. Lewis (H)	
	Deputy of St. Ouen	
	Deputy S.M. Wickenden (H)	
	Deputy M.J. Norton (B)	
	Deputy T.A. McDonald (S)	
	Deputy P.D. McLinton (S)	

The Bailiff:

Which one would you like to take next, Deputy?

Deputy M. Tadier:

P.126, Sir.

22. Bedrocan BV: possession for treatment purposes - petition (P.126/2014)

The Bailiff:

P.126, very well. I will ask the Greffier to read the proposition, that is, Bedrocan BV: possession for treatment purposes - petition.

The Greffier of the States:

The States are asked to decide whether they are of opinion (a) to request the Minister for Health and Social Services to issue a licence to Ms. Katie Le Texier for her to be professionally prescribed and supplied with Bedrocan BV products in accordance with the Minister's discretionary powers under the Misuse of Drugs (General Provisions) (Jersey) Order 2009 and (b) to request the Minister for Health and Social Services to review procedures for persons in need of treatment who have exhausted all other treatment and management options available locally and in the U.K. and who are left without any further treatment while waiting for the Minister to exercise discretion to allow treatment with cannabis sativa within the provision safeguarded by the Misuse of Drugs (Jersey) Law 1978 so that the physical and mental impact of delays can be mitigated.

22.1 Deputy M. Tadier:

We will go through the motions for this anyway. I bring this proposition which is different in nature. Now there was a tactical reason as well as a practical one why I went for the Sativex proposition first and that was because ultimately I believe that the real reason we are not prescribing Sativex more generally is, I think, cost. It is a very expensive way to produce a very cheap drug. As I have said in what I read earlier, the active ingredients in Sativex are concentrated; there is a process by which those chemicals are extracted in an oil form and then suspended in an alcohol-based solution which can then be sprayed into the mouth of the recipient, the patient, for the alleviation of their condition. But that is by no means the most effective way to administer the medicine. The best way to administer the medication, depending on what condition the individual has, is via a more herbal mechanism which could either be vaporised in a vaporiser so it avoids combustion but it means that you do not get the ill-effects potentially associated with inhaling smoke or the other alternatives are of course to ingest this either in terms of a food product or in a tea product and this is what Bedrocan does. Now there will be lots of debate about whether or not Bedrocan is effective in this Assembly, and it is contested by the Minister. The facts are very simple, that this product is produced with the endorsement of the Dutch Government who probably know a thing or 2 more about the production and use of cannabis than I suggest this Assembly does. The document which you have in front of you which has been circulated earlier tells you what medicinal cannabis is. It is worth reminding ourselves that cannabis consists of - and this is on page 3 - the dry flowers of the female cannabis sativa plant, also known as hemp or marijuana. Cannabis contains a number of active substances like Dronabinol, T.H.C. (Tetrahydrocannabinol) or C.B.D. (Cannabidiol). There you go, I managed to pronounce that; I am obviously not as *au fait* with the product as some. T.H.C. is mainly responsible for the effects of cannabis but others like C.B.D. may also influence the effectiveness of the drug. The individual petitioner in this case is somebody who has tried to go through the process which the only other speaker in the Assembly apart from the Minister made, that there is a process in place for being prescribed Sativex. It is all hunky-dory, it is all working well; therefore, we do not need to worry about it. We can wash our hands today and say that the system works very well and that if people have a need for a certain product they will be given it. Of course the actual reality of things is completely different. I have got a file in front of me from the petitioner who, for technical reasons, was only able to give me this today, hand-delivering it. She would have wanted this to be circulated to Members but I know that already certainly one of the documents has been circulated to Members. Let us read, I think, the initial letter and I will try and paraphrase as far as possible. It is dated 8th December. "To the President and Members of the States of Jersey I am writing to each and every one of you prior to the debate regarding my petition and application for the Minister for Health and Social Services for a licence for the exemption from the Misuse of Drugs (Jersey) Law 1978. This exemption is for the

special purpose of alleviating and managing the symptoms of my incurable condition and to improve both the quality of my life and to increase functionality at the direction of a medical professional with experience and knowledge in the application of medicinal cannabis.” So I think the first paragraph is key because I believe we are being presented with a false dichotomy from the Minister that he is saying this is not a political matter, it is something that should be left down to the individuals but, from my understanding and that of the petitioner, the actual barriers that are being put in the way stop the medical professionals from being able to prescribe this in a simple and effective way because it is an illegal substance, hence the asking of an exemption under the Misuse of Drugs Law. It is perhaps interesting to note that on the one hand cannabis is an illegal substance if you buy it on the street but it is also something which many believe, and the evidence shows, has medicinal benefit for a whole variety of conditions including fibromyalgia, which is this particular individual’s condition. “There has been much debate in the States about the definition of special purpose and whether that does or should include medicinal purpose. However, the Human Rights (Jersey) Law 2000 makes it clear that all legislation should be interpreted and given effect as far as possible compatibly with the Convention on Human Rights and so special purpose must be interpreted to include exemption from the special purpose of accessing effective medicinal treatment that is currently prohibited, and to alleviate the torture, inhumane and degrading treatment or punishment that this prohibition subjects me to in my personal and medical circumstances.” Those are very strong words but those are the words of the petitioner and that is clearly the way she feels and I think it is important to emphasise that. “A decision preventing me from accessing the effective treatment to alleviate these conditions would be acting incompatibly with the convention rights.” So I will skip down a bit further.

[14.45]

“I have yet to hear from the sub group because we are told that there is a Misuse of Drug Advisory Council to which everything should be referred.” It is not a political decision; it has to go to this Council and we were told by the previous Minister that she was still waiting to hear back from the Council but, again, nothing happens because there is a taboo here. The Council clearly have got difficulty in allowing a drug which is illegal and which has all that political baggage that goes with it. “I have yet to hear from the sub group with their findings. Realising we have a new Minister and that it will take time to settle into office I have not heard from him regarding my ongoing application and yet I have now heard from the media that he has spoken out against this kind of use and treatment in general terms. I have not been provided with any supporting evidence that would lead to such a decision being made and feel strongly that this decision must be made fully informed and decided using facts and to do otherwise would be unreasonable and unacceptable. It is not simply enough to deny or delay a viable treatment option with a simple ‘because I said so’. This must be done with supporting evidence. I have provided some of the supporting evidence relating to the use of medicinal cannabis in my condition as well as showing all areas where this is currently prescribed for my condition and symptoms.” Skip on. “I have petitioned the States despite believing this should not be a public or political debate. A decision to grant exemption with the conditions outlined in my application will give freedom to medical practitioners with the knowledge and experience in this area of medicine to apply where they see fit the use of this treatment in my case and under clinical supervision.” So I think this is an appropriate juncture to talk about the power of the Minister. Where does the power of the Minister lie and what defines special purpose? We have had 2 pieces of legal advice early on. In April I circulated that email in which the Solicitor General said it was within the Minister’s power to grant special purpose but special purpose was a high bar. I am making the case that this acute suffering, which is unusual generally but nonetheless experienced by many individuals in our society, does constitute a special purpose and the fact that in this case the individual has exhausted all other medical options to alleviate her pain effectively. She knows from her experience, because she has travelled outside of

Jersey to places where this type of product can be prescribed, that it is effective for her treatment. We do not need years of clinical trialling for that with vested interests of the pharmaceutical companies that go with it potentially. We know that this individual knows and her G.P. would be willing to prescribe this medication for her because it is effective. She is a completely different person when she is taking this type of medication from when she is not. Let us look at some of the symptoms that she lists and talks of in her petition. “The symptoms of my condition include chronic widespread pain, migraines, incontinence, altered sensation and areas of complete numbness, extreme fatigue, muscle spasms, sleep problems and severe problems with mental processing typically described as fibro fog, sensitivities to light, sound and temperature and a low immune system.” All of these symptoms have taken a large toll on the petitioner’s quality of life and has had a large emotional impact. Now, we will hear technical arguments from the Minister but I would like every Member in this Assembly to hold those words in their minds. I think it is probably not a best use of time to read the whole history but I am happy to talk to Members afterwards and the petitioner, herself, has asked that any Member who wishes to speak to her to meet her in her home and understand how she wants to be transformed from a very intelligent, should-be-productive, young woman of the age of 35 from what she currently is; somebody who struggles with the very symptoms that we have talked about. I would ask Members to look into their consciences and ask how, in reality, they can deny this individual a medication, albeit on a technical ground, if Members wish to and deny this individual access to medicine which works for her. So I make the proposition and look forward to any comments.

The Bailiff:

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

Senator A.K.F. Green:

I would like to speak but before I speak can I ask a question of the Solicitor General?

The Bailiff:

Yes.

Senator A.K.F. Green:

Could the Solicitor General assist the Assembly by clarifying his advice on 1st April this year and put that advice into context with the advice issued by the Attorney General on 8th December this year?

Mr. H. Sharp Q.C., H.M. Solicitor General:

The advice I gave on 1st April can be summarised thus. The Minister may licence cannabis or cannabis-related products so that a doctor may provide those drugs if he or she considers it to be appropriate to do so in the best interests of their patient. That is the advice I gave on 1st April and I repeat it here. The Attorney General has filed comments in respect of the propositions being considered this afternoon because if one looks at the wording of the proposition, in particular paragraph (a), one can see that the Minister is being invited to issue a licence not in general terms but directly to a patient so that that patient will gain the benefit almost of a personal licence. The point being made in the Attorney General’s comments is that this is a departure from what the law envisages. The law sees that the Minister may, if he wishes, grant a licence but then it will be left to doctors to decide when it is appropriate to provide that drug to a patient. What appears to be happening here, if I have read paragraph (a) correctly, is that the Minister is being invited to take a clinical decision, almost, and go directly to the patient thereby stepping into the shoes of the doctor. In my view that is outside the ambit of the law.

22.1.1 Senator A.K.F. Green:

I thank the Solicitor General and I do have some comments to make on Bedrocan, but again I find this very difficult because I am mindful that we are talking about an individual and again an individual who is suffering and believes that their specific health issues can only be affected by the use of a cannabis-based product, Bedrocan. I am also mindful of the fact that the request for this is unlicensed and therefore unlawful. The request comes directly from the individual themselves and, as the Solicitor General said, I am not a clinician. You will be aware of the recent advice the Solicitor General has just told us from the Attorney General which clarifies the legal position in relation to granting licences under the Misuse of Drugs Law and that advice makes it abundantly clear - makes it abundantly clear - that the power I have as Minister for Health and Social Services under the law does not permit me to issue a licence in these circumstances. I will repeat that. The power I have as Minister for Health and Social Services under this law does not permit me to issue a licence in these circumstances. The treatment of patients must always be based on clinical assessment and professional expertise. Politicians should not be debating a proposition that effectively sets out to undermine both the clinical expertise and the process and certainly should not be debating one that is not within the law. The Deputy's argument suggests that both legal advice and clinical judgment should be ignored. In fact Deputy Tadier is asking the Assembly to override all clinical judgment and have a debate and make a decision based entirely on emotion. I can see absolutely no benefit in this debate. It is absolutely apparent that I do not have the power to issue such a licence in these circumstances. What the Deputy is proposing and encouraging this Assembly to do is that I break the law. I cannot and I will not do that. I think it is very wrong to have patient's personal and private medical details discussed like this in an open forum where they absolutely do not belong. **[Approbation]** Before I conclude I would just like to pick up on the special circumstances. Special circumstances, according to the advice I have and this applies in the U.K. and practically every country in the world ...

The Bailiff:

Minister, I am not sure if it is your phone but something must be close to ...

Senator A.K.F. Green:

I have got no phone with me at the moment.

The Bailiff:

Well, it is your iPad.

Senator A.K.F. Green:

Oh, it might be. Sorry. Special circumstances relates to - and I am sure the Solicitor General could guide us if he thinks I have stepped over the line - authorised and proper clinical trials or the other special circumstances that has only ever been used is for industrial use for the production of hemp. So I would urge Members to reject this proposition without further adding unnecessarily to the suffering of the individuals involved.

22.1.2 Senator Z.A. Cameron:

There is growing understanding and exciting new research on the causes and treatment of chronic pain in fibromyalgia and while cannabinoids can bring short term relief of symptoms the side effects are considerable. They include clouded judgment, paranoia and a markedly increased risk of psychosis. Exposure during adolescence can lead to a significant reduction in I.Q. (intelligence quotient). It is not known as dope for nothing. As I said, there are exciting effective alternatives for the treatment for chronic pain which I feel Jersey should be exploring in the first instance to help sufferers.

22.1.3 Senator L.J. Farnham:

So I just wanted to make it clear that I am in no way in favour of legalising cannabis in any way, shape or form and if I can be so bold as to say that although some states in the United States have done so I see it being driven for economic gain, and even though I am the Minister for Economic Development I cannot even contemplate doing that over here. But I do sympathise with this proposition insofar as really it is ... the Minister for Health and Social Services has made his point and I agree with that but really I see this as just asking - and I can be corrected if I am wrong - the Minister for Health and Social Services to review the procedures so experts can be more proactive in using this as an option to help people. I am aware that the medical evidence is incomplete. Phase trials are only at a stage 2 level so it is not proven but what is proven is that it does help some people. Senator Cameron is an expert on this and she has talked about the advancement of psychosis by using the drug and it is proven that heavy use of this product by 18 year-olds can lead to a drop in I.Q. in later life, but this is not about that. We must not get this debate mixed up with about legalising cannabis. This is about helping somebody and I joined the States to help people.

22.1.4 Deputy J.A. Martin:

It is a pleasure to follow Deputy Farnham because I think he is coming on the track where I am coming from. I am really fed up today, standing here, and Deputy Tadier was hoping for much debate. Well, we have had one and 2 comments and now we have got the second and we are probably up to 3 or 4 comments and we are now turned on a technicality that advice, and I do not mean no disrespect to the Attorney General because we only did get that advice on April Fools' Day, and we are being treated like fools. Because, whoa, do not make a decision in here. Do not look at the people. Keep ducking behind or we cannot. We are very sympathetic to these details and private personal symptoms that these people are suffering. They should not be discussed in private and we have got to do to protect them but you do not mind it when they are being arrested and criminalised and you read their names in the *J.E.P (Jersey Evening Post)*, and that is what they are going to do and they are going to carry on doing it because this is alleviating their pain. It is worrying to hear from an eminent doctor, who is still a doctor, who is now a Senator to tell me that there are new drugs coming on the market. Multimillion pounds that drugs companies have been doing over the years who do not do research into something that is natural really, probably was there before, and is still there now and the people believe that this is helping them. They do not believe it is helping them, they have tried all the conventional drugs.

[15.00]

They have other side effects. I wondered when the first person - it had to come from a doctor - to say that all cannabis makes you paranoid. You want to work in here for 14 years and you will become a lot more paranoid. **[Laughter]** No. Deputy Tadier is just bringing forward a few people who are suffering: "Oh, it is not done here. It is not there." The medical trials are not happening. As I say, they are not going to happen if we bury our heads in the sand. We cannot put forward and say: "Is this the drug the choice of the person that is really helping them?" They are frightened to go ... the doctors are frightened to go to this ... this panel does exist because I was an Assistant Minister for 6 years on Health but, as the new Minister says, nobody has ever approached him for it. Then why are all these people suffering, are turning to these cannabis-related medicines? Because obviously the drugs that are prescribed and ask ... look at the side effects on ... the multimillion pound drug companies they really ... "Do not take this, side effect. Do not take this, side effect." If you all knew how you were going to react you would never do anything. You would never try any medicines. You would never drink for a start because some people become alcoholics because they have a different effect on it. But this is for a very, very limited, and it should be for a very limited amount of people ... this one is not going to cost particularly a lot of money. Drugs, I am absolutely anti drugs but, as the Minister for Economic Development said, they have tried it now in a couple of American states because of financial reasons because they are

really winning the war everywhere else, are they not, on it? No, they are not. It is multimillion million pounds being made out of drugs but this is a few people in Jersey who believe ... and when I was first on Health I think Deputy Green was very impressed by somebody who came over from Scotland and it was called the 3 Ds, drugs, drink and domestic violence, and the police were very happy to go to the street that were all on the cannabis and there was not any domestic violence or anything going on there. It is a drug that obviously relieves these symptoms: spasms, muscles, it relaxes the muscles. I cannot deny it. What really made my mind up was a lady on the radio this morning talking about her daughter and she said ... sorry, she said that if this had been available for her daughter at 20, who was rigid within 5 years, she would have gone out and got it for her herself and she would have given it to her. Now, do not forget ... ignore what the Minister for Health and Social Services is saying. This is personal. Think about the personal cases. It is 3 cases. There might be more. They will have to jump through hoops and go in front of boards. It would all be licenced. It would be the proper stuff, not what they may be buying now that is going to really aggravate the symptoms that they have already got. So do not give me today that this ... do not like... must remember it is personal. It is people we are talking about because it is. Look on the human side. Remember we are here. I am really angry that the Minister for Health and Social Services never got hold of Deputy Tadier if he was going to turn this argument today on a point of law and ask him to pull this proposition, and then maybe word it as the Attorney General said it should have been worded a few minutes ago, without a name in it. I am not blaming the Attorney General and I know he has got his light on... do you want me to give way? I am practically finished. Well, I will give way, to see what you have got to say.

The Solicitor General:

Just to add that I emailed the Minister and Deputy Tadier the advice, the Attorney General's comments, on Tuesday of last week so that Deputy Tadier had advance notice of what I was going to say. [Approbation]

Deputy J.A. Martin:

I appreciate the words of the Attorney General and, as I said right at the beginning, but I do not know if this was pulled before the election because it would have been an election issue. I do not think I have spoken to anybody under the age of 30 who would be against it medically, not legalised, but medically and probably a lot older because people who are a lot older ... as I say, the lady I listened to today was an elderly mother of a daughter who died but suffered for 20 years and she could not get this to her daughter. So they may have told Deputy Tadier a couple of days ago and he may have pulled this. To me it is technical. I doubt the States will override a technical legal point but I hope if they do today that Deputy Tadier will bring it back. It is not going to go away. You are criminalising people who have severe pain and illness and we are denying them medical proper trials. Let us be ahead of the game for once. Let us beat the multimillion pound drugs companies. Little Jersey can do it. It can do it in a small dedicated clinic or a home environment and it can be done. So I hope at least I have got a debate stirring because I think some of us are all on the old boys today and nobody wants to say a word.

22.1.5 Deputy P.D. McLinton of St. Saviour:

It saddens me that we have to talk about this in this environment. Bedrocan is not licensed. The Minister can no more be approached and asked to license Bedrocan. If we went to the Minister for Economic Development and say, politically, you run the airport, do you not? Yes. I would like a pilot's licence please. It does not work that way. The drug company, who are behind Bedrocan, are currently testing this drug. We could, yes, sure. Let us run trials over here but we do not get to decide that, the drugs company get to decide where they do their trials. The petitioner would have been far better served by being pointed in the direction of the manufacturers of Bedrocan and

asked: “Would you please consider me to go on the trial?” That would have been the way through. If this had been done months ago there is a chance she could be on it and the irony would be ... oh, I am just hearing in my ear she has done that. Why is this not mentioned anywhere? Interesting. She should be on it. She could be on it. I believe that that is quite possible. To bring it here, what is essentially a clinical decision into a political forum, is not unlike taking these poor people, and I feel for them. I was asked yesterday in the Members’ room if my children suffered would I consider using illegal substances. I am here to say absolutely. I would do anything to stop my children’s pain but I would like to approach it legally wherever possible. The debate should be about the legalising of cannabis for medicinal purposes. This is an entirely different debate we are having here. This is not what this is about. The idea that we can suddenly magic Bedrocan out of the air, completely circumventing all the clinical processes that are in place, is a bit like taking these poor people out to Gorey, facing them towards the sea and say: “If you wait long enough you will see a sunset.” We have gone in the wrong direction. The direction is a clinical direction not a political direction and these people’s pain is being used in this Assembly for political purposes and that, frankly, astonishes me.

Deputy M. Tadier:

Will the speaker withdraw that? I take exception to that. I believe it breaks one of the Standing Orders in inferring ... but that is for your call. I think it goes over the line.

The Bailiff:

I think, Deputy, these have been brought at the request of the individuals concerned so I think you probably should withdraw that in these circumstances. The Deputy has been requested, so he tells us, by these members to bring it so it is wrong to say that he is bringing it for political purposes.

Deputy P.D. McLinton:

Fair enough. I withdraw that previous statement.

22.1.6 Deputy G.P. Southern:

Fourteen years is a long time. I did not think I would hear such a misunderstanding of what it means to be a politician again in this House as I used to years ago but I have just heard it. The fact is if you stand to be a Member of this Assembly you are being asked to make difficult political decisions and there is a political aspect to many of the aspects which otherwise we decide on clinically or otherwise elsewhere. This is, yes, a political decision because we are the Government of this Island and have to make those political decisions and the ability to make an exception to a general rule that says, the use of cannabis shall be illegal, is a political decision. So it is absolutely right that it should be before this body. Without going into the details of the symptoms, *et cetera*, that may or may not be alleviated then what we have here is an issue, I think, between the technical details of paragraph (a), which we are told by the Attorney General is a fault and cannot be passed, and the second half, (b), which contains no such fault and is in response to and a request that the Minister issues a licence to a person who is being supervised medically by a professional and at the recommendation of that person this is the drug that they need, that the Minister is asked, as he perfectly is well entitled to do, he can issue a licence but not to a person. As in paragraph (a) he can issue a licence, the G.P. can, medically qualified say: “This is the appropriate medication to alleviate and to make the life better for this patient.” So while one may or may not pay attention to the emotive aspects of this issue it is a simple fact that we have a fault, perhaps, in part (a) but nothing to stop this House deciding that the Minister should review the position and issue licences. That is the position we are taking. That is the position I will take and I will vote for this proposition again.

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

I will try and talk up this time. I have been told off for being too quiet. I have said in a public forum earlier that when the effects of the drugs that somebody is taking are as bad or worse than the effects they are receiving from their illness we should be looking at a better way of doing this. I mirror Senator Farnham's comments that maybe the Minister for Health and Social Services should be looking at how we can progress this in the right manner. But what I want to say here is that what we are asking him to do right now is for someone to self-medicate and for a politician to then accept that self-prescription and I do not think this is the right forum for it, which is why I will not be supporting this and I would like to say out loud that that is the reason. I do think that we should be looking at what we can do to help these people. I would like the Minister for Health and Social Services to say that he would chase-up the sub group of the Misuse of Drugs Advisory Council and let us know what conclusion they have come to, if any, so far, but as far as it goes I will not support this proposition as it is.

22.1.8 Deputy A.E. Pryke of Trinity:

This is always a very emotive and controversial type of debate. When I was Minister I did, along with Deputy Tadier, meet this lady in question and heard her story. Yes, I have got every sympathy with her and the problems that she has. But at the end of the day we are being asked here to act as, perhaps, clinicians to decide on, this is the right drug or not the right drug. Cannabis or medical cannabis, Bedrocan, is not a licensed drug, not licensed here, not licensed in the U.K. All drugs go through N.I.C.E. workings, for want of a better word. They are a professional body; looks at the side effects of each particular drug and looks at the detail of all the trials that have taken place and all the research. That is very important to the research, all drugs, whatever, do have to go through trials and research. At the end of the day it is what is best for patients and whether the drugs are cost effective. These research and trials can take up to 10, 12 years because also with drugs you have to look at the long-term side effects.

[15:15]

Dr. Cameron has mentioned some of the long-term side effects and they all had to be taken into account. We are being asked here to be professional doctors to decide, to ask the Minister to decide to issue a licence to this person. This is totally inappropriate. The lady, in person, I think, needs to engage back with a hospital to see what in fact can be done for her. I know she has probably been down a lot of ... well, she has been down a lot of avenues and I can sympathise with that but at the end of the day the Minister for Health and Social Services cannot do it and we should not be looking at deciding on what drug a person can or cannot have. We do not know their medical background. We do not know what other drugs that person or any person might be on and we do not know the side effects that it might do. So this is totally inappropriate and obviously I will be voting against it.

22.1.9 Deputy R. Labey:

In response to Deputy Wickenden: a lot of these people are self-medicating anyway and they are being forced into, well, criminality to do so. They have been forced on to street corners. Nothing has politicians running for the hills more than a debate about drugs. No one wants to be guilty by association. It is not just here. Everywhere. It is a very difficult situation. So for the record I have no association past or present with this plant apart from on one occasion **[Laughter]** when I bought my home in London from a lovely elderly couple. At my first barbecue in the garden somebody said, nice marijuana plant. So I have not inhaled, smoked, but I have at one time inadvertently cultivated the drug. We did manage to get rid of it after a few years: no, immediately. **[Laughter]** So while at the BBC, throughout the entire 1990s, we made a number of programmes about this and countless items on BBC Southwest News about this and I remember them very vividly. We met and interviewed people brave enough or desperate enough to come out publicly and explain their

plight. They explained, of course, the incredible pain they or their partners were in and that cannabis was the only effective relief for this pain and the lengths they had to go to to secure that pain relief. Some of these people were elderly or disabled, forced, as I said before, into doing drug deals on street corners in some seedy areas of Plymouth and all through the southwest. I have not met the petitioners in Jersey here on this case but I think that it sounds like their plight is very similar and it is pitiful and it is heart breaking. Of course one interviews politicians as part of those programmes and comes up against a wall of intransigence; legal difficulties, medical difficulties. I thought in my ignorance as I left T.V. (television) that this issue had gone away and 15 years later, 20 years later, here I am now a politician and with a possibility of doing something about this with my one vote, and I cannot turn my back on those people and I will not do so. That is why I believe that Deputy Tadier deserves commendation for bringing this difficult proposition forward. Of course everyone is saying it cannot be done, there are side effects. There is a side effect for every drug. Propecia is a great drug if you want to stop baldness but it gives a 10 per cent chance of you not being able to father children. There is a side effect for every drug. We are once again meeting this wall of: "It cannot be done, it cannot be done" and I just feel that someone needs to do something. So tell us then what can be done. I will be supporting Deputy Tadier all the way on this.

22.1.10 Deputy L.M.C. Doublet:

I am finding this very difficult because it seems that we have this technicality that is kind of muddying the debate. So that aside ... I was not going to speak on this but I have been moved to, hearing again, the stories of people that are suffering so much and cannot get the things that they need. It just seems to me 2 things: first of all, as Senator Farnham said, we are here surely to help people and if there are any decisions that we can make which will help people, whether it is going to help a particular individual or a group of people surely we need to put aside this wider issue of cannabis because that is not what we are debating now. We are debating can we help this one person. Surely we have a responsibility to help that person or this group of people. Secondly, I just want to speak about public feeling. I have not had a single member of the public or parishioner contact me and say anything negative about this. I have had lots of parishioners and general members of the public contacting me in favour of it and it does seem to me that the public feeling is in favour of this. So we need to, perhaps, not just think about what our own opinions are but what do we see that the public wants and my impression is that the public are in favour of this.

22.1.11 Deputy S.M. Bree:

I am not an expert. I am not a doctor. I am not a lawyer. So I cannot comment on what we have heard from our resident experts today. I have been diagnosed as having fibromyalgia. I live with somebody who has got M.S. We are not talking today about allowing cannabis-fuelled mobs to roam the streets of Jersey. We are talking about a very small group of people who live with crippling pain every day. I am lucky, I do not. It is not too bad for me. I cope with it. I cannot imagine and neither, I would imagine, can anybody else here imagine what it is like to live with that kind of pain. So this is a petition that has been brought to us by somebody who suffers from that every day. Yes, perhaps we are looking at an unlicensed drug. That drug is unlicensed in the U.K. It is licensed in other countries, Holland for example. Who are we to deny that person the right to something of a normal life? We are not talking about a large number of people. We are not talking about introducing this wholesale across the board. I think, and I agree with the Deputy of Grouville, his comment ... sorry, I always get that wrong. Deputy Labey of St. Helier, what are we here for? We are here to help the people of the Island. Yes, we have a legal question, which has been correctly raised by the Attorney General, but that is a question that we can find an answer to. So really what we are talking about today is the principle behind this: are we, as an Assembly,

prepared to help the few people out there that licensed drugs cannot help? It is for that reason that I am going to be supporting Deputy Tadier.

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

I am perhaps a little confused but at the same time, from what I am hearing, Bedrocan is not licensed. It, therefore, quite simply is not legal for that drug to be used. There is, however, Sativex, which I understand is legal, which could be prescribed but then there is a cost to it. In that case those avenues need to be explored and if the cost is too high for the individual patients then that should be taken up in a different forum, perhaps through Social Security or directed to the Minister, to see if there is a way of assisting financially. My biggest fear is that we drive the problem underground where people, patients, will be forced to buy illegal drugs and this opens a serious minefield. It sounds to, perhaps, lay people a rather stupid comment but there is no quality control with illegal drugs and so when you take them the doses vary, the intensity and the side effects. By allowing licensed drugs you are effectively controlling its use, its dose and the patient's needs. We are politicians. We are not doctors and we should not, I believe, interfere in the role of professional doctors but we should support them and we should support the doctors to ensure that the right drugs are available to the right patients so they can receive the right treatment. I cannot support this particular proposition but I would be happy to support whatever is needed to ensure that the patients get what they need.

22.1.13 Deputy M.J. Norton of St. Brelade:

Like the previous speaker I would like to bring to your attention the fact that Bedrocan is not licensed. It is not licensed in the U.K. It is not licensed in Jersey. It is not licensed anywhere in the world. In fact it is licensed in Holland for manufacture. It is undergoing trials. It is still undergoing trials.

Deputy M. Tadier:

Point of order. That is misleading the House. It is licensed in Canada and maybe other places but definitely in Canada.

Deputy M.J. Norton:

If it is I withdraw that. If it is in Canada, which are the facts that I do not have in front of me, then it is in Canada but I see that the Minister for Health and Social Services is agreeing with me that it is not licensed anywhere. We may debate that. What I would say that if it was licensed in most parts of the world, and if it was licensed certainly in the United Kingdom I would be supporting the use of Bedrocan and I would be supporting Deputy Tadier's proposal. I think earlier in the debate, and it is a very emotive debate - there were indications of - if you are not supporting this proposal then you are wringing your hands, you are not being sympathetic to the sufferers. I think I speak for many in this House when I say that I sympathise with anyone suffering and in need of drugs such as these and whether you are voting for this proposition or against it does not in any way mean that you do not sympathise with those who are suffering. [Approbation] Nobody in this House is turning the other way. Nobody is hiding. Just because not everybody is jumping up and down for a debate does not mean that we do not feel and sympathise with those who are suffering. It just means simply that our hands are fairly tied. We are being asked to administer a drug which is not widely licensed - I thought not licensed anywhere - that is still undergoing trials, that is still undergoing tests, and for which we do not know what the side effects are. If a doctor will not prescribe something because they do not know what the side effects are why are we, as politicians, being asked to prescribe? Why should we be asked to? It is a difficult situation but it is one that I cannot support because we do not know the side effects of an unlicensed drug and, therefore, it makes it very difficult for us to support this proposition, I suggest.

22.1.14 Deputy M.R. Higgins:

I am going to be very brief, but I welcome the proposition because I believe that it is long overdue that issues such as this should be considered in this Assembly. I firmly believe that we should not only debate them but we should also try and get action on these matters. Those of us who have seen family members suffer from incurable diseases or incredible pain do not want anyone else to go through what we have seen. Like other Members, if a member of our family was suffering you would do anything, absolutely anything to alleviate their pain and their suffering, whether it means breaking the law or not. I defy anyone to say they would not do that. I happen to believe that, yes, the proposition may be technically incorrect but I do believe that Members should still vote for it to indicate that we need to look at alternatives and we need to do some work and we need to debate these things. It is not always a case of leaving it to the professionals. We are always told how wonderful doctors are, and there are some brilliant doctors out there and there are some brilliant treatments, but there is also a lot of quacks and if you think in the past about bloodletting and leeches. So do not always believe that the medical profession are correct and know the answer. There are alternatives, they are not quick enough at recognising some of them.

[15:30]

I do think that we need to have research in this area and we need to try and come up with treatments which may be unorthodox or unconventional, but we need to try and alleviate the suffering of these people. It is right that these matters should be debated in this House, it is simply to get some action on the part of the professionals that are in the employ of the States of Jersey. I shall be supporting the proposition to signify that I do want to try and help these people. I must also make the point too, I have never taken drugs, I never will, other than the ones that have been prescribed by a doctor or whatever. But the point is that at times people have to use unconventional medicines.

22.1.15 The Connétable of St. Peter:

It may come as a surprise to many that I am going to applaud Deputy Tadier for supporting these people in their very dire health circumstances, and he is to be congratulated for bringing their issues forward. He has met with a previous Minister around the middle of this year to further the cause of one of the petitioners that we are talking about today. That is the right way to do these things, to bang on the door, to keep banging on the door of those that can bring about change. I wonder why we are here in this Assembly today as politicians being asked to make a clinical decision, yet in every other proposition that we bring in this Chamber we require background information, we require expert judgments, we require advice from many different people before we are prepared to even consider passing a proposition. Even then, with whole tomes of work behind them, we then often ask for a reference back to go and get more information. Yet today we are being asked to make a knee-jerk decision because it feels good, it feels right, and it is right. In principle we all want to support these people, every single person in this Chamber I believe today wants to support these people. But this is not the right way to do it. The past Minister and the current Minister are both eager, as are the Assistant Ministers, to do whatever we can to assist these people, providing it is within our powers to do so. I think we could take the wrong path based on emotion, emotion which we all share in, we can all associate with in one way or another with our own families or extended families. But this is not the right way for this Assembly to do its business. I would ask Members to reject this proposition and encourage Deputy Tadier to keep working on his people's behalf the right way of doing it, going through the right processes to get them the medication that they so need and deserve.

22.1.16 Connétable M.P.S. Le Troquer of St. Martin:

I think Deputy Martin wanted a debate this afternoon and I think she has got a debate in the end. I did not intend to speak on all 3 propositions and take the time of this Assembly but my stance is to

remain the same, and it was to remain the same for all 3 propositions that are coming up this afternoon. It is very sad, like many Members have said today, that this Assembly is discussing medical matters and we are homing-in on the medical conditions of Islanders. It is unfortunate it could not have been done - and the Constable of St. Peter has just said it - in another debate. It is no criticism of the Deputy or the petitioners in this case. To Deputy Martin and to others, I say there is a human side - of course there is - and it affects all of us. We have heard a couple of examples this afternoon on the human side of it, affecting Members of this Assembly. I thank the Minister for the briefing that he gave to Members that was well attended last week. I thank the Deputy as well for bringing the proposition on behalf of the 3 petitioners. I have no objections of him bringing that to this House today. However, the issue should not be personalised, I do not think it should be personalised to the 3 individuals. We know we are talking this time about Bedrocan, but it will have a knock-on effect for many more people; we are not just talking 3 individuals. We have not heard how many people these various illnesses may affect, it is not just 3 people. The debate on this proposition, and likewise the last one to follow, should not relate to cost but I think we have to be realistic. There must be some cost involved, certainly there would have been on the first debate. I hope the Deputy does not think that I am speaking today as a former police officer, and the illegal drug cannabis, and illegal substances generally. I have seen the misery that drugs have caused during my career in the police force, but that is not the reason I decided to speak. Like all in this Assembly - and that is all of us - we only want the very best and the most appropriate medication for patients suffering from illnesses. I have personal reasons close to 2 of the 3 debates today for wishing to do so, because I have family members suffering from 2 serious illnesses. But there are others, as I said, this afternoon. However, in relation to the substance Bedrocan, we have heard so many times now - and I have it in my notes - that the product is not licensed and, therefore, not proved to be safe. The Deputy mentions in his proposition that the patient feels very let down by the perceived lack of helpfulness from the Minister; that was the previous Minister. The new Minister now in post has those same views and opposes the petition by the patient. We are talking about 2 of the most compassionate Members of this Assembly, many compassionate Members in this Assembly, 2 of them, both Ministers, who are opposed. There could be dangers to an unlicensed drug. One assumes that patients from outside the Island could come to Jersey, if it was made legal they could come to the Island to be prescribed with a cannabis-based product. The previous Minister clearly stated that the licensing of Bedrocan in the U.K. had been rejected by the Home Office. I do not want to be a party of approving to licence an unlicensed cannabis-derived product to anyone, or to put further pressures on a consultant, as no doubt this patient and others will be most likely to do if the proposition is approved today. The Minister states in his comments even if he was in a position to grant a licence he could not prescribe or insist on the prescription of Bedrocan, as the matter is solely down to the discretion of a consultant in any case. We have had the comments endorsed by the Attorney General. I am not sure if the Deputy's comments are reported correctly in the media but it was reported recently - and I have the copy - where he said: "We have to try to find a way to remove the political interference and let the G.P.s and patients decide what is best for them." Debating this today, these 3 propositions, is surely just that, political interference, and that is why I only intend to speak once. I shall and cannot be supporting any of the 3 petitions and the proposals to be heard in this Assembly later today. I briefly make mention of comments from Deputy McLinton at the briefing last week when I think he hit the nail on the head saying something to the effect: basically we have 3 propositions to authorise or approve a drug that is illegal, to authorise use of a drug that is unlicensed, and thirdly to authorise a third drug that is already licensed and that may be prescribed by a consultant anyway. I think he said it all in there.

22.1.17 The Connétable of St. Mary:

I do not have an awful lot to add to that but I just thought I would like to say something to mark my place in the whole of 3 debates. There is a lot of emotion of course in this particular debate. No one can fail to be moved by the circumstances, the personal medical histories that we have heard about. There is also of course much emotion about the use of the word “marijuana” and about exactly what that means, we talked about legalisation, whatever. I am not talking about that whatsoever, but I have done a little bit of research - and I mean a little bit because obviously I am no expert on this - but I read an article in the *Sunday Times* in May that started me thinking about this, about a young girl who had been fitting for years and years, she was only a toddler really but she has had literally thousands of epileptic seizures one after the other. Even putting her into an induced coma could not stop the seizures, and how a strain of marijuana had been developed called Charlotte’s Web and how that was changing her life to the fact that she is only fitting 2 to 3 times a month after a tiny, tiny tincture of that was used. But the point of me saying this is - and Deputy Martin was talking about a natural product - cannabis may very well be a natural product but being a natural product does not decrease the complexity of any substance. It is an incredibly complex plant. I am not going to go into the long names but let us call these 2 things T.H.C. and C.B.D., C.B.D. is the cannabinoid part we have been talking about, T.H.C. is really the thing that gives the psychotic element, the trip that people apparently go for. I have no experience. But it is possible to have something, in fact it has been bred, a strain of cannabis they call Hippy’s Disappointment. It is called Hippy’s Disappointment because it is incredibly high in the things that have been proved to be medically beneficial in some cases, and incredibly low in the actual hallucinatory or psychotic element. It is an incredibly complex process, there are many, many variables and I just wanted to say that I for one would not reject use of any particular medically approved drug simply because it was derived originally from cannabis. That has no more interest to me, where it comes from. If it is effective and it is shown to work, fine. But the point is no matter where it comes from, where the chemical analysis that was done of whatever natural plant that was then refined and crossbred to produce exactly the right combination of T.H.C. versus C.B.D., however that happened, if it had been properly researched, developed, tested, approved by the panels and the boards that we have put in place to do that kind of research - without the emotion but simply in a scientific way - I would not have a problem simply because it had been marijuana based. That is not the question here. The question is we are being asked to do something in a process that circumvents all of that licensing, *et cetera*. I have the greatest sympathy, and I think that the Assembly will find that over the next few years there will be a lot more medical research and development done that isolates the breakthroughs that have recently been made. If anybody wants to read this article I am happy to give it to them because it is really revolutionary. The fact we are even talking about genetically modifying the plant to produce something that attacks the symptoms that one individual sufferer through their DNA can produce. It is at the moment on the edges of possibility but it is getting closer. That is another kettle of fish. This particular suite of propositions I am emotionally drawn to, of course we all are, but that is not why I am here. I am here to make a cool decision as well and I will not be able to support these.

22.1.18 Senator P.M. Bailhache:

Deputy Martin was keen to have a debate and she has had one. But I must confess I do not think it was a debate worth having. I reiterate that which others have already said which is of course that every Member in this Assembly has sympathy for the individuals concerned. But we have had the clearest possible advice from the Solicitor General that the Minister is not empowered to do that which he is to be invited to do under paragraph (a) if the Assembly adopts that paragraph. Some Members have used the weasel word “technical”: it is technical to invite the Minister to break the law. Is that really so? This is an Assembly which makes laws. This Assembly, or our predecessors, made the Misuse of Drugs (Jersey) Law 1978 and now some Members are going to ask the Minister for Health and Social Services to break that very same law. I will not ask whether

it is in order for the States to request the Minister for Health and Social Services to break the law but it does seem to me to be highly inappropriate. That leaves paragraph (b) and paragraph (b) requests the Minister to allow treatment with cannabis sativa. But that is a medical matter, it is not a political matter. It is a matter for the Minister for Health and Social Services to act upon, having received the best possible medical and technical advice. I disagree with Deputy Martin, I do not think this was a debate worth having and I certainly am going to vote against both paragraphs in the proposition.

The Bailiff:

Does any other Member wish to speak? Then I call upon Deputy Tadier to reply.

22.1.19 Deputy M. Tadier:

I thank Members for speaking. I think it is necessary to clarify this. There are obviously new Members in the Assembly. But these petitions and the fact that I have to bring them on behalf of the petitioners is not the first step, it is not the first step that has been sought. It is very much the last option as far as they are concerned.

[15:45]

It is probably an appropriate juncture for me to apologise to them on their behalf, I am by no means adequate as an individual to be presenting these petitions, but I have done some minimal research into the issues and I have asked questions in the Assembly. One of those questions included the question to the Solicitor General, as it turns out, which was given an answer on 1st April this year. I make no comment about the date in question. But I do refer to the legal advice that I was given and this Assembly was given, which is on the Hansard record. It really is partly one of those steps on which the petitions were based because we have heard lots that we have been asking the Minister to act illegally and the Minister cannot do that. That is not my understanding based on the legal advice I was given, and on which the petitions were based. Remember, the second strain, the mutant strain of legal advice that came only one week ago which conveniently bolstered the Minister's position for him to be able to stand up and say: "Well, I cannot do it even if I wanted to." It was not the same legal advice that was given back some 7 months ago. I have circulated a copy of that Hansard from that date and if Members look at the second paragraph to the question: "Will the Attorney General clarify whether the importation and possession of cannabis for medicinal use would be possible under the provision of the Misuse of Drugs Law, and whether the Minister has the power to issue a licence allowing for the possession of cannabis for medicinal use?" i.e. what I am asking today with this proposition and with the subsequent one. The answer was: "In principle the Minister can lawfully issue a licence for the possession of cannabis for medicinal use, but there would need to be evidence of some genuine and special medical benefit." That advice to me is quite sufficient for the lodging of a subsequent proposition asking for the Minister to do exactly what was outlined in that answer. If there are technical differences - and I know I had a brief chat with the Solicitor General at lunch time - that may well be the case, but the fact is the Minister does, as the advice was given, have the ability to do that provided a special purpose, which is a high bar but nonetheless a high bar which I think has been met by these individuals because they have specific circumstances. In this case, as we will see, the individual has exhausted, she feels, all other prescribed medications. That is why she has been put in this position today. So that is the position I am in, and by no means - to answer some of the comments that I have been given, also including the Constable of St. Martin - this is an attempt to make it non-political. It may seem paradoxical, it is actually asking the Minister to step aside because currently G.P.s do not have the ability to prescribe Bedrocan. They do not have the ability to allow a patient to be able to possess a different form of cannabis in its herbal form. As we know, they do not have the ability to provide a free subscription for Sativex. It is all very well now using the argument saying this is not a licensed

drug when we do not even allow free prescriptions of licensed drugs anyway. What is the point of Bedrocan being licensed and being tested in the U.K. and being approved by N.I.C.E. if we do not even allow it to be prescribed and put on the list anyway? It seems very selective arguments are being used. Other suggestions that are being said is that Bedrocan has just come out of the woodwork, we do not know anything about, it has not been licensed anywhere in the world. Let us look at what the information is to do with Canada. Bedrocan is a Toronto-based private company and it is a joint venture with Bedrocan BV of the Netherlands. It is licensed to provide Canadian patients with pharmaceutical quality medicinal cannabis sold in European pharmacies since 2003, so this is over a decade old. Canadian patients will have access to the full complement of Bedrocan's imported cannabis strains at 7 dollars 50 per gram, much cheaper than Sativex, it has to be said. From its inception in 2001 as a safe use of medicinal cannabis, it means ongoing efforts to bridge the gap between patients' needs and regulatory demands of modern medicine are now available. So the research has been done. It seems that Jersey, when it suits it, is part of the U.K. and we look to the U.K. solely for our practice. But we know that it has been clinically tested. It is not just some tinpot, shady backstreet deal that is going on, this is a massive company. It is also supported by the document which was circulated, not by the company which has a vested interest itself, but by none other than the Dutch Government, a member of the European Union who talk, indeed, in their document about the benefits and side effects of that particular product. If I may be allowed to refer to that document, if I can find it under the paperwork. We say we do not know what the side effects are of Bedrocan, well, let us see what the Dutch Government who have probably got a bigger budget than any budget we will ever have in our Health Department to look at the issues objectively. They say: "Yes, there are side effects. Patients generally tolerate medicinal cannabis well." This is on page 6 of the document which was circulated by myself yesterday, or by the petitioner: "A low dosage often provides sufficient relief so that the side effects rarely occur." This means by taking this regulated, tested, measured product the individuals do not have to obtain it on the black market. I know that is illegal but this is the reality of things, this is what happens. "When they do it is usually the result of a high dosage or combined use of substance with alcohol that intensifies the side effects. Known side effects of medicinal cannabis are mood altering effects, insomnia and heart palpitations. Other effects are relaxation, fits of laughter, feeling hungry, heightened sensitivity to perception, e.g. colour, music, lethargy and distorted temporal and spatial awareness." It is funny how we do not often hear about the side effects of relaxation, fits of laughter, feeling hungry, but perhaps as Bill Hicks used to say, the stand-up comedian who talked about drugs: "Nobody ever reports on the 9 o'clock news that an 18 or 20 year-old kid went out in town, smoked a joint, and then felt really good and felt closer to his friends." But of course we are not here to talk about general recreational use today. "If you take a large dose of Bedrocan you can get high. This is a feeling of euphoria which slowly subsides into feeling satisfied, peaceful and calm, perhaps feelings that are alien to us today. The altered perception may cause you to feel confused, these effects usually disappear after a few hours." So by no means the alarmist suggestions that we heard from one G.P. in this Assembly that it causes psychosis, that it causes clouded judgment, confusion, *et cetera*, which it no doubt can in certain contexts. These comments coming from the Dutch Government: "If you have a genetic predisposition to psychosis like schizophrenia or any other mental health problems, please consult your specialist before using medicinal cannabis. You should also consult your doctor if you are a cardiac patient. Continuous use of cannabis during pregnancy can affect the foetus, also certain components of cannabis like THC end up in the breast milk. That is why the use of medicinal cannabis is not advisable during pregnancy and while breastfeeding. For more information consult your doctor or pharmacist." It goes on to talk about smoking cannabis is not ideal, as I have said, because the combustion can be a carcinogen. That is why it tends to be vaporised. It talks about addiction, what does it say: "Addiction is unlikely with cannabis used as a medicine. The recommended dose is usually lower than that for recreational use. You should take particular care,

however, if you have been addicted in the past. High dosages of medicinal cannabis taken over a longer period may lead to addiction. Quitting may then cause withdrawal symptoms such as mild forms of restlessness, irritability, insomnia and nausea.” Then it lists the vast amount of benefits and ways in which the Bedrocan product can be taken. This does not sound like the very arcane, mystical drug that we know nothing about. The reality is we do know about it. The people who use cannabis already know more than we probably ever will about the medicinal qualities of that drug and the potential side effects. But to suggest that conventional medication does not have side effects, which in many cases can outweigh... or to suggest that these drugs do not have a diminishing effect over a period of time is also simply untrue. I will not rehearse the argument but those who met with the petitioners yesterday will know that some of the medications that individuals are on have very serious side effects. One of the petitioners who we will hear about next is on the point of kidney failure because of the side effects from her medication and she needs, therefore, to take other medication to try and counteract that and she is on the point of needing a new kidney, when she is in a position to be able to take a cannabis-based product that provides respite from that. So really the issue I would like to say is that first of all when it comes to part (a) I do object to the fact that the goalposts seem to have been changed at the last minute. We go from a point where it has been long understood that the Minister has that power to make the discretion and the test, therefore, is the special purpose definition. It is only after I raise that fact in the meeting that this would be the turning point of the debate that this comment from the new advice came. I suggest that even if, for whatever reason, we cannot bring ourselves to adopt part (a), it seems to be forgotten - and I will reread it - that part (b) I think is entirely a reasonable request. In fact it chimes very much with what we heard from the Constable of St. John and other speakers, that we may not think this is the exact way to do it today but we do need to find a way to decide whether or not to provide this medication for those in great need in our society. So (b) simply asks to request the Minister for Health and Social Services to review the procedures for persons in need of treatment who have exhausted all other treatment and management options available locally in the U.K., and who are left without any further treatment while awaiting the Minister to exercise discretion to allow treatment with cannabis sativa within the provisions safeguarded within the said law so that the physical and mental impact of delays can be mitigated. Is that not an entirely reasonable request? If we cannot accept the methodology by which these petitions have been put, which I of course refute, then at least we can surely sign up to part (b) which I think is entirely reasonable. To finish on the point about exhausting all other medical prescriptions: there does seem to be a tension between the comments of the Minister which says: “In this specific case the petitioner has not exhausted all other possible licensed treatments for the condition.” The notes from the petitioner: “I have exhausted all of the prescription medications that are currently available to manage my pain. Many have had little or no effect and the others have had extremely undesirable side effects.” What I have not heard today from the Minister or from anyone really is that if this is not the right way to do it what is the right way to do it? This has been lying on the table since July. This is the last point at which it could have been debated in order without it having been re-lodged. We have been through many emails, meetings with the Minister, with the petitioners. We are not finding satisfaction from the Minister so I ask the Minister: “What is it that we are going to do for these individuals who have not been given satisfaction up until now?” At the very least I ask Members to support part (b) of the proposition, of course part (a) if Members can do that as well. I make the proposition and I ask for the appel.

The Bailiff:

Do you want a separate vote on each paragraph, Deputy? Very well, the matter for the Assembly is the proposition of Deputy Tadier. The vote will be in 2 parts, the first vote will be on paragraph (a). The appel has been called for so I invite Members to return to their seats and the Greffier will open the voting.

POUR: 10		CONTRE: 35		ABSTAIN: 1
Deputy J.A. Martin (H)		Senator A.J.H. Maclean		Deputy L.M.C. Doublet (S)
Deputy G.P. Southern (H)		Senator I.J. Gorst		
Deputy of Grouville		Senator P.M. Bailhache		
Deputy M. Tadier (B)		Senator A.K.F. Green		
Deputy of St. John		Senator Z.A. Cameron		
Deputy M.R. Higgins (H)		Connétable of St. Helier		
Deputy R.J. Rondel (H)		Connétable of St. Clement		
Deputy S.Y. Mézec (H)		Connétable of St. Peter		
Deputy R. Labey (H)		Connétable of St. Lawrence		
Deputy S.M. Brée (C)		Connétable of St. Mary		
		Connétable of St. Ouen		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of St. Saviour		
		Connétable of Grouville		
		Connétable of St. John		
		Connétable of Trinity		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy K.C. Lewis (S)		
		Deputy E.J. Noel (L)		
		Deputy J.M. Maçon (S)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy A.D. Lewis (H)		
		Deputy of St. Ouen		
		Deputy S.M. Wickenden (H)		
		Deputy M.J. Norton (B)		
		Deputy T.A. McDonald (S)		
		Deputy of St. Mary		
		Deputy G.J. Truscott (B)		
		Deputy P.D. McLinton (S)		

The Bailiff:

Very well, then we move on to paragraph (b) and the Greffier will open the voting.

POUR: 20		CONTRE: 26		ABSTAIN: 0
Connétable of St. John		Senator A.J.H. Maclean		
Deputy J.A. Martin (H)		Senator I.J. Gorst		
Deputy G.P. Southern (H)		Senator P.M. Bailhache		
Deputy of Grouville		Senator A.K.F. Green		
Deputy J.A. Hilton (H)		Senator Z.A. Cameron		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Helier		
Deputy M. Tadier (B)		Connétable of St. Clement		
Deputy of St. John		Connétable of St. Peter		
Deputy M.R. Higgins (H)		Connétable of St. Lawrence		
Deputy J.M. Maçon (S)		Connétable of St. Mary		
Deputy R.J. Rondel (H)		Connétable of St. Ouen		
Deputy S.Y. Mézec (H)		Connétable of St. Brelade		
Deputy A.D. Lewis (H)		Connétable of St. Martin		
Deputy L.M.C. Doublet (S)		Connétable of St. Saviour		
Deputy R. Labey (H)		Connétable of Grouville		
Deputy S.M. Wickenden (H)		Connétable of Trinity		
Deputy S.M. Brée (C)		Deputy of Trinity		
Deputy M.J. Norton (B)		Deputy K.C. Lewis (S)		
Deputy of St. Mary		Deputy E.J. Noel (L)		
Deputy G.J. Truscott (B)		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy of St. Ouen		
		Deputy T.A. McDonald (S)		
		Deputy P.D. McLinton (S)		

[16:00]

Deputy G.P. Southern:

Sir, if I may through the Chair, could I ask the Chief Minister whether this issue came to the Council of Ministers for agreement? If so, was it seen to be an issue on which collective responsibility was operative or not?

The Bailiff:

No, you cannot ask that, Deputy, because it is not before the Assembly at the moment. You can ask him outside the Assembly if you wish.

Deputy G.P. Southern:

It was a very tight vote.

The Bailiff:

Just before we move on to the next one, I did not want to interrupt the debate but I gather the fines for mobile phones are seriously down this year so I was very grateful to see that Senator Maclean has volunteered to increase them. **[Laughter]**

Senator A.J.H. Maclean:

What did you say they have gone up to, Sir?

The Bailiff:

As much as you like. **[Laughter]**

Senator A.J.H. Maclean:

Do I set a benchmark that everyone has to stay with for the rest of the year?

23. Cannabis: possession of cannabis for treatment purposes - petition (P.128/2014)

The Bailiff:

Very well. Then we come finally on this topic to P.128, also lodged by Deputy Tadier: Cannabis: possession of cannabis for treatment purposes - petition. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of the opinion to request the Minister for Health and Social Services to issue a licence to Ms. Evelyn Mary Rose Volante for the possession of cannabis for the treatment and relief of her pain and other symptoms in accordance with the Minister's discretionary powers under the Misuse of Drugs (General Provisions) (Jersey) Order 2009.

23.1 Deputy M. Tadier:

I will just try and get myself not necessarily back in the good books of Members because I hope I have not fallen out of the good books - if I were ever there in the first place - is to suggest that I could perhaps leave the other proposition to do with the Council of Ministers meetings until the next session if that is agreeable to the Assembly. I think I am probably able to do that anyway, just to give notice.

The Bailiff:

Yes, it is your choice entirely. You can defer it before it has started, Deputy.

Deputy M. Tadier:

Thank you, I think because this will make this the last item of the agenda, so it is to give notice to anyone who may wish to give a Christmas speech after.

The Bailiff:

Just be clear so Members pick that up. So you are deferring the debate upon P.163.

Deputy M. Tadier:

Yes, Sir.

The Bailiff:

Very well, just so Members are aware of that.

Deputy M. Tadier:

I obviously do not need to rehash what I think, if you excuse the pun - it was not intentional - some of the arguments that have been used to do with for example perhaps the legal position, the fact that this is not a licensed product. I do think that this is a completely different proposition in many ways because what it does is it focuses very much on the reality of what goes on in daily life. When we fail to necessarily get to grips with the competing facts that cannabis on the one hand is an illegal substance, but which is widely used both recreationally and medicinally, and I am sure there is a crossover as well somewhere between those 2, that it will be used for those purposes. In a context where would-be users who would like to use medicinal use, which is not currently provided for in the law, their only option, if you like, if they do want to consume what they think is an appropriate substance for their medical needs is to secure that substance illegally from dealers with

the whole insecurity of knowing the provenance of that, the content of the drug; and also who may have been a victim somewhere along the very long chain of bringing that substance into Jersey, including those who may have been killed as part of drug and turf wars and those who may be serving time in our jail and elsewhere who are invariably not the ones who make money from the drugs in many cases. This petitioner, let us read the petition, it is slightly different, is to request the Minister for Health and Social Services to issue a licence to the said petitioner for the possession of cannabis for the treatment and relief of her pain and the other symptoms, in accordance with the Minister's discretionary powers which we have discussed I think already in this forum. I first met the petitioner early this year through a friend who is assisting with her case. I was particularly moved by her story and her continuing battle which has been documented by a local blogger and which can be watched on www.tomgruchy.blogspot.com for reference. The petitioner's symptoms are chronic and they are complex. They are listed in the prayer of her petition but they include nausea, vomiting, spasms and poor intake of foods and fluids, loss of appetite and severe loss of weight. She has been prescribed cannabinoids in the past in the form of Sativex, however this is costly and due to the highly reduced nature of her intestinal tract, one of the main reasons for her severe weight loss, she is unable to absorb Sativex sufficiently in order to make it work effectively for her. It is for this reason that she is requesting in the accompanying proposition that the Minister grant her a licence for possession of cannabis for her treatment and the relief of pain and other symptoms in accordance with his power under the law, or which used to be his power under the law until it got revised. Lastly I would invite any Member to take the opportunity to meet Evelyn. The petitioner was born in 1971; she is a single mother of 3 grown-up children. She was diagnosed with ulcerative colitis in 1998 and has experienced extensive life threatening surgery, including colectomy and ileostomy. Doctors describe her medical history as very complex. She is currently unable to work and over the years the petitioner has frequently been admitted to hospitals in Jersey and the U.K. for diverse surgical and medical treatments and exploratory procedures. Throughout this time the petitioner has experienced a great deal of discomfort; we have read the symptoms there but which include also chronic pain. It is easy to say that we cannot do anything, our hands are tied, we have to rely on the experts. But as we know in real life there is often a big disconnect between experts, whatever their field, and the reality on the ground. We know that the reality for this individual is that to try and alleviate her symptoms she has to make herself a criminal by doing so. She has had her house raided on more than one occasion by police officers. She is very quick to point out that the officers themselves are very professional and friendly and that they even regret having to come around to her house and that it is a complete folly. One can even imagine them saying: "Why do the politicians not decide to do something sensible, pragmatic, that could help you rather than making you into a criminal who is clearly not somebody who poses a threat to society?" Nonetheless, as I said earlier, the way which she has to procure her medication - because our system stands in the way of her doing that - is to do it via the criminal route without the effectiveness of that medicine being tested. It is commonly known in Jersey because of the effectiveness of our customs and immigration service that often what get on to the street is not the best product for those would-be users. It is not the herbal form that these kind of medicinal users would like to be able to take. It is often a resin form which is cut, mixed with all sorts of nefarious substances which may include petrol, gum, and even when herbal cannabis is available on the streets it has even been known for it to contain things like shards of glass which then get inhaled into the lungs, because the weight issue is of course how it is sold. I can see some members perhaps thinking: "Well, that is what you get for doing stuff that is illegal." That is one way of certainly looking at it, but it is not necessarily the most sympathetic way. Again, we know which way this debate is going to go today. What I am hoping is that we have a system in place where these individuals - including the petitioner - is not obliged to go and do dodgy deals on street corners for something that she knows is effective for her condition, but to put the ball back in the court of medicinal practitioners, preferably at a G.P. level, to discuss with their clients and their

patients what works for them. Because I think it is good if we can empower individuals and trust medical practitioners to have the discretion, rather than politicians deliberately standing in the way saying: “You cannot do this because it is not what we allow under the law.” I think that position needs to be reversed and if this is not the way to do it I have yet to hear from the Minister, he has an option now perhaps of making a speech, giving a commitment to those who are listening in the gallery and in the wider audience as to whether or not he believes that all of the people with conditions throughout the world who use cannabis in various forms to alleviate their symptoms are wrong and his advisers are right; or whether the possibility is the other way around and that there is some significant potential uses for medicinal marijuana, and what he and his collective of Council of Ministers are going to do to facilitate these individuals. I make the proposition, thank you.

The Bailiff:

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

23.1.1 Senator A.K.F. Green:

Once again I have to say it is with a heavy heart I am debating this similar proposition again, because we are talking about people and I find it very hard. This is another person who is suffering who believes that their specific health issues can be effectively reduced by an unlawful product, in this case raw cannabis. Like the other cases, this request for a licence for the use of an illegal product comes directly from an individual and again not from a clinician. As I pointed out in earlier debates, the advice from the Attorney General clarifies the legal position in relation to granting of licences under the Misuse of Drugs Law. That makes it abundantly clear that I do not have the power under the law to issue any special licence such as that which is requested here. In any event, it would be wholly wrong to make a political decision that has no foundation in clinical judgment. Politicians should not be supporting a proposition that, in point of fact, completely undermines clinical expertise and legal guidance. Once again, the Deputy argues that both legal advice and clinical judgment should be ignored in favour of a political debate and decision based on emotion. As with earlier propositions on this issue, I really do not see that we should be debating this. I would urge Members to reject this proposition without any further debate. For me, I am really concerned about the breach of privacy of the individuals involved. However, I suppose we could say that they chose to have their case heard in this debate. This should be about clinical judgment, not about emotional judgment.

Deputy M. Tadier:

Sir, may I ask for clarification? The Minister obviously does not have to answer the questions I asked him but it is the last opportunity. What are the ways forward for these individuals?

Senator A.K.F. Green:

Huge advances have been made in pain management and I would like the individuals to engage with the pain clinic. We have experts there that can really try all different combinations of medication and other support. We have an excellent pain clinic and I have to say, a member of my family has successfully used it recently.

23.1.2 Senator P.F.C. Ozouf:

My new role means that I am spending slightly more time outside of the Island and looking at debates both within the Island from sometimes an iPad perspective. While this is an extremely serious and important issue, I hope that Members will forgive a slightly light-hearted but nevertheless serious point in relation to the general background to the issue of the drugs trade. In the United Kingdom, the U.K. G.D.P. (Gross Domestic Product) figure was uprated by a figure of 0.7 per cent when the Office for National Statistics included for the first time a calculation of the size and scale of the illegal drug and prostitution market in Jersey.

[16:15]

So I noted with interest that the *J.E.P.* ran a story on prostitution and I noted that a rough calculation of the amount of prostitutes in the U.K. allegedly would be about 100 in Jersey compared to the 40 that the *J.E.P.* has purported it to be. I have no idea whether or not the *J.E.P.* have got their facts right, but the serious point is that there is a large underground industry. I have, for the last certainly ... I think more than perhaps 30 years of my life, read the *Economist* and I have read over that period of time ... and I am in that interregnum of a generation that perhaps was not aware of many of the issues to do with drugs when I was at school. Today, we look back in history and we see that on the one hand, the United States, which is regarded as the unashamed upholder of the free market, the land of plenty and the land of opportunity. It is also, historically, the place in which, in the 19th century, was the inventor of prohibition, both in terms of alcohol and in terms of various substances. Over the years I have read many articles on the economics of this trade and economics is the, as I call it, optimistic science. The *Economist* is also a liberal newspaper and it is always questioned whether or not prohibition works. Prohibition globally ...

The Bailiff:

Senator, I am sure you are coming to it, but of course we are not debating the ...

Senator P.F.C. Ozouf:

I know. I am coming to my point. Yes, I know. I am coming to my point, Sir. Prohibition, while it may be concealed, has without doubt created a fortune for an underworld. There have been thousands of lives lost and absolutely, as the Constable of St. Martin said, the unintended consequences of drugs, the bad side of drugs, does wreck lives. The world is changing and I will not be supporting this proposition but I would say this, almost as a reality check. Last week's *Economist*, in a series of articles over 30 years, has reflected the fact that there are now 27 states in the United States that legalised cannabis for a variety of uses and they estimate in the United States that that ...

The Bailiff:

Senator, I am so sorry but I think that some machine of yours may be too close.

Senator P.F.C. Ozouf:

No, it is not mine, Sir. No, mine are on the floor. I learnt about the internet of things yesterday where we are all chipped and I do not think I have been chipped yet, so I do not think that was mine. Mine has not got a thing in there, so I do not know what the problem is. I will not be very long but what I want to say is that, effectively, the industry in which we are having an underlying debate about is an industry that is in the hands of criminals. It is untaxed, it is unregulated and Deputy Tadier spoke about the underworld in which people that, for whatever reason, perhaps through very serious medical issues which they think they are going to be better ... the reason why people take drugs is without question perhaps an escapism from the world and the mental health issues that they have and they are clearly addictive. But it is in the hands of people who simply would not think twice about selling something of poor quality. I believe that fundamentally an industry is better to be regulated. It would be safer and it would be less crime infested. It would also perhaps not be bigger because the experience of the regulation of tobacco shows us that in fact a regulated industry where regulations ... and this Assembly has made a number of tightening of regulations over the years, and rightly so, accompanied with better public education where the real health issues are understood and there is a proper debate about the health risks, can be properly understood. So in the longer term, I do not believe for one moment that Jersey can be out of step of the global community. We cannot be a haven of decriminalisation and permissive activity. Such would be detrimental to our community, to the amount of people that would seek to come here for

the wrong reasons and all the rest of it. The world is changing and we need to understand this industry better. We need to understand the risks and we need to understand how proper public debate, informed public debate and regulation ultimately may well end up creating less problems and a more transparent and open debate about the reality of the difficulties that we have rather than a rather hysterical approach to this issue and an approach which is now quite clearly changing in that mantle, that place where the free market is supposed to be the best thing but was the heartland and the font of prohibition, because it simply does not work. I am afraid I cannot support this. I have not spoken in any part of the debate previously but we have to be alert and aware to a changing world and a world in which could be a world that is safer, might get some tax, might improve our G.D.P., that we know about because it is there anyway, and I am not saying it for that reason but a way in which we can help people for the reasons they would be engaging and taking a decision to take the drug that we are being asked to legalise. We cannot do this but we do need an informed debate and the world is changing.

23.1.3 Deputy S.Y. Mézec:

I rise with trepidation to speak in this debate. I resisted speaking in the ones earlier because I think the central themes around them were in an area that I just cannot claim to understand the ideas behind. I am just not qualified, as I think the majority of us probably are not either, to really, really understand the issues there. I, myself, have never smoked cannabis before. I have lots of friends who have and I will be honest, I do not like it. I do not like what I see it do to people. I am against legalising cannabis for recreational use and, like Senator Ozouf, I also do not want Jersey to become some sort of haven in that sense. But that is not what this proposition is about. I think I can speak on this one because it is centrally about something else; something, I think, that puts it in a different context to the ones we have had beforehand. I have been aware of Ms. Volante for a while now because of the blogs done on the Tom Gruchy website. I have met her just a few times and I have always really admired her courage and her cheer, which she always has despite what she goes through with her illness. I followed the interviews that she has done for this website where she has detailed some of the things she has had to go through because of her illness and it is stuff that, you know, I really would not want to go through myself and I would not want anybody else to go through. With this proposition, we have a choice as an Assembly whether we treat this as somebody who is ill or whether we treat them as someone who is a criminal. That is what this proposition is fundamentally about and I just cannot understand how could anyone possibly justify treating someone as a criminal in that situation. We know this person has said that the medicine she gets legally does not work. The only thing that works for her is smoking cannabis and regardless of the outcome of this proposition, that central fact will not change. She will carry on smoking cannabis regardless. We have a choice here, from the passing of this proposition, whether she is able to do that uninhibited or whether she is treated as a criminal for it. I just see this as, on that level, a pure moral issue because there are zero, none, no negative consequences whatsoever from allowing one sick person to legally possess and use a drug that she is always using and that she will continue to use regardless of the outcome of this. In fact, if none of that persuades you, at least think of it as an economic argument because we know that this person has had her house raided because of possessing cannabis and I am sure, as the police were leaving, she would have said to them: "See you soon", because she is going to carry on because it is the only thing that makes her feel better and it will just keep happening. Now, I cannot, for the life of me, understand how that is a productive, good use of public money to send police to somebody's house to raid them when they are just someone who is ill trying to make herself feel better. I just cannot understand how there is any logic at all there. It is completely counterproductive. In the previous debates, I was really pleased that a lot of the new Members of this Assembly have spoken from all sides of the argument too. I was particularly pleased listening to the speeches from Deputy Doublet, Deputy Labey and Deputy Bree, who emphasised that what motivates them in this

Assembly, what made them want to come here is their desire to help people. For me, that shows that they get it. They understand what this is about; it is a central, moral question about whether we help someone or whether we do not. On this occasion, frankly all of the medical jargon is all irrelevant because this is somebody who is currently using a drug and will continue to use the drug anyway. So we do not have to have the debate on what the potential negative side effects are because they are going to happen anyway if there are any in the first place. I was really pleased to hear those speeches from those Deputies in particular. There are no negative consequences from this. It is simply about helping one person and I cannot, for the life of me, understand why it is not our role as politicians to help someone. The answer to this proposition has got to be a resounding yes because nothing bad will happen if we do that, only that we will stop one person being treated like a criminal and how could that possibly be wrong?

23.1.4 Deputy L.M.C. Doublet:

Can I just ask for something to be clarified and I apologise if I have missed this, that the 2 different legal ... the legal advice that we have here, one from the Attorney General and one from the Solicitor General because this is what ... you know, my vote rested on that, that I abstained from the last vote because to me, if we cannot do it legally then we should not really be debating it. Can someone just clarify for me, does one of these legal advices, does one override the other?

The Bailiff:

I think the Solicitor General attempted to explain it earlier. Solicitor General, do you wish to clarify?

The Solicitor General:

No, not at all. The legal advice is and always has been that: can the Minister issue a licence, if he so wishes, that permits doctors to make available cannabis in this proposition? Answer, yes. Can the Minister issue a licence to a particular individual, i.e. the patient? Answer, no. So that is the legal advice and while I am on my feet, I noticed the 1st April extract from Hansard has been circulated. My understanding, when I gave that answer, is that I was dealing with that very scenario - the first one. That is to say, the Minister issues a licence for a particular drug and then it is left to doctors to decide if it is appropriate for that drug to be made available to a particular patient. Indeed, if one looks at the page that has been distributed, if we look, please, you will see at the top of the page at 3.10, there is the first question that I was asked by Deputy Tadier. I then give my answer just below it and at paragraph 3.10.1, Deputy Tadier asked me a supplemental question and you will see 3 lines down, at the end of the third line, there is a sentence that begins: "Will the Minister [which I think is reference to me] outline the process by which a G.P. and a patient could legally prescribe and use medicinal cannabis, perhaps even herbal cannabis, for their ailments if the G.P. thought it was the correct medicine to be prescribing." I then answer that question and you will see at the bottom of my answer, I talk about the fact that a particular drug has been licenced and therefore it can be prescribed both in England and Jersey.

[16:30]

If one finally goes over the page, one will see at the final question I get asked by Deputy Tadier at 3.10.3 ... I was asked: "Is it the case that the Minister for Health and Social Services needs to go away and decide whether or not there is a case for herbal cannabis to be supplied, that it extends the amount of products on the market and, therefore, to make the case if she [the Minister] sees fit for other varieties of cannabis-based medicines to be available on prescription in Jersey?" So the point I am making is at the time, on the 1st April - there on 2 different occasions - was Deputy Tadier putting questions to me on the basis it would be the doctor that does the prescribing, which was consistent with my understanding in April that was I was being asked about was a circumstance where the Minister issues a licence for the drug and then the doctor does the prescribing. Sorry,

coming back to what I originally said: can the Minister issue a licence for cannabis in general terms? Yes. Can he issue it to a patient? No.

Deputy M. Tadier:

Sir, may I ask a supplementary on that because I fully appreciate and I think for most of that, there is no contention. It is always the contention and understanding in my mind that it would be down to the practitioner to prescribe the actual drug but in the first answer, the Solicitor General did quite clearly say the Minister can lawfully issue a licence for the possession of cannabis and it is the actual possession of cannabis, the question that really needs to be asked is, to whom? To whom is the licence issued and who is doing the possessing of that particular drug to which the licence applies?

The Solicitor General:

The possessing, in the sense of a licence ... a large number of individuals may possess a drug. So, if, for example, cannabis was licenced, you may have doctors possessing it, people moving it from a laboratory to the doctor's surgery, for example, and ultimately, of course, the patient would also take possession of it. So possession, in that sense, is not limited to one person. It is a licence that enables the product, whatever it is, to be produced, provided to the doctor and the doctor to provide it in turn.

The Bailiff:

Deputy Doublet, had you finished your speech?

Deputy L.M.C. Doublet:

I think so and I really do apologise if I am misunderstanding and everyone else gets it. So, just to be clear, this proposition in law cannot legally happen as it is set out here?

The Solicitor General:

Yes, the proposition seeks to issue a licence to a particular individual who wants to take the product. That is unlawful. What the Minister can do, which is not in the proposition, is to issue a licence for cannabis in a general sense, leaving it to the medical practitioners to decide who should receive it, if any.

Deputy M.R. Higgins:

It is following on with the questioning of the Solicitor General. Could he please explain to me further the term: "special purposes", and he mentions in his answer previously that it was a high bar to satisfy. Now, if the Minister can issue a licence for a special purpose, and I think we heard earlier that there were no definitions of special purpose nor ... in fact, I am not even sure if there were in the U.K. law. Would the Solicitor General just give us examples of special purposes and whether or not the Minister could define what a special purpose is and whether it can be defined for an individual or a group of people?

The Solicitor General:

The Deputy is right. The definition of special purpose is not defined in the law but it certainly is taken to include, and I read it to mean, that it will include the potential research and medical trial of a new product, particularly as we have been discussing, if that new product has cannabis as at least one of its components.

Deputy M.R. Higgins:

A supplementary, Sir? However, though, if the law has not defined a special purpose, if the Minister so decided that he wished to grant a licence for people to use this for medicinal purposes,

whether it be one person or a group of persons, is it not the case it would be for the court to decide whether or not it is lawful and it is not unlawful as such?

The Solicitor General:

That is another way of saying that the Deputy does not agree with my legal advice. **[Laughter]**

Deputy M.R. Higgins:

I am just asking a question. I am just asking a question. Is it that the learned Attorney ... your advice does not necessarily have to be correct. Is it not true that any legal advice is only advice until such time it goes before the court and the court decides what is the law? **[Approbation]**

The Solicitor General:

I am simply trying to assist States Members in understanding how I see the law to be if the court ever had to rule on it. **[Approbation]** If the Deputy does not want to accept my legal advice, that is a matter for him but the result of an alternative view of the law would be that Ministers would be taking individual clinical decisions and the court would have to decide if the States of Jersey intend for the Minister to take a series of clinical decisions on a case by case basis, possibly without any medical evidence, to base his or her decision on. My view as a lawyer is that of course the States did not intend that and that is what is guiding me in giving the view on the law that I have done this afternoon.

Deputy M.R. Higgins:

Sir, just one final question of the Solicitor General. Surely if the States had decided or knew what it wanted, it would have defined the words "special purpose" or is that not the case?

The Bailiff:

You do not need to answer that, Solicitor General. That is just an observation. They have not defined it and so there we are. Now, Deputy Higgins, do you wish to make a speech or not? No. Deputy Martin?

23.1.5 Deputy J.A. Martin:

Yes, I think that really does bring us to the end and I do apologise if I did give any offence to the Solicitor General earlier, but it brings the debate all full circle around to who is helping these people in particular, this one person. We have again heard the third speech from the new Minister for Health and Social Services, who really wants to help yet has not got together months ago with Deputy Tadier, the petitioners and found a legal route. Senator Bailhache said ... and of course you have the Constables who literally uphold the law and are head of the Honorary Police. I think every single one of them voted against because Senator Bailhache said that what we are asking today to do is ask the Minister for Health and Social Services to break the law. But it is all right that we are still allowing somebody who absolutely needs - and not just believes they need - needs this medication to go out there and break the law themselves, to have the police come into their home and to make their whole family suffer. So who is right? I was heartened and agreed with a lot of what the Constable of St. Mary said but she could not bring herself to vote against something that we ... because we make laws, we make the law and we are asking the Minister to vote against the law. The petitioner is asking to give discretion in this one particular case, which we have just heard from the Solicitor General has gone too far. It might have been open if it was just to insert in conditions for medical purposes on G.P.'s advice, which, I think this is where everybody wanted to get. But nobody has spoken. Nobody is speaking to each other and poor Deputy Tadier, and the petitioners, are being told this is not the way to go. It is political. I am told I am ringing the emotions and this is not the way to go either. Well, no ... in this House, and I think as has been said before, Deputy Doublet and Deputy Labey said, and I have always understood it and I have been

here long enough to know, we do have to make decisions. This is raising its head. Do we really want good, normally law-abiding, but very, very ill people who live in Jersey, to go outside to the seedy world that Senator Ozouf has enlightened us about, which really did lead us off to some other debate about it being legal and how much tax can we charge and let us make smoking illegal, but bring in smoking of cannabis so we can get a bit more duty on it and he is smiling away seeing the money rolling in. **[Laughter]** This is not what this debate is about. It is not frivolous. Deputy Tadier, this is for us to say ... send a shot across the bow of the Minister. Send a big shot. Because, today, we do have an option to say no, we do not want normally law-abiding, very ill people in Jersey to step outside the law. Nobody has consulted with each other and said: "This will make the Minister breach the law." So let us pull that rabbit out of the hat at the last minute and then we will all be sitting on our hands and it will go away until somebody else in a far-flung corner of the world decides that maybe it can be done. No. I am supporting this. I have supported the other 2 but this one, as I think Deputy Mézec has already said, put this petitioner out in the world of criminals and it is very scary and with all the other health issues this person has, you are reading about, has got the added of do not know what she is going to be taking the next time she buys it off some illegal person, wherever they may be in some dark corner or just up the road. We are sending police in, into a family home, but we are not here to make these tough decisions. I am not medical. I am not saying that I know better than the clinicians. At the moment, cannabis is an illegal drug. This petitioner believes it will help her. It does help her. The drugs that have been prescribed legally are not helping her. They are making her worse. So she has got another complaint on top of all the other complaints she has got. So, today, this one is different. It is 20 steps ahead of the other 2 because we could hardly argue ... you know, there is a drugs issue here and there is a medical thing and there are trials going on. Nobody is trying this. There are lots of people trying it but it is not legal. There are a lot of people buying it and it is not legal. But the only people that we are discussing today, not hundreds of people, not who is going to open the floodgates, it is this one particular person who it will help. It will decriminalise the act when she buys it and it will help her family. To me, it is a no-brainer and the last thing, what Deputy Doublet has said, not one person of any age has contacted on the negative. Maybe in the country Parishes it is different. There might be plants in their gardens like unwittingly Deputy Labey found in London. No, I only joke. What I am saying is this really is an issue of one person we are asking today. Nobody out there really ... phones ringing off the hook, emails flying around over: "I would never vote for you if you did this, do that, do the other." So, let us hope you can really support this petition today. If, in a few weeks' time, we find out that this unfortunate ... we pass something that this person has bought something that absolutely, really makes her health even worse, I could not live with my conscience. It is a question ... we are here to uphold laws, question laws and vote with your conscience. I really ask you to do that today. Thank you.

23.1.6 Deputy A.D. Lewis:

I have to say, there have been some really excellent speeches today, on both sides of the argument. I had not planned on speaking, but most of the arguments have been rehearsed very, very well. But the thing that has just struck me on a couple of speakers is the fact that we are a legislator. We pass legislation here. We make laws. Two of the propositions here have been deemed illegal if the Minister was to act upon them. I think Members need to think very, very carefully about that. What we are elected here to do is to help people in many ways. I think Senator Farnham made that case very well, as did others. But we have to work within the law. We are a legislator and we should not be seen to be breaking those laws. I did vote for P.126 for item (b) on that item, because I strongly believe that we should be looking at this case more closely, this whole issue more closely. So, I hope that the Minister is going to go away and reconsider that vote. That vote was close. It was 20-26. So, I hope that the Minister takes that away and thinks: "Well, yes, I really should have a look at this anyway." I would be interested to know his thoughts on that. Some

people have said that they have not received any calls about this, they have not had any debate with the public about it that is not negative. I have to say that that has not been my experience.

[16:45]

People have come up to me and said they are very concerned that we are debating this subject in quite the way that we are, because there is a perception that we are suggesting that we should go down a road of, effectively, reclassifying controlled drugs. That, of course, is not what we are doing, but that is the public perception. I think we need to be very careful how we have this debate in public initially. I think we should be going away to our Scrutiny Panels. I would like to think that the Home Affairs Scrutiny Panel and the Health Scrutiny Panel have a very close look at this, talk to the Minister for Health and Social Services and try and persuade him to look at item (b) on P.126 and go away and research it properly. Then perhaps we can come back and have a proper, meaningful debate. We are not trying to change a law. We are not trying to break the law, as the Solicitor General has very clearly outlined. We have 2 propositions here. Good speeches. We are suggesting that the Minister should break the law. I am sorry, I do not get that. I think Members should be very mindful that we are elected here to make laws not break them. Thank you.

23.1.7 Deputy P.D. McLinton:

Surely this debate should be about allowing one person to break the law. Surely it should be a case that propositions should be brought to this Assembly to change the law to allow medicinal use of cannabis. If it be the case then we would end up having to debate individual cases on a perpetual basis, whereas if we seek to change the law to make it possible then we can move forwards. So, it is not the people in this Assembly do not care. We care. We want people to be the best they can be, to feel well within themselves. But there has got to be a better route than this. This is asking to break the law, essentially, one way or the other, whichever way you look at it. I would suggest that we move this in a completely different direction, we do make this political and not clinical, which is seemingly what has been going on so far today.

23.1.8 Deputy G.P. Southern:

I remind the previous speaker that it is always possible for him to bring a different proposition to the States and see what happens to it. I want to just briefly - and I understand the Chief Minister has not spoken - ask the Chief Minister the question I asked before about whether this is among the first items where collective responsibility holds. I understand this decision was taken by the Minister for Health and Social Services, who took it to the Council of Ministers and it was not clear in conversation with the Chief Minister, so I would like to confirm whether or not collective responsibility was either assumed or enforced on this particular issue, as I believe it is an issue which ought to go with conscience. There may well be some long held beliefs. If this is going to be a tight vote, one or 2 votes either way, because of collective responsibility, it could make an enormous difference.

The Bailiff:

Does any other Member wish to speak? Then I call upon Deputy Tadier to reply.

23.1.9 Deputy M. Tadier:

People might know that I am a fan of Marx and I think Marx once said: "I have principles and if you do not like them I have other principles." **[Laughter]** That was not in his book *Das Kapital*. It was probably in some 1920s black and white film, no doubt. In the same way you could argue ... and I very much like the Solicitor General. I will miss, in particular, his scrutiny training that he gives to us, because that is of top-class quality. We will hopefully have one more of those sessions before he goes. But, it does seem to me that you can say: "I have legal advice, but if you do not like it I have some other legal advice." As a Back-Bencher I do not have the benefit of that.

Although in theory we know that there are different hats. It does beg the question if ultimately it is the courts who decide on points of law, when we have a senior judge and the top judge in the Island sitting in the Assembly, why we need an Attorney General or Solicitor General when we can just ask the individual sitting in the Chair. Surely if we are going to have him or her in the Assembly in the future we may as well have cost-efficiencies and effectiveness in our processes. It goes without saying that I clearly feel that I have been acting in the correct manner, simply by adhering to the legal advice which I got, and which I thought was very clear. So when I hear the Minister for Health and Social Services, who uses this again as a platform for criticism, saying that I stand up here to argue against the medical advice and to argue against the legal advice, of course, I take some exception at that. The reality is that I go with the medical advice. It is just I look sometimes elsewhere for my sources of advice, as I have said, by doing research. Not simply by what one is fed by the very narrow group of one's Ministerial experts and opinion at officer level, but by researching the subject more broadly, how things are done around the world and where the cutting-edge medical advice is given, is quite a different story. The medical advice is that cannabis does work very effectively for the alleviation and treatment of symptoms, a whole list of which could be read out here today. The individuals and those in the medical practice know very well it is effective, which is why it has been licensed in some countries and why other countries are focusing their more general overarching drugs policy on harm reduction and health benefits, rather than what I still believe is some Draconian, post-Victorian stance to do with propaganda. Let us face it, Victorian stance on medicinal use was quite different. We know Queen Victoria was prescribed it by her doctor for labour pains, *et cetera*, and pregnancy pains. So, it seemed to be okay for her, but it is denied for some of the most vulnerable in our society. The point is: legal advice clearly changes, but medicinal advice changes also.

Senator I.J. Gorst:

Sir, would the ...

Deputy M. Tadier:

If it is a point of order, I will give way, Sir.

Senator I.J. Gorst:

I hope it is, Sir. I did not want to interrupt the Deputy, but he has continued to make the same point. I was going to wait until he had finished his summing up. I do not think it is fair or appropriate to impugn of the Solicitor General what he has been doing throughout his summing up.

The Bailiff:

I agree. Deputy, the position is the Solicitor General has not changed his advice. He has made it clear that his advice is exactly the same. His first advice was given on the proposition that doctors would be prescribing it. Now, his advice is, having seen the proposition, that is not permissible because it is the Minister. So it is incorrect to say he has changed his advice.

Deputy M. Tadier:

Let me rephrase it then, because obviously no malintention was intended, so to speak. Communication, I have also been told, is not about what one says, but about what one hears. I felt that certainly it was entirely reasonable for me and others reading what I think is very clear in the first piece of advice saying the Minister can lawfully issue a licence for possession of cannabis for medicinal use, for somebody then to go off and say: "Oh, right. If that is the case I would like to ask the Minister to use that lawful power to issue a licence for the possession of cannabis for this individual." That, we have been told, is not the full interpretation of how I looked at it. But, nonetheless, that document was on the table for 6 months roughly. This piece of advice, the clarification, came towards the end of the day. It is lucky that we did not debate this nearer the

time, because it could have been debated any time and that piece of advice obviously would not have been on the table. I will leave that there. The point is, for me, that I was told that politics is the art of the possible. Yet, what we have seen today is the art of the impossible. For whatever reason, be it legal or political, we are being told we cannot do this. I have not heard anything from the Minister for Health and Social Services, apart from: "Come and talk to us at Health." Does the Minister honestly think these 3 individuals have not engaged in that process? Does he think they got diagnosed one day and then the next day they turn up and say: "I want a petition to be able to smoke, drink or in other ways administer a spray form of cannabis"? The reality is they have exhausted all routes. It is quite clear that it is not a political priority for the, I suggest, over-stretched officers in his department. They have other issues to deal with. We have already spoken about the disconnect that consultants have asked for no instances for these drugs to be prescribed, even though we know there is a demand out there asking medical health practitioners to do that. It is entirely understandable that these individuals and their political supporters find that they need to come to the States to ask for the Minister to take action. Quite clearly the Health Department have issues to deal with in mental health. We have had the C.A.M.H.S. (Child and Adolescent Mental Health Service) report. We know that they cannot be doing everything. That would, quite clearly, be one explanation as to why political priorities cannot be given across the piece. Now, what I hope after today and what I am fairly confident on, were I a betting man, is that mysteriously in the next 2 years we are going to find out that this petition of the first petitioner - I hope Members will beg a slight indulgence in taking the issue overarchingly - has been granted free Sativex on prescription. I wonder how that happens. I certainly think that is going to be the case that happens, even though it has been rejected by this Assembly. There has to be a better route than this. I look forward to the Assistant Minister coming forward with that. Of course, the other option, if it had been flagged-up previously that this is, as is suggested, *ultra vires*, even though I thought that we were the ones who make the law and decide what special purpose is. If it is *ultra vires* then there must be a different route. At no point did anybody come to me from the Ministerial side and say: "We cannot do this, but we would like to assist. Have you thought about going to the Minister for Health and Social Services and asking that a special dispensation be allowed so that those who have a genuine need medicinally and for whom a prescription or a doctor's note could be prescribed, they will have a dispensation under the law. If it is not under the Minister for Health and Social Services' power then it could be under the Minister for Home Affairs' power to do that via the States Assembly or via a Ministerial Decision, because we know Ministerial Decisions can be a way to bypass this Assembly. I would be absolutely quite happy if the Minister for Home Affairs were to go away and take a general step which would help, among other people, one of her constituents who is in chronic pain with spasms that sometimes throw him out of his wheelchair, so that he does not have to be criminalised and raided as this individual here has been. So, I look forward to those proposals coming forward. We have already had one suggestion from Senator Ozouf, who has clearly got these new-fangled ideas from going to the big smoke in London, coming back telling us what we might or might not do in Jersey. I think those comments would probably be welcome in a different debate, but obviously that position does not help the individual petition on this occasion. I think we have a chance to do something very clear today. We can send a strong message to the Minister for Health and Social Services by voting for this proposition that we wish him to take action, that there does need to be a joined-up policy, I think probably between Home Affairs and Health and with input, no doubt, from the relevant Scrutiny Panels in this area. Whatever the result, which I suspect we know from this particular proposal, I hope that we can get to a position in the future, and certainly if I am ever around, whereby we are not criminalising individuals who simply want to access a drug which they know is effective for them. I make this last proposition and ask for the appel.

The Bailiff:

The appel is called for then in relation to the proposition of Deputy Tadier. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 11		CONTRE: 32		ABSTAIN: 1
Deputy J.A. Martin (H)		Senator P.F.C. Ozouf		Deputy L.M.C. Doublet (S)
Deputy G.P. Southern (H)		Senator A.J.H. Maclean		
Deputy of Grouville		Senator I.J. Gorst		
Deputy M. Tadier (B)		Senator P.M. Bailhache		
Deputy of St. John		Senator A.K.F. Green		
Deputy M.R. Higgins (H)		Senator Z.A. Cameron		
Deputy J.M. Maçon (S)		Connétable of St. Helier		
Deputy R.J. Rondel (H)		Connétable of St. Clement		
Deputy S.Y. Mézec (H)		Connétable of St. Peter		
Deputy R. Labey (H)		Connétable of St. Lawrence		
Deputy S.M. Brée (C)		Connétable of St. Mary		
		Connétable of St. Ouen		
		Connétable of St. Martin		
		Connétable of Grouville		
		Connétable of St. John		
		Connétable of Trinity		
		Deputy J.A. Hilton (H)		
		Deputy of Trinity		
		Deputy K.C. Lewis (S)		
		Deputy E.J. Noel (L)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy A.D. Lewis (H)		
		Deputy of St. Ouen		
		Deputy S.M. Wickenden (H)		
		Deputy M.J. Norton (B)		
		Deputy T.A. McDonald (S)		
		Deputy of St. Mary		
		Deputy G.J. Truscott (B)		
		Deputy P.D. McLinton (S)		

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Bailiff:

Very well. That completes the Public Business. So, we come next to M, Arrangement of Public Business for Future Meetings. I invite the Chairman of P.P.C. to speak to it.

24. The Connétable of St. Clement (Chairman, Privileges and Procedures Department):

The items are as per the Consolidated Order Paper, plus 4 items. Firstly, P.163, Deputy Tadier's proposition which was deferred for today on Open Meetings with Council of Ministers; and 3 items which have been lodged today: the Draft Financial Services Ombudsman (Case-Fee and Levy) Regulations, in the name of the Minister for Economic Development; Jersey Financial Services Commission: appointment of Commissioner by the Chief Minister; and the Parish Assemblies Law in the name of the Comité des Connétables. I would suggest Members would allow 2 days for that as there are some pretty meaty items for 20th January.

[17:00]

The Bailiff:

Yes, thank you, Connétable. I should inform Members, yes, that the Draft Loi (201-) (Amendment) au sujet des assemblées paroissiales - P.173 - has been lodged by the Comité des Connétables.

24.1 The Deputy of St. Martin:

Sorry, could I just make a comment? On 20th January we have P.156, which has been lodged by the Constable of St. Helier. This is the second time the proposition has been delayed, but I do have on my desk a live application in respect of the Gasworks. I fully accept that the Parish views are important to the Constable and I understand that he is due to have a Parish Assembly on the matter on 19th January. But I too have obligations, an obligation to determine applications in a timely fashion and I would just like to urge the Constable, please, to not come forward with another delay on this debate after January, if I may.

The Bailiff:

Does any other Member wish to say anything about the business on the next meeting? No. Does the Assembly agree to take the business as listed by the Chairman of P.P.C.? Very well.

CHRISTMAS GREETINGS

25.1 Senator P.F.C. Ozouf:

It is a great honour to be able to address the Assembly in the absence of the senior Member, Senator Routier. Having heard, I think, 45 Christmas speeches over the last 15 years in this Assembly I hope that this one will not go down in any notable negative sense, but in a positive one. I can remember as a youthful 29 year-old thinking about the senior Member that was addressing and giving Christmas greetings and I could never imagine that I would ever be in that honourable position. Might I say that even 3 months ago I thought that might be unlikely. **[Laughter]** Christmas is a time when we take time out of our busy lives to spend quality time with those who are special to us: our family, our friends and those close to us in the wider sense. It is a time also to think of those who are less fortunate than ourselves. It is a time to share. Over the centuries religious texts have been translated many times, in many different languages. Even the language of the Christmas story has evolved over time. I was recently interested to learn that the King James version of the Bible from a number of centuries ago used the word “charity” when in today’s Bible the word “love” is used. Christmas is a time to show love in all the senses of mankind and womankind. It is an opportunity to think also about what we have achieved, what we could do better and to look forward to the year ahead. This year will go down in history as the first year that this Assembly gave a final set of Christmas remarks at the end of a proper general election. While we all know, I think, that there is more to be done, I think that everybody would say that the election has been judged a success. The Assembly has welcomed 2 new Senators, of which I speak on behalf of 2 new Connétables and 11 new Deputies. All Senators would, I hope, agree that it is an honour and privilege to be a Member of this Assembly. It is most importantly an honour to serve. Since the elections the Senators have taken their places in various different ways. We have seen the elevation from the 2011 intake of a number of individuals to the lofty positions of Senator and Minister. In the 2014 intake there also appears to be a further intake of refreshing, new, collaborative Members. I hope I speak again for all the Senators in saying that we are excited to work with our new elected colleagues. **[Approbation]** There will be differences on how to achieve a better Jersey, because that is why we are here. But, there does appear to be a welcome new sense of teamwork, respect and tolerance among Members. I hope, again, I speak on behalf of all Senators when we say that we wish this positive approach to positive politics will continue. Among many highlights of the last year was the thought provoking Peace Youth Debate which was

held in this Assembly and organised by the Rotary Club of Jersey. Those Members who were fortunate to witness the debate were impressed with how the students' views were on the promotion of peace and the tolerance that they showed with different perspectives. That had a powerful effect on the outcome of the way in which young people look at the world, a world not in a future sense which should be war-torn, but in a way that all people have respect for one another. Many have commented that we should develop further that work of the Rotary Club to bring peace, reconciliation and tolerance to all levels in our Island and especially those who are nearest to us. So, earlier this year the Island also joined in an important commemoration of the start of World War One. International communities across the world have held services commemorating the sacrifices made by so many. It was so good to see so many Islanders in the Royal Square to see the Island's commemoration. **[Approbation]** It was a remarkable atmosphere and unforgettable. While there have been many highlights during the year, a great deal has been achieved. I am reminded that also this year has been a challenging one for Members in a number of different respects, not only politically, but personally. Some Members of this Assembly have suffered bereavement and some have battled with health problems. Some Members, and one in particular, has shown incredible fortitude and courage in dealing with a battle against a serious health issue. Religious texts speak of the light of the world and it is in suffering that we somehow see light. Let us use this Christmas time in the short, dark days to find light; to seek the light of courage, honesty, trust and mercy. A time when we can reflect and keep all Members and our families in our thoughts. Jersey is rightfully proud of taking an important role on the international stage where there are, of course, many opportunities to do better. Jersey's role around the world is not just simply about doing business. Our Overseas Aid Commission has once again been reacting to the difficulties that many people find themselves across the world in war-torn places, in places where there is not democracy, where there is not justice and where people have suffered the turmoil of natural and civil disasters. The Ebola outbreak has been a real challenge and Jersey should be proud of what it is doing in this regard. In recent times our relationship has been very much in developing relations with developing countries. We believe that we have a good and prosperous future in helping raise the standard of living of people, not only in Jersey, but where we can, punching above our weight, around the world. Hansard referred to, apparently, the spectacle of the Chief Minister removing a faulty light bulb just above him. The question was raised: how many Senators does it take to change a light bulb? The answer, I am told, was just one, but, it was with the support and advice of a Connétable. Now that we have had a referendum perhaps we will not have to worry about whether or not the Senators continue to change a light bulb, because we will continue to have the constant guiding advice from our neighbours and Constables. It is traditional to recognise in the Christmas greetings remarks about the media. That is perhaps appropriate, not only because they are the regular spectators from their soundproof glass boxes where we do not quite know what is said sometimes, but because of their role in promoting a free, intelligent, searching media. That is part of the component of democracy. Many of our accredited media work incredibly hard and with ever-decreasing resources they have difficulties themselves in finding the news to fill a daily newspaper, airwaves, 2 T.V. broadcasts, as well as becoming multi-disciplined members in the never-ending, fast-moving 24-hour-a-day social media world. At the same time there is an issue of what is new. I will not quote exactly what Mark Boleat said at a recent Chamber event, but I know that it struck a chord with a number of Islanders, particularly the way in which we, as Members of this Assembly, are perhaps identified, perhaps even targeted, in the works and the decisions that we have to take. We, as politicians, need to develop thick skins. We need that. But, at the same time, we hope that there is an appreciation of the effect that it can have on our own families and the people close to us. Certainly the good news is that that has not prevented people coming forward to stand for office. I hope I can speak on behalf of all Senators when we wish the accredited media our good wishes in this Christmastime and in the spirit of seasonal goodwill express the hope that glasses, alcoholic or non-alcoholic, are best kept half full.

While we understand that there is sometimes bad news that needs to be put across that there is also a great deal to celebrate in our Island and that we should remind our Island community just what is great about our Island, past, present and future. The year ahead will bring new challenges and opportunities. It will no doubt be another year of landmark decisions, all designed to find a better future for Jersey. That will need us all to work together as never before for the better for those that we serve. Sir, you will be vacating the Chair in this Assembly very soon. On behalf of my fellow Senators may I express our gratitude to you for presiding over this Assembly in the fair and reasonable and always polite way that you have overseen our proceedings in the last 12 months. **[Approbation]** This will be the last time that we will express our Christmas greetings to you and so may we offer to you and Lady Birt a very happy Christmas time and may your last Christmas as Bailiff be an extremely happy one. The Senators also extend greetings to the Deputy Bailiff and to Mrs. Bailhache and of course to His Excellency and Lady McColl for the work that they do untiringly every week, day in, day out, in supporting so many good causes across the Island. To the Dean and Mrs. Key, to the Attorney General, and to the Solicitor General, which I think we all share a sadness, but a positive reflection on the service that he has given all Senators, but there will be another time to make those observations later. The Senators are particularly grateful for the guidance of all the officers that serve this Assembly and it is of course the success of this Assembly, which is not simply down to us as elected Members, but those that serve us. So it is perhaps particularly appropriate for us to recognise that Her Majesty the Queen recognised our Greffier when he was made an Officer of the British Empire for his services to this Assembly. **[Approbation]** We congratulate the Greffier and we thank the Deputy Greffier and the Assistant Greffier and all the Greffe team who often go beyond the call of duty. Particularly, I would say, beyond the call of duty in the work that they did in relation to the vote.je campaign, which really does require particular recognition. **[Approbation]** We are of course grateful by our law drafting officers, to all that serve at the public service who work tirelessly, sometimes in a hidden and unrecognised way, who help departments and help us make decisions in this Assembly. We benefit from the services of many, including the Ushers, the Hansard recorders, and of course the never-endingly positive remarks and interesting conversations that we have with our tea lady. May I express the good wishes of the Senators to all who work within this Assembly. This Assembly has just completed another year in which has been a year in which some extremely difficult decisions have been taken.

[17:15]

I believe that we can look back with a sense of achievement. So, on behalf of all the Senators, may I wish our fellow Connétables, our fellow Deputies, and everybody associated with this Assembly, together with every Member's families and those close to them, a very happy Christmas, a joyous and peaceful New Year, and a 2015 in which hopefully Jersey can look forward with renewed confidence and pride in our past, in our present and our future. Thank you, Sir. **[Approbation]**

25.2 The Connétable of St. Helier:

As Standing Orders prohibit repetition, the Senator has left me very little to say. **[Laughter]** By the time we get to Deputy Martin's maiden speech as Senior Deputy there will be indeed very little to say at all. **[Laughter]** This has been a year of elections, as the previous speaker said. We had a by-election in St. Helier back in March and we were voting here in the States Assembly this morning, complete with spoilt papers. The mind boggles as to how one of the Island's leaders, faced with the choice between Deputy Truscott and Deputy Kevin Lewis, could get confused. If it had been a pair of Lewises it might be understandable, or the pair of Labeys. Spoilt papers are of course the least of our problems at election time in St. Helier. Nomination papers are quite a different matter. **[Laughter]** I have already apologised personally to Deputy Wickenden for the administrative error, which meant he almost had to be elected twice this autumn. No wonder he is

already resigning from things. He must have no idea whether he is coming or going. Yes, we have had a general election, and now that the last of the election posters is at last down, I believe, which depicted, if I am not mistaken, the son or even the grandson of a candidate quite advanced in age, there is nothing wrong **[Laughter]** with that, however the Constables would prefer the posters to be removed next time with rather more speed. The Constables would like to welcome their new colleagues on the Senators and Deputies benches and of course our 2 new colleagues, the Constables of Trinity and St. John. That welcome is no less keen for my saying how much we miss the former incumbents. The former Constable of Trinity, who was such a balanced, reliable, sensible and practical leader of the Constables Committee, who knew the name of every field in his Parish and most in mine; and the former Constable of St. John, the only States Member I ever met who could get away with coming to the States Assembly in shorts by rolling up his trousers when it was too hot in the Chamber. As well as the general election, we had the referendum on whether the Constables should continue to sit in the States in an *ex officio* capacity regardless of the size of their electorate. I wish the new chair of Privileges and Procedures Committee every success in bringing forward yet more proposals for electoral reform, which manage somehow to achieve equality of representation, which must surely be the key objective in a modern democracy, now that people have spoken in the referendum. Speaking on behalf of the Constables, I thank the Senators on our right and the Deputies on our left who have held Ministerial office for their work this year, including former Members, and I would like to single out Deputy Ryan who adopted a proposition of mine about maintaining open space at Springfield without it ever having been debated, which I think must be a first, probably a last. Several Constables are also involved in Scrutiny and are active as Back-Benchers and we want to recognise the value of the Scrutiny Panels' work during the past year, including the Public Accounts Committee, and thank the Scrutiny Officers who do such a lot of work to make Scrutiny function well. **[Approbation]** Both inside the Assembly and in committee rooms, States Members who do not hold Ministerial office have been active in holding the Executive to account with the legislation, projects and policies brought forward this year being stronger as a result. We are also grateful to the countless people who have given to the Island the benefit of their time, experience and expertise in serving on the various administrative boards and panels set up by the States. We are grateful to you, Sir, and the Deputy Bailiff, and your staff, for the considerable amount of work that you do for the wellbeing of the Island and especially for the arrangements put in place for the commemoration of the outbreak of World War One on 4th August. The event was a moving combination of words, light and music, especially the artistic interpretation of our young people. The Parishes also played an important role in the event, our standards being marched into the Royal Square and dipped at the exact moment when the war to end all wars began a century earlier. Not only this, but the celebration of our liberation was once again immensely appreciated by Islanders and visitors, an event, which, under you, Sir, and your predecessor's care, has gone from strength to strength, and preparations are now in hand to mark the 70th anniversary of this, Jersey's national day, next year. At this time of year it is usual and entirely appropriate to focus particular attention on the most vulnerable members of our community. While we have lost some of our responsibility for welfare, the Constables continue to try to live up to the expectation of being mother or father of the Parish and we take our responsibilities seriously. To our senior citizens, to the sick and needy in our Parishes, to those in trouble or distress, we hope that the various support networks that exist in each of our Parishes will provide relief and help this Christmas. That invaluable support is often provided by volunteers and we would like to thank all of those in the Parish municipalities, especially our Honorary Police forces, for their commitment to the pastoral care that is one of the great strengths of the Parish system. **[Approbation]** Special thanks must go to our churches and ministers, church wardens, musicians and helpers, across all denominations, which provide so much for so many throughout the year, and particularly at Christmas. The Constables hope that our Dean and Mrs. Key will be able to enjoy time to relax in between carol services after what has been another testing year for

them. We also pay tribute to the hard work, on behalf of the Island, of all States workers this year, as well as those who work to ensure that utilities are reliably and efficiently provided, our telephone services and power supplies, the postal service, water, and not forgetting the drains. All these things we may take for granted but they are so essential to us, especially at Christmas. We thank particularly the emergency services, especially those who will work while we are on holiday, the hospital staff and the volunteer services, including the lifeboat crews, Meals on Wheels, Jersey Hospice, the League of Friends, St. John Ambulance, the Salvation Army, and so many others. On behalf of the Constables, I want to wish the Senators and Deputies a very merry Christmas. His Excellency the Lieutenant Governor, and Lady McColl, and you, Sir, and Lady Birt, the Deputy Bailiff and Mrs. Bailhache, we wish you all a very happy Christmas with your families. The Dean and Mrs. Key, Her Majesty's Attorney General, the Solicitor General, and their wives, the Greffier OBE, the newly appointed Deputy Greffier, and even more newly appointed Assistant Greffier, the Ushers, tea lady, and the media, we wish them a well-deserved break from their work, and to everyone involved in the running of the States and the Parishes, a peaceful and fulfilling New Year. **[Approbation]**

The Bailiff:

Thank you very much, Connétable. Deputy.

25.3 Deputy J.A. Martin:

Yes, it is like Senator Ozouf, I feel very privileged and absolutely amazed that I have been here long enough to be giving this speech on behalf of the Deputies benches. It was quite unexpectedly because I was wondering how did I get here and we have mentioned people that would or have been here and obviously the longest-serving Deputy and served for many years was Deputy Duhamel, who did not see his retirement coming, and I think that was mentioned by the Deputy Bailiff when he was sitting in your chair. Unfortunately we lost some good people, but we gained some good people, and I feel, like Senator Ozouf, that it is early days. I do not think he said that; I am saying it. It is early days and the collaborative working will go together and will come together, but will also inspire good debate. Senator Bailhache told me off today, saying I had asked for a debate, but he did not agree with the debate, and I made the remarks: "Well that would be unusual if he did", but that is good; that is absolutely good. I know he laughs at me sometimes and he has likened me to a vixen in the hen house, so I had to look up what a vixen was. **[Laughter]** But, me being the lady I am, and there was my little bit of Eliza Doolittle from Pygmalion there. I was going to do it all in her, but having lived in Jersey this long and been a Deputy I have lost my Cockney accent, Sir, so **[Laughter]** I cannot quite do it the justice it deserves. I would just like to mention a few things that have happened this year and I absolutely do commend the way we here in Jersey celebrated the beginning of World War One. But it goes back down to the media. What has got people talking about World War One was an advert about Sainsburys and sharing chocolate and a biscuit, and the Germans and the English playing football on Christmas Eve, going into Christmas Day. Children, my own children, asking me: "Did that really happen?" and it is now being researched, it is on radio, it is fantastic. Yes, it did happen, in the terrible, terrible times that they were. They came out of the trenches on Christmas Day because of the symbolic day Christmas is. It is a time when they were remembering their own friends and family and they put aside fighting and it just really sort of does get to you when you are asked and it even made me ask: "What was the beginning, why did we have the First World War?" I know why we had the Second World War, because we put too many rules and regulations in place within the so-called war to end all wars. But, as you say, Sir, we are where we are. To you, Sir, and I was going to do a little ditty, another little poem, but I have looked up information and I have gone back to the 16th Century to see how long Bailiffs lasted. In the 17th century some of them did not last very long. One in the 18th century, a Robert Carteret, 3rd Earl of Granville, lasted 50 years, so on that basis, Sir, you are

not doing as good as some of them did. But I think they obviously started at a lot younger than you. **[Laughter]** No, meaning, Sir, that when researching your life, you were born in Jersey, schooled at St. Michael's, which is now you are Sir Michael yourself. Not Saint, sorry. **[Laughter]** Then you went to college and then you were called to a couple of bars, and then **[Laughter]** ... so I did that all in a nutshell, and then you came to us in 2009. So we have only had 2 Bailiffs in the 21st century, yourself and Sir Philip Bailhache. So we still have a long time and we can probably beat some of the other centuries, but I do not know, maybe the next Bailiff will last 50 years, we do not know. But I wish them all well. Now I have to get this out, Sir, because I have asked the kind Greffier how normally - and I hope I do not miss anybody off - I would like to, from the Deputies benches, mention you, Sir, the Bailiff and Lady Birt, the Deputy Bailiff and Mrs. Bailhache, His Excellency the Governor and Lady McColl, the Attorney General, the Solicitor General, the Dean and Mrs. Key, the Viscount, the Deputy Viscount, and of course the Greffier, the Deputy Greffier and the new Assistant Greffier of the States, the Ushers and of course the tea lady. I think I have already mentioned the media, Sir, and we could add on to that, and a partridge in a pear tree and 5 ring binders. Sorry, Minister. I would just like to say finally to you, Sir, you will be missed very, very much in this House. I was trying to think if this was a film or this was a book, who would I liken you to, and wisdom and patience and even the magic wand, it would be Professor Dumbledore, Sir. **[Laughter]** Without the wig and the pointy hat of course. So, Sir, and to everyone here, but most importantly to everybody in Jersey, all our family, our friends, the public out there who have been with us, went through the election with us, have put us here today to help guide, listen to whatever they are facing out there, at this time of Christmas and coming into an absolute New Year, 2015, from the benches of the Deputies I wish everybody an absolutely fantastic Christmas and to you, Sir, you are a true gent. **[Applauding]**

25.4 The Bailiff:

Well thank you very much to Senator Ozouf, to the Connétable of St. Helier and to Deputy Martin for their good wishes and they really are very much appreciated.

[17:30]

It has been another busy year for the States; there were a total of 48 sittings this year, compared with last year's 42. But, interestingly, the number of questions is down, there were 231 oral questions with notice compared with 306 last year, and 284 written questions compared with 389 last year, although I do not get the impression that Ministers have appreciated that reduction. **[Laughter]** But it is not the quantity of sittings or the questions that count, it is the quality, and in that respect I do believe the States has taken a number of really significant decisions during the year. Of course it is a subjective matter as to which matter you think is most significant, but I would certainly highlight the bringing into force of the Discrimination Law; the Financial Services Ombudsman Law; the decision to make a grant to the National Trust to allow the purchase of the Plémont headland; the approval of an Interim Population Policy; and the introduction of a Charities Law, as well as the decision just taken to bring in the Freedom of Information Law at the beginning of next year. Now, these were of course all measures which I think for the most part were introduced by the Executive. But one of the features of our system is that Members who are not part of the Executive - Back-Benchers if you will - can bring about change through propositions, which they bring. In this connection, examples that spring to mind from this year are the decision to block the sale of Piquet House on a proposition brought by Deputy Young; the decision to reverse the funding cuts for the Women's Refuge and Millie's Contact Centre brought by the Deputy of St. Martin and Deputy Southern respectively; and the grant to renovate premises for the Freedom for Life Ministry brought by Deputy Higgins. So, it is an Assembly in which, whether you are on the Executive or not, you have the ability to contribute and to effect change. It was of course the first year in which we had a general election in the sense that every Member was up for election at the same time, and Members who had given over 160 years' service in total either

retired voluntarily or, as was pointed out earlier, were retired by the electorate. As to events outside the Chamber, I would absolutely agree with what I think all 3 speakers said, that for me one of the highlights was that ceremony of light in the Royal Square on 4th August to mark the outbreak of World War One. I found it a really special occasion, which brought together vast numbers of volunteers, and they put on a most thought-provoking and moving display and I have thanked them in the past, but I must again thank the so many people who took part in that, gave of their time, attended rehearsals at inconvenient times, to put on what was I thought Jersey at its best. **[Approbation]** Another event, which I know gave Members enormous pleasure, and which again has been touched on by other speakers, was the award of an OBE to our Greffier in the Birthday Honours List and I am delighted he was over at Buckingham Palace recently to receive his honour. I have no doubt that there would be unanimity of view among Members that it is extremely well deserved and a fitting recognition of the outstanding contribution he has made to the service of the States. **[Approbation]** But, as he said when he received the award, he is supported by a strong and hard-working team, and I would like to endorse the tributes, which all the speakers have paid, to all those in the Greffe. They provide a wonderful service to all Members of the Assembly and they also provide a wonderful service to me as Chair of the Assembly, because the advice and the assistance, which the Greffe gives, is impossible to overstate. **[Approbation]** The work of the Greffe is of course supported by the Viscount's Department, by the Ushers, and by so many others, so I do endorse the thanks which other speakers have given them. So, once again, on behalf of His Excellency, the Deputy Bailiff, the Law Officers, the Dean, the Greffier, the Viscount, the Chief Usher, and all the members of their various teams, I do thank Members for their good wishes. I wish them all an opportunity to relax with their families, recharge their batteries for the work ahead next year. I shall think of you **[Laughter]** and I wish you all a very happy Christmas and New Year. **[Approbation]** With that, that completes the business of the Assembly.

Senator P.F.C. Ozouf:

I propose the Adjournment, Sir.

The Bailiff:

The Adjournment is proposed. So we adjourn and we will reconvene in January of next year.

ADJOURNMENT

[17:35]