

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 30th JUNE 2021

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[9:33]

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

The Bailiff:

Yes, Deputy Tadier, there was a point of order?

Deputy M. Tadier of St. Brelade:

I would have intervened earlier but I was not officially here. I would like to ask that my party colleagues be marked on States business. They are attending to States business, and I think the courtesy should be reflected in what they are marked down as, if that is okay. I do not think it needs to be controversial.

The Bailiff:

Well, I suppose it is a matter then for the Assembly as to whether they are marked away on States business. What is the States business that they are doing, Deputy? In other words, in what respect is it the business of the Assembly?

Deputy M. Tadier:

Obviously it is up to each States Member to decide on their workloads and it is part of their normal functions as parliamentarians. I know that other Members of the Assembly were meeting with Mr. Twigg yesterday and this is the only time they could find in his diary that was convenient for them to meet. So it is parliamentary business, I do not know exactly what they are discussing, but I will leave that to Members to decide.

The Bailiff:

Very well. It seems to be then that you are wishing for the Assembly to agree that this is States business. I will not take this as a proposition at this point. Could Members indicate either in the chat whether they wish to say anything about that otherwise ... the Deputy of St. Martin.

Deputy S.G. Luce of St. Martin:

This has come a bit quick to us this morning but I have to say for myself, I am a little bit uncomfortable about those 3 Members of the Assembly being marked on States business. It is usually my understanding that States business is where you are an official States committee or panel or ministry and you are performing a function on behalf of the States Assembly. I am not sure that this is that.

Deputy J.A. Martin of St. Helier:

It is absolutely not a problem that they were marked excused and not *défaut* or anything but I just ask the question. I know Mr. Twigg was a Labour M.P. (Member of Parliament) which he has probably got a lot to discuss with Reform, and I absolutely agree, but I do not know if they are discussing our States work, or they met him officially for our States work, and it just stretches it a bit. I would have kept quiet and I would have taken the *excusé* if I was Deputy Tadier but I just put that out there. I am not clear on what they are meeting for.

The Bailiff:

Well I think rather than have this long, drawn-out, Deputy Tadier, do you wish to make a proposition that they are marked on States business?

Deputy M. Tadier:

I do. Can I just sum up on these comments?

The Bailiff:

No, it is all right, I am going to give other people the chance and then you can speak at the end. Is that seconded? **[Seconded]** We have heard from the Deputy of St. Martin and Deputy Martin, does any other Member wish to speak on whether or not the Members presently marked excusé, who are members of the Reform Party meeting with Mr. Twigg, should be marked as away on States business? If Members could indicate in the chat in the normal way.

Deputy M.R. Higgins of St. Helier:

I think there is no reason why they should not be marked on States business. Stephen Twigg is here on Commonwealth parliamentary business. If they are speaking to him in his capacity, then I see no reason why it should not. I think if the States starts debating whether they are or not, we are getting very, very petty and it will cause problems further down the line.

The Bailiff:

Does any other Member wish to speak on this particular proposition? Deputy Tadier to reply then.

Deputy M. Tadier:

I think it is important to note that these are our colleagues, they are not getting their hair done, they are not watching a football match, they are meeting another parliamentarian who was announced to be in the States yesterday by the Bailiff, our President of the Assembly, as an honoured guest. He is here on parliamentary business with the C.P.A. (Commonwealth Parliamentary Association) and my colleagues and your colleagues are there to discuss parliamentary matters to him. I do think it verges on the petty because I remember a couple of years ago we excused Senator Le Fondré before he was Chief Minister for going on a prayer breakfast to the U.S.A. (United States of America) with the then President.

[9:45]

He was doing that not in any capacity as a States Member, nobody had delegated him to do that, and that I think went through without any challenge at all when it was agreed that he should do that. I think if we are going to agree to that then I do not see why we are not allowing our parliamentarians to take an opportunity when they are going to be back in the Assembly later to fulfil a role. The last point is we do not all choose what roles we get in the Assembly and I think Members have different workstreams and different workloads. I will leave it like that but happy to discuss it further with P.P.C. (Privileges and Procedures Committee) and Members if it is an issue.

The Bailiff:

Could we put a vote in the link, please, Greffier? I note that Deputy Southern is now present. The vote is in the link, I open the voting, and ask Members to vote. The vote is on whether or not those members of Reform who are currently meeting with Mr. Twigg are to be marked away on States business or excusé. So a vote pour is away on States business or absent on States business. If Members have had the opportunity to cast their votes, I ask the Greffier to close the voting. The proposition is adopted:

POUR: 20		CONTRE: 9		ABSTAIN: 0
Senator L.J. Farnham		Senator S.C Ferguson		
Senator T.A. Vallois		Connétable of St. Brelade		
Connétable of St. Saviour		Deputy K.C. Lewis (S)		
Connétable of Grouville		Deputy S.J. Pinel (C)		
Connétable of St. Peter		Deputy of St. Martin		
Connétable of St. Mary		Deputy L.B.E. Ash (C)		
Connétable of St. Ouen		Deputy G.C.U. Guida (L)		
Connétable of St. Martin		Deputy of St. Peter		

Connétable of St. John		Deputy S.M. Ahier (H)		
Deputy J.A. Martin (H)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy J.H. Young (B)				
Deputy of St. John				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Deputy R. Labey of St. Helier:

I have just received a message from the Constable of St. Helier who is at the dentist this morning but will be joining the meeting after that appointment.

The Bailiff:

Well he is marked excusé and he will be present as soon as he gets here, so that will not be an issue, I hope.

PUBLIC BUSINESS - resumption

1. Immigration Acts Consolidation and Extension to Jersey by Order in Council (P.44/2021)

The Bailiff:

We now move on to the next item of Public Business which is the Immigration Acts Consolidation and Extension to Jersey by Order in Council, P.44, lodged by the Chief Minister. For the purpose of this debate the main respondent will be the chair of the Children, Education and Home Affairs Scrutiny Panel. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion - to signify, pursuant to Article 31 of the States of Jersey Law 2005, that they agree that a request be made to Her Majesty in Council for the making of an Order in Council to extend to Jersey with appropriate modifications various provisions contained in the - (a) Immigration Act 1971; (b) British Nationality Act 1981; (c) Criminal Justice Act 1982; (d) Immigration Act 1988; (e) Asylum and Immigration Appeals Act 1993; (f) Asylum and Immigration Act 1996; (g) Immigration and Asylum Act 1999; (h) Nationality, Immigration and Asylum Act 2002; (i) Asylum and Immigration (Treatment of Claimants, etc.) Act 2004; (j) Immigration, Asylum and Nationality Act 2006; (k) UK Borders Act 2007; (l) Borders, Citizenship and Immigration Act 2009; (m) Immigration Act 2014; (n) Counter-Terrorism and Security Act 2015; (o) Immigration Act 2016; (p) Policing and Crime Act 2017; (q) Sanctions and Anti-Money Laundering Act 2018; and (r) Immigration and Social Security Co-ordination (E.U. Withdrawal) Act 2020, as summarised in the Chief Minister's report attached to this proposition.

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

I will be the rapporteur for this proposition.

The Bailiff:

I am sorry, I was not aware of that. Deputy Guida, yes.

Deputy G.C. Guida:

Yes, it needs to be lodged by the Chief Minister but it is of course a Home Affairs issue. First of all I would like to say that having presented this particular massive proposition might have something to do with the absence of competition for my post yesterday. It is long, complex, full of very, very important details and the sort of things that warrants careful scrutiny which was done. Against all appearances, this is going to simplify our immigration system and I hope that it will be clear that it also improves it quite a lot. Now on to the official document. This is a proposition under Article 31 of the States of Jersey Law 2005. Article 31 provides for the States Assembly to debate any proposition to extend a U.K. (United Kingdom) Act of Parliament by Order in Council. In this case, the draft Order in Council relates to the immigration Acts. These Acts lay down the framework for the rules on a person's immigration status and, crucially, where the Crown Dependencies are concerned, provide the legal underpinning for the Common Travel Area. Jersey has long agreed that the immigration Acts need to extend to Jersey by Order in Council as they do to Guernsey and the Isle of Man. The draft Order in Council presented along with this proposition does 2 things: it consolidates and updates the immigration Acts and it sets out the Acts in a much more accessible and readable format than the previous Orders in Council did. The last 15 years have seen 8 Acts of Parliament concerning immigration. Jersey freely chooses to extend the U.K. immigration Acts essentially because of the Common Travel Area. If a Jersey immigration official grants someone leave to enter or remain in Jersey, that leave is valid and effective throughout the U.K., Guernsey and the Isle of Man. Leave to enter or remain granted in U.K., Guernsey or the Isle of Man is likewise valid and effective in Jersey. The Immigration Acts are the basic legislative framework for the C.T.A. (Common Travel Area). The framework operates by each of the C.T.A.s extending the U.K. Acts rather than by each C.T.A. trying to enact its own domestic legislation. Jersey legal advisers and U.K. legal advisers have liaised in the preparation of the draft Order in Council covered by this proposition and it is right to record our appreciation of the time and consideration given by legal advisers both in the Home Office and in the Ministry of Justice. Members may recall that last autumn the Assembly debated another draft Order in Council which extended provisions to end free movement of E.U. (European Union) nationals, to protect the status of Irish citizens and to provide for consequential, transitional and savings provisions to be made. These provisions are now on the Jersey statute book with the agreement of the States. This proposition incorporates these amendments into the new Order in Council, it does not alter them. Most of the draft Order in Council is concerned with consolidation merely re-extending the immigration Acts. Members already know that control of residents and employment in Jersey is governed by the Control of Housing and Work (Jersey) Law 2012 which operates separately from the immigration Acts and applies just as much to British citizens as to anybody else but work permits for non-British persons come under the immigration Acts. Work permits are issued in accordance with work permit rules made in Jersey by the Minister for Home Affairs. The policy for work permits is not determined by anything in the U.K. immigration Acts but purely at local level in Jersey. The current rules will, under the new Order in Council, be made by order instead of by making rules. This is in fact only a technical procedural change but a notable change will be that the Minister, before he or she makes an order relating to work permits, will be required to consult with the Chief Minister. The Minister for Home Affairs will continue to make immigration rules as has been the case since 2017; however, the rules will now be presented formally to the States by way of a report containing a statement of changes. If a statement is disapproved by resolution passed at that sitting or at the next following sitting of the States, then the Minister will have to make appropriate changes and a statement of those changes will also be presented to the States. The draft Order in Council does not extend all provisions that the U.K. Parliament has chosen to enact. For example, U.K. immigration provisions associated with the so-called hostile environment such as banning an illegal immigrant from driving even with a valid driving licence will not be replicated on the Jersey statute book. I do wish to draw particular attention to provisions that will be made for enhanced protection for children, including additional restrictions on the detention of unaccompanied children, a statutory duty on the Minister to ensure that immigration, asylum or nationality functions are carried out having regard to the need to safeguard and promote the welfare

of children in Jersey. The ability for the States to make regulations to constitute Jersey's own Independent Family Returns Panel; the existing Independent Family Returns Panel in the U.K. was set up because it was recognised that families with children no longer have a legal right to remain in the U.K., who have not chosen to depart when a child leaves and will face the prospect of a required or enforced return to their country of origin, face a number of potentially difficult and daunting issues. It is the task of the Independent Family Returns Panel to support and challenge the Home Office in ensuring that the welfare and safeguarding needs of children and family in these circumstances are appropriately met. Provision of the family returns process, which is humane, has an impact on the capacity of families to make a successful and effective return. It will be enshrined in statute that nothing in the immigration rules made by the Minister for Home Affairs can lay down any practice which would be contrary to the Refugee Convention. This is a step to ensure that Jersey provides statutory safeguard for the rights of refugees equivalent to other jurisdictions. For many years, the Bailiff has been able to grant warrants to immigration officers authorising arrest and/or entry on premises concerning suspected offences under the immigration Acts. These offences relate to illegal entry to Jersey and/or assisting harbouring an illegal immigrant. Under the new Order in Council, arrest and/or search warrants can be issued by the Bailiff. In further cases specifically: failing to report to a medical officer of health, attend, submit to a test, examination required by an immigration official, providing inaccurate or incomplete information in relation to a suspected illegal immigrant, to locate nationality and/or identity documents and travel documents. The original proposition for this consolidation project was lodged in September of last year. That proposition was withdrawn to make way for the urgent carveout proposition relating to the U.K.'s withdrawal from the European Union and now this proposition has been lodged finally to complete the project. The draft has therefore been pending effectively for 9 months and, as I have mentioned a few times, there have been briefings at which I hope that Members' queries and concerns will have been addressed. Of course, I do stand ready to answer questions today although I may need assistance from the Attorney on points of legal detail.

[10:00]

This Order in Council completes the job of consolidation of placing the legislation on the Jersey statute book in legible form without having to wade through large numbers of amending Orders in Council. It also completes the job of updating Jersey's legislative framework governing immigration status and controls and our immigration rules within the C.T.A. arrangements. I commend this proposition to Members.

The Bailiff:

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

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

I am speaking in my role as vice-chair of the Children, Education and Home Affairs Scrutiny Panel today. I wanted to thank the Minister and his officers for the briefings which the panel received. They were quite lengthy briefings, and quite rightly so, because this is a huge piece of work that has been undertaken. I think it is fair to say that we were taken through step by step the process that has been undertaken and the changes, looking at things how they were and how things will be. All of our questions were answered to our satisfaction, so the panel is satisfied with the rationale behind this legislation. We have produced extensive comments because we had so many questions, so I would advise Members, if they have not had a chance to look at those, just to open those now because within those comments there are headings about the specific areas that we had questions on. So before Members perhaps speak, if they have any specific things that they wanted to know about before they vote, yes, I would recommend that they have a look in the comments there. Just to highlight some of the questions that we had. So we questioned about the impact on children and families of this legislation and one of my own concerns was that, as we have seen in other jurisdictions internationally, families being separated, and I wanted to know whether that was something that would be introduced. We were taken through the "regard for children's welfare" that

is now contained within this and that is of course because of our commitment to the U.N.C.R.C. (United Nations Convention on the Rights of the Child) so it is great that that is having an impact on a piece of legislation such as this. So it was confirmed that the aim would always be to keep a family as a unit but officers explained to us that they also had to be aware of trafficking situations and that a child that was arriving with adults may not be related to those adults. We were satisfied that that scenario had been thought through to such detail over what would happen in terms of ascertaining the identity of the children and the adults and whether they were family or not. The children and adults would not be incarcerated but there would be co-operation with the U.K. and Children's Services regarding the welfare of the children and establishing their identities, so we were satisfied with that. Some of the other questions we asked were around settled status and I think it was Deputy Ward that had lots of questions about that. It was confirmed that as long as an application for settled status had been made, regardless of whether it had been processed, individuals would not have any issues with immigration. Work permits; we also had questions about where a family relied upon a parent's work permit to live in Jersey if the family were to break down. It was noted that in such a situation the children and parent without the licence could be required to leave Jersey. But this is currently under the Control of Housing and Work Law and there are processes in place to make a welfare-based decision which is separate from the immigration legislation. So we were grateful for the clarification on that and we highlighted that co-ordination between those 2 systems was important; we were in agreement with that. We also raised concerns around the U.K. policy on "hostile environment" and that was discussed as being something that was not a part of this legislation. This was something that the previous Minister for Home Affairs had made a deliberate decision not to extend those parts of the U.K. legislation to us here in Jersey, so the panel were reassured to hear that. But we did then think ahead to if there was a future Minister, who wanted to create a hostile environment, could he or she do that by using this legislation? Again, it was explained to us that this would not be possible and could only be achieved by coming to the States Assembly, so we were reassured by that. We asked questions about visa requirements, also about Brexit, and specifically travel between Jersey and France, given the close relationship between our 2 nations. The changes that have happened as a result of Brexit, it was explained to us that those changes have already happened so this legislation is not going to make further changes there and that only a passport would be required for travel between Jersey and France, so that position remains unchanged. So, yes, I would advise Members to have a look at the comments because I believe that any issues that Members might have are likely to be addressed in those comments. I just want to thank once again the current Minister and his team and of course the previous Minister did a lot of work on this as well. We are so grateful to them for undertaking this huge piece of work and for briefing us thoroughly on it and answering all of our questions.

The Bailiff:

Before I move on, when Deputy Guida had finished, I asked if the principles were seconded. Of course that was a mistake on my part, it was the proposition seconded. There will be no Second and Third Reading, so if any Member wishes to speak, now is the opportunity for them to do so.

1.1.2 Deputy K.F. Morel of St. Lawrence:

I was wondering if I could ask the Minister specifically about the provisions regarding refugees and asylum. From the perspective of refugees, if we cast our minds back a short while, Jersey had a fairly large Island-wide debate with regard to accepting refugees from Syria and I think at the end it was determined that Jersey would not accept refugees from Syria, fleeing the Syrian war. I was wondering how the adoption of these provisions would affect that aspect, Jersey's kind of optional choice as to whether or not to take in refugees or, perhaps it would be easier, what obligations does this place on Jersey to accept refugees. Would that debate that we had a few years ago be permitted or would it be something that we would have to do? I am just seeking to understand; I have no real position on that. Similarly with asylum, Jersey has got a history, as we know, of accepting political asylum seekers. We think of the Huguenots coming to Jersey from France and we think of people as

famous as Victor Hugo coming to Jersey, fleeing political persecution. But it appears that this does not provide any further obligations from Jersey in that Jersey's position is still to return political asylum seekers which obviously stands in contrast to Jersey's history. I was just wondering if the Minister would be able to confirm what Jersey's obligations would be in regard to political asylum seekers as well.

1.1.3 Deputy D. Johnson of St. Mary:

I have a specific point regarding exclusion from the C.T.A., which was referred to on page 8 of the report. Could the Minister in his summing up kindly give some background as to how he envisages that particular paragraph might be invoked at any time?

1.1.4 Senator I.J. Gorst:

I just wanted to remind Members in relation to the question that Deputy Morel asked about the previous conversation about accepting refugees from Syria. I wish I could say "during the height of the civil war there" but of course it is ongoing and we know that civil wars like that on average run between 10 and 15 years. So, it was right that the Island have that wide-ranging conversation but the reason on balance that the Government did not propose accepting refugees at that point was because we were looking at the possibility of accepting a small number of families. In reviewing the domestic legislation in place, we would have created the possibility of not just a gateway for a small number of families, but equally for any of the Syrian refugees that had entered into the wider United Kingdom had we put in place special provision for accommodation and financial support and medical and hospital support, which of course is exactly what one would have to do if one were to accept refugees in that instance. So we were looking at 2 things: one simply offering hospitality to, as I say, a small number of families - around 5 - who had entered the United Kingdom through their specialised scheme which had been done as part of a global approach. We also looked at the possibility of offering hospitality directly to Syrian refugees individually from those rehoming camps on the ground. For all of the reasons, the latter was rejected - I am sure Members will understand why - and the former was also rejected because of the approach that would need to have been taken which could not in law have been limited to a simple, small number of households. I know that the current Government - Members will recall a member of the House of Lords who was himself a child refugee - asked the Chief Minister to review the possibility of offering welcome to a small number of child refugees from conflicts around the globe. That of course was never progressed because it is fair to say that the response to allowing child refugees, I think, would have been within a different legal framework to the wider family and the benefits required because of the way the benefit system is. I hope the Minister is going to say that none of those issues that we could rightly determine domestically are changed at all by the extension of this Order in Council.

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

Two things: firstly obviously to congratulate the new Minister, both on his election; also succinctly taking us through what is a really very complex piece of law but an important one. I think the question that I raised at the briefing meeting, the second one, I did not see it covered in the comments but I may have missed it. I would like the Minister, and indeed perhaps the Attorney General, to help me on the question of visa fees. Of course what we now have is a new world, as it were, where people that are not in the new E.U. settled scheme will need to have visas coming into the Common Travel Area. Of course we are used to people coming to work, places like Australia and others, probably the Far East, and having visas. But of course anecdotally over the years, people have spoken to me who are working in Jersey, ordinary jobs, and obviously having overseas citizenship, either being in Jersey because of relationships, family relationships, marriages or what have you, have to pay very, very high fees.

[10:15]

What I am troubled a bit about here is that when you look at the U.K. scale of fees, some of those frankly are swingeing up to several thousand pounds. I think the smallest fee I could see was about

£95 and then anything up to £3,500, and what have you. Of course there is a debate going on, I think, or will start to increase in the U.K., about if we are going to obviously have more people coming in from other countries whether or not to work, which we need, that is a cost that falls on probably the employers, I would guess, but nonetheless a lot of people will be faced with high fees personally. So the issue of principle I would like to know is by adopting this, are we automatically required to just apply the fee scales that the U.K. decides for us to apply to people in Jersey or has the Minister got the opportunity by whatever means, by order or anything of that nature, to be able to vary it? Or to even waive a fee where they think the circumstances are warranted, so I think I would like to know that. Because obviously the other part of the question, well, who receives the fee? Do the U.K. receive it? Do we receive it? Do we retain it or do we pay it over? It does appear to be that the costs in the U.K. are, I think, arguably, supposed to deal with the cost of processing the applications, the whole infrastructure and the like. So if the Minister could give me some guidance there, I would value that. But, again, this is really good news that this has all come together. Hopefully it is simplified but I think that issue of: what is the measure of our control where it sort of binds and affects our citizens and charging for things? It may well be that family members coming up here for short stays, long stays, extended families, elderly relatives, all this type of thing, is likely to bind on people in Jersey and that is what I would like to know.

The Bailiff:

I will not treat it as a question to the Attorney General but of course if Deputy Guida wishes to call for advice in order so that he can answer it, well then that would be a matter for him in his answer. Does any other Member wish to speak? If no other Member wishes to speak, then I close the debate, and call on Deputy Guida to respond.

1.1.6 Deputy G.C. Guida:

Firstly, I would like to thank Scrutiny again for their extremely comprehensive report. I went through it, I found a few questions that I had not asked myself, and it is absolutely true that they left no stone unturned, so I am really grateful to them for that. There were 3 main questions. One was about welcoming refugees to Jersey. This has not changed and, to be frank, this is a matter for the Assembly. If the Assembly decides that they would like to invite refugees from abroad into Jersey, it is something that is possible, it is left to their discretion. The new order does not change that, so that does not change at all. It was the same with political asylum. To explain a little bit, while there have been some claims made in Jersey ... first of all, we have very few illegal immigrants and when we do occasionally they claim political asylum but, as far as I know, in the last 3 years we have not had one claim that was justified. If they were, the law is extremely strict on how you must treat them and, of course, they would be welcome in Jersey, not only by tradition but by law. This is how we have to treat them. The third thing is about the visa fees and, indeed, there is a difference. There is a difference between immigration fees that are treated by the U.K. and the ones that we set for ourselves. So we can set our own but part of the process involves the U.K. and they set down, we must of course keep that one. I commend the proposition to the Assembly.

The Bailiff:

I ask the Greffier to place a voting link into the chat. I open the voting and ask Members to vote. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The proposition has been adopted:

POUR: 36		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C Ferguson				
Senator T.A. Vallois				
Senator S.W. Pallett				

Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				
Deputy K.G. Pamplin (S)				

2. Draft Proceeds of Crime (Amendment of Law) (No. 2) (Jersey) Regulations 202- (P.45/2021)

The Bailiff:

The next item is the Draft Proceeds of Crime (Amendment of Law) (No. 2) (Jersey) Regulations lodged by the Minister for External Relations and Financial Services). For the purposes of this debate the main respondent will be the chair of the Economic and International Affairs Scrutiny Panel and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Proceeds of Crime (Amendment of Law) (No. 2) (Jersey) Regulations 202-. The States make these Regulations under Article 1(9) of the Proceeds of Crime (Jersey) Law 1999.

2.1 Senator I.J. Gorst (The Minister for External Relations and Financial Services):

These amendments propose changes to the Proceeds of Crime (Jersey) Law, which are designed to enhance the attractiveness of Jersey as a jurisdiction in which to carry out investment and management of financial services which link to cannabis-related activities in jurisdictions where the cultivation of cannabis is legal and which have appropriate global financial regulatory standards. Members of course will be aware of the policy position of the Government in relation to cultivation and licensing of domestic cannabis production and Members will also be aware that the Deputy Chief Minister is supporting and leading on that work. The work of course on domestic cultivation and licensing of cannabis is currently under review by the Economic and International Affairs Scrutiny Panel and they will be, in due course, issuing a formal report. This work is not directly linked to that cannabis work generally and therefore not linked to the Scrutiny review and my officials have engaged directly with the panel on this topic. I welcome that Members now have in front of them a comment on these regulations which are supportive. I am extremely grateful for the time that the panel have taken to undertake this review on these regulations directly aside from their wider review. I appreciate that greatly. Aside from the local growing potential, there is the separate but linked topic of the global market for cannabis investment. This proposition is not about cannabis cultivation locally but it is about creating an environment which is open in a responsible way to supporting an evolving global cannabis industry, which has significant potential value. Considering the potential size of the global cannabis industry and its potential value to the Jersey financial services industry, these amendments are designed to create an environment attractive to global investment in the area of legal cannabis production with appropriate risk mitigations in place. Around the globe, jurisdictions have made statutory changes with respect to cannabis which legalise either the production, supply or use of medicinal cannabis and even in some cases of course for recreational use. Jersey has acted for many years through its financial services industry as a location which pools assets for investment where we can use our experience to achieve global reach in delivering effective investment in a range of activities. The draft regulations are focused on the position outside of Jersey because it is not necessary to clarify the status of the proceeds for the production and supply of cannabis or cannabis derivatives within Jersey. In Jersey of course those activities are undertaken lawfully pursuant to licences under the Misuse of Drugs (Jersey) Law 1978 and other legislation relating to the supply of medicines. Due to the global nature of the financial services industry, local financial services businesses can now be exposed to proceeds generated outside of Jersey which have a nexus to lawful cannabis production in places like Canada and the United States. This nexus can either be directly by processing proceeds from the production, supply or sale of cannabis or indirectly by processing monies related to investments in cannabis companies or investment funds investing in such companies. The cannabis industry has evolved to be global in nature, meaning that a single company may use products grown in multiple locations worldwide and therefore can be in receipt of proceeds which originate from more than one location. Under the current provisions of the 1999 law, any proceeds generated from the production, supply, use, export or import of cannabis or any of its derivatives outside of Jersey, have the potential to be considered criminal property in Jersey. It may not always be clear when an asset is required that this is a risk. Where a local financial services business considers that an investment may contain proceeds of cannabis production, this may lead it to file a suspicious activity report with the States of Jersey Police regarding these proceeds and to ask for permission to divest. Failure to submit such a S.A.R. (Suspicious Activity Report) can constitute a criminal offence. As the legal position is currently unclear, it may not be possible for the Joint Financial Crime Unit of the States of Jersey Police to give the respective financial services business any directions. Therefore, a situation has arisen where the F.S.B. (financial services business) might find itself unable to process the proceeds anymore or even to divest which might cause the proceeds to get stuck in Jersey, creating operational and legal issues for local F.S.B.s. I am using the term "F.S.B.", I hope Members find that acceptable, it is financial services business, and not any other F.S.B. that we might find those initials used for elsewhere around the world. This is undesirable both for the F.S.B. and more generally for the operation of the S.A.R. system in Jersey. These draft regulations are proposed in order to clarify which investment should not be treated as proceeds of crime by local F.S.B.s. It is intended to remedy this situation reflecting international

developments with regard to the legislative treatment of cannabis and cannabis derivatives. The draft regulations amend the definition of “criminal conduct” in the 1999 law to provide that the production, supply, use, export or import of cannabis or any of its derivatives is no longer considered criminal conduct provided that (1) it is lawful where and when it occurs and (2) it occurs in a jurisdiction outside of Jersey that the Minister holding my post may specify by order. Should, therefore, the States Assembly adopt these regulations today, I will make an order under these legislation which will be a list of jurisdictions which will be allowable. The list of countries in that order will be based on the outcomes of mutual evaluation reports carried out by the Financial Action Task Force and their F.A.T.F. (Financial Action Task Force) regional bodies such as MONEYVAL against the F.A.T.F. standards which are the international standards concerning money laundering, terrorist financing and financing of proliferation. The policy intention of the order will be to ensure Jersey only deals in proceeds where the origin of these proceeds is in a country which applies suitably equivalent money-laundering controls to Jersey.

[10:30]

These are the aforementioned safeguards which are necessary to protect our reputation. Financial services businesses will need to check when dealing with proceeds of cannabis production in Jersey that the jurisdiction in which a cultivation took place is on that list. The draft regulations require that in order for it to be clear the proceeds are not proceeds of criminal conduct, they must be generated from conduct which was lawful where and when it occurred. So, for example, proceeds of lawful licensed cannabis production taking place in Canada would fall within the provision even if the production took place before the draft regulations came into force. However, proceeds which are generated from conduct which was not lawful where and when it occurred do not benefit from the exemption of criminal conduct and remain proceeds of crime under the law. In view of this requirement, financial services businesses will need to check when dealing with proceeds of cannabis production in Jersey that the conduct was lawful where and when it occurred. Removing these legal hurdles and clarifying the statutory position will enable legitimate financial services business within the necessary safeguards. This will be for the benefit of local businesses and the overall economy. I commend the principles to the Assembly.

The Bailiff:

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

2.1.1 The Deputy of St. Mary:

As the Minister has just said, the Economic and International Affairs Scrutiny Panel has issued a comments paper on this proposition and I hope that Members have now had the opportunity to consider it. The one point I do wish to emphasise is that there is no direct link, as the Minister has already said, between this proposition and the nascent industry taking place at the moment on the Island. The panel has started its review into internal regulations and supporting measures. We have already had 3 public hearings as to this and we hope in the next 2 weeks or so to be able to issue our final report. But again I do wish to emphasise that that review relates to the internal workings of the industry and internal cultivation and, as such, is distinct from this particular proposition, which is concerned entirely with cultivation in other jurisdictions and those jurisdictions which the Minister will approve. I therefore refer you to the conclusion of the panel in its report that we do support the proposition as now lodged.

The Bailiff:

Does any other Member wish to speak on the principles? If no other Member wishes to speak on the principles then I close the debate and call upon Senator Gorst to respond.

2.1.2 Senator I.J. Gorst:

I thank the Deputy of St. Mary in his role as chair of the Scrutiny Panel for his comments and for the wider comments of his panel, which are presented for Members’ consideration. He is right to further

clarify the difference between a local cannabis industry, which of course we know some Islanders are concerned about planning applications and environmental impact and all of those particular issues. That is separate from this. There is of course a school of thought that cannabis in its wider form, while of course having medicinal benefits - is what we are informed globally by the medical profession - can also for Jersey have economic benefits. I make no commentary about the economic benefits of locally or domestic cannabis production. I leave that to the Deputy Chief Minister. But I am, in my own mind, convinced that allowing and making these changes in the way that the regulations describe can mean that Jersey is supportive of these global projects and investments and we can, as a community, benefit from them and our economy can. When our economy grows, jobs grow, our standard of living is improved and we are able of course to support strong public services. I do believe that these changes today are going to have real and direct benefits for Islanders and for the wider economy. I commend them to the Assembly and I call for the appel.

The Bailiff:

The appel is called for. I ask the Greffier to place a vote into the link. I open the voting and ask Members to vote. Members have had the opportunity of casting their votes. Then I ask the Greffier to close the voting. The principles have been adopted:

POUR: 35		CONTRE: 1		ABSTAIN: 0
Senator I.J. Gorst		Deputy K.C. Lewis (S)		
Senator L.J. Farnham				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator S.W. Pallett				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				

Deputy G.C.U. Guida (L)			
Deputy of St. Peter			
Deputy of Trinity			
Deputy of St. John			
Deputy S.M. Ahier (H)			
Deputy K.G. Pamplin (S)			
Deputy I. Gardiner (H)			

The Deputy Greffier of the States:

Deputy Lewis voted contre.

The Bailiff:

I am assuming, Deputy of St. Mary, in the light of what you said, your panel does not wish to call this in?

The Deputy of St. Mary (Chair, Economic and International Affairs Scrutiny Panel):

No, we do not.

The Bailiff:

We come to Second Reading, Minister. How do you move the regulations in Second Reading?

2.2 Senator I.J. Gorst:

I will move on *en bloc*. They are straightforward. The only point I would highlight to Members is that the regulations come into force 7 days after they are made.

The Bailiff:

Are the regulations seconded in Second Reading? **[Seconded]** Does any Member wish to speak in Second Reading? If no Member wishes to speak in Second Reading then I close the debate and ask the Greffier to place a vote into the link. I open the voting and ask Members to vote. Members have had the opportunity of casting their votes. Then I ask the Greffier to close the voting. The regulations have passed in Second Reading:

POUR: 36	CONTRE: 1	ABSTAIN: 0
Senator I.J. Gorst	Deputy K.C. Lewis (S)	
Senator L.J. Farnham		
Senator J.A.N. Le Fondré		
Senator T.A. Vallois		
Senator S.W. Pallett		
Connétable of St. Helier		
Connétable of St. Lawrence		
Connétable of St. Saviour		
Connétable of St. Brelade		
Connétable of Grouville		
Connétable of Trinity		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. John		
Deputy J.A. Martin (H)		

Deputy of Grouville			
Deputy M. Tadier (B)			
Deputy M.R. Higgins (H)			
Deputy S.J. Pinel (C)			
Deputy of St. Martin			
Deputy of St. Ouen			
Deputy L.M.C. Doublet (S)			
Deputy R. Labey (H)			
Deputy S.M. Wickenden (H)			
Deputy of St. Mary			
Deputy G.J. Truscott (B)			
Deputy J.H. Young (B)			
Deputy L.B.E. Ash (C)			
Deputy K.F. Morel (L)			
Deputy G.C.U. Guida (L)			
Deputy of St. Peter			
Deputy of Trinity			
Deputy of St. John			
Deputy S.M. Ahier (H)			
Deputy K.G. Pamplin (S)			
Deputy I. Gardiner (H)			

The Bailiff:

Do you propose the regulations in Third Reading?

2.3 Senator I.J. Gorst:

I do indeed and I thank Members for their support so far and thank again the Scrutiny Panel and my officials for the work. I commend the regulations to the Assembly in Third Reading.

The Bailiff:

Are the regulations seconded for Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? If no Member wishes to speak in Third Reading then I close the debate and ask the Greffier to place a link into the chat. I open the voting and ask Members to vote. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The regulations have been adopted in Third Reading:

POUR: 34	CONTRE: 1	ABSTAIN: 0
Senator I.J. Gorst	Deputy K.C. Lewis (S)	
Senator L.J. Farnham		
Senator J.A.N. Le Fondré		
Senator S.W. Pallett		
Connétable of St. Helier		
Connétable of St. Saviour		
Connétable of St. Brelade		
Connétable of Grouville		
Connétable of Trinity		

Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

3. Draft Income Support (Amendment No. 21) (Jersey) Regulations 202- (P.46/2021)

The Bailiff:

The next item is the Draft Income Support (Amendment No. 21) (Jersey) Regulations, P.46, lodged by the Minister for Social Security. For the purposes of this debate the main respondent will be the chair of the Health and Social Security Scrutiny Panel. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Income Support (Amendment No. 21) (Jersey) Regulations 202-. The States make these Regulations under Articles 5 and 18 of the Income Support (Jersey) Law 2007.

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

It is the responsibility of the Minister for Social Security to review income support, for example the level of the weekly component rates and also income disregards each year. The Minister - that is me - has decided to propose increases to the income support components for 2021 and 2022 because of the election timetable next year. The next Minister will not be able to review income support or propose any changes in time for 1st October 2022. This year's uprates are a continuation of the first child component going up by £5. This brings the first child up to an extra £15 a week. The second increase is in the childcare rate and this is available to parents who work. I propose putting it up from £5.57 an hour to £6.70 an hour. This is in line with the proposed changes to the rate for the Nursery Education Fund that will happen later this year. Increasing most of the remaining income

support components by 1.1 per cent to provide support to all households receiving income support, broadly in line with the annual increase in the cost of living. For 1st October 2022, I have just kept it a flat rate that all the components that will go up, will go up by 2.6 per cent. That is because we have some advice from the Fiscal Panel that is about what the cost of living will be next year. If these changes are approved, families will benefit most of all, but every low-income household will also benefit.

[10:45]

I would also like to thank my 2 Assistant Ministers, who have left now, Deputy Wickenden and Deputy Maçon, who started out on this journey of how we were going to cut the cake, but there are different ways to do it. It could have all been disparate, it could have been this, but we thought a bit of a change this year but completely do it a flat rate next year. I would just like to propose the regulations to the Assembly.

The Bailiff:

You propose the principles, Minister. Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles?

3.1.1 Deputy L.M.C. Doublet:

I want to thank the Minister for this proposition because I think sometimes we talk a lot about putting children first and do not always put the investment behind it. So I am grateful to her for increasing these components. I had a question for the Minister and it is around the single parent component. The regulation, which increases most of the income support components apart from the single parent components, and I just wanted to know what the rationale was behind that. Especially given some of the statistics that have come out in recent years around single-parent families and having high levels of poverty, it is around 44 per cent of single-parent families are living in poverty. So they would seem to me to be the demographic that would need more support rather than not having an uplift along with the other criteria. So if the Minister could address that in her summing-up please?

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

My question to the Minister is whether she will be considering including long-term care provision in this. Clearly it is not included in this proposition. Will she be considering it in the future given that long-term care costs are continuing to rise?

3.1.3 Deputy R.J. Ward of St. Helier:

I just want to make clear that the States business is now complete so I am back in the Assembly. I want to emphasise a point that Deputy Doublet had made regard to single-parent components and the reason for not having that increase as well. Just to re-emphasise the difficulty that is faced for single parents on income support. I would just like further clarification on why that is the case. Also, the £5 figure, where that came from, is it related to R.P.I. (Retail Price Index), is it related to the cost of particular items, particular areas of cost that have been recognised. Because, if there is a gap there, then obviously that £5 should be addressing it. I just want to know how that gap was measured. So it is a few more questions for the Minister.

The Bailiff:

Does any other Member wish to speak on the principles? If no other Member wish to speak on the principles, then I close the debate and call upon the Minister to respond.

3.1.4 Deputy J.A. Martin:

The single parent allowance has been taken out and put back in. There may be a better way to do it and you are right, it is not going up this year. I think it only came back in for the last year, maybe the year before. It has been frozen as what it is. As I say, because we think we could do something better for single parents. That is for a lot more discussion and it will probably be a new Minister that

does that. Then the long-term care, from memory, did go up. The long-term care goes up, I think that is a regulation that is automatic. I could be wrong on that. But I know I brought something to the Assembly probably the end of last year or early this year about the rate for long-term care. That is really all I have to say.

The Bailiff:

In which case I ask the Greffier to place a voting link into the chat. I open the voting and ask Members to vote. Members have had the opportunity of casting their votes. Then I ask the Greffier to close the voting. The principles have been adopted:

POUR: 39		CONTRE: 1		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator S.W. Pallett				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				

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

The Bailiff:

Does the Scrutiny Panel wish to scrutinise the matter, Deputy Pamplin?

Deputy K.G. Pamplin of St. Saviour (Vice-Chair, Health and Social Security Scrutiny Panel):

No, we received the regulations, which we were grateful for. We had a Scrutiny hearing with the department and the Minister only recently. So we are not looking to bring it in at this stage, thank you.

The Bailiff:

Thank you very much indeed. Minister, do you wish to propose in Second Reading?

3.2 Deputy J.A. Martin:

Yes, I would like to propose the 2 regulations in Second Reading, thank you.

The Bailiff:

Are the regulations seconded for Second Reading? [**Seconded**] Does any Member wish to speak in Second Reading? If no Member wishes to speak in Second Reading, then I close the debate and ask the Greffier to post a link into the chat. I ask the Greffier to open the voting and ask Members to vote. Members have had the opportunity of casting their votes. Then I ask the Greffier to close the voting. The regulations have been adopted in Second Reading:

POUR: 40		CONTRE: 1		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy S.J. Pinel (C)				

Deputy of St. Martin			
Deputy of St. Ouen			
Deputy L.M.C. Doublet (S)			
Deputy R. Labey (H)			
Deputy S.M. Wickenden (H)			
Deputy of St. Mary			
Deputy G.J. Truscott (B)			
Deputy J.H. Young (B)			
Deputy L.B.E. Ash (C)			
Deputy K.F. Morel (L)			
Deputy G.C.U. Guida (L)			
Deputy of St. Peter			
Deputy of Trinity			
Deputy of St. John			
Deputy S.M. Ahier (H)			
Deputy R.J. Ward (H)			
Deputy C.S. Alves (H)			
Deputy K.G. Pamplin (S)			
Deputy I. Gardiner (H)			

The Bailiff:

Do you propose in the regulations in Third Reading, Minister?

3.3 Deputy J.A. Martin:

Yes, I propose the regulations in the Third Reading and thank so far for the Members' support.

The Bailiff:

Are the regulations seconded for Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? If no Member wishes to speak in Third Reading, then I close the debate and ask the Greffier to place a vote in the chat. I open the voting and ask Members to vote. I ask the Greffier to open the voting and ask Members to vote. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The regulations have been adopted in Third Reading:

POUR: 37		CONTRE: 1		ABSTAIN: 0
Senator I.J. Gorst				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator S.W. Pallett				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				

Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

4. Draft Proceeds of Crime (Amendment No. 4) (Jersey) Law 202- (P.48/2021)

The Bailiff:

The next item is the Draft Proceeds of Crime (Amendment No. 4) (Jersey) Law, P.48, lodged by the Minister for External Relations and Financial Services. For the purposes of this debate the main respondent will be the chair of the Economic and International Affairs Scrutiny Panel. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Proceeds of Crime (Amendment No. 4) (Jersey) Law 202-. 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.

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

I would like to ask my Assistant Minister, the Constable of St. Ouen, to act as rapporteur for this item and the following 2, which are P.49 and P.50. Thank you.

4.1 Connétable R.A. Buchanan of St. Ouen (Assistant Minister for External Relations and Financial Services - rapporteur):

This amendment will allow the Minister for External Relations and Financial Services to prescribe measures for preventing and detecting money laundering to be taken by persons, acting as trustees, who do not carry on financial services businesses. As Members will be well aware, our Island has a

long-term policy of compliance with international standards of anti-money laundering and the countering of the financing of terrorism as set out by the F.A.T.F., the international standard setter on financial crime policy. This Government remains absolutely committed to that policy and the furtherance of the worldwide fight against financial crime. As Article 37 of the Proceeds of Crime (Jersey) Law 1999 currently reads, it only applies to persons acting as trustees who fall within the financial services business definition. The F.A.T.F. recommendations require criterion 25.4 to apply to all express trusts which extends beyond the current provision in Article 37. An express trust is a trust clearly created by the settlor, usually in the form of a document normally known as a trust deed. The trustee therefore is clearly aware that they have been appointed as trustee as it is set out in the document. This means they are then under the obligations of this new legislation and able to identify themselves as acting as a trustee to a bank or other relevant party, such as a trust company, lawyer, accountant, or other regulated body. Trusts come into being by simple actions and are covered by the customary law of Jersey. For example, implied or constructive trusts are not covered by this amendment. This means the risk of an individual trustee having a legal obligation placed on them without their knowledge is limited. The F.A.T.F. standard is very clear that these obligations should only apply to trustees of express trusts so that they are aware of the obligations placed on them. If the States adopts this legislation today, the Government and the J.F.S.C. (Jersey Financial Services Commission) will also highlight the new obligations to the industry and more widely to the public. This amendment would allow the Minister to make an order, which would require express trusts to provide competent authorities with any information relating to the trusts and providing financial institutions, designated non-financial businesses and professions, which includes lawyers, accountants and estate agents, any information upon them requesting it, with information will be about beneficial ownership, the assets the trust held, or indeed managed under the terms of the business relationship. I hope Members will agree that this is a proper and sensible amendment and provides additional rigour to our powers to detect and prevent money laundering in line with the F.A.T.F. requirement. I commend it to the Assembly.

The Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? If no Member wishes to speak on the principles, then I close the debate and ask the Greffier to place a vote into the link. I open the voting and ask Members to vote.

[11:00]

Members have had the opportunity of casting their votes. Then I ask the Greffier to close the voting. The principles have been adopted:

POUR: 31		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator J.A.N. Le Fondré				
Senator S.W. Pallett				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. John				
Deputy of Grouville				

Deputy K.C. Lewis (S)			
Deputy M. Tadier (B)			
Deputy S.J. Pinel (C)			
Deputy of St. Martin			
Deputy of St. Ouen			
Deputy L.M.C. Doublet (S)			
Deputy S.M. Wickenden (H)			
Deputy of St. Mary			
Deputy G.J. Truscott (B)			
Deputy J.H. Young (B)			
Deputy L.B.E. Ash (C)			
Deputy G.C.U. Guida (L)			
Deputy of St. Peter			
Deputy of Trinity			
Deputy of St. John			
Deputy S.M. Ahier (H)			
Deputy C.S. Alves (H)			
Deputy K.G. Pamplin (S)			

The Bailiff:

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

The Deputy of St. Mary (Chair, Economic and International Affairs Scrutiny Panel):

No, thank you. We have had briefings on this matter and also the next 2 propositions and I am supportive of these measures to improve the money laundering regulations.

The Bailiff:

Thank you very much. Connétable, do you move in Second Reading?

4.2 The Connétable of St. Ouen:

Yes, I would like to move them *en bloc*, there are only 2 Articles and they are very straightforward and reflect my speech on the principles.

The Bailiff:

Are the Articles seconded for Second Reading? **[Seconded]** Does any Member wish to speak in Second Reading? If no Member wishes to speak in Second Reading, then I close the debate and ask the Greffier to place a voting link into the chat. I ask the Greffier to open the voting and ask Members to vote. Members have had the opportunity of casting their votes. Then I ask the Greffier to close the voting. The Articles have been adopted in Second Reading:

POUR: 34		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator J.A.N. Le Fondré				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				

Connétable of St. Saviour			
Connétable of St. Brelade			
Connétable of Trinity			
Connétable of St. Mary			
Connétable of St. Ouen			
Connétable of St. John			
Deputy J.A. Martin (H)			
Deputy of Grouville			
Deputy K.C. Lewis (S)			
Deputy M. Tadier (B)			
Deputy S.J. Pinel (C)			
Deputy of St. Martin			
Deputy of St. Ouen			
Deputy L.M.C. Doublet (S)			
Deputy S.M. Wickenden (H)			
Deputy of St. Mary			
Deputy G.J. Truscott (B)			
Deputy J.H. Young (B)			
Deputy L.B.E. Ash (C)			
Deputy G.C.U. Guida (L)			
Deputy of St. Peter			
Deputy of Trinity			
Deputy of St. John			
Deputy S.M. Ahier (H)			
Deputy R.J. Ward (H)			
Deputy C.S. Alves (H)			
Deputy K.G. Pamplin (S)			

The Bailiff:

Do you move the Articles in Third Reading, Connétable?

4.3 The Connétable of St. Ouen:

I do, and in doing so I would just like to thank the chair and the Economic and International Affairs Scrutiny Panel for what was a very rigorous and engaging scrutiny process and very helpful to us.

The Bailiff:

Are the Articles Seconded for Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? If no Member wishes to speak in Third Reading, then I close the debate and ask the Greffier to place a vote into the chat. I open the voting and ask Members to vote. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The Articles have been adopted in Third Reading:

POUR: 33		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator J.A.N. Le Fondré				

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

5. Draft Proceeds of Crime (Supervisory Bodies) (Amendment) (Jersey) Law 202-(P.49/2021)

The Bailiff:

The next item is the Draft Proceeds of Crime (Supervisory Bodies) (Amendment) (Jersey) Law, P.49, lodged by the Minister for External Relations and Financial Services. For the purposes of the debate the main respondent is also the chair of the Economic and International Affairs Scrutiny Panel and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Proceeds of Crime (Supervisory Bodies) (Amendment) (Jersey) Law 202-. A law to amend the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

5.1 The Connétable of St. Ouen (Assistant Minister for External Relations and Financial Services - rapporteur):

This amendment provides that a supervisory body, in this instance the Jersey Financial Services Commission, must use a risk-based approach in accordance with its duties under the principal law, inserts a definition of risk-based approach and provides that a supervisory body that devises a risk profile for a supervised person or business must take account of the F.A.T.F. recommendations. F.A.T.F. recommendation 26, Regulation and Supervision of Financial Institutions, requires the formal integration of the concept of a “risk-based approach” into all aspects of the anti-money laundering and C.F.T. (Combating the Financing of Terrorism) regime. It is very clear in the recommendations relating to supervision, particularly when viewed alongside the interpretive notes and the methodology. As I have said, this Government remains committed to meeting international standards and F.A.T.F. recommendations in furthering the worldwide fight against financial crime and terrorist financing. To ensure the implementation of recommendation 26 of the F.A.T.F. recommendations in Jersey Law, this draft amendment seeks to introduce the following in the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, Firstly, a definition for “risk-based approach”. This approach will determine the level of scrutiny that a supervised person or supervised business requires on the basis of the money laundering and terrorist financing and the policies, internal controls and procedures associated with them; the risk presented to the jurisdiction in which the supervised person or supervised business is based; and any other characteristic of the supervised person or supervised business that the supervisory body reasonably considers to be relevant. Secondly, a requirement that in performing its obligations under Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, a supervisory body must use a “risk-based approach”. Thirdly, a requirement that the supervisory body must take account of the *International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation* published by the Financial Action Task Force, in devising a risk profile for a supervised person or a supervised business. This amendment ensures that Jersey meets the critical recommendations of F.A.T.F. and enshrines the risk-based approach in our legislation. I hope Members will strongly endorse such an amendment and I commend the proposition to the Assembly.

The Bailiff:

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

5.1.1 Deputy J.H. Young:

Obviously this is very welcome and I strongly support it. What I would just like to ask the rapporteur to do is to just give us a view of where this brings us up to in comparison to the U.K. and other jurisdictions. If he could offer us an opinion on that I think that is something that could be ... I am hoping of course that we are very much up with where we should be.

The Bailiff:

Does any other Member wish to speak on the principles? If no other Member wishes to speak on the principles, then I close the debate and call upon the Connétable of St. Ouen to respond.

5.1.2 The Connétable of St. Ouen:

If I could just respond to the Deputy; Jersey has in practice always followed this approach for many years and it is an approach that is commonly used throughout most sophisticated regulatory jurisdictions. So we are not out of step. This bit of legislation is to ensure that it is enshrined in law, which, as I mentioned when I presented the proposition, it is not at the moment. As such, could be seen as a gap, although in practice we have been doing this for some considerable while. I hope that covers the Deputy's point and on that basis I ask for the appel please.

The Bailiff:

The appel is called for. I ask the Greffier to place a voting link into the chat. I open the voting and ask Members to vote. Members have had the opportunity of casting their votes. Before I close the voting I might mention that the Greffier has inadvertently put the wrong P number on the voting link, but nonetheless this is a vote on the principles of P.49. Very well, if Members have had the

opportunity of casting their votes, I ask the Greffier to close the voting. The principles have been adopted:

POUR: 34		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator J.A.N. Le Fondré				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

The Bailiff:

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

The Deputy of St. Mary (Chair, Economic and International Affairs Scrutiny Panel):

No, we have, as mentioned before had comprehensive briefings on this and the suite of measures and we do not wish to call it in, no.

The Bailiff:

Thank you very much. In which case, do you move in Second Reading, Connétable?

5.2 The Connétable of St. Ouen:

Yes, I do, there are just 2 Articles and they are pretty much as I set out in my introductory speech so I would like to propose those *en bloc* please.

The Bailiff:

Are the Articles seconded for Second Reading? **[Seconded]** Does any Member wish to speak in Second Reading? If no Member wishes to speak in Second Reading, then I close the debate and ask the Greffier to place a voting link into the chat.

[11:15]

I open the voting and ask Members to vote. Members have had the opportunity of casting their votes. Then I ask the Greffier to close the voting. The Articles have been adopted in Second Reading:

POUR: 32		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				

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

The Bailiff:

Connétable of St. Ouen, do you move the Articles in Third Reading?

5.3 The Connétable of St. Ouen:

Yes, but not before thanking the Economic and International Affairs Scrutiny Panel for their input on this proposition and also thanking Members for their support so far.

The Bailiff:

Are the Articles seconded for Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? If no Member wishes to speak in Third Reading, then I close the debate and ask the Greffier to place a voting link into the chat. I open the voting and ask Members to vote in the normal way. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The law has been adopted in Third Reading:

POUR: 32		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. John				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				

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

6. Draft Proceeds of Crime (Miscellaneous Amendments No. 2) (Jersey) Regulations 202-(P.50/2021)

The Bailiff:

The next item of Public Business is the Draft Proceeds of Crime (Miscellaneous Amendments No. 2) (Jersey) Regulations, again lodged by the Minister for External Relations and Financial Services. Again the same chair of the same panel is the main responder and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Proceeds of Crime (Miscellaneous Amendments No. 2) (Jersey) Regulations 202-. The States make these Regulations under Articles 1(9), 2(11) and 28A of the Proceeds of Crime (Jersey) Law 1999.

6.1 The Connétable of St. Ouen (Assistant Minister for External Relations and Financial Services - rapporteur):

This amendment inserts a clawback provision where a criminal has given away assets as gifts prior to his or her offending. F.A.T.F. recommendation 4 on the confiscation and provisional measures requires countries to have measures that enable the confiscation of laundered property; the proceeds or instruments used or intended for use in money laundering or predicate offences; property which is the proceeds of, or is used in or intended or allocated for use in, the financing of terrorism, terrorist acts or organisations; or property of a corresponding value. Criterion 4.2(c) provides that countries should have measures, including legislative measures that enable their competent authorities to take steps that will prevent or void actions that prejudice the country's ability to freeze or seize or recover property that is subject to confiscation. In Jersey's fourth round mutual evaluation by MONEYVAL, concerns were raised regarding the ability of authorities to confiscate monies which were given to third parties as gifts, particularly those that were put into trust where the settlor retains a beneficial interest. If this amendment is approved, in addition to what is already caught by part 2 of the Proceeds of Crime (Jersey) Law 1999, any gifts made within a period of 5 years, ending with the criminal offence, or the earliest of the offences to which the proceeds relate, may be caught by part 2 of the Proceeds of Crime (Jersey Law) 1999 and, if the court considers it appropriate in all the circumstances, to take the gift into account. I hope Members will agree that this amendment closes an important loophole identified by MONEYVAL and allows us to meet the F.A.T.F. recommendations and again I commend this to the Assembly.

The Bailiff:

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

6.1.1 Deputy J.H. Young:

I am sorry, I just need to ask for clarification. I am not sure I understand this entirely. The new requirement allows the courts to attack transfers away or gifts from an offender up to the date that they commit the offence, 5 years or so. But can I be clear, what about when they commit the offence, what about when they have committed the offence and the assets then that they have acquired from that offence, where is that covered? I seem not to have picked something up.

The Bailiff:

Does any other Member wish to speak on the principles? If no other Member wishes to speak on the principles, then I close the debate and call upon the Connétable of St. Ouen to respond.

6.1.2 The Connétable of St. Ouen:

I thank the Deputy for his question. Essentially, and perhaps I should have made it a bit clearer in the original speech, but it relates from the date of the offence itself and then for a period of 5 years thereafter. So there is a 5-year window in which those assets could be seized if they have been settled into a trust. So, from the day the offence is committed to a period of 5 years thereafter, those offences are vulnerable to seizure by us as the authorities. I hope that has made that point clear for the Deputy. As such, I recommend this to the Assembly.

The Bailiff:

I ask the Greffier to place a voting link into the chat. I open the voting and ask Members to vote. Members have had the opportunity of casting their votes. Then I ask the Greffier to close the voting. The principles have been adopted:

POUR: 35		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator J.A.N. Le Fondré				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				

Deputy of St. John			
Deputy S.M. Ahier (H)			
Deputy R.J. Ward (H)			
Deputy C.S. Alves (H)			
Deputy K.G. Pamplin (S)			

The Bailiff:

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

The Deputy of St. Mary (Chair, Economic and International Affairs Scrutiny Panel):

No, thank you. As before, we are grateful for the Minister, Assistant Minister, and his team, for the briefings we received and are supportive of this measure.

The Bailiff:

Thank you very much. The Connétable of St. Ouen, do you move the matters in Second Reading?

6.2 The Connétable of St. Ouen:

Yes, I do, there are 4 Articles and they are all very simple and straightforward and, with the Assembly's leave, I would like to take it *en bloc* please.

The Bailiff:

Are the Articles seconded for Second Reading? **[Seconded]** Does any Member wish to speak in Second Reading? If no Member wishes to speak in Second Reading, then I close the debate and ask the Greffier to post a voting link into the chat. I open the voting and ask Members to vote. Members have had the opportunity of casting their votes. Then I ask the Greffier to close the voting. The regulations have been adopted in Second Reading: 27 votes pour, no votes contre, no abstentions in the link and a further 3 votes pour within the chat.

POUR: 30		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				

Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy of St. Peter				
Deputy of St. John				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

The Bailiff:

Do you move the Articles in Third Reading, Connétable?

6.3 The Connétable of St. Ouen:

Yes, I do. Before I do that, once again I would like to thank the Economic and International Affairs Scrutiny Panel for their assistance with my officers in preparing this legislation. Their input has been invaluable. I would also like to thank Members for their support so far on what are 3 technical but very important pieces of legislation for Jersey's finance industry.

The Bailiff:

Are the regulations seconded for Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? If no Member wishes to speak in Third Reading, then I close the debate and ask the Greffier to place a voting link into the chat. I open the voting and ask Members to vote. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The regulations have been adopted in Third Reading:

POUR: 34		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				

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

7. Draft Restriction on Smoking (Standardised Packaging and Labelling) (Jersey) Regulations 202- (P.52/2021)

The Bailiff:

The next item is the Draft Restrictions on Smoking (Standardised Packaging and Labelling) (Jersey) Regulations, P.52, lodged by the Minister for Health and Social Services. For the purposes of this debate, the main respondent will be the chair of the Health and Social Security Scrutiny Panel. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Restrictions on Smoking (Standardised Packaging and Labelling) (Jersey) Regulations 202-. The States make these Regulations under Articles 1, 1C and 2 of the Restriction on Smoking (Jersey) Law 1973.

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

These standardised packaging and labelling regulations are proposed under the Restrictions on Smoking (Jersey) Law 1973 that empowers the Assembly to make regulations for the purpose of prohibiting or restricting certain marketing practices relating to tobacco products. The regulations will achieve health improvements for Islanders and help protect children and young people from advertising and promotion of tobacco through branded packaging.

[11:30]

The Smoking Profile 2020 issued by Statistics Jersey tells us that one in 6 of all deaths in Jersey are from conditions directly attributable to smoking, which equates to around 140 Islanders dying prematurely every year. Now that tobacco advertising and sponsorship is prohibited, tobacco packaging has become one of the tobacco industry’s leading promotional tools. Evidence from both tobacco control researchers and the tobacco industry itself includes that branded packaging of tobacco plays an important role in encouraging the uptake of smoking. Standardised packaging, which is also known as plain, generic, or homogeneous packaging, refers to packaging that has had the attractive promotional aspects of tobacco products removed so that the appearance of all tobacco packs is standardised, including the colour of each pack. The World Health Organization sets out plain packaging as an effective tool for Governments to achieve the following 4 aims: firstly to reduce

the attractiveness of tobacco products; secondly to eliminate the effects of tobacco packaging as a form of advertising and promotion; thirdly to address package design techniques that may suggest that some products are less harmful than others; and fourthly to increase the noticeability and effectiveness of health warnings on packaging. Legislation requiring the standardised packaging of tobacco products has been introduced in many countries, including Australia, the United Kingdom and France. Research suggests that this has led to statistically significant declines in smoking prevalence. Both Jersey and Guernsey have committed to a range of tobacco control measures through signing up to the World Health Organization's Framework Convention for Tobacco Control as an extension to the U.K.'s membership of this international treaty. This includes making commitments to implement comprehensive bans on tobacco advertising and promotion, of which branded packaging is a form. Aside from this legislation, making provision for the standardisation of packaging, it achieves several other benefits for the health and well-being of Islanders. For the first time, it ensures signposting to local help-to-quit services for both Jersey and Guernsey on tobacco product packaging so that smokers who want to stop smoking can easily find and access the support they need. It also mirrors U.K. and E.U. legislation with respect to addressing key public health concerns around tobacco and related products. This includes prohibiting flavourings, such as in menthol cigarettes and filters and any other design feature that can entice people and especially young people to experiment with smoking. It makes provision for ensuring appropriate labelling for tobacco-related products, such as smokeless tobacco and herbal products for smoking, which can also pose significant risk to health. Lastly, it ensures that the tobacco industry will now use updated picture warnings from the Australian Department of Health instead of the E.U. picture-warning images that can no longer be used post-Brexit due to copyright issues. Work is taking place across Jersey and Guernsey through the challenging context of the pandemic to ensure that both Islanders are aligned in their approaches and there are no unnecessary negative consequences for industry, who have shared lines of manufacture and supply with tobacco products across the Channel Islands. In summary, our culture is changing and smoking is, fortunately, becoming a minority activity in our society. This is largely due to many years of concerted public health efforts, both locally and internationally, as well as our increasing awareness of the health harms of smoking through public messaging campaigns and education. But despite these successes there is still work to do. Although smoking rates had declined over the decades, smoking remains one of the most significant causes of preventable illness and premature death in our Island and tobacco kills around half of all its long-term users. There is strong evidence to support the role of plain packaging in helping to reduce smoking rates. The proven role in reducing the attractiveness and appeal of tobacco products, increasing the noticeability and effectiveness of health warnings and reducing the use of design techniques that may mislead consumers about the harmfulness of tobacco products. Standardised packaging legislation is a measure which will improve health and well-being and reduce preventable disease. I ask Members to support this lifesaving legislation today. I propose the principles.

The Bailiff:

Thank you very much, Minister. Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles?

7.1.1 Deputy M. Tadier:

I was hoping to hear from the main respondent from the Scrutiny Panel. But this is a strange one, is it not? Because on the surface I am sure a lot of Members have come here thinking that it is a noddy, i.e. it is going to get nodded through and that it is not controversial. But I think it is a slightly bizarre proposition and not to be outdone by my Reform Jersey colleague, Deputy Ward, who I notice has managed to sneak a lot of cultural references in, including musical ones, into his speeches, I am reminded of that opening line from the song of the same name by Goldie Lookin Chain, who in fact came to play in Jersey a number of years ago at Fort Regent. The song is called Guns Don't Kill People, Rappers Do. I have only realised in reading that out that there is a pun there of course because we are talking about the wrappers that go around the cigarettes here, so that is a nice synergy which

was not intentional. I think the point can be made to the song, it says: "Guns don't kill people, rappers do, ask any politician and they'll tell you it's true." But we have got the Minister for Health and Social Services today telling us that it is not the tobacco that kills people it is the wrapping on the tobacco that is dangerous and that if we simply change the packaging to presumably allow blank packaging, then that is okay. I am not convinced by that at all as a strategy. I think there is a fundamental problem with tobacco and that is the fact that it is not just indirectly carcinogenic - if not function - that is its prime problem, is that it is inherently carcinogenic. When it comes to other drugs, which I think from a user's point of view might have risks and benefits, if you like, in the sense that people must take drugs for all sorts of reasons, recreationally or for health kicks, is that there is not a good way to consume tobacco that I know of. I suspect that the high that one gets from tobacco is probably very short-lived at the start point of when one gets addicted to the product and it is inherently dangerous. The question is: why is the Minister for Health and Social Services allowing tobacco products to be sold at all in Jersey, given the fact that they are so demonstrably harmful. There is not a safe limit for tobacco consumption like there is, arguably, for alcohol consumption. I do not really get this. We are told we are going to be using Australian guidelines, as if that is normal. We are moving away from E.U. regulation understandably post-Brexit and then we are implementing Australian packaging and Australian norms; that seems strange to me. He also said something very interesting, there are going to be no negative consequences for industry. Does he mean for the industry, for the tobacco industry? Because it seems to me that the people who are profiteering from people's ill-health, because we know that the link between smoking and cancer is highly causal and demonstrable, and the Minister said it himself, so there are not going to be any negative consequences for industry. I would not be concerned if there were negative consequences for the tobacco industry because it seems to me we have legitimised that industry. We have put all sorts of regulations in, certainly around COVID when it comes to alcohol and even post-COVID, silly regulations, in my opinion, which have certainly far outreached the ... they never had any political backing from this Assembly about you cannot stand up and have a drink in a pub because you are more likely to interact with somebody negatively and transmit COVID but we are allowing people to smoke tobacco. I also know people in Jersey and these are probably on the very margins of society, for whom the arguments that we are always told, we will crank up tobacco prices and that will stop people smoking. We will do this, we will change the packaging; that will stop people smoking. I know people in Jersey on very low incomes who are multiple addicts, and they will buy their tobacco when they get their money every week and then when they do not have any money left for food or tobacco they will go around the streets and pick up cigarette butts. This is going on during COVID incidentally. While we are trying to separate people from being too close there are people picking up cigarette butts in the street, emptying out ashtrays outside of workplaces and emptying the tobacco into their own trays so that they can make up rollies because they cannot afford to smoke anymore because the price of tobacco has gone up so much. I would argue that the way to do it is not to tell industry what they can and cannot do in terms of advertising, is that the Minister for Health and Social Services needs to decide, is it okay for him, as Minister, and for us, as legislators, to continue to allow this highly-toxic product to be sold to anyone over 18? Of course falling into the hands of people under the age of 18 or simply because we are going to make little tweaks here, and tweaks which are not because we want to do them because they are consequential on things like Brexit. I think it needs to be one or the other. If we are going to allow products to be sold, then we should allow people to market their products in a way that they want to, otherwise it becomes silly. What is going to come next? Is it going to be the fact that we do not like alcohol being sold to people but we do not to stop it being sold, therefore, when you go to buy your whiskey wherever you buy it from you have to buy it in a blank bottle with a blank label or in a white box? If you want your Chivas versus your Bells or your Johnnie Walker, you are not allowed to look at it, you are not allowed to decide which brand you like; you have to go for the name. It is all very bizarre. Can we do that with bacon? Do we do that with ham? Do we do it with cheese? Because all of those things increasingly our awareness is that they are also carcinogenic, especially when consumed in high quantities. Is that where we are going to go now? Are we just going to have blank packaging in the shops? You are not allowed to put any product

differentiation on this. Where are all the free marketeers in the Assembly? I thought the Assembly was full of people who agree that the market should be free to do what it wants to with only light-touch regulation from Government. The point is I would fully support a ban on smoking with certain deadlines introduced, say, by 2023 and it will be illegal for people to sell tobacco in shops and you would have some kind of contingency. I am not suggesting we do it that quickly necessarily and there would be a process. I think the one thing that makes tobacco sales high is not the packaging, it is the fact that it is legal. The reason people do not go and buy certain products is because they are not available in Jersey or that they are not legal and I think this is very bizarre.

[11:45]

I would ask the Minister to respond to all of those points and to tell us what the long-term goal is here. Because is it to keep on increasing the price of tobacco? Is it to keep on reducing the visibility of tobacco products, while we do not challenge those vendors in our society who are making profits off the back of other people's ill-health? I would like to know what his long-term plan is before we implement any more piecemeal-enabling legislation in this place.

7.1.2 Deputy L.B.E. Ash of St. Clement:

I am delighted to follow Deputy Tadier and I find myself agreeing with him. We do not always agree but I do agree on this issue. To my mind it is nanny state politics; we see way too much of it these days. He is absolutely right when he says that smoking is not illegal. If we really feel that smoking is the devil's work, shall we say - I presume I am allowed to mention the devil - then we should be banning it? We should make it illegal, not merely wrapped up. We do not allow guns, we do not say: "Yes, you can have a gun, as long as you pay a bit of tax on it and it is sold to you in a plain wrapper." We say: "No, guns are killers, they are illegal." He is also right when he says where do we stop on this. We have Jersey butter, for instance, a wonderful product but it is perhaps not the healthiest of things to be eating in large numbers because it is very high in cholesterol. Do we serve that in a plain wrapper without the cow on the front luring people in? There was an article the other day in the *J.E.P. (Jersey Evening Post)* on the increase in road traffic accidents and indeed fatalities caused by cars. Do we prevent advertising from the motor industry and of course they are belching out toxic fumes that we are trying to get rid of? Do we airbrush pictures of the great man, Sir Winston Churchill? Do we airbrush out his cigar because of its evil connotations? It is all these things, where do we stop on all these things? The trouble is we do not stop; that is what really concerns me, we do not stop. We start with cigarettes. As Deputy Tadier said, you will soon go into a pub and they will not have pumps with any sign on because they will not want to be advertising that product. It is a slippery slope. This will just be the beginning and for that reason I cannot back it.

The Bailiff:

The Connétable of St. Brelade, are you looking to make a speech or a question of the previous speaker? Because if it is a point of clarification from Deputy Ash, then you can ask as a point of clarification. If it is a question generally, then it is part of your speech, so which ...

The Connétable of Brelade:

I apologise, Sir, it is a request to speak only.

The Bailiff:

Very well, then please speak.

7.1.3 The Connétable of St. Brelade:

My question to the Minister, and perhaps in his summing up he would indicate what his long-term goal is with regard to the taxation income which we are presently receiving from tobacco products. I am not unsupportive of the proposition but clearly with an ultimate aspiration to reduce the consolation in the Island there will be a loss in income and how might we replace that in due course? If he shared his views on that.

7.1.4 Deputy T. Pointon of St. John:

A study published earlier this month in *The Lancet* indicates that: “Smoking tobacco still accounts for over 7 million deaths globally and is still a leading cause of preventable disease.” Much progress has been made to ensure proportionate action is taken to reduce the promotion and marketing of cigarette smoking, which cannot be left unregulated in the same way as commodities that do not have the same inherent potential to kill their users. It is the proper function of Government to ensure that market practices do not impinge on the rights of the population, in particular Government must protect children and young people, enabling them to grow up in an environment where they are not enticed into behaviours that may eventually lead to health problems and, sadly, early death. As a former health professional, I know all too well the health harms that smoking causes and the deep distress that smoking-related illness brings to individuals and families. Jurisdictions in many other parts of the world have taken steps to reduce tobacco consumption by anonymising packaging and removing attractive branding. It is now time for the people of Jersey and Guernsey to be protected from misleading, glamorising point-of-sale package advertising. Research suggests that standardised packaging increases the impact of health warnings, reduces false and misleading messages that one type of cigarette is less harmful than another and reduces the attractiveness of smokers to children and young people. The most cost-effective way of delivering health and well-being improvements is through prevention rather than cure. However, as well as these new regulations being vital to help prevent people from becoming new smokers, I am particularly pleased that this legislation ensures for the first-time incorporation of signposting to Jersey’s and Guernsey’s respective smoking cessation services. This will mean that those who smoke will be able to clearly access information on where to get local evidence-based support to stop smoking if they choose to do so. We are fortunate to have an excellent Help2Quit team in Jersey and signposting directly to this service from cigarette and rolling-tobacco products enables this service to reach as many people wanting to quit smoking as possible. We know that those who take up professional cessation support are much more likely to successfully quit than those who try to do it alone. I am fully supportive of this lifesaving legislation, which a long, wider co-ordinated Government action will help achieve great benefits to health and well-being for the people of this Island.

7.1.5 Deputy K.F. Morel:

I am pleased to follow the previous speaker as well because when we are talking about statistics it is important to know that 3 million people die due to the harmful consumption of alcohol every year. Alcohol consumption disproportionately affects younger people and causes premature mortality disproportionately. Following the logic of the Minister for Health and Social Services, there is no question that he should be following Deputy Ash’s advice and blanking out the advertising on pumps in the pubs and making sure that we are unable to see any advertising on bottles of alcohol in the supermarket and I look forward to seeing that legislation soon because it is the only logical step following the adoption of these regulations. I would also like to point out that over 1 million are killed every year on the roads globally as well, so I expect him to be taking some action to prevent the advertising of cars very soon. Could I also say that in the previous speaker’s speech he mentioned the ... I do not think he used the word “glamorous” but the attractive point-of-sale advertising of cigarettes? That does not exist in Jersey, there is no glamorous point or attractive point-of-sale advertising in Jersey. Cigarettes are hidden in cupboards behind the counter. They are not visible to anybody when they walk into a shop and the packaging is visible for fleeting seconds when they are handed over the counter; that is it. I do not believe that these regulations will in any way change that. I believe the previous speaker was incorrect to suggest that there is attractive point-of-sale advertising; that does not exist in Jersey at the moment. I am intrigued, as always, as to how Treasury and Exchequer will make up for taxation losses but I do not expect the Minister for Health and Social Services to speak to that. But I do have a great deal of sympathy with Deputy Ash and Deputy Tadier in their highlighting, as I have tried to do, of the way one product is treated so very differently to other harmful products. Because another aspect when they speak about alcohol is that not only does alcohol contribute to 3 million deaths worldwide every year but alcohol also contributes to vandalism,

antisocial behaviour, policing problems, it causes family breakdown, it causes enormous cost to society, which, to be honest, cigarettes do not do. They do not change a person's mental state and so do not cause those problems. I would expect to see the Minister for Health and Social Services, therefore, taking a very strong line on alcohol very soon because he is clearly taking such a strong line on tobacco advertising in this way. I do look forward to such proposals coming shortly from the Minister for Health and Social Services.

The Bailiff:

Thank you very much. Does any other Member wish to speak on the principles? If no other Member wishes to speak on the principles, then I close the debate and call upon the Minister to respond.

7.1.6 The Deputy of St. Ouen:

I am grateful for those who have spoken. We must remember that the supply and production of cigarettes and other tobacco products is a lawful trade around the world. The Deputies, especially Deputy Tadier and Deputy Ash, make their positions clear around the fact that this should not be lawful. If we could go back 500 years or so then that might be a legitimate position to take up but the fact of the matter is this is a lawful trade and many legitimate lawful trades are regulated by governments for quality assurance and for their protection of their populations. Because evidence shows that industry self-regulation does not lead to sufficient protection due to the nature of businesses needing to maximise profits and their primary consideration is not the health and well-being of the public. Therefore, there is a legitimate function of governments to intervene in the marketing and branding of such products. This is what Government is doing and Governments across the world, including in line with our commitments to the World Health Organization and the Framework Convention on Tobacco Control, which it promotes, under which we demonstrate and we are signed up to complying with 3 principles; protection from exposure to tobacco smoke, control of tobacco product packaging and prohibition of tobacco advertising. The Government of Jersey has always taken this commitment seriously and we have policies and regulations in place that comply with the framework convention. What these regulations are doing is to demonstrate our ongoing commitment to reducing harms from tobacco through standardised packaging, which will impact the take up of smoking and trigger stop-smoking attempts. Were we suddenly to ban the sale of cigarettes we would need to remember that there is a significant part of the population that is very unfortunately addicted to these products. The way to overcome that is to help those come off their addiction but more so to stop the take-up of this habit, so that in time this trade will become absolutely *de minimis* and that, of course, is the way to proceed, not to create a ban which we have when we ... we have to recognise significant parts of our population needs this product, unfortunately. There have been comparisons to our lack of regulation of butter and poor regulation of driving, should we ban cars, et cetera?

[12:00]

This is just not comparable, it seems to me, as those activities have other societal and individual benefits. Tobacco certainly does not have that level of benefits. I like butter on my bread. Can anyone tell me what benefits tobacco brings to anybody? Deputy Tadier counts this as simply a change in the packaging. We are not, we are doing much more. This is a proportionate and incremental control to prevent the take-up of this harmful habit, particularly by young people. The reason why Australian pictures are being used on the packs is because this has been reached as a result of agreement between the U.K. and Australian health authorities. As result of the U.K. exiting the E.U., the U.K. decided not to create its own photographs to put on the packaging but came to an agreement with the Australian authorities to use the ones that were already having a good effect there. Deputy Tadier said that I had said there would be no negative consequences for the industry. I said there would be no unnecessary negative consequences for the industry. The industry has no input into these regulations, it is not a matter of consultation and we somehow come to a compromise over what can and cannot be put on packaging. No, that does not happen. But what we do discuss with the industry is the transition because they have stocks of cigarettes and they have production lines

which print the existing warnings and photographs, so we have to arrange a transitional period so that they can use up their existing stocks without wastage and recognising that they have to produce specifically for the Channel Island market with the Channel Island warnings on them. I am asked about future strategy here; the future strategy will be to continue creating an emphasis on maintaining good health and preventing harm, specifically harm by taking up smoking. That will form part of the push for health-preventative measures, health promotion, which is all part of the Jersey Care Model but wider as well across Government. In terms of very specifics, there is consideration about further legislation to bring the reporting of ingredients and toxins in tobacco in line with E.U. standards in the near future and that is under consideration. With regard to alcohol, we have a number of public health measures to proportionately address the misuse of alcohol and we have taken steps with regard to the taxation of alcohol. We have got minimum unit prices now in place in the Island and a working party looking on how that can be embedded. But we realistically have to take account of the fact that public perception is that alcohol is not in the same place as tobacco in terms of acceptability. Continuing education might bring that to that position but we have to recognise the public capacity for this. In terms of taxation, as I think Deputy Morel said, it is not for me to speak for future duty proposals but it is recognised that the imposition of a duty on tobacco products is a legitimate taxation method and that increasing that duty is part of but it is not a whole, it is not a single answer, it is part of measures that can be used to reduce the risks of people becoming attracted to cigarettes or harming their own health by the continued smoking of cigarettes. These are very technical regulations, they are proportionate, they are incremental in addressing the health harms that we see from tobacco and in line with our international commitments and international best practice. I would recommend them to the Assembly and ask for the appeal.

The Bailiff:

Minister, Deputy Tadier has asked for a point of clarification. Firstly, Deputy Tadier, is it a point of clarification of what you said or what the Minister has said?

Deputy M. Tadier:

What the Minister has said.

The Bailiff:

Are you prepared to give way, Minister, to give a point of clarification?

The Deputy of St. Ouen:

Yes, Sir.

Deputy M. Tadier:

Thank you, Minister. Yes, I do not know why I heard him say that there were no negative consequences to industry. He has clarified that what he said was that there were no unnecessary negative consequences to industry. Does he accept then that there are negative consequences to industry? It is just that he thinks that all of those negative consequences are necessary and will he explain further whether it is reasonable for him to be the adjudicator on what is considered a necessary negative consequence and an unnecessary?

The Bailiff:

I think the first part is a point of clarification, the second is really a point of comment, which would be a second speech, Deputy. But the Minister can certainly address the first part if he wishes to.

The Deputy of St. Ouen:

The negative consequences for industry will be the requirement to print its packaging and brand its products in the particular way which would be required by these regulations. That is in line with the Government's aim to reduce the attractiveness of tobacco use, so those are the negative consequences.

The Bailiff:

I ask the Greffier to place a voting link into the chat. The vote is on the principles of these regulations. I open the voting and I ask Members to vote. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The principles have been adopted:

POUR: 34		CONTRE: 4		ABSTAIN: 0
Senator L.J. Farnham		Deputy M.R. Higgins (H)		
Senator J.A.N. Le Fondré		Deputy L.B.E. Ash (C)		
Senator T.A. Vallois		Deputy K.F. Morel (L)		
Senator S.Y. Mézec		Deputy of St. Peter		
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy G.C.U. Guida (L)				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Bailiff:

Deputy Pamplin, does the Health and Social Security Scrutiny Panel wish to scrutinise this matter.

Deputy K.G. Pamplin (Vice-Chair, Health and Social Security Scrutiny Panel):

No, Sir. May I just quickly state for the record the reason why I am speaking and not the chair, is the Chair is at the A. and E. (Accident and Emergency) Department after a minor injury, is receiving care and she is fine but we wish her well for a speedy recovery.

The Bailiff:

Minister, do you propose the regulations in Second Reading?

7.2 The Deputy of St. Ouen:

Yes, Sir, I do. It seems to me that thus far the debate has been very much about broadened principles, so I would like to propose the regulations and their schedules *en bloc*, but I can address any specific questions on each regulation if Members have questions.

The Bailiff:

Are the regulations seconded for Second Reading? [**Seconded**] Does any Member wish to speak in Second Reading? If no Member wishes to speak in Second Reading, then I close the debate and I ask the Greffier to place a voting link into the chat. I open the voting and ask Members to vote. If all Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The regulations have been adopted in Second Reading:

POUR: 32		CONTRE: 5		ABSTAIN: 0
Senator L.J. Farnham		Deputy M. Tadier (B)		
Senator J.A.N. Le Fondré		Deputy M.R. Higgins (H)		
Senator T.A. Vallois		Deputy L.B.E. Ash (C)		
Senator S.W. Pallett		Deputy K.F. Morel (L)		
Senator S.Y. Mézec		Deputy of St. Peter		
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy G.C.U. Guida (L)				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				

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

The Bailiff:

Do you propose the regulations in Third Reading, Minister?

7.3 The Deputy of St. Ouen:

I do so, Sir. May I thank Members for their support thus far and I thank officers who have worked hard to bring these regulations forward in the interests of the best outcomes for Islanders?

The Bailiff:

Thank you very much. Are the regulations seconded for Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading?

7.3.1 Deputy M. Tadier:

It is very much in the way of the Third Reading, what I would hope is that the Minister takes back from this debate some of the comments that have been made and not dismiss them as some sophistry or just whataboutism. Because I think there is a real need with the overall strategy for tobacco, which the Minister considers this to be part of, first of all, that there is a consistency of approach and also an ultimate destination which he needs to take not just this Assembly with him but wider society. I think, like I said, we have to tackle the profiteering of, ultimately, something which is a very harmful product. I would not want us to all give ourselves a big pat on the back here today because we think that we have done something which is going to tangibly reduce the number of people who smoke and, therefore, die from smoking. I think it is a very moot point as to whether this will have any real consequence. I note the parallels that have been drawn between alcohol and tobacco and I note that any analogy of this nature is going to be an imperfect one. But I do remember, and it is probably because of COVID that we have not been able to go out as we might have previously, but going to the bowling alley and finding it absolutely remarkable that at the bowling alley, which caters for a significant amount of minors, children, rather than people who work on the ground, that they will be there with their families at parties putting their ball down an alley with a big sign advertising Fosters beer at the other end of it and that happens without us batting an eyelid.

[12:15]

I am just not sure that the logic of having the blank or standardised packages, which are already hidden behind a screen in a shop when children are not the ones who tend to do the shopping, really works. I can understand packaging on alcopops, alcopops were completely different in that they were marketed to children, they were made to taste like fizzy soft drinks but that is not the case with tobacco. I would want the Minister to consider that these incremental tweaks, whether it is to duty or to packaging, which I think have unintended consequences because we know, for example, that a significant percentage of the tobacco that is smoked in Jersey - and I think we know this anecdotally but it is in the 30 per cent to 40 per cent, I would say, on the street - is duty-free tobacco. It is people who do not necessarily smoke. You go off the Island, bring back their tobacco and it is traded on the black market by people who can no longer afford to keep up the habit but who have also got no real way of giving up the habit. I think by making it you do not ban the active smoking, you ban the sale, the ability for business people to profit from other people's harm; that is what you ban. Then you find a way, as Minister for Health and Social Services, to deal with the consequences of those people who will come forward. But it is not as if we do not have any other products these days because people tend to be addicted to the perhaps physical habit of smoking but also the actual nicotine in the cigarettes. There are nicotine products and there are other ways to get over that, including going cold

turkey. I think there is a risk here that by tweaking these things we are just perpetuating a problem, hoping that it will go away and not realising that there is always going to be a core of people for whom the soft approach does not work and that we need to accept the fact that, as legislators, we are, ultimately, sanctioning something which makes some people very ill. It costs a lot of money to Government but also makes huge amounts of profit for an international industry and that has not been tackled at this point. They are the ones getting away scot-free from it. I would argue that the Minister really should consider both his personal politics in this and the wider societal benefits of getting to a point where I think most of us want to get to.

7.3.2 Deputy K.G. Pamplin:

I hope Members will bear with me while I battle through my viral infection, which makes me sound like I have smoked 100 today already. I just wanted to provide some context, as obviously speaking as the Scrutiny Panel earlier, we have done some, and obviously myself, research into this matter and to give some context to help Members. The first country in the world to introduce standardised packaging was Australia in 2012. There is plenty of research around that time looking at the effects of standardised packaging there and the impacts around. Interestingly, the research found that there was no evidence for an increase of the illicit trade of cigarettes, which has not been mentioned today, which has been one of the arguments that the tobacco industry was putting forward that standardised packaging would increase the illicit trade of cigarettes. But as to this day, there does not seem to be that evidence to support that. The points being made about does this change the number of smokers in parts of the world that has this, well, again, Australia is the country everyone turns to, as they have been doing it longer. Smoking has declined around the world, as the panel saw the evidence for that. The Australian Government produced a report showing that the decline was accelerated due to the introduction of standardised packaging and as ever with any government report you take it with a pinch of salt. But given that two-thirds of smokers are expected to die from diseases caused by tobacco use, then a drop equivalent to 118,000 fewer people smoking in that country is why the U.K. Government accelerated their plans and brought it into effect after consultation. The biggest impact it seems to be having on young people especially and I think that is the overall targeted plan here is to ... because there is not very much evidence still at this stage that it changes the behavioural patterns of continual smokers. That is a very important point, which I think Deputy Tadier has done a great job of highlighting today; that at the end of the day freewill still exists. I anecdotally remember when I was working at Headway Jersey and we would recommend and say to people wearing a helmet is a good thing to do, a bike helmet but, again, that is a choice that we all have to make and I think there are similar points here. But I just wanted to add that context because I know the Scrutiny Panel have not produced it over this time but I just want to put that point across that we have looked into it. But the points made by others are really, really important here because the one thing, and with anything like this when a public health measure comes into policy, is how we track the success and how we show the impact and I think that is really important. As others have suggested, if it does have an impact then we must bring it in line with other things that does cause harm to people. As Deputy Morel pointed out as well, the effects of alcohol hurts others, which can lead very importantly to increase people intoxicated, to domestic abuse and things like that. If there is an opportunity to bring down the harm of those around us and take those things away but that does not remove freewill of people choosing what they wish to do, I think it is really important. As always, we need to see the evidence. I applaud the Minister and his team going forward that we see the trends and tracks and that he comes back and shows data that where this is having an impact because I think that is really important for any future health policy but I hope that has helped Members.

7.3.3 Deputy K.F. Morel:

Again, I am very pleased to follow the previous speaker. I completely acknowledge that smoking is harmful and it is harmful, principally, to the individual who smokes. I am pleased for people who stop smoking and I am pleased that the Health Department would like to reduce smoking rates in the Island. I disagree that this particular measure will have any discernible effect whatsoever but that is

exactly what politics and debate is about. However, given the Minister for Health and Social Services' comments about the harms of tobacco and the lack of harms of other products that he raised, I will draw parallels with alcohol but I believe that the Minister for Health and Social Services fails to see that. When he talks about public perception I would ask, as Minister for Health and Social Services, surely his job is to focus on health and the health of society, rather than public perception per se. The World Health Organization acknowledges strongly the link between alcohol and homicide. The World Health Organization also acknowledges that there is a link between alcohol consumption and sexual violence and there is a link between alcohol consumption and family domestic violence, as well as the actual illnesses that can be caused by excessive alcohol consumption. There is also a strong preponderance, as I mentioned earlier, or disproportionate harms done on young people by alcohol. The trouble is, is that I am yet to see the Minister for Health and Social Service adopt a similar strategy to alcohol as he does with smoking. I find that hard to understand, given that, I believe, the harms to wider society are far, far greater by excessive alcohol consumption than smoking. I would be pleased to hear, perhaps not today, I appreciate there is a lot, but I would be pleased for the Minister for Health and Social Services to brief us at some point on his health strategy with regard to alcohol.

The Bailiff:

Does any other Member wish to speak in Third Reading? If no other Member wishes to speak in Third Reading, then I close the debate and call upon the Minister for Health and Social Services to respond.

7.3.4 The Deputy of St. Ouen:

Again, I am grateful to those who have spoken. The stated aim of the tobacco strategy is to create a smoke-free generation and we are doing that through incremental and evidence-based international collaboration and strong measures of which these regulations are a part. Children see branded packaging at their parents' homes or by the use of cigarettes by their peers when they are out and about; it is not just in shops where the packs might be sold. How much better it would be if that packaging is bland, it is not attractive, it does not excite; indeed it contains prominent warnings and awful shocking pictures which are at the back of the proposition. That is the way that we educate people who are vulnerable for taking up this habit, to stay away from it. We are seeing those results. We have seen from the smoking profile that fewer young people, very fortunately, are taking up smoking and we are also seeing that those who have smoked in the long term are declining in percentage terms and the use of cigarettes in society is decreasing. We monitor the tobacco strategy through Statistics Jersey reports, such as the Smoking Profile I have referred to but also J.O.L.S. (Jersey Opinions and Lifestyle Survey) and the school survey and all of those measure various criteria, including smoking rates in the population among adults and other groups, children and young people, for example. The strategy is up for renewal next year. It is a 5-year strategy ending in 2022 and it will be refreshed at that stage. There will be consultation with key stakeholders. It will seek to align itself with international best practice and international regulation around the industry following World Health Organization guidelines and initiatives. I am sure that all those who have spoken in this debate, assuming that we are still sitting in the Assembly if it takes place after the elections, will have an input into that strategy. But I am confident that we are heading in the right direction in Jersey and we are doing all we can in line with international obligations and public health imperatives to limit the attractiveness of this habit to younger people and create that smokefree generation. Some speakers have spoken about alcohol, which of course is a different product, but we do have a number of public health measures which properly and proportionately address alcohol misuse. But that, as some Members have said, is not part of today's debate. They are different products, both have harms but both need their expert approaches in deciding how to address those harms and reduce misuse and that will go on. I am grateful to Members and ask for the appel.

The Bailiff:

The appel is called for and I ask the Greffier to place a voting link into the chat. I open the voting and ask Members to vote. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting.

[12:30]

The regulations have been adopted in Third Reading:

POUR: 34		CONTRE: 3		ABSTAIN: 0
Senator J.A.N. Le Fondré		Deputy M.R. Higgins (H)		
Senator T.A. Vallois		Deputy L.B.E. Ash (C)		
Senator S.W. Pallett		Deputy of St. Peter		
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy G.C.U. Guida (L)				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Bailiff:

Deputy Tadier, it would now fall for your proposition P.54 to be taken but I see you have asked if P.55, the Police Complaints Authority: Appointment of Member could be taken first with a view, presumably, to then deal with yours after luncheon, is that correct?

Deputy M. Tadier:

Yes, Sir, I mean I am fairly relaxed. I could go now but I am not 100 per cent sure that I will get through all of it before the lunch break. If the Minister were ready to go and I think that is a fairly short one, that we could conclude before the normal lunchtime but I am in Members' hands.

The Bailiff:

Let me just first ask the Minister for Home Affairs whether he is ready to proceed now if Members agree.

Deputy G.C. Guida:

Yes, Sir, I am.

The Bailiff:

I will not put this to the vote, unless anyone indicates in the chat that they have an objection to taking P.55, the Police Complaints Authority appointment next. Very well. I will take that as a standing vote in favour of that.

8. Jersey Police Complaints Authority: Appointment of Member (P.55/2021)

The Bailiff:

Therefore, the next item of business is the Jersey Police Complaints Authority: Appointment of Member and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion in accordance with Article 2 of, and the Schedule to, the Police (Complaints and Discipline) (Jersey) Law 1999, to appoint the following person as a member of the Jersey Police Complaints Authority for a period of 3 years, commencing immediately - Mr. David Porter.

8.1 Deputy G.C. Guida (The Minister for Home Affairs):

First, I am grateful to the Assembly of course for allowing me to take this proposition early. This appointment will provide the authority with the resilience they will require to fulfil that very important function and the law this summer. I am very pleased to recommend the appointment of Mr. David Porter as a member of the Jersey Police Complaints Authority, following a competitive recruitment process. Further details about Mr. Porter's credentials are outlined in the report and I am pleased to present a candidate with such an impressive background in the financial services industry, most recently with the Jersey Financial Services Commission. Members of the Police Complaints Authority serve on a voluntary basis and I am very grateful to Mr. Porter for offering his time and experience to perform this important role. I make the proposition, Sir.

The Bailiff:

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

8.1.1 Deputy L.M.C. Doublet:

While I understand Deputy Tadier's feeling that this would be something that we would deal with quickly, I do rather regret that and I do not think we should be just nodding through appointments like this. Most of the most recent appointments that we have had through the Assembly myself and others have raised consistently about having information on the characteristics of the candidates so that we can make judgments about the diversity of boards. This one is a slight improvement to some of the other appointments that we have had through because it does include some information about

the other members. But I have previously asked for Members to be given in confidence, if necessary, more detailed information about the skills, background and characteristics of the prospective appointees, so that States Members can make more informed decisions. I am not quite sure what else I need to do to get this message across to Ministers that this is something that I will continue to ask for. Perhaps I need to lodge a proposition and make it a requirement because it does not yet seem to be happening and that is very frustrating and it is not good practice for us as a body who are, essentially, appointing people to very high-profile roles. I once again make that request. Perhaps the Chief Minister in his role as leading the Council of Ministers could comment on that. I know that Ministers have responded in the positive previously and some Ministers have indeed made strides in this direction. But I think it does need leadership and a commitment to doing this across all departments.

8.1.2 Deputy M. Tadier:

I hope it goes without saying that I am not suggesting that we should not spend a lot of time on these things if indeed we have comments to make. It is just an observation that these things normally take a lot longer than propositions which we know are going to be more controversial and have a lot more detail. I do not disagree with the general comments that have been made by Deputy Doublet and indeed I have probably made similar comments myself in the past. But I do not think in this particular case it is reasonable to say ... and this is not to denigrate the person that is being put forward for it but I would not call it a very high-profile public position. I think that is more or less the words that the Deputy used, it is a position of service which we have asked people to come forward for. I guess the question for me is about what appointments should come to the States and which ones should not? I know that the Police Complaints Authority is perhaps one which is right and that comes to the States but the expression you do not have a dog and bark probably comes to mind. It should be the case that if we delegate responsibility to an appointments commissioner or whoever to come up with recommendations and appointments that we do not necessarily need to look at that. It is possibly a question for P.P.C. in the future to perhaps look at which positions should rightfully come to the Assembly and which should not. There is, of course, a brief summary of Mr. Porter's experience and I guess it is about getting balance there because we do not want to put reams of information into the public domain for something which is ... this is not a highly-paid role which is making lots of political decisions on behalf of the States of Jersey; it is an important role. I guess the question of proportionality also needs to be considered. I notice that, of course, like a lot of individuals who get put forward for positions, he has got experience in financial services and in the Financial Services Commission. But I also note that he has got experience in modern languages and European studies, so I am probably going to be more biased towards him because it is good to see somebody with a B.A. (Bachelor of Arts) in modern languages and European studies, especially in today's climate where languages are in decline. We know that people who study languages and have studied them in the past it just gives them a different way of viewing the world because they have often been abroad. They have studied abroad and they have got a way of thinking, which is not always in English. It seems to me that he looks like a great individual, I do not know him and I happy to say a few words on this appointment.

The Bailiff:

Thank you very much, Deputy. There is a point of clarification. Deputy Morel, it must be a point of clarification of Deputy Tadier's speech. Do you give way for a point of clarification, Deputy Tadier?

Deputy M. Tadier:

I am happy to take the point of clarification, Sir.

Deputy K.F. Morel:

I am very pleased that Deputy Tadier has allowed it because it is a point of clarification, essentially, for the record. I understood Deputy Tadier inadvertently said - and I am sure he would like to correct this - that these types of propositions take a lot longer than more controversial propositions. I do not

believe that is what he meant to say and I was wondering if he could clarify what he intended to say, which I believe was that these are shorter. But I wanted to give him the opportunity to clarify that for the record.

Deputy M. Tadier:

Yes. If I said that, and I have no doubt that the Deputy may have heard correctly and it would have been a misspeaking. I meant to say that these things are normally shorter from my empirical experience.

8.1.3 The Deputy of St. Mary:

I think Deputy Doublet has raised the point as to what is right for this Assembly to judge on or adjudicate on. The basic situation is that, as stated in the report, there was a recruitment process and there was a panel consisting of the present chair, a former chair and 2 others. It seems to me that it is not the role of this Assembly to re-interview the candidate who is not present. I am grateful to members of the public for putting forward their names for these positions. I will maintain that there is an effective interview panel in place who presumably through proper procedures went through the list of candidates. If they have concluded that Mr. Porter is the correct person, then I do question whether, in the absence of anything fundamental, this Assembly should be querying the objectivity of that panel. For my part, I am content to rely on what the panel has adjudicated on and I shall be supporting the proposition.

8.1.4 Deputy J.H. Young:

I understand where Deputy Doublet is coming from. I, myself, in previous times have been critical that we have had a pattern where appointments to States bodies seem to be constantly going to the same group of people, if you like drawn from that. But I think this is very, very different. We need independent people to sit on these kind of panels here. Just when one reads through the annual report of the Authority, it is clear with the difficult cases that they have to deal with and of course these people are not paid and that is quite clear, according to the annual report there. I think, if I have read this right, this is an additional member. We have set out on a role where we need to do more in this area. I am not going to detract from Deputy Doublet's point but I do not think those circumstances apply here. I think that we are so fortunate that we have got people prepared to give time unpaid to act as very, very independent judgments on their peers. I think that is very, very different to the sort of roles where I have certainly complained about where we can appoint people to roles that have executive authority, for example, membership of various quangos and so on; they have not been happy with that. I am pleased that things are improving. But this is very different, this is about people are prepared to come along for the greater good and give their time to try and help thus resolve some of the most difficult complaint issues. Certainly, I am hoping we do not make heavy weather of this. It is really important we can recruit these people in these types of roles.

The Bailiff:

Thank you very much, Deputy. Does any other Member wish to speak on the proposition? If no other Member wishes to speak on the proposition, then I close the debate and call on the Minister to respond.

8.1.5 Deputy G.C. Guida:

I would like to thank Deputy Tadier, Deputy Young and Deputy Johnson for their speeches, which pretty much cover everything I was going to say. I think it is quite important indeed to make the difference between people that are hired by the States or paid by companies controlled by the States and people who are volunteers and give a lot of their extremely expensive time for the States. Because of Jersey's peculiarities, and it is probably a very, very good thing that we should encourage, we are reliant on a number of panels and boards which are completely composed by volunteers; they give up their time for free. Again, because we insist on having extremely knowledgeable professionals in these panels, we are talking about very expensive time that is given to the States or

to the people of Jersey for free. To re-interview them every time they are presented to the Assembly is really not fair to them. I think everything has been said about this and I present the proposition.

The Bailiff:

I will ask the Greffier to place a voting link into the chat and I open the voting and ask Members to vote.

[12:45]

If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The proposition has been adopted:

POUR: 37		CONTRE: 0		ABSTAIN: 1
Senator I.J. Gorst				Deputy L.M.C. Doublet (S)
Senator L.J. Farnham				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				

Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Deputy Greffier of the States:

Deputy Doublet abstained.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The Assembly stands adjourned until 2.15 p.m.

[12:46]

LUNCHEON ADJOURNMENT

[14:15]

The Bailiff:

Counting at least 25 attendees or more online. Senator, thank you for that observation. Whether people are behind their cameras and there is anyone at the screen at the other end is a completely different question, but one proceeds on the assumption that that is the case.

9. Les Quennevais Park Flats Loan Scheme (P.19/2021) – Rescindment (P.54/2021)

We continue with Public Business and the next item is the Les Quennevais Park Flats Loans Scheme rescindment, P.54, lodged by Deputy Tadier. For the purpose of this debate the main respondent will be the Minister for Housing and Communities. Deputy Tadier, you have lodged an amendment. Do you wish the Assembly to take the proposition read as amended?

Deputy M. Tadier:

Yes, please.

The Bailiff:

Would Members indicate if they are not content with taking the proposition as amended, in which case we can have a discussion about it? Would people indicate in the chat if they are not content? I will ask the Greffier to read the proposition as amended. We have now received a message of not content from Deputy Lewis. The position is it is not a matter for the Assembly to decide. Members are entitled to have these things put separately and therefore we will take it in 2 stages. Will the Greffier please reads the proposition as unamended?

The Greffier of the States:

The States are asked to decide whether they are of opinion – to refer to their Act of 22nd April 2021, in which they approved, in accordance with the Public Finances (Jersey) Law 2019, a variation to the purpose and terms of the 99-Year Leaseholders Fund to enable monies from the fund to be lent to property owners in Les Quennevais Park Flats for the repair of balconies, and to rescind that Act.

Deputy M. Tadier:

Can I seek clarification? Is this being taken as amended?

The Bailiff:

No, this proposition is now taken in its original form, which is not amended. We now have to put the amendment and vote on the amendment. You speak to the main proposition, Deputy. If that is seconded but before we open the debate on the main proposition you then also propose the

amendment and the amendment is determined so people know, when they are speaking finally, whether they are speaking to it as amended or not. Please speak to the unamended proposition first.

Deputy M. Tadier:

I did have a point of order on procedure. Surely, if I am asking for it to be taken as amended then that should be put to the Assembly to decide. I did not think one Member could override that.

The Bailiff:

It has been put in as an amendment. Members are entitled to vote on these things separately. I do not think you can require it to be taken as amended.

Deputy M. Tadier:

But I am not requiring it. I am just asking if Members would agree for it to be taken as amended. That is surely separate.

The Bailiff:

No, the position is that any Member is entitled to require that an amendment is put separately.

Deputy M. Tadier:

That is fine. It is new to me. I had not realised that, Sir.

The Bailiff:

That is fine, Deputy. Please do.

Deputy M. Tadier:

I will make the original proposition and I will perhaps explain in that why I put an amendment into it as well.

The Bailiff:

That might make sense and it will probably make your proposal of the amendment somewhat shorter in any event.

9.1 Deputy M. Tadier:

The original proposition as it currently stands as it currently stands in an unamended form simply asks for a rescindment of the decision the States made on 20th April to set up this loan scheme. Early on it is probably important to talk about the thought process behind that and why it goes hand in hand with the amendment. The proposition was put in after some conversation with colleagues in St. Brelade. I am not saying it happened with the approval necessarily of them but it was part of an ongoing conversation with my colleagues and also the Minister for Housing and Communities, and it was the Minister for Housing and Communities I have been dealing with as the political contact in terms of a ministerial position, although there has been officer support from both Housing and Treasury. That is detailed in my main report. The reason I put the amendment in, if we deal with that early on, is because it would leave us in a no-man's-land, or no-woman's-land, if we were to simply rescind this. It means there would not be a loan scheme in place. It was also done anticipating that the Minister himself had given a verbal undertaking at the time to review the terms of the loan and any changes to the terms of the loan would need to come back to the States anyway. Indeed, the Minister for Housing and Communities has lodged something on Monday that deals with an extension of the period in which anyone taking the loan out to help pay for the balconies would be given up to 15 years rather than 10 if the States were to agree to that. That hopefully gives some context. The other bit of context I think is necessary to give, that I explained in the report, is that it is unfortunate that a lot of the concerns the residents had were not made publicly known to many of us until after the debate on P.19 had happened. I do not make any criticism of that because I know that firstly it has been a difficult 18 months and when we had our public meeting on 4th May at

Communicare, which about 20 householders came to and it is capped at that number because of the ongoing guideline restrictions that were in place. It would have been attended by a lot more. There was a lot more interest in it. Someone came up to me afterwards and said: "We are sorry we raised this fairly late in the day but we have not been kept in the loop. There have been some discussions we have only partly heard of. We have not had a meeting we could have all attended in the last year because of COVID-19." They felt a lot of these discussions were happening without their input. I am not saying that is because their input was not sought. I think a lot of people were acting in good faith, whether it was from the side of Brunels or the Treasury or the Minister of Housing and Communities who had input into these things. Certain people fell between the cracks and it has become apparent to all of us who have been involved that there were certain key facts that we would not have been aware of on 20th April when it came to the States Assembly. I have listed these in the main proposition. They can be listed essentially as 5 themes that came up from correspondence and in the meeting, which was to do with problems with the loans scheme. The first was affordability. There are 2 issues here with affordability. Some people, because of the means-testing nature of it, will not be able to access the States loan. Yet there are many people who own or are leaseholders of these flats who simply do not have the disposable income. They might own over the cap for capital and for income that has been set by Treasury but it does not mean they are, by any means, wealthy or they have that money to hand, or their savings, where there are savings, are necessarily available for spending on those projects. Excuse me, there are cars going on outside and that is not my fault. It is a great tradition, is it not? But it does sometimes impact on us from a noise point of view.

The Bailiff:

We cannot hear it but if it is disturbing you, you have our sympathy.

Deputy M. Tadier:

Strange how the acoustics can work sometimes. It is probably distracting me but I will try to battle on through it. There was that aspect but there was also the paradox that because the loans were offered to individuals who would struggle to get a commercial loan from the bank, the States is offering them the loan themselves but a lot of these people I have spoken to have said: "I simply cannot afford the loan even if it is offered to me on an interest-only repayment with the capital being paid back at some time in the future." I put that to one of the gentlemen so I have used the gentleman as an example. He is on a modest income. It is certainly well below the median wage and I have listed that in the report to my amendment. He has been living with his son. He is a single parent. His son has special circumstances and challenges that means the father has had to dedicate a lot of time to him. He is a leaseholder, so not an owner of the flats, not a freeholder. To clarify the difference, because I think this will be a theme that comes up in the main debate, there are clearly a lot of different circumstances for the 96 flats and the people who live in them and/or the people who own those flats. But 25 of the 96 apartments there are not owned outright by the people who live in them. They are leaseholders on a 99-year lease. They were taken out originally in 1965 so the clock has been ticking on that. They are States-owned properties, so part of the problem we have here is we know, in my interpretation of what has been written, there are clearly admissions of what I will call culpability but I do not mean that in any absolute or legal sense. The States has held its hand up and said these balconies were not built properly. They should have been built properly and they were not built to the original design request, and that was not picked up until a couple of years ago. Therein lies the problem and that is why we are here today. Some of these do not own the flats and some are in a position of never owning their flats outright. If the natural course follows in about 45 years' time these flats will revert to the States, and they are ultimately owned by the States anyway. They are simply leasehold. This gentleman in question is a leaseholder and the way I look at that, although it is not an exact parallel, is that you are effectively a renter. You are renting off the States and you paid your rent in advance on the long lease, and it is yours as long as you relinquish that lease, which will have a value to you but it diminishes over time.

[14:30]

Unlike ordinary property that people expect to continually increase in value, often above inflation, when it comes to a leasehold if you are selling the leasehold, that is diminishing over time because there is less time left on the leasehold. I hope that is understood and it is not controversial to say that. The Minister will no doubt give some technical nuances later if he feels the need, but that is essentially where we are. We have a man probably approaching retirement maybe in 5 years or 10 years' time and his son, who is now a young adult, living with him. He said: "I simply cannot afford to pay this, even if it is interest-only. How am I going to pay the capital back in 10 years' time? How is my son supposed to pay the capital back in 10 years' time?" If it was a bank giving this, they would ask for reassurances about how you would afford it in the future, so there is a paradox that although this is being done to help those who cannot afford it, there is an affordability question for those who cannot afford it. He has told me he will not take the loan and the question that throws up is where does that leave Brunel and the association if some people are not in a position to take the loan the States are offering? One thing I asked the Minister to consider, and Senator Pallett and Deputy Truscott were all at a meeting and it is fair to say we have been working fairly closely on this even though we may have slightly different positions and have drawn slightly different conclusions, so we will wait and see, is that we did not ask the Minister to necessarily extend the period of the loan because it just means of you are on an interest-only you are paying the loan back over 15 years rather than 10 years. It means you are paying more and you have a longer period to wait to pay that loan back. We asked that the means testing be removed. I cannot understand what the means testing serves because there are people who can probably afford to pay back the loan but they do not necessarily have the income to pay for the repairs in one lump sum, which is what they would currently have to do for that. It seems the Minister should have considered that and he has not considered it or he has not acquiesced to that request yet. We asked, given that there is an admission of some culpability on the part of the States, why interest needed to be set at 2 per cent, which is far more than any person would be getting in interest in their own account. There is the other consideration, and I know these are not all definitive arguments for either rescinding or for the States paying for this, but these are part of the complexities that were raised and helps us understand a bit more where people are coming from. The money is being demanded upfront, so although there are 8 blocks of flats, each with 12 units in them, some on the ground floor that do not have a balcony so initially the people on the ground floor were a bit perplexed as to why they have to pay to repair balconies they do not own because it is part of a collective so everyone has a pro rata liability. That is what is usually the case. There are 8 blocks of flats and 8 times 12 is 96 so that is how we get to that number. Because there is one contractor doing all the work it means that while the work may start straight away, it could be a couple of years, and it is likely to be a couple of years before some of the flats get finished. That begs the question, why are people being asked to pay upfront for building work before it had even been started, let alone completed? That is not what any of us would do if we were engaging. You would possibly have to put a deposit down but you would normally want to wait until the work had been done to your satisfaction before you paid for it. If the States had done that in the first place and inspected and signed off the building work thoroughly, we would not be in this position. To recap, the issues they raised with us was affordability, being charged interest on the loan, the potential period of the loan, the criteria for the loan and the last point that kept on coming up is that the fault lay with the Department of Housing of the day. I am minded to switch to the merits of the amendment but I am mindful that the Minister, who incidentally said he is not content for this to be taken as amended, did not indicate that to me in any way prior to this debate and he could have sent me a quick email to tell me or issued comments. I note there has been no comments paper on this amendment or on the main proposition. I am left in a difficult position in the sense that I think the amendment and the rescindment have to go together and I would like to argue on behalf of some of the 96 residents and owners as to why I think the States should pay for that.

The Bailiff:

Surely the position is as a matter of logic they do obviously do not have to go together. The rescindment motion can stand alone and the amendment seeking the payment of the costs of the balconies by the States could stand as a quite separate idea. The right thing for you to do is, if you have concluded the speech you want to give on the main rescindment but you wish to move on to who pays for it at the end of the day, then you probably would wish to move the main proposition now. If it is then seconded, then you can speak to the amendment after that. Would that be of assistance? Does that help you, Deputy?

Deputy M. Tadier:

Candidly speaking, the bottom line is that I would like to be able to debate today, on behalf of the stakeholders as a representative for that district, the States paying for the repairs. That is the understanding I had putting this together with the amendment with advice from the Greffier. The concern I have is if we do not take this as amended then I am asking simply for a rescindment and if the States do not want to rescind the loan scheme, then I clearly cannot debate the amendment. I am in the hands of Members.

The Bailiff:

The position is this, Deputy. It is not a question of it is going to be taken as unamended. You now have the chance, if you move your rescindment motion and you ask for it to be seconded, the next thing that falls to be debated is whether or not you should be allowed to amend it. You can then speak at length to the amendment and if Members are satisfied that the amendment should form part of the main proposition, it will form part of the main proposition that is ultimately debated and that will include, if Members have agreed, the part of the proposition that says the States should pay for it. I do not think that either you or those on whose behalf you bring it will be disadvantaged by this process or procedure. It is just a question of taking it in steps.

Deputy M. Tadier:

Thank you, Sir. I understand that now. I lost my perspicacity and yours is most welcome.

Deputy K.C. Lewis of St. Saviour:

Sir, Deputy Lewis.

The Bailiff:

This cannot be toing and froing. The position is, Deputy Tadier, we are making the proposition at the moment without the amendment but as soon as it is seconded you will then be asked to move the amendment. That is the way the procedure appears to be working. I do not think there is any way of derailing that particular procedure at this point. If you have said all you want to say in support of the rescindment part of the argument then the correct thing to do in my judgment will be for you to simply then move the rescindment. If someone is going to second it, and it is difficult to believe somebody would not second that, you would move straight on to deal with the payment part of it, which is your amendment. Does that assist? I am not sure, Deputy Lewis, that there is any place for you to interject at this point.

Deputy K.C. Lewis:

I was just trying to be helpful. If it is helpful to Members, I will withdraw my objection.

The Bailiff:

I am sorry, Deputy, but it is far too late to do that now. The matter is now being moved and has been read as unamended and therefore it must be dealt with as unamended. It can be cut through quickly from a procedural point of view. As soon as Deputy Tadier has finished making the argument for the rescindment, we will then move straight on to deal with the amendment but we cannot now suddenly have put a proposition to the Assembly unamended and change courses towards the end of the proposer's speech. That would mean that everything said so far has been wasted and we would need

to start again and procedure does not provide for that. Deputy Tadier, it is a matter for you but it seems you can either now formally make your proposition for a rescindment. When that is seconded, we will move straight on to discuss the amendment and Members will then decide whether they accept the amendment. If they do, you can then argue the entire proposition as amended, which is what you wished to do in the first place. But it is too late to change your mind, Deputy Lewis, halfway through the game. What do you wish to do, Deputy Tadier?

Deputy M. Tadier:

Thank you for the clarification. I have almost finished proposing this so I will make some closing remarks and I will do as you suggested. Incidentally, I was confused because it has been such a long time since we have not allowed a mover of a proposition to take it amended.

The Bailiff:

It is quite unusual, yes.

Deputy M. Tadier:

But it is good to remind ourselves that there is a process and this is the normal way that things used to be done, so excuse me for my confusion. In summing up, the reason I am asking for this to be rescinded is to allow the terms of the loan itself to be amended and, as I said in my report at the time of writing, that I was giving further consideration as to whether to ask the States to agree to make the cost of the repair work itself via what I would term an ex gratia payment. That is clearly what I am asking for in the amendment but I still think there is enough merit in the rescindment itself because there are clearly issues that we did not know about that have been presented to us subsequent to the 20th April. Not to mention the fact that the Minister himself is bringing back a proposition to amend that. I make the proposition and ask for it to be seconded.

The Bailiff:

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

9.2 Les Quennevais Park Flats Loan Scheme (P.19/2021) – Rescindment (P.54/2021): Amendment (P.19/2021 Amd.)

The Bailiff:

There is an amendment to the proposition and I ask the Greffier to read the amendment.

The Greffier of the States:

Page 2, paragraph 1, after the word “Act” at the end of the paragraph insert the following words: “and to agree that the full cost of the repair of the balconies shall be met by Jersey Property Holdings.”

9.2.1 Deputy M. Tadier:

To expedite things from a procedural point of view from the beginning, I will ask that the loan is rescinded and the States meet the full cost. In reality, if people want the States to meet the liability they vote for the amendment and if they do not think that is right then they vote against the amendment. I am not going to go back to asking for the main proposition to be concluded unless there is an objection and people want to debate that. Even if, procedurally, that is technically the case, I think we can have one debate here on the merits of the States paying for the work to be done and if that amendment loses then I will take that as message from the Assembly that they do not want the States to pay for it, noting that they will have an opportunity to discuss the minister’s proposal and possible amendments that would be put to that to deal with some of the issues raised in the main proposition. I hope that is helpful. I am not trying to cheat anybody out of a debate and I am also not trying to encourage people not to vote for this. I hope I will make a good and strong case to why I think the States should fund the repairs. Turning to that amendment, I am asking for the Treasury to meet the costs of the repairs to the Les Quennevais balconies, simply because it was an error in the original build that led to the defects with those balconies.

[14:45]

I do not know if it was an act of oversight or whether there was some negligence on the part of the builder or the States was trying to cut corners, whether he did not follow the plans that were in place or it was simply some kind of incompetence. The result is that now, in 2019 or around that time, it was discovered that the balconies had been built incorrectly. I understand it was because the beams put in there were hollow rather than solid and it has made them unsafe. There will be questions about legal responsibility here. In the report the Minister said, and I quote from his main report in P.19 on page 3: "It was explained that there was no legal obligation on the Government to provide support. However, as the fault was the result of the original construction method, it was felt that a moral duty existed to provide a means of assistance to rectify those issues." I do not know if a legal obligation does exist and it is difficult to know if the 96 owners or leaseholders of the flats all clubbed together and paid for legal advice and a suit, whether or not that would be admissible. There is clearly some economic loss that is experienced by the owners and leaseholders here. They are being asked to pay for repairs to their balconies or, in some cases, balconies that they do not own, which are owned by the States of Jersey. There is clearly a reason that they might want to consider a lawsuit, some kind of tort. There are, of course, statutes of limitations and it is not clear here whether they would be successful going that far back or in fact whether or not the fact that this was only discovered in the last couple of years means that they could pursue it. I think the reality is it is very difficult to take on the States with its deep pockets when you are a group of disparate individuals who simply share the same circumstances of living within the same association. I am not going to focus too much on the legal arguments but I am going to focus on the ... and I was expecting a question to the A.G. (Attorney General) at some point. I am wondering if that is to be dealt with now or maybe when I finish my speech. I am happy to give way now if that is in accordance with procedure.

The Bailiff:

It can be but it is a question for the Attorney General and Deputy Morel has indicated he has happy to do that after you have concluded your speech, Deputy.

Deputy M. Tadier:

Thank you. That is helpful. What I want to focus on here is irrespective of what legal responsibility the States today might have on these residents, and I do not want to go down that rabbit hole because that is not the principal argument I am making. I am making the argument that we have a moral responsibility to the tenants and the owners in the same way that the Minister has used exactly the same words that he felt there was a moral duty that exists to provide a means of assistance to those owners. I guess it is good that we agree on that. If you have a good starting point then you can explore your common ground. I suppose the main difference here is that I come to a different conclusion. I say because you are morally responsible for the defect and the ongoing liability that is being passed on to the modern-day owners, you also, therefore, should have a moral responsibility to pay for it. I know arguments will be made, well, if you bought your property off a private seller and you discovered a problem with it later then you would not be able to claim off them. I think the States should hold itself to a higher duty of care than that. I see this very much as a form of redress. A fault has been made aware to us and those who have bought the flats, it has been made aware to them as well that there is this issue. We do often produce redress after an event even if there is not strict legal liability. The Minister also went on to say that: "It is considered that even in the 1960s the expertise of the architect, engineer and contractor should have highlighted the risks and swayed the decision away from using such beams on the balconies." He continues that: "The Minister for Housing and Communities believes that the States should assist the residents with the costs of the repairs because the flats were built with a fundamental defect that ought to have reasonably been avoided." So I think the moral argument there is very clear: this could and ought to have been reasonably avoided. It was not and for some reason it was never picked up at any of the survey stages either when it was built. When some of the flats were signed off from leasehold to freehold, the private structural surveys did not seem to flag this up although some individuals did realise that there

were problems with the balconies themselves and they managed to fix them themselves, one family using fibreglass to do that and they have not had a problem in the last 25 years with it. They paid for that themselves but he was somebody who had the wherewithal and the knowledge to do that. So the moral responsibility, I would argue, is for the Minister to offer financial assistance not in the form of a means-tested loan repayable with interest but to pay for it themselves. This has been going on for quite a long time and there is a fund that is being set up, the 99-Year Leaseholders Fund, and there is money that has been accrued to the Treasury from these residents when they have switched from the 99-year leases to the flying freehold. They have effectively bought that out and they have paid the difference for that. That is money which the Treasury has already got from them. There was the leaseholder money that was put into the kitty in the first place. This is not them asking for a handout of taxpayers' money. These are people who have in good faith bought or acquired different types of property, either leasehold or freehold, from the States and it has not been fit for purpose and it is as much a consumer issue as it is one of affordability for those individuals. I have given a couple of examples in that. I talked about the single parent in the flat who is paying a mortgage - this is an interesting scenario - for a flat that he does not actually own and it is to pay for the leasehold. He has given a lump sum at some point to purchase the leasehold and he has to pay the rent every month. As I said, most people who pay rent to a landlord are not expected to maintain their buildings. I know that this is slightly different, there is a responsibility within the contract to pay for the upkeep. The States normally pay for it and then it is recharged to the leaseholders, but this is a different scenario. This is a scenario of an original construction failure, which we are asking some of the poorest residents of these flats to pay and I personally do not think that is fair. This is something that the States can afford and I think should afford to do. He is not the only leaseholder in those 96 flats. I do not want to talk too personally about any of the individuals but there are equally other individuals who I would classify as much more vulnerable, some of whom I have known since young, who have only lived in that area. They are not people who have acquired properties to try and flip and sell on. They are people who have acquired a leasehold and they are quite happy with that and brought their families up and who simply, if I am honest, would be in social housing if it were not for the fact that this kind of scheme was put forward in 1965. Another owner has said to me: "We are not rich. If we were rich people are suggesting we should sell these flats and move somewhere else" but they pointed out these are some of the cheapest properties that you can acquire, cheapest homes that you can acquire and live in in Jersey, and they are quite happy with that. They love the area that they are living in, they have got these flats and they are quite happy living there but they are not in a position to have the disposable income. When we look at the ceiling that has been put on by the Minister, it is £10,000 of savings. If you are above that then you are supposed to pay for these repairs yourself, but we know that having £10,000 in the bank, a lot of these people who have that kind of capital have saved it for a particular reason. It might be because they have got children going to university, it might be because they do not have a proper pension. Indeed this couple said: "We have got savings of about £10,000 and this money is being put away for our retirement to help subsidise our poor pension because we do not have full contributions." They are doing that, they have done the right thing and this money simply is not available. In conclusion, I would like to bring it back to some fundamental points. The original building work was signed off by somebody from the States who signed off those structures and nothing was picked up. The flats were built with a fundamental defect that ought to have been reasonably avoided. Now these are the words of the Minister; this is governmental spokesperson words. The second point is that the fault was the result of an original construction method that was faulty. The Scrutiny Panel as well has said that they felt a moral duty existed to provide a means of assistance to rectify the issues. I know that lots of Members here listening to this will have sympathy for the residents and the owners but, quite frankly, it is not our sympathy that they want. It is some kind of tangible acknowledgement that this is not their problem. They are being faced with an economic loss due to something which the States caused. It comes back to the point of who caused this problem and who is being asked to pay for the problem. In terms of natural justice, and I apologise if it is a slightly quaint and simple notion, it was not them who caused the problem, it was the States who caused the problem. Who is it that is being asked to pay

for the problem? They are being asked to pay for the problem. It should not be them who should be paying for this. It should be the States to pay for rectifying this issue. I will just add that one of the other principles of natural justice is in Latin - I am not a great Latin speaker, incidentally - *audi alteram partem* or hear the other party. I think what has been absent up until this point is that the voice of the owners and the leaseholders has not really been heard. I know that thankfully ... I do want to acknowledge the work of the Scrutiny Panel because they did a piece of work looking at the loans. They were not necessarily engaged or they did not have the same problems flagged up to them at that point that they perhaps know about now, but also Senator Ferguson, she is the one who was really stepping in at the beginning and some of the flat owners asked to engage with Senator Ferguson. I am really grateful for what she has done. She acknowledged that there is a problem here and I think very much a compromise position was come to around having this loan scheme, which again I acknowledge has been done for the best of intentions but is flawed for so many reasons. So not only am I asking for that rescindment today but I am asking that we rescind it and that the States pay for this. I do want to address, finally, because it is a strong argument that will come up, the issue about precedent. Indeed it has come up in some of the conversations I have had with my fellow local representatives in the area. There is a concern that this will set a precedent. The first question I would ask is: a precedent for what? Are there lots of properties out there which have been sold to the public from the States, which have been badly constructed and which the States and the Minister have written a document saying: "We acknowledge that we are guilty of these construction errors"? I do not think this is going to set a precedent. I think this should be seen very much as a one-off situation in which there has been a specific acknowledgement right through that this was not the problem of those who bought it, that it could and should have been picked up at the beginning. Those are the words of the Minister that this could and should ought to have been picked up at the time but it was not.

[15:00]

I do not think we are going to find ourselves in that situation again where we are presented with a historic problem, which the Minister has admitted to in writing, and then which we are being asked to pay for. I do not see that, but even if that is the case and somebody makes the same argument for a block of flats in their constituency, it will still need to come to the States and they will still need to argue that on the merits of the case, which is what I am doing here today. I think those are the main points I wanted to cover and I do remind Members that there will be questions to the Attorney General but I am not interested in the States legal responsibility in all of this. I am interested in the States moral responsibility about doing what is right to my constituents but also to Islanders generally who have bought properties or leased properties off the States in good faith only to be faced with huge bills that they cannot reasonably afford to pay and that they, I would argue, should not have to pay.

The Bailiff:

Is the amendment seconded? [**Seconded**] Does any Member wish to speak on the amendment? I beg your pardon, Deputy Morel, you have a question for the Attorney General. I had forgotten that. What is your question?

Deputy K.F. Morel:

The question relates directly to the part of the speech where Deputy Tadier started asking or speculating there may be legal grounds for a kind of a legal review of the situation. I wanted to ask the Attorney General, in his view is there a likelihood that the owners or leaseholders would have such grounds? From my perspective, and obviously I am very far from being a lawyer, I have always thought of Jersey having a buyer beware element to purchase of property, so I personally do not see legal grounds. If the Attorney General might, without opening the floodgates to any legal challenges, be able to advise the Assembly.

The Bailiff:

Mr. Attorney, are you able to assist the Assembly with regard to what the legal remedies, if any, might be at this time?

Mr. M.H. Temple Q.C., H.M. Attorney General:

Sir, yes, I believe I can. I should stress before I start that I ...

The Bailiff:

I am sorry, Mr. Attorney, you are breaking up. It is not clear coming through at all. Shall we try that again? Mr. Attorney, are you able to hear us? What we will do is we will proceed with the debate and we will seek to come to the Attorney General in due course.

9.2.2 Deputy J.H. Young:

I was going to hold off for the Attorney but I thought I would fill the gap, as it were. I am grateful to Deputy Tadier because listening to Deputy Tadier, he does spend a long time on his speeches, and it is not a complaint, but on this occasion he has filled in a lot of gaps for me, which I did not know about this. In particular the things that I have picked up there is that here are buildings that were built in the 1960s, presumably as part of States loans arrangements were sold through leases, 99-year leases they were sold on with States loans presumably. Then later on, I cannot remember exactly when, probably a number of years ago, freeholds were offered and a majority of people have bought those freeholds. Of course, what we have got is a mixture of people. We have got some people in the flats who have bought the freeholds recently because these get transacted frequently, I would guess, because they are attractive flats for people in the market. Some will have been the people who have bought their leases or transferred their lease to a freehold and are still there and then other people are original leaseholders who have not been able to take up the freeholds and, of course, most of those people are likely to be of advanced years and they are facing different situations. The leaseholders are in a position where of the 99 years, 56 years has gone, so they are on declining assets. My guess is that the more years that go on those assets will be worth less because people will not be able to buy those leaseholds and no bank is probably going to give a loan on that basis. I am getting a lot of echo, Sir. Is it me? I do not know whether to ...

The Bailiff:

There is some echo. I am advised by the Greffier if you turn your volume down a little bit, Deputy Young, then we may be in a better position. We can still hear you though.

Deputy J.H. Young:

Okay. It means I will not be able to hear you, Sir, but I have done it. So we have got the leaseholders in that situation on a declining lease. I particularly was very concerned to hear that there is a requirement for people to hand over their savings, because the Deputy is right, in advanced years that money really is important to people because of their low pensions because we know a very large number of people do not receive Jersey pensions and every time we fix the pension rate those people only get a portion of the pension. I think the last figures were around about just under 70 per cent of pensioners are on full pensions but a lot are not, and that is their only hedge against living costs or they may want to give money to their grandchildren for their schooling or something. To have a scheme whereby you have to pay that over really troubles me. Secondly, the idea of extending a term does not seem to work either because, as the Deputy said, it leaves the situation of how they are going to repay that at the end, even if they just pay interest only at some point unless there is some arrangement in the loan. For me, I think that loan scheme sounds as if it has got some holes in it and it leads me to wonder whether the solution being proposed is the right one, because to me I think the obvious thing to have done would be to go back and change the loan scheme and make it much more flexible. I do have some experience of this in a previous life where there have been incidents in Jersey where people faced major structural problems. I can remember a landslip once in a number of States-owned properties and there was no bank that would fund it. The States put together a scheme and provided flexible funding to enable those people to basically recover their homes that

were at risk, and that was flexible. So I think the loan scheme we have got here is plainly far too ... why has it got no restrictions at all, I wonder. Then we have this question of the defects. I do not think I am persuaded at the moment that the answer is for the States to just say: "This is a real mess, it is a real shambles, let us just put our hands in our pockets for this." We are talking probably £1.2 million, I think, on the figures we have seen, 96 flats at £10,000 to £12,000 each. That is £1.2 million, so it is not a minor matter. But of course the question to ask is that when people transact property, and a lot of these properties will have been transacted, normally you have a survey. As I think the Deputy said, there is a question what was known at the time properties are transacted. I will add to the A.G.'s questions that when he comes in perhaps he might answer it. My understanding is that in transactions of property, the seller has to do a response to questions from the purchaser and if there are things said in that representation that does not disclose honestly what is known about the condition of the property, it seems to me that there is some potential route of redress. Of course, that would be on an individual basis, but I am also troubled, because I did not know this, that the property is managed by a private property manager. The question I ask is: what was their role in this? Did they not know? When was it known that this defect was there? I am a little bit worried that this might be longstanding because in the Deputy's amendment he says that one of the people he had spoken to said: "When we were originally told it was going to be about £3,000 or £4,000 to put it right and now it is £10,000 to £12,000." That suggests to me that this has been known for a long time and if it was known I ask why in some cases was it not disclosed? Of course the position of freeholders is different because even if there is this liability, I would be amazed if these owners have not achieved capital value, particularly with the astonishing rise in the property market. I think we have a situation where the effects will bind on different owners differently. I think myself I would want to go back to that loan scheme and sort out of the snags of it and find a way, unless of course there is evidence of a misrepresentation when those properties were transacted or intentional nondisclosure, which I would certainly value the A.G.'s view on, because if there is it seems to me it is something that should not be ignored. Of course, it is not unusual, in my experience, that building standards in Jersey have massively improved over the years. Up-to-date building regulations were not really introduced until the late 1990s and since then fortunately, particularly on residential dwellings, we have had much better constructional standards. The reality is, I am afraid, there are a lot of properties in the Island that predate those building regs that really do have non-compliance with building regs and if any work were done to them they need to be brought up to standard. Thankfully most of those issues are not critical, but of course in the case of flats they are much more troublesome because they have to be done for all of the occupiers of the multi-occupation unit and not just one. So here you are in a situation where you have to have solutions that are collective, but I still question whether the amendment should be: "Look, let us just write it all off and let us just pay the costs for the taxpayer." I question whether that is the right one but I have absolutely got sympathy and there has to be a solution. How I am going to vote I am not sure because this is all of a bit of a mess, I think, procedurally. So, anyway, that is my contribution to the debate and I think the Deputy has given us a lot to think about, but we do need to find a way of helping these people.

The Bailiff:

Sorry, Deputy Young, you appear to have frozen. Have you finished?

Deputy J.H. Young:

I am sorry, Sir. Yes, I finished with the comment, which I will just repeat to say we do need to find a way of helping these people even though the proposition is, I think, a bit of a mess and I do not know how I am going to vote.

The Bailiff:

Mr. Attorney, are you able now to offer the advice that you were cut off from offering?

The Attorney General:

Yes, Sir. Can you hear me?

The Bailiff:

Yes, we can hear you.

The Attorney General:

I apologise for the poor connection, Sir. I was about to answer Deputy Morel's question and before I do so I should just state that I am only advising on the basis of the papers as lodged. I have not studied any of the underlying contractual documentation that relates to these particular properties. In terms of potential legal liabilities of the States, the principal form of liability will be a contractual one but, in my view, there are some fundamental obstacles to a contractual liability to be established against the States in relation to these properties.

[15:15]

The first is that, as I think Deputy Morel was alluding to, the form of buyer beware principle, and that is in Jersey property law the standard form of contract, includes what is known as a *vices cachés* clause or *tout tel* clause, whereby the buyer agrees to take the property on the basis as it is, including its *vices cachés*, which are its hidden defects. That would encompass both physical defects with the property and potential title defects as well. That is the first obstacle to legal liability. The second is, as I understand it, these flats will have changed hands, perhaps not all of them but the majority will have changed hands at least once or perhaps more since 1964 or 1965. The formal contractual remedy there would be against the previous seller of the flats who may not be the States. It may be a private individual. On each of those transactions there would have been a form of due diligence carried out on the property, which in recent years would have included the property questionnaire whereby a seller of the property is obliged to give information about the property which may include physical defects of the type that I understand is in issue here. Then the third significant legal obstacle would be the principle of prescription of claims, and that is basically once a certain amount of time has passed then claims may become prescribed so that they are no longer being able to be brought in law. The reason is that there has to be a point in time where a person knows that they are free of claims and it becomes difficult or impossible to have a fair trial in relation to the particular claim because, for example, the witnesses are dead or the documentation has all gone astray. In this case, we are dealing with properties built in 1964 so it would be reasonably expected that most of the parties - the builder, the architect, the surveyor - will be dead at unable to offer evidence that would assist the court in determining legal liability. The other form of liability would be tortious liability. That would be a claim in negligence against the architect or surveyor. But again those people are likely to be dead and the prescription for a tortious claim is generally 3 years unless you can establish certain principles that was impossible for you to bring the claim. I hope that assists Deputy Morel with his question. But I will answer further questions of course as Members wish.

9.2.3 Deputy S.J. Pinel of St. Clement:

I must admit to being a little perplexed as to why Deputy Tadier is suggesting that the States need to fund the cost of these repairs. Simplistically, if I was to purchase a car or house it would be my responsibility to undertake the necessary surveys or checks before completing the transaction. The new asset would become my property on a bought as seen basis and it would be highly unusual, if not impossible, for me to revert to the vendor and seek payment for future repairs several years or decades later. Members are hopefully clear on the Council of Ministers' views on the Deputy's amendment. I can only repeat those views. A Minister for Housing had bought a perfectly acceptable solution, which has already been received at the Assembly's agreement, and which Deputy Tadier had more than ample time to amend when it was originally presented. My main concern with the Deputy's amendment is one of financing. He highlights the well-publicised cost of approximately £1.25 million for these repairs, which he expects Government to pay and which, at this present time, is unfunded. In the debate on P.19/2021, the Assembly approved a variation to the purpose and terms of the 99-year leaseholders' fund to enable the monies from the fund to be used for the provision of loans. That fund does not have unlimited resources and it does not contain the £1.25 million required

by the Deputy's amendment. The current balance is approximately £760,000. I am advised by Jersey Property Holdings that they do not have sufficient available budget remaining in 2021 to cover such significant costs. This leaves only 2 solutions. A provision for the cost of the repairs could be included within Government Plan 2022 - 2025, which will ultimately be approved by this Assembly or I could try and identify unallocated funds in the general reserve, which can be utilised. The issue with the former solution is one of timing, as it will create a further period of uncertainty for the property owners and there is no guarantee that the Assembly will approve the allocation of funds. The latter solution presents a more difficult scenario as given the ongoing uncertainty presented by the COVID pandemic, and Government's ongoing support to Islanders and their businesses, I do not foresee that there will be sufficient funds available for me to allocate, in good conscience, to this scheme. A clarification in addition to the Attorney General. The terms of the leases are very clear. The 99-year leases meet all costs. No annual rental is paid. The 99-year terms were sold in 1964 for £2,600. The provision of a loan scheme remains the most sensible solution for residents who are unable to access or afford commercial loans or fund the cost of the repairs from their own resources. The use of public money to fund these repairs when there is no clear legal liability on the States to cover these costs sets a dangerous precedent for the future and the potential for unquantifiable expenditure in the years ahead. For all the reasons I have outlined, I urge Members to reject the Deputy's amendment.

9.2.4 Deputy J.A. Martin:

I think Deputy Young made some good comments but this is a mess. So we had a loan scheme put to the States that had been worked on for quite a while presented by Deputy Labey and he said at the time this is because some owners cannot afford the commercial loan and we are trying to be helpful. They are to the point now where they cannot even get building insurance because of the balconies. It was very, very important that that loan went through and people were able to use it. Deputy Tadier had not heard too much about it and then straightaway, or a few weeks later, just before he met with the Minister for Housing and Communities, he put in a rescindment motion. Then obviously realises it helped nobody because they would be no further forward. The people still could not get the loan, if they could not get a commercial loan, and there was no money. Then we have an amendment, which is what I am probably talking to today, to find £1.2 million of other taxpayers' money to help out 96 flat owners. Now, in his own proposition and his speech the Deputy said 96 flats, some of those owners would not even be able to go in the scheme because it is means-tested so it is means-tested to a point meaning they either have quite a good income or X of savings, et cetera. But the other people, depending on the size of the flat, one or 2-bedroom, could be paying between £10 or £100 a month. The Deputy also said that these are some of the poorest places on the Island but they like living there. Have they not accrued a nice capital asset? There have been people paying rent since the 1960s longer and longer, more and more rent, they do not even own part of a balcony and they are never likely to, and they never have any capital. They will not have a sow to pass on a deposit to their children. I wrote down as well "buyer beware" but most of these are not even the buyers. These are the buyers off the buyers and sometimes I think, as the Attorney has just explained, your liability goes less and less once it has been sold once, maybe twice, but it is always on you to do the proper surveys, structural and otherwise. I understand the Deputy wants to help. The loan did help. It helped the people who could not get the commercial loan. Deputy Labey has lodged or is in the process of extending it from 10 to 15 years, so those monies will be a lot less. At the same time, you have got people there who possibly cannot get, as I say, which is a much more worry if you cannot get your building insured because anything happens you have no comeback. Your nice capital is rubber or something and you just have no comeback because you have no insurance. I really think that today we have to throw this out. I am not rescinding the good scheme that Deputy Labey, which I think he had inherited from the former Minister for Housing, this was not put together overnight. It was how can we help. I just say to States Members - I will end on this - Deputy Tadier says we could be setting a precedent. We have sold houses, little bits of houses on and off from the 1960s but in the late, I think it was around 2008/9, Housing itself passed you could buy your own home. If

some sitting tenants could not buy the house that was being sold they offered to move and they sold it to another tenant. Are we 100 per cent sure they were all ... everything checked? Because this £1.2 million could come back and absolutely bite us. Not that we have got the £1.2 million, as the Minister for Treasury and Resources pointed out. I think the loan scheme, especially with the 5-year extension, is a very, very feasible, easy scheme. I suppose the Minister for Housing and Communities, if he did want to look at not making it means-tested so everybody could go into it, that is the only other possibility. But if it is being paid out of the £700,000 that the Minister for Treasury and Resources says is in the leaseholders' pot there would not be enough for 96 flats. Again, that would not work so I think ... it was in a mess, Deputy Young. It has been made a mess and it was made a mess because somebody thought they would rescind the loan and then somebody realised that would be an even worse decision. "I know what I will do, I will get the taxpayer to pay." It really is not down to the taxpayer to pay this. As I say, all these people have got a capital asset that I think the Minister for Treasury and Resource said paid £2,600 for. Even if they paid £10,000 or £15,000, which I know houses up the road sold for around the mid-1960s to 1970s, with property prices today it is what it is, so they have a good capital asset and they bought it. It just happened to be bought off the States. If they say morally we are accountable, I do not even think we are morally accountable. You pay your money and you take your choice, and that is what I say. I am not buying into this and I am not voting for the rescindment either. The loan should stand and the Deputy be allowed to put his amendment and increase it to 15 years.

The Bailiff:

Before we move on, Constable of St. Mary, obviously thank you for your contribution to the Greffier's fund as your phone went off during the course of the hearing.

9.2.5 Senator S.C. Ferguson.

This started because I was aware of the problems with the ... in fact the occupants of the flats came to see me because of the problems with the balconies and the queries about the insurance and so forth. Yes, I think Treasury have leaned over backwards with the amendments to try and accommodate the occupants who are having problems.

[15:30]

But originally my main concern was that the remediation should be done at a level which could be afforded by the occupiers of the flats. There was obviously a degree of urgency since some were wanting to sell their flats and there was the question of the insurance. I did wonder whether, like the shared equity schemes, any outstanding balances in case of anything happening to the occupants, that balance should be available on sale or on death. I think a major lesson to be learned, and something if the States are selling property, it should be a very strong recommendation by the States ... the lesson is that the purchaser must do their own survey and should not rely on the seller's survey. Perhaps the purchasers were a bit naïve but they should not have relied on the survey by the States. In this case, most of the purchasers relied on the survey by the sellers. The States have been making every effort to assist with the amendments and I think we need to take a step back before rushing in with a rescindment.

9.2.6 Deputy K.C. Lewis:

The Les Quennevais Park Flats were built over half a century ago, the best part of 60 years. Normally where a contractual relationship exists between a developer and the purchaser, a claim against the developer can be made for a period of up to 10 years. In the case of the Les Quennevais Park Flats, this period has long since passed. The apartments were built in 1964, and it is now virtually impossible to determine what led to the balconies being built with beams rather than in-situ concrete. It has not been possible to locate any structural engineer's detailed drawings, or any contact records of decisions made by the design team or contractor. Therefore, it is impossible to make assumptions about what happened at the time and who was responsible. It must be recognised that buildings deteriorate and components end up failing through time. It is not clear that the use of the beams for

the balconies is the only factor in the defects seen at present; age is also a factor. Members should note that the current owners of the flats are not the original purchasers. The original purchasers could be said to have links to the Government as the provider of the apartments in the 1960s but subsequent purchasers acquired the flats under normal market conditions, taking a view on the level of due diligence undertaken at the time of purchase. In response to the Deputy's amendments and the amendments to the amendments, Jersey Property Holdings did not build Les Quennevais Park Flats and therefore the proposition that J.P.H. (Jersey Property Holdings) should pay the cost is unreasonable. If Members decide to approve the Deputy's amended proposition, J.P.H. does not have the budget to pay for these repairs. The offer of low-interest loans is intended to assist the owners who would have difficulty paying for the repairs. I commend the Minister for Treasury and Resources for introducing the loan scheme as I believe this to be a fair resolution. Simply paying for the repairs using public money, for the reasons stated, would not be an appropriate use of the public money and risks setting a harmful precedent for any defect arising on any residential unit built by Government. I will end by this important point and I urge Members to reject both the proposition and the amendment to the proposition. I will just make a point of the leaseholder's statement, the statement on the leaseholders and the flats reverting to public ownership at the end of the 99-year term in 2063. Any leaseholder can convert to co-ownership at quite a modest cost and it was a very fair cost when first offered in 2010. The terms of the lease are very clear. The 99-year leases are all made at cost, same as any long lease, no annual rental is paid, and the 99-year terms were sold in 1964 for £2,600. As pointed out by previous speakers, it is a very modest cost in the whole scheme of things to upgrade the balconies. Obviously public safety is paramount and all the departments, Treasury, Housing, and indeed Jersey Property Holdings, have done all they can to assist people in these flats. I also recommend that Members reject both parts of this amendment and support P.71, which the Minister for Housing and Communities is bringing shortly, to extend the period of loans from 10 to 15 years.

The Bailiff:

A point of order, Deputy Tadier.

Deputy M. Tadier:

I hope it is a point of order because it relates to something the Minister said, which is not factual, and therefore might be inadvertently misleading.

The Bailiff:

I am not sure if it is a point of order because that would require the Chair to rule on whether or not in fact there was an error made and that would not be possible I do not think. Could it be possibly a point of clarification that you are asking the Minister to give of his speech?

Deputy M. Tadier:

We can do it that way if it is easier and if the Minister agrees.

The Bailiff:

Do you give way for a point of clarification, Minister?

Deputy K.C. Lewis:

Absolutely.

Deputy M. Tadier:

I just noted that the Minister referred to my amendment to the amendment and I cannot comment on why he would do that but clearly there is only one amendment and there is one proposition. Would he clarify that is the case and he misspoke?

Deputy K.C. Lewis:

I was referring to the Deputy's amendment to his own amendment, where basically it says that Property Holdings should pay. So it was the Deputy's amendment to his own amendment I was referring to.

The Bailiff:

That is where the confusion lies, Deputy Lewis, because of course there is no amendment to the amendment. Deputy Tadier's proposition is a standalone proposition and there is one amendment to it. So what you probably meant to say was his amendment to the proposition. Is that correct?

Deputy K.C. Lewis:

Absolutely, thank you.

The Bailiff:

Does that assist, Deputy Tadier?

Deputy M. Tadier:

Thank you.

9.2.7 Deputy R. Labey:

Here we are again and this debate is already getting repetitive. So I just want to speak very briefly just to the 2 options before us today to rescind the loan scheme and go back to square one. Deputy Martin is absolutely right, that would have implications, and do not forget some of the residents of these flats are in limbo. They cannot sell them at the moment. The insurer is hanging on but it would be very dangerous if the insurer decided to pull out. There is a risk of the contractor, who has agreed to do this work, I think he could do it a year or 2 ago, might throw in the towel as well. So there will be a retendering process and we probably can all guess how that would end up. So it is time-critical, so I think a rescindment is not a good idea at all. On asking the taxpayer to foot the £1.2 million bill, that is a very clear option for Members and one of conscience I think, the individual conscience. I personally cannot justify that in my conscience because I do not think it is an appropriate use of taxpayer money, with the greatest respect to the Les Quennevais residents. I am sorry, but I do not. So I personally am going to reject that. Deputy Tadier is doing his job as a constituency representative, I have no beef with him at all and I understand that, but I cannot accept it. Then there is a third option of course coming down the line because of my proposition to add a 15-year repayment option to the 10-year option that is already there. That was something that I got agreed with from all the St. Brelade representatives who I called to a meeting a couple of weeks back. That was one thing that we all thought was a good idea and that I pressed ahead with, fully expecting that proposition might attract amendments and Deputy Tadier has made a good point about perhaps a relaxation of the conditions in terms of the testing for the loans. He is very welcome to amend my new proposition, and anyone else, to see if we can get to something that is agreeable. The reason why I even went down this road, after having a unanimous decision on the loan scheme, was that Deputy Tadier has alerted me to cases of serious hardship. We do not want to see anybody in that sort of situation. I am not going to talk any more. Those are the options before us. We can dispose of this one fairly quickly and we will keep working on the loan scheme and around my new proposition. I would hope that the States might agree to take it early so we can get this done before the summer recess.

The Bailiff:

Connétable of St. Mary, you have indicated by switching your light on you would like to speak. Of course we are now doing all those indications in the chat, but I will call you as you have given an indication you would like to speak. But could I remind you in the future to participate through the chat so other Members know you have asked to speak.

9.2.8 Connétable J. Le Bailly of St. Mary:

I feel very sorry for the property owners. They bought in good faith. Maybe the properties have changed hands since. These flats were built in the mid-1960s. There were architects, structural engineers, builders, who have long since gone, as these were basically States-provided housing built by Parkinson Builders Limited, a U.K. company who was brought in for that purpose. Above all, we had our States planning and building inspectors, so we have 5 independent checks. It appears that none of them did any checks. At times, faults do not get picked up, even by surveyors during property sales. This may be a simple waterproofing solution or it may be structural and more serious. I believe this to be mostly a moral issue and believe the States to be at fault and should certainly help these people in some way.

9.2.9 The Connétable of St. Brelade:

I noticed, as was mentioned just now by the Connétable of St. Mary, that the situation with low-cost properties built by the Sir Lindsay Parkinson Building Company, now incidentally defunct, have not been without precedent of defects of a similar nature to what we are experiencing here, particularly with regard to steel concrete-encased beams. The present situation is far from satisfactory in that attempts have been made to resolve it over the last 10 years without result. My panel's comment paper to P.19 summed up the evidence we had at that time. The existing status of the structure dictates that it is difficult to get the properties properly insured. The ability to resell them is compromised, as is their value, unless the work is done. Something has to happen. Notwithstanding that, I fully sympathise with the residents affected and the concerns that have been given to them. It has become clear since the adoption of P.19 that the variation of type of ownership is significant and that certainly was not clear at the time. Consequently, circumstances are much and varied, as has been explained by others. There are some who are still leaseholders and others who may be tenants. So there will be an inevitable increase in rental, it seems to me, if landlords or freeholders' costs increase. It has to go down the line. There will be some who may have purchased at a reduced price as a result of the perceived defects. Should they receive a pay out or an assisted loan from the Government? I am not sure. It must not be overlooked that those who have transacted will have had the opportunity to have the property surveyed like everyone else, and those that did not maybe should be talking to their legal representatives and surveyors. That once again has been mentioned earlier. The properties will, it seems to me, increase in value. So it is for the property freeholders to elect whether to recoup their costs from tenants or to wait until the properties sell at a later date.

[15:45]

It may be the case that in situations where the Government are still freeholders that work may well be the best course of action as the expenditure will be recouped in the fullness of time. There is a question from some residents, which asks what the States pot of money or leaseholder fund has accumulated, and the Minister for Treasury and Resources expanded on this earlier. But could it be used to contribute to some of the costs of the remedial work? It is clear that there is a risk of setting a legal precedent by adopting the proposition and I find this of great concern. In conclusion, I do find it difficult to balance the needs of property leaseholders or flying freeholders against those of the public of the Island who one could argue will be disadvantaged if we were to follow the Deputy's proposition.

9.2.10 Senator S.W. Pallett:

Just briefly, because I think the argument has been well put in regards to precedents set or potentially that could be set and a lot of the issues in regard to this, so I do not want to lengthen this debate any longer than it has to be. But Deputy Tadier mentioned that myself and Deputy Truscott have discussed this matter with him, and he is quite right that we did and we did go to a public meeting with the residents to hear what they had to say. But I think in regard to the amendment, I just want to be clear that I neither encouraged nor supported bringing this amendment because, as I said to Deputy Tadier when we discussed this, I did feel that it was setting a precedent. I got some independent legal advice myself in regards to property purchase and it was clear that there was a risk of further liability for the States if we went down this route. So I did not feel it was the right route

to go. The Minister for Housing and Communities, within his report for P.19, did mention around some moral responsibility of the States in regard to work that was carried out some 50-plus years ago. I would just be interested to know whether he took any legal advice before he made that comment. Because I think it has opened the door, and I do not blame Deputy Tadier for taking this route because many will feel that the States do have a moral responsibility to do something here. But it also opened the door for this particular amendment. We do have a moral duty to assist the residents, but a lot of the residents are in a different position. There is a smaller number that clearly do need some support if they are going to take a loan out. I want to speak on that when we talk about the rescindment proposition. But they are all in a different position and there is a moral responsibility to help those that are in a less-fortunate position. There are some that are quite happy to get on and pay the amount upfront just to get the work done. Because many of the residents clearly are concerned that, yes, they cannot get any insurance, but they are putting their properties unduly at risk. But the main issue is around precedent and, if the States were to agree this, how many potential cans of worms there are lurking in the background with others that may feel that they have taken on a property with hidden defects that they now feel the States should pay for. It is concerning to me and I am sure it is concerning to other Members. So I cannot support this amendment but I do want to speak when we come to the rescindment notice and about loans, because there is a clear need for loans to be offered to residents and those loans need to be as flexible and as open as possible. But I will speak on that later. Like I say, I cannot support this amendment as it currently stands.

The Bailiff:

Deputy Tadier, you have a point of clarification? Is that a point of clarification of the previous speaker?

Deputy M. Tadier:

Yes.

The Bailiff:

Senator, do you give way for a point of clarification?

Senator S.W. Pallett:

I will help the Deputy if I can.

Deputy M. Tadier:

I am trying to be mutually helpful. The Senator said that he did want to speak when it came to the rescindment. I gave an indication earlier that, if this amendment fell, I would look to withdraw the main proposition. So, I just wanted to ask if the Senator has not finished speaking. It is obviously up to the Assembly whether I can do that but ...

The Bailiff:

That is not a point of clarification but it may be a helpful interjection, although “helpful interjection” is not an animal known to Standing Orders. Do you wish to clarify, Senator, whether you have finished speaking in the light of the question raised to you by Deputy Tadier?

Senator S.W. Pallett:

I will not carry on for very long, I will probably just pick up a couple of points and then finish speaking and not speak if there is a debate on the rescindment.

The Bailiff:

Do you wish to carry on speaking?

Senator S.W. Pallett:

I will carry on very briefly.

The Bailiff:

Then your speech has not ended. Carry on please.

Senator S.W. Pallett:

In regards to 2 options, I think there are various options open to the residents, interest-only is one that I knew we spoke to the Minister about and that has been spoken to residents. That will not appeal to a lot, but it may appeal to some of those in later life that feel that, if the States are agreeable, that they could pay interest-only until the point at which the property is sold. Another option - and I know it is one that a lot of people now use in terms of releasing capital on their property - is an equity release and maybe some may feel that they would much prefer to pay the sum upfront and just take an equity release out, which will be repaid again on the property being sold. Again, it is not all 96 owners that are going to need a loan. There is a much smaller number than that that are going to need it. I hope the Minister will be as flexible as possible in what he can offer the residents because there are some that are desperately concerned about being able to pay a loan. We do need to try to talk them through and help them. I know the Minister is doing that. He has made it quite clear that he has members of staff that will talk the residents through what is available and make it as easy as possible. But we do need to do that; we do have a moral duty to assist. But like I say, I do not think we have a moral duty to put right any mistakes that were made, if there were mistakes, because building standards have changed over the years and, as Ministers have said, it may be an issue that did not really come to light or was not even a concern at the time. I for one have, and I am sure many of us have, taken on property and found hidden nightmares that we have had to put right. But in this particular case there is an opportunity to help those that are the least-able to help themselves. But that needs to be done through a flexible loan scheme that is as open as possible for residents to be able to take on, and as affordable as possible for those who can least afford it.

9.2.11 Deputy R.J. Ward:

It is always an interesting debate when we get into this use of taxpayer money, which is where it seems to me there is a group particularly in Government - and I say a group in Government - that is wanting to always focus any debates that look to help Islanders out with a cost into this: "It is a misuse of taxpayers' money idea". At the same time that huge amounts of taxpayers' money is being directed into other projects with, it seems, no care and attention at all. So I remind Members that this is about 96 real people's lives, 96 real people's homes. What Deputy Tadier is trying to do here is simplify a solution. What we have heard is arguments - I think they said that the proposition was a mess - so what is happening is that the loans scheme is a bit of a mess. Because it has a clause in it about if you have any savings whatsoever, and £10,000 of savings is not a vast amount for anybody who has a home and is trying to look to the future. So what it seems to do is that it takes this notion that whenever there is something that needs money being spent on it, we will look at individuals and say: "We are quite happy as a Government to put you in debt. We are happy to offer you a loan but you will be in debt and you will pay interest on it. But we will get the essential work done but you will be responsible for it because of a really complicated and backdated problem that came from the build that you may not have known about. You may have been a victim to some extent to this convoluted system that we have of building control." What concerns me is that we are about to spend huge amounts of money on things like Cyril Le Marquand House for a States building with a contract that is going to cost us vast amounts of money. The hospital seems to be eating up money like there is no tomorrow and we are taking money away from builds all over the place to put about £20 million in this year alone just to keep it going because of what is called a cashflow problem. There is a fund, which has around £700 million and something, so the figure of £1.25 million, really there is a fund to cover the vast majority of that. So we are talking about another £500,000, which seems to be able to be found for all sorts of things from this Government, but not for this project. So there is a moral responsibility and what this moral responsibility leads to is us saying we can solve this problem very quickly with money that is already there and a small amount of money that we need to be added to the fund. In doing that, it means that 96 people would have a problem in their homes solved by

Government that was created by government builders in the beginning. So it seems to me that this is the simplest solution. I ask Members to move away from this culture of: "We cannot use taxpayer money for this" when it suits Government. When it suits a group in Government that seems to be being formed. But we can use it for other huge projects when it suits. So this is a simple solution. I thank Deputy Tadier and I think the residents of the flats would be very pleased with what Deputy Tadier is trying to do here. I ask Members to support the amendment.

9.2.12 Deputy G.J. Truscott of St. Brelade:

Being one of the other District Deputies, I am happy to contribute to this debate. It was not until after P.19 was passed in the Assembly that Deputy Tadier and I started getting any kind of reps from anyone regarding the flats and the problems that the flats were experiencing. But it soon came to pass that there were obviously serious concerns around the whole thing and it is rather unfortunate because the proposition from the Minister was lodged in good time. We had a full scrutiny of the proposition and I assure Members that the Minister and his officers were well grilled by the Scrutiny team. We put a paper forward before the debate. So everything was done in order. What I thought was a good result. I am still quite happy with how things stand. I remember, Sir - and you probably do too knowing that you are a St. Brelade boy - the flats being built. That does age me. I was 6 at the time but I do remember them being built, so there we go. I do remember piles of concrete beams, strangely enough, it is one of those weird things that stay with you. I have a great deal of sympathy with the residents.

[16:00]

Nobody, no matter what your means are, wants an unexpected bill to arrive on your doorstep. We are talking of a significant amount of money, anywhere between £6,000 and £14,000 are the figures quoted, depending on the size of the flat that you have. As I say, nobody wants that type of liability just turn up unexpectedly. It is unfortunate. But I cannot help thinking and going back to the fact - and it is the time issue that is involved here - we are talking the best part of 60 years, I am 62, going on 63, this year. Even I am starting to break down in certain parts and I also own a house that was built in 1958 and I do know that the roof will very shortly need a significant amount of work done on it, in the region of £10,000 to £15,000. But I expect that as an owner of a property, and a property of this age, and I do appreciate that if you do not maintain your properties then problems with insurance, problems get bigger going forward because leaks start happening if you do not sort your roof out. It just escalates. So maintenance has to be done. I was grateful for C.O.M. (Council of Ministers) for presenting a paper and Deputy Lewis read it pretty much verbatim. But, Deputy Tadier, we work very well together. We both care a lot for our constituents. As I say, it is good to work with him. He brings some very good things forward. It is just regarding the concrete beams. The point was made, and I did do a little research on that, that perhaps this was the wrong thing to use. But even if poured concrete had been used at the time, the life expectancy of concrete is anywhere between 50 and 100 years, sometimes less, depending on the mix. Here we have flats that have now been in existence for 57 years and, yes, there is deterioration in the beams and it is unfortunate but it could have happened with concrete. I have walked round the estate a couple of times and looked up at all of the balconies and I do not think there is one original balcony left with the balustrade that was there originally. I think there have been alterations over the years. Some of the flats have turned the balconies into sunrooms, so it is a real mixture of what people have done. I cannot guarantee that when those balustrades were refixed the seals were put in correctly. There is a whole myriad of things that could have contributed to a deterioration in these beams. Just from the point of view of maintenance, of wear and tear, of the time involved that we are talking about here, I just find it hard to put the taxpayer - and that is everyone in the Island - in a position to pay for this, where the properties were purchased originally - I have got £2,750 in my notes - now worth probably around about £400,000 in total. I was pleased to hear the Minister for Housing and Communities, he is bringing P.71, which is great, extending it, which we all agreed collectively. I do not know if it was Deputy Tadier, Senator Pallett and myself, but he did say, and I think this is where we can make

a real difference for the residents, is that we could bring some amendments to P.71 to encompass any things that have been missed in the original incorporation of P.19. I think that is a good opportunity for all 4 of us, including Senator Ferguson, should she wish to. Personally, just to the length of time that is involved here, I cannot support Deputy Tadier as much as I would like to. We have both got our constituents at heart but I am sure we can come up with a good resolution going forward.

9.2.13 Deputy R.E. Huelin of St. Peter:

I feel the Minister for Housing and Communities is not being really appreciated for what he is doing here. We have heard the arguments and, to cut to the chase, the buyer beware arguments. We know that purchasers should have surveys, if not their conveyancing lawyers should recommend them to do so. We know that these flats have changed hands many, many times and, therefore, the onus and responsibility has to remain with the owners. In the normal commercial world, if things were not built by the States, what would we have been doing? It would be the buyer beware. Therefore, I think this offer to listen very carefully to the needs of those particular owners, and they are owners, and put together some financial loan scheme in order for them to bring their properties back into good order and enables them to be insured. Also, should they choose to do so, realise their asset, sell their home, hopefully for an alternative home, at a very significant capital appreciation. I think we ought to put it in a little bit more perspective. There are 96 flats there and my research tells me that the proposer's notes say that 25 are on 99-year leases. I have checked the database of Jersey Property Holdings and there are 27 flying freeholds owned by Jersey Property Holdings, which basically means, I am assuming, those are the 27 that are on the long leases or they have 50 or 60 years left of their lease. That means 69 are on flying freeholds where they own their properties, effectively, in entirety. What happens if we were to ask Jersey Property Holdings to pay for this remediation work? The benefit will surely then be to the owners of these particular properties. Should they choose to sell, what will be the additional capital appreciation of these works having been carried out? This is a very commercial situation and I understand the moral issue because that is what the Minister for Housing and Communities has brought to the table in order to help them out financially. I am not understanding this. I really just think we ought to do what we can to ask this to go away, vote against it, bring forward P.71, try and have it debated before the summer recess in order to ensure, as Deputy Labey says, we can still maintain the quotes from the contractors and we can close this matter out very quickly. Should there be any other amendments to, shall we say, soften the blow to these 96 owners that come on board, I will listen to them greatly because we have to be sympathetic but, ultimately, it is a commercial situation and the States of Jersey, the Islanders of Jersey should not be paying for 96 individuals who commercially owned properties.

The Bailiff:

Thank you very much, Deputy. Does any other Member wish to speak on the amendment? If no other Member wishes to speak on the amendment, then I close the debate and call on Deputy Tadier to respond.

9.2.14 Deputy M. Tadier:

Can I thank, first of all, those Members who have spoken, whether it is for or against or perhaps somewhere in the middle? I know that it is perhaps an unusual proposition in the sense that it is quite a localised issue but I think it is one that has not stopped Members engaging on it because they realise that there are points of principle here, I think. I will start with the last speaker, while it is still in my mind, and the message I got from the Assistant Minister was, first of all, let us try and close this matter as soon as we can. I welcome the idea that there will be a resolution but I also think there was an undertone that this is a problem, let us try and get rid of it. There has been a perception, I think, among the residents that the flats have always been a bit of an inconvenience that they were on 99-year leases, and that there was a suggestion that Property Holdings just want to get rid of the liability. I think just to go back a couple of steps further, we have got to remember why the 99-year leases were put in place in the first place. They were a type of affordable housing scheme for people who could not necessarily buy outright and it has clearly changed from what it was meant to be. But there

are not 96 owners there who are going to be better off commercially, there are 25 who are only leaseholders. They live in properties that they have prepaid for, that they might be paying mortgages on that they do not own. It is not simply the case that they can if they want to transfer these to flying freeholds, because they have told me in many cases they simply do not have the money to pay for that. It is easy for us to try and trivialise the sums but we have got to realise that not everybody has money lying around and not everyone can secure even a small loan to be able to buy the freeholds. That is certainly the story that I have heard over and over again when I have sat down and listened to these individuals. The other point is that somehow they are going to be financially better off. Even if we did give them the money, even if we agreed today that we are going to pay for the repairs outright, these people are no better off ... if the properties had been built properly in the first place. Because if the properties had been built properly they would not have to have this work done, which they are being asked to pay for and they would, therefore, have that £10,000, £12,000, £16,000 in some cases and the interest. But they would have that in their bank if only the properties had been built properly. It goes back to the point that this is a moral argument, that the States were the ones in the wrong. There has already been an attempt at a revisionist history but, thankfully, we have got it ... there may be the idea that we have heard that if the States was in the wrong but it is in black and white, it is in the Minister's very own proposition that he brought in P.19, and I will read that again just to remind ourselves and I have put it in bold in my report to the amendment. He said: "It was explained that, as the fault was resultant of the original construction method, it was felt that a moral duty existed to provide a means of assistance." This is the current Minister's own words. He says later on: "The balconies required a certain amount of repairs arising from a problem with the original construction method." I note Senator Pallett talked about the fact that there were different construction methods back then and that then maybe we would not have known about the issues that we do today. But the Minister again said: "It is considered that even in the 1960s the expertise of the architect, engineer and contractor should have highlighted the risks and swayed the decision away from using such beams on the balconies." We are being presented by some revisionist history in the space of a couple of months here, that maybe the States were not responsible and that is always how it starts when you want to try and get rid of your moral liability. Maybe it was not my fault, maybe it is somebody else's fault and maybe that we should not pay for it. As I said, the Minister said that the States should assist with the repairs because, verbatim: "The flats were built with a fundamental defect that ought to have reasonably been picked up and have been reasonably avoided." A fundamental defect that ought to have been reasonably avoided. The case is clear here, the States were liable; it was their mistake. They should never have been built in this condition and, as a result, the owners, whether they own outright, whether or not they rent their flats out or whether or not in fact they are leaseholders and they do not own their flats, we cannot start making these moral judgments about whether people are in quite wealthy situations and they are somehow profiting from us if we give them either a loan or we pay for the work outright. This is about who created the problem and who should be fixing the problem. That responsibility, the moral responsibility, has been fully acknowledged in the Minister's report. In a way that would not be the case if another matter came to the States, and I think therein lies the problem. I will try not to keep Members too long but there are a few other points that need to be raised. There was also an attempt to make this look like a mess. A few Members started, I think Deputy Young, Deputy Martin and others saying this is a complete mess but the proposition and the amendment are very simple. It talks about a rescindment, i.e. the loan scheme is not what it should be and the reason I put the proposition in was because the Minister said: "Look, in order for me to make changes to this it has to come back to the States."

[16:15]

At that point there was no suggestion of the Minister coming back, so I thought, okay, well let us at least get the ball rolling. If the loan scheme needs to be changed, then let us rescind it. In the meantime, Minister, as the conversation went, you can bring something back to the Assembly. What did happen is that, yes, he did bring something back to the Assembly and when was it lodged? It was

lodged on Monday at the beginning of the week, a day before we started sitting, to say let us have a 15-year period, rather than a 10-year period; no comments paper. Of course he has done that, presumably, because having a proposition on the table focuses the mind; that is something I have learned over the last 12 years. It is not because people are not honourable, it is just that if you have got a proposition then it means that you will have to respond to it from a governmental point of view at a certain point. I suspect that it would not have been the case that we would have had this one change with the potential now for further amendments if this is not successful today. Because you have to put something on the table, otherwise you are not taken seriously by Government and that is the reality of the situation. I also expected fully to have this argument about we cannot really justify this, this is taxpayers' money. But I do refer to the comments again in my conclusion, is that this is money that the leaseholders and the owners of these flats have paid to Treasury many times over or rather the money that has gone into Treasury far exceeds any money that I am asking the Treasury to give. Of course Property Holdings never have any money, do they? They never have money but that is why the Treasury needs to give them money to pay for these repairs. There was a question, of course, about why the structural survey never picked this up. You have got to question why it was not picked up previously when the States signed it off. This is something which has not yet been answered. I am going to leave the comments there, save to say that I do hope that Members will accept that there is a moral responsibility here and that is an important imperative, and I think as well what we try and teach our children and young people is that if you make a mistake you hold your hands up and you try and rectify the mistake. It does not matter if that mistake occurred recently or if it occurred a long time in the past. If it is something which is flagged up to you only recently, and this issue was only flagged up upon a recent survey, a maintenance inspection - but it occurred - then I think the States has a different level of responsibility and duty of care to those who bought off them in good faith. If this does not go through today, and I do ask the Minister to seriously consider opening up the loan scheme, removing the means-testing. There is absolutely no reason not to have means-testing here for a loan ... not yet, there is no reason to have means-testing on a loan which is of relatively small value but hugely important to those individuals who would be receiving it, who are not in a position to be able to cough up that money themselves. Also, to look at completely getting rid of the interest or setting it at a notional 0.5 per cent. I think there also needs to be an argument made for the fact that leaseholders are in a completely different position to flying freeholders. I have consistently tried to bring this as a simple proposition. It might be one that Members find unpalatable because they do not like the price tag that is associated with it. That is a real price tag because that is what we are asking the residents of these faultily built flats to pay for. But it is a simple proposition and I could have gone down a more convoluted route and say we should pay half of it, we should pay for the entirety of those on a leasehold. But I certainly did not want to be the one pitting leaseholders against flying freeholders and then maybe saying if they have got tenants in their flats they should not get the money. Of course, is it the tenants who will, ultimately, pick up the bill for this? That is a perversity if that is the case. We are often told that when there are expenses to landlords that automatically gets passed on to the tenants. Are the tenants going to be paying more rent here because the States will not pay for something which is their moral responsibility, so the landlords are going to have to recoup their costs from that? Who knows? These are all the consequences. But my proposition is fundamentally simple and I do ask Members to support it and I do thank Members for the time they have taken with this. I recognise there are differences of opinion on this but I do thank, in particular, my local colleagues, Deputy Truscott, Senator Pallett, Senator Ferguson and Constable Jackson, as well as those who have worked from a governmental point of view on this for their time. We might have arrived at different positions - I hope that they will still change their mind and support this - but I do look forward to working with them to find a solution to this issue if it is not the one on the table today.

The Bailiff:

Thank you very much, Deputy. I will ask the Greffier to place a voting link into the chat. The vote is on whether or not the Deputy's proposition can be taken as amended; that is a vote on the

amendment. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The amendment has been defeated:

POUR: 13		CONTRE: 27		ABSTAIN: 0
Senator S.Y. Mézec		Senator L.J. Farnham		
Connétable of St. Mary		Senator S.C Ferguson		
Connétable of St. Martin		Senator J.A.N. Le Fondré		
Deputy G.P. Southern (H)		Senator T.A. Vallois		
Deputy K.C. Lewis (S)		Senator S.W. Pallett		
Deputy M. Tadier (B)		Connétable of St. Helier		
Deputy M.R. Higgins (H)		Connétable of Grouville		
Deputy S.M. Wickenden (H)		Connétable of Trinity		
Deputy L.B.E. Ash (C)		Connétable of St. Peter		
Deputy of St. John		Connétable of St. Ouen		
Deputy R.J. Ward (H)		Connétable of St. John		
Deputy C.S. Alves (H)		Deputy J.A. Martin (H)		
Deputy K.G. Pamplin (S)		Deputy of Grouville		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy of St. Ouen		
		Deputy L.M.C. Doublet (S)		
		Deputy R. Labey (H)		
		Deputy of St. Mary		
		Deputy G.J. Truscott (B)		
		Deputy J.H. Young (B)		
		Deputy K.F. Morel (L)		
		Deputy G.C.U. Guida (L)		
		Deputy of St. Peter		
		Deputy of Trinity		
		Deputy S.M. Ahier (H)		
		Deputy I. Gardiner (H)		

The Greffier of the States:

Those Members who voted pour using the link: Deputy Alves, Senator Mézec, Deputy Ward, Deputy Pamplin, Deputy Wickenden, Deputy Tadier, Deputy Higgins, Deputy Southern, the Constable of St. Martin, Deputy Ash, the Deputy of St. John, Deputy Lewis and I think in the chat it was the Connétable of St. Mary. Those voting contre were: Senator Le Fondré, Senator Vallois, the Deputy of St. Martin, the Constable of St. John, Deputy Ahier, Deputy Pinel, Deputy Martin, the Constable of Trinity, Deputy Labey, Senator Ferguson, Deputy Truscott, Deputy Young, the Deputy of Grouville, the Deputy of St. Peter, Deputy Gardiner, the Constable of St. Helier, Deputy Guida, the Deputy of St. Mary, Deputy Morel, Senator Pallett, Senator Farnham, the Constable of St. Ouen, Deputy Doublet, the Constable of St. Peter, the Deputy of St. Ouen, the Constable of Grouville and the Deputy of Trinity.

The Bailiff:

We now resume the debate on the main proposition unamended. Does any Member wish to speak on the proposition? Does any Member wish to speak on the proposition unamended?

Deputy M. Tadier:

Sir, can I just ask a point of order? I had given an indication that I would like to withdraw the proposition and I do not know if now is the right time to do it and if the Assembly would give me leave to do that.

The Bailiff:

Yes, you are quite right, Deputy. You do require the leave of the Assembly to withdraw the proposition but you are entitled to ask the Assembly for its leave to withdraw the proposition now, if that is what you wish to do.

Deputy M. Tadier:

Thank you, Sir. Yes, it seems to be the appropriate time to do it before anyone speaks.

The Bailiff:

Does any Member object and wish to have a vote as to whether or not the Deputy is given leave to withdraw the proposition? Could you indicate in the chat, please? If so, we will have a proper debate on it. I am sorry, Deputy Martin, you have simply said no. Is that that you do not agree that the Deputy can withdraw or that you do not want to speak about it?

Deputy J.A. Martin:

I have put on to speak to ask was the Deputy going to withdraw. Then you said, did anyone have any opposition to the Deputy withdrawing, so I thought I would put no.

The Bailiff:

Okay.

Deputy J.A. Martin:

Is that clear, Sir? Sorry.

The Bailiff:

I think that is clear, thank you very much. I have not heard anyone indicating that they wish to oppose the Deputy's desire to withdraw, therefore, Deputy, you are entitled to withdraw the proposition and the proposition is now withdrawn.

Deputy M. Tadier:

Thank you.

The Bailiff:

Thank you very much. Just to inform Members we have received notice from Deputy Wickenden that he has resigned from the Jersey Police Authority. I bring that to the States attention as, of course, he was a States appointee to that post.

10. Draft COVID-19 (Election of Jurats) (Jersey) Regulations 202- (P.60/2021)

The Greffier of the States (in the Chair):

We will move on to the last proposition for debate at this sitting, which is the Draft COVID-19 (Election of Jurats) (Jersey) Regulations, P.60, which is being lodged by the Minister for Health and Social Services. If the Greffier is ready, I will ask him to read the citation.

The Assistant Greffier of the States:

Draft COVID-19 (Election of Jurats) (Jersey) Regulations 202-. The States make these Regulations under Article 2 of the COVID-19 (Enabling Provisions) (Jersey) Law 2020.

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

These regulations are brought under our emergency COVID time-limited legislation and would allow an election for the office of Jurat to be held safely during the current pandemic. One of our 12 Jurats retired earlier this month and under normal circumstances the election of a replacement would be carried out by a meeting of the Electoral College called in accordance with the Royal Court Law. Under that law where 2 or more candidates for the office have been nominated, the College must be summoned within a specified timeframe. The average attendance at an Electoral College meeting is around 150 and a minimum of 40 are required to form a quorum. However, there are over 500 members in total, being all advocates, solicitors, States Members and existing Jurats, all of whom are entitled to attend and vote at the meeting. Currently an Electoral College meeting would be within the guidelines on gatherings, however, there is a concern that should the situation change the Bailiff may find that he cannot meet the requirements of the law without breaching guidelines, which would clearly not reflect well on the Government or the justice system. In addition, the physical constraints of the Royal Court would mean that the Island's lawyers, a significant number of them, States Members and judiciary would be sitting closely together in an indoor environment with members of the public who might wish to attend and the meeting might go on for a considerable period of time. This, of course, poses a COVID risk and the risk is any cases appearing among attendees might result in disruption to the functioning of the courts and the Government were those present at the College required to self-isolate. To address these concerns, the regulations will simply provide flexibility with regard to how and when a meeting of the Electoral College could be held by offering 2 alternative methods of resolving the problem.

[16:30]

Firstly, the requirement for the Bailiff to notify members of the Electoral College of the vacancy within 28 days will be suspended. This will allow the Bailiff to delay a meeting until such time as he can be sure that the guidelines permit it, the circumstances are safe and it is likely that no changes will occur in the interim. I understand this is the preferred choice, as it would allow the normal processes to be followed with a minimum of added complexity. It does mean that the Royal Court may have to operate with less than the full complement of 12 Jurats for a time, so I have been advised that this is tolerable in the short term. Secondly, provision will be made for a meeting of the College to be carried out virtually using similar infrastructure to that which underpins virtual meetings of this Assembly. I understand that that arrangement is thought to be very much the second choice. I have met with the Bailiff and the Attorney General and we have discussed the matter in detail. I have been assured that there is no possibility of any member of the College being excluded from voting due to some shortcomings in technology. If any problems with the virtual system were to emerge, including any members being unable to access the meeting or vote, the Bailiff would be able to adjourn and delay the meeting until such time as either the technology can be brought into full working order or a physical meeting could be convened. Any virtual meeting would be open to public viewing in the same way that the public can observe the meetings of our Assembly. Therefore, I propose the principles of these regulations.

The Greffier of the States (in the Chair):

Are these regulations seconded? [**Seconded**] Does any Member wish to speak on the principles? I do not believe any Member wishes to speak on the principles but my chat box has been obscured.

10.1.1 Connétable A. Jehan of St. John:

Can the Minister confirm what alternatives have been looked at? I note that over 500 people were accommodated at Trinity recently in an area that the Royal Court has been using and whether that has been considered. I know that he spoke about the solution similar to the Assembly is using but I believe that the Assembly should be meeting in person and only those with underlying health issues joining us online. Could he clarify for us, please?

10.1.2 Deputy J.H. Young:

I am just wanting to ask the Minister, he may not be able to answer the question but I see what we are doing here is amending the Royal Court (Jersey) Law 1948. Obviously this is a very historic and longstanding arrangement. Is it not time that this whole arrangement of these elections of Jurats were reviewed? This really is now the 21st century and, whatever people love tradition, is it not time that we started to change this arrangement?

The Greffier of the States (in the Chair):

Thank you. I will just remind the Assembly that the regulations are very narrowly drawn in relation to COVID-19 response, so it is not an opportunity for a broader debate about the election of Jurats in normal circumstances.

10.1.3 Deputy M. Tadier:

That notwithstanding, I think it is relevant to raise the fact that if we had a proper modern up-to-date way of appointing Jurats we would not need to make these provisions for a highly modern digital function method to be used for a very anachronistic and feudal ancient way of electing these individuals. I think the juxtaposition of the modern technology being used for a feudal tradition that has no place in the 21st century, not simply because it is traditional but simply because it is highly inappropriate that the 2 groups of people you do not want to be anywhere near the appointment of Magistrates are advocates and politicians, yet they are the only people that are allowed to elect Jurats at all. It is the people who are perhaps most conflicted because they have to serve before them in the Royal Court, or the fact that they are politicians, and there is a longstanding modern tradition that legislators and the judiciary should not be mixed. I think it is relevant to say that why are we in a position here to need to do that, albeit it is slightly peripheral? I am not sure how that leaves me to vote on this but we should not even be in this situation today. We should have an Appointments Commission that appoints the right people for the job with the right experience to be judges of fact, as the Jurats are, notwithstanding some of their other roles which may or may not be in need of review.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on the principles? If no other Member wishes to speak, I will call the Minister to reply to the debate.

10.1.4 The Deputy of St. Ouen:

Dealing firstly with the question raised by the Connétable of St. John. The Bailiff is free and would remain free, if these regulations are passed, to hold a meeting of the College either in the Royal Court itself or in other venues. The court has met recently in the R.J. A. and H. S. (Royal Jersey Agricultural and Horticultural Society) building in Trinity, so that is clearly an option. The point of these regulations is that if passed they will not require the Bailiff to call a meeting within the 28 days of the vacancy if he considers that it is not safe to do so and that he cannot do so without a risk to public health. But when he feels that he is in a position to call that meeting safely, he can convene the College to the Royal Court or to any other venue that the Royal Court may sit in. As to the points made by Deputy Young and Deputy Tadier, I really do not feel this is a matter for the Health portfolio. This is a very limited regulation arising out of the present rules around distancing and COVID-safe procedures and this is to take out the existing system that we have. I am not in a position to propose any changes. But we have got to work within the existing system and this is what these regulations are doing. I hope that answers the question and I would seek the appel.

The Greffier of the States (in the Chair):

Thank you very much. In a moment the Greffier will place a link into the chat box. The vote will be on the principles of P.60. The link is available, so I invite Members to cast their votes. If all Members have had the opportunity to cast their votes, I ask the Greffier to close the voting. The principles have been adopted: 39 votes pour in the link, no votes contre and no abstentions and an additional vote pour in the chat.

POUR: 40		CONTRE: 0		ABSTAIN: 0
Senator L.J. Farnham				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Greffier of the States (in the Chair):

I am not sure who is here from the Health and Social Services Scrutiny Panel.

Deputy K.G. Pamplin (Vice-Chair, Health and Social Security Scrutiny Panel):

Deputy Pamplin here and we do not need to bring this in.

The Greffier of the States (in the Chair):

Thank you, Deputy. Minister, there are 2 regulations, will you take them *en bloc*?

10.2 The Deputy of St. Ouen:

Yes, I would like to, and I think I have explained in my speech exactly what they cover, so I would like to go straight to questions on them.

The Greffier of the States (in the Chair):

Are the regulations seconded? I hope the regulations are seconded. **[Seconded]** Thank you very much. Does any Member wish to speak on the regulations? If no Member wishes to speak, I will try this on a standing vote, unless any Member wishes to call for a recorded vote. But if any Member wishes to object or to call for a recorded vote, please let me know in the chat, otherwise we will take this as adopted on a standing vote. I do not see or hear any objections, so the regulations are adopted on a standing vote. Minister, do you want to proceed to Third Reading?

The Deputy of St. Ouen:

Yes, Sir, if I may and request it.

The Greffier of the States (in the Chair):

The regulations are adopted in Third Reading ... seconded, sorry, I jumped ahead of myself. **[Seconded]** Thank you. Does any Member wish to speak on Third Reading? If no Member wishes to speak, I would again move to a standing vote, unless a Member wishes to have a recorded vote, if any Member wishes to have a recorded vote or to object. Deputy Young has requested a recorded vote, so I ask the Greffier to place a link in the chat box for a vote on Third Reading. The link is available, so I ask Members to cast their votes. If all Members have had the opportunity to cast their votes, I ask the Greffier to close the voting. The regulations have been adopted in Third Reading:

POUR: 38		CONTRE: 0		ABSTAIN: 0
Senator L.J. Farnham				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				

Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Greffier of the States (in the Chair):

That concludes Public Business for this sitting, so I will now invite Deputy Alves.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

11. Deputy C.S. Alves of St. Helier (Chair, Privileges and Procedures Committee):

There has been one change to the Arrangement of Public Business from what was listed on the Consolidated Order Paper and that is P.65 Rent Control Tribunal and Register of Rents - re-establishment has been withdrawn. There was also an omission on the Order Paper, which is the Draft Road Traffic (No. 68) (Jersey) Regulations, this is now scheduled for debate on 5th October following the referral to Scrutiny. There are a number of propositions listed for the next meeting in July, as well as an in-committee debate. Obviously it is difficult to predict how long the meeting would last but I would like to remind Members that Wednesday, Thursday and Friday are all identified as continuation days if needed. With that I propose the Arrangement of Public Business for future meetings.

The Greffier of the States (in the Chair):

Thank you very much. Is the arrangement seconded? **[Seconded]** Does any Member have any points to make? Who is that? You are best to indicate in the chat. Is that the Constable of St. Martin?

Connétable K. Shenton-Stone of St. Martin:

Yes. No, I was just saying I seconded the arrangement of business.

The Greffier of the States (in the Chair):

Thank you. Does any Member wish to speak on the Arrangement of Public Business?

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

I was just wondering whether the chair of P.P.C. would consider getting a view from Members about maybe looking to stay later on some of the days to try and reduce the number of days that we could be in the sitting. Just going round and really asking to see if we could add an hour or 2 on to the end of the sitting and just work through that to try and reduce the amount of days that we are in the Assembly, just as an idea.

[16:45]

Obviously if States Members do not want that they will let the chair of P.P.C. know and that will be dealt with accordingly. But I just thought it would be worth investigating the option.

11.1.1 Deputy M. Tadier:

It is only reacting to what has just been said but surely the way to go if we are likely to overrun with business piling up is that we go back to a 2-week sitting. It seems very bizarre that we would go to a 3-week sitting and then try and extend the hours which we are here for, given the fact that there has been a drive to be more family friendly in our sitting times. While it does not bother me personally, I was quite happy and did not find it overly burdensome or onerous to come in every 2 weeks or to log on every 2 weeks for States business. It seems that would be the obvious thing to do, rather than creating a new system where we sit later on fewer days when I think the old system worked perfectly well.

The Greffier of the States (in the Chair):

Thank you. There is, of course, a P.P.C. consultation on the frequency of sittings at the moment, which would be a good point to make that point. Does any other Member wish to speak on the Arrangement of Public Business? If not, Deputy Alves, do you want to respond?

11.1.2 Deputy C.S. Alves:

Thank you for reminding Members of the consultation that is currently in place. I would be reluctant to extend the hours for the reasons that Deputy Tadier raised, that we have tried obviously to go as family friendly as we can. However, I am in the hands of the Assembly and I am happy to hear from Members if they would prefer to sit later or indeed, I think in the past, we have sat on a Monday before, so I am happy to hear from Members on that. With that, Sir, I propose Public Business.

The Greffier of the States (in the Chair):

Yes. Deputy, I had hoped to bring things to a conclusion. Is this a pertinent intervention just before we bring the sitting to an end?

Deputy J.H. Young:

I think it might be, Sir. I think the chair of P.P.C. mentioned about sitting on the Monday. It did occur to me that if we did the questions on Monday afternoon I think that would make it more likely that we will get through the business on the remaining days.

The Greffier of the States (in the Chair):

As we have reached the end of the Arrangement of Public Business and as I think Deputy Alves has undertaken to have some conversations, perhaps the best thing is to have those conversations and the proposal can be made before the next sitting. Members can bear in mind the possibility of Monday afternoon being used on 19th July but obviously if there are significant problems with that they can make that point to Deputy Alves and she can bring that to a conclusion. If that seems like a reasonable suggestion, Deputy Alves.

Deputy C.S. Alves:

Yes, thank you, Sir.

The Greffier of the States (in the Chair):

In which case the Arrangement of Public Business has been proposed. There have been no amendments to it. I am going to take it as adopted on a standing vote and the Assembly is adjourned at the moment until Tuesday, 20th July at 9.30 a.m.

ADJOURNMENT

[16:48]