

STATES OF JERSEY

OFFICIAL REPORT

THURSDAY, 24th NOVEMBER 2022

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[9:30]

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

PUBLIC BUSINESS - resumption

1. Cost of living crisis – Removal of 5 per cent goods and services tax (G.S.T.) from food (excluding alcoholic drinks) (P.100/2022)

The Bailiff:

We now resume the debate on the removal of 5 per cent goods and services tax.

1.1 Deputy C.F. Labey of Grouville and St. Martin:

I do not intend to make a long speech about this. Just to say a few words. I would like to thank Deputy Kovacs for her very well-researched and heartfelt proposition. My stance on taxing food remains the same as it was in 2009. I believe it is immoral to tax food - end of - regardless of the complexities around it. If Deputy Kovacs' proposition is not successful I will consider bringing forward some exemptions on locally-grown food for local markets, as my manifesto suggested, because I think that could be a compromise situation. But as Minister, I am extremely grateful to the Council of Ministers for respecting my views in this matter. I would just like to say, I have to leave the Assembly later on this morning for a hospital appointment so if I am not here for the vote I very much hope I can be marked accordingly.

The Bailiff:

Obviously, your vote can only be registered if you actually vote but you will be marked absent excuse in the event that you are not here for the vote.

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

As the "Father of the House", which I believe is a term that is applied to me these days, I have to be careful that I do not sound too nostalgic or cynical when I address the Assembly. But I was doing a little bit of research of my own in preparation for this debate and I came across a petition that was lodged 15 years ago in September 2007 by the Constable of St. Helier, asking the then Minister for Treasury and Resources to take no further steps to introduce a Goods and Services tax in Jersey until public finances had been examined independently to identify potential savings and until alternative methods of raising funds had been investigated. That petition was signed by 19,209 members of the public and, as far as I know, it remains the largest petition gathered in Jersey in living memory. I stand to be corrected if it has been overtaken. The closest one I am aware of is the petition to create the Millennium Town Park in 1997, which I also had the privilege of presenting to the States in December 1997, 10 years earlier, which gathered 16,404 signatures. The arguments I presented to the States when it was debated, and there may be still a handful of Members who were here when I did so, did not carry a lot of weight. I remember it was fairly heavily defeated because the Government wanted to get their hands on the cash machine, as I called it in my opening remarks. The Ministerial cash machine of G.S.T. which then of course was only going to be 3 per cent. The argument I made was chiefly, as I say, around the fact that I believed then, and I believe it now, although I have stopped saying it so much, that the Government is profligate. The Government wastes money. Wastes taxpayers' money hand over fist and it has not stopped, it has not got any better since then. The example I sometimes give, and I apologise to hardworking members in this particular branch of the civil service, is the Communications Unit, which when I joined the States in 1996 had, I think, 3 members of staff and it now has, I believe, over 30. I am not sure that our comms. are that much better than they were when I started. But I remain to be corrected. There is no question that the payroll is the big spend of this Government. That is what we spend money on. Look at the newspaper the other day which told us someone is going to get an eye-watering salary for a few days' work a week in Jersey. This goes on and on. The public are tired of it. They are tired of the golden

handshakes. They are tired of the way the civil service seems to grow and yet paradoxically we are being told by some Ministers they simply do not have any staff to do essential work that the public want us to get done. Because I am not in Government, I am only a Backbencher, I have to focus on trying to make sure that the organisation that I run deals with money better than the States. That we bear down on expenditure. We become more and more efficient without losing public services. So I felt that passionately then and I used to incur the wrath of former Senator Frank Walker and then former Senator Terry Le Sueur by accusing them of being profligate. I think I incurred the wrath of former Senator Deputy Ozouf. He is looking wrathfully at me now and I am sure he is going to have a go at me in due course. One of the reasons I opposed G.S.T. so passionately was because of the effect on tourism. I was really keen then on there being a politician responsible for tourism who might have come to that debate and argued passionately that Jersey needed to keep that U.S.P.(unique selling point) to compete in the market. It needed to be the only Channel Island or the only place in the British Isles where you could go and not pay a sales tax. Of course we gave up that. We did not have then, we have not got one now, an Assistant Minister for Tourism. There was no one to make that case apart from me and our sister island - and I am sure I am going to be lectured about how awful their finances are - took the view not to introduce a goods and sales tax. I do not know whether they exploit that as much as they could to their tourists but certainly I think it could have done. There were lots of letters from tourists, I will not read them to Members now, but I included them in my proposition. People who felt that Jersey was expensive enough anyway without introducing a goods and services tax. Of course local people were opposed to it for the obvious reasons and the reasons that many Members have alluded to. That went through. It duly went up to 5 per cent. The cash machine has been churning away ever since. What were the alternatives that the States did not look at and have not looked at? These are alternatives that were being kicked around at the start of the millennium, and the big one was environmental taxation. A lot of people do not have a problem with environmental taxation, particularly now, because they know it is part of our climate change response and making people who do things which hurt the environment pay more for that privilege. Environmental taxes have been more or less ignored. Maybe the revenue implications of environmental taxes could not make up for the deficit but I still think that a combination of good housekeeping on the part of the States of Jersey and introducing taxes which are focused on improving the environment would be much better than G.S.T. So my position in this debate is ... I am not going to give way. I am not going to give way because I ...

The Bailiff:

Sorry, on a point of order?

Deputy P.M. Bailhache of St. Clement:

On a point of order, is this relevant to the proposition before the Assembly?

The Bailiff:

That is, in a sense, a matter, Deputy, for the Connétable. I am sure he is bringing it to a point of direct relevance. It seems to me that it is arguably relevant because it is talking about alternatives to G.S.T., which may or may not support the removal of G.S.T. in these circumstances. and I am prepared to give the Connétable a little bit further leeway before making it directly relevant.

[9:45]

The Connétable of St. Helier:

I was just coming to my peroration when I was interrupted, so I will come to it now. My position on this proposition, as indeed previous propositions, which have been trying to do something about G.S.T. has always remained the same. I agree with the Deputy - I used to call him the Deputy of Trinity, Deputy Luce I have to call him now - who believes that G.S.T. should be simple, targeted and fair.

The Bailiff:

I think the Deputy has never been the Deputy of Trinity; the Deputy of St. Martin.

The Connétable of St. Helier:

I have clearly been here too long; getting confused. My position is that if a Member had brought forward a proposition, if Reform had brought forward a proposition to abolish G.S.T. I would be the first to get together my arguments to support it. I do not think it is a good tax and I think we should have been stronger in getting rid of it. But I do not support tinkering with it and adding to the complexity of it, so therefore I will not be supporting the amendment.

1.1.2 Deputy M.R. Ferey of St. Saviour:

I too thank Deputy Kovacs for bringing this proposition because it brings out the wider issues in a healthy debate. The issue of foodbanks was raised yesterday and having spent over a decade in a charitable sector I have worked very closely with all the foodbanks in Jersey and I have seen them grow over the years, and I have seen them service more and more of their customers over the years. I have heard people say: "I wish there was not foodbanks in Jersey." When the pandemic hit Jersey and we went into lockdown, just before lockdown I was seconded to work for the Government to bring together the community effort, and I can tell you that I was very glad that foodbanks existed during those short weeks and months when people could not leave their homes, and we were really concerned for very many vulnerable people because it would have been very difficult for Government to put in place the provision and the channels that were already there to support vulnerable members of our community. My task was just to lay as much resources and money at those channels to make sure that people were properly serviced. I do not wish at all that foodbanks did not exist in Jersey. In fact, the Minister for Social Security and I have visited all of the foodbanks, and these are not one-off visits. These are not just meet and greets. This is a long-term relationship that we are developing. The reason we wanted to meet with the foodbanks was to understand the needs of their clients and understand people's reasons for visiting foodbanks. Bizarrely, it is not all about food. It is about companionship, it is about signposting to other services that can help. It is about access to mental health. It is about access to government services because all of the foodbanks have a really good direct line to C.L.S. (Customer and Local Services) where if they have an emerging problem they can speak to someone, as can any member of the public. But they have that trusted source where people can go because they do not have those communications, and we make sure that those people are serviced. It is more than just a foodbank, they are community hubs. We heard from the Dean yesterday about his warm spaces and in a conversation before this Assembly sat this morning I said that perhaps those warm spaces could continue into next spring and next summer and become cool spaces. The Dean remarked that the church is always cool spaces. When I turn to the proposition, I just ask myself 3 questions: can we guarantee that there will be a recurring £10 million loss in revenue by this proposition coming in? That we can guarantee that that is what will happen. Equally, can we guarantee that that 5 per cent reduction would be passed on to the consumer and we cannot guarantee that that is what will happen. Are there sufficient safeguards in place to protect the most vulnerable in our community through the community costs bonus, through the charitable sector and all the other good provisions that are out there, and we can say that. For all of those 3 reasons I will not be supporting this proposition.

1.1.3 Deputy P.M. Bailhache:

I am pleased to follow my colleague from the Jersey Liberal Conservatives because I agree very much with what he has said. I am sure that all Members will agree that the cost-of-living crisis is here and that something should be done to help those who most need it. Where we disagree is on what should be done. For my part, I think that the doubling of the Community Costs Bonus, meaning that eligible households will receive twice approximately what they pay in G.S.T., is infinitely preferable to abolishing G.S.T. on food, which confers, maybe, half the benefit of the bonus. Indeed,

in my view, it is a no-brainer. But it is the collateral damage from Deputy Kovacs proposition which troubles me more. The excellent Comments Paper from the Council of Ministers sets out very clearly the different arguments, and I am not going to go there. But one thing it seems to me does need to be underlined. If we do this we will delegate some of our legislative authority over G.S.T. to the United Kingdom Government. We are the elected representatives of the people of Jersey but it is M.P.s (Members of Parliament) at Westminster who will decide how G.S.T. on food is to be regulated if we pass this proposition. The Reform Party may not be concerned about that but many other Members will think that handing over constitutional authority to the Members of another Parliament, unelected by the people of Jersey, is a step too far. The proposition states: “In order to exempt or zero-rate the following items - food (excluding alcoholic drinks), to be based upon the zero-rating categorisation of food utilised by U.K. (United Kingdom) V.A.T. (value added tax) arrangements as set out in appendix A.” It is very clear. Both Deputy Kovacs and the Government indeed agree that if G.S.T. is removed from food in Jersey the only practical administrative solution is to link our G.S.T. rules to the V.A.T. rules in the U.K. I leave aside the costs and complications of V.A.T., which are substantial. I am concerned with the constitutional implications. Suppose that a regulation in the U.K. changes the rules. We will be obliged to follow suit. There are 2 ways of doing that, as indeed was explained by Deputy Gorst. The first is that we debate similar regulations in this Chamber. “Debate” is perhaps not the right word because we will have no choice if we have linked our G.S.T. rules to V.A.T. rules. In order to avoid administrative chaos we will have to rubberstamp what has been done in England, whether we like it or not. It is not, to my mind, a very attractive proposition. But the second option is even worse. We could introduce what are called ambulatory provisions. That is we could legislate here to state that any provision on G.S.T. on food enacted or brought into force in England will automatically become law in Jersey. Whatever M.P.s or a Minister thinks or may decide in relation to the U.K. V.A.T. rules on food will change Jersey law without anything needing to be done by the States. I must say I find that an even more unattractive proposition. Furthermore, this delegation of authority is in relation to tax, an area of law where our ancestors have ferociously fought to defend our autonomy. It would be a grave mistake, in my view, to adopt this proposition.

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

May I raise the *défaut* on Deputy Tadier please?

The Bailiff:

The *défaut* is lifted on Deputy Tadier.

1.1.4 Deputy M. Tadier of St. Brelade:

I might as well go for it, strike while the iron is hot. I will take this off, it is not for show, it is not a prop but it takes the weight off. I do not need it all the time. I was prompted to speak by what I think is the complete overegging of the pudding by former Senator Bailhache, now Deputy Bailhache. This now seems to have turned into a constitutional debate about what Jersey can and cannot do, where at the very core of it it is a very simple yes or no. There are arguments, quite rightly, being made for and against this proposition. It is compelling, I think, and it does not go away and it does not go away for a very good reason. But let me first of all tackle head-on the issue of why this is not a constitutional matter but it is a matter about whether we decide to tax the essentials and whether we can live with that in order to make a compromise of getting £10 million into the coffers for the Treasury. I have explained why that last position is not one I am comfortable with either. The first point is that this Assembly is not completely sovereign, we are not a sovereign state, we are not a small island state, a small nation state, but we do have a prized level of autonomy that, quite rightly, we should all be conscious of and that we will all fight for, I think. But the truth is that we select legislation all the time from around the world. G.S.T. when it was introduced to Jersey ... we can

start the clock, incidentally, I probably should not alert anyone to that. I thought for a moment I might be the main respondent on constitutional matters. But God forbid that should ever be the case.

The Bailiff:

You have already been speaking for 1½ minutes, and so we will take off 1½ minutes.

Deputy M. Tadier:

Thank you, Sir.. I thought we might get some World Cup leeway and get an extra 10 minutes added to the end of each speech for injury time, quite appropriately. But getting back to the constitutional point. The E.C.H.R. (European Convention on Human Rights) is exactly the same as what they have got in the U.K. and around Europe, because it is a European Convention and I am glad we have got that. There are a couple of minor differences. We do not have Article 1 and I think there is another Article that we do not have. But it is copied and pasted and that is because we do not need to reinvent the wheel every time we do something. The person who came over to Jersey to be the guru for G.S.T., as I was just explaining before I interrupted myself, was somebody from New Zealand. He was not from New Zealand but he went over to New Zealand to set up their G.S.T. system, and we effectively copied and pasted what New Zealand were doing to the Jersey model. When we do other areas of policy or law-making, we sometimes take the best approach from a hybrid approach. We might combine the best laws from Scotland and around the Commonwealth, whatever works for us, and this is what we are doing here. It does not mean it is going to be frozen in aspic. It means that if, in the future, we want to decide that all food should be exempt from G.S.T., we can do that and it is this Assembly which will make those rules. Let us not turn this into a constitutional issue that is a complete red herring. It is a basic economic issue, it is also an ethical issue for me and I know that one Member behind me, who has been in the Assembly longer than me, Deputy Carolyn Labey, has probably thought the same as me. For me, this is very simple, it boils down to ethics and it boils down to morality and is it moral to tax the bread in somebody's mouth? That they are putting in their mouth, when we never used to do that. In this rich Island, that is what we are doing.

[10:00]

It is not about caviar, it is not about Jaffa cakes and it is not about dried or wet biscuits, or cakes, it is about the reality on the street is that at some point in the past a Government - and I remember that because I was in the Royal Square at one of the demonstrations against G.S.T. - had a clear choice. They had a choice whether to tax capital and tax the wealthy and tax companies, in particular. Or are we going to tax the food in people's mouths? Including that £10 million a year that the Treasury gets from poor people, and not just poor people, it is actually people right across the board who are having to pay for the basic essentials when they go to the supermarkets. When we hear this empty rhetoric saying that: "Oh, but the 5 per cent, there is no guarantee that is going to come off food," Well, there is one guarantee that you can make if you vote against this proposition today, is that it will stay on food, it will not come off. We have already had the likes of the Co-Op, one of the biggest retailers in Jersey, telling us that they will take it off food. Are we going to not take them at their word? Do we have we any reason to disbelieve them for that? Last night, I did not sleep particularly well last night, I think I woke up early thinking of this debate, and thinking of the Dean's words, in fact. I thought it is not often that we hear the Dean speak in this Assembly and I think he, very much like the Lieutenant Governor, has got a slightly different position. He is allowed to address the Assembly whenever he wants to, in fact, and he exercises that right I think with discretion, recognising the current constitutional setup. That he is not elected but he has nonetheless got a voice when he wants to use it. I thought why would the Dean intervene in a speech that is ostensibly about tax? It is because it is not just an economic issue, it is an ethical issue, and that is when the church, I think, does feel it has got to have a voice. Not just speaking for its own congregation, indeed, not just for the faith congregation, but for the wider population that it sees in Jersey. He spoke very well, I thought, about the fact that the church is not just there to meet spiritual needs, it is there to meet

physical needs. Can I congratulate the Dean, I really like the way that the church has been opened up? I popped in there a few times in the last couple of months with my laptop, realised you can get a coffee and it has got that feeling that you only get in some religious places where it is very peaceful unlike, maybe, working downstairs in one of the rooms. So, I welcome the fact that he has opened up the church, and it is not just him or the Church of England that is doing that in the Island. It is faith groups and it is non-faith groups that are putting on food banks for people, that are welcoming people day in, day out. They will tell us things, privately, when we are dealing with constituents that they will not necessarily say publicly. Again, they are very cautious of their position not to over-politicise things. But they realise that things are tough for people out there. The way I look at it is that we might say: "Well, where are we going to find that £10 million?" I look at it politically and think that £10 million should never have been taken out of people's pockets in the first place. It was never ethical to tax the basics in life. To tax bread, to tax Jersey milk, to tax butter, to tax everything that you need to feed your family. Of course we can perform all sorts of intellectual somersaults and find all sorts of excuses and justifications, and sometimes I do not know whether to laugh or cry when I hear longstanding people who have been commentators or interested in politics. I know that only a few months ago, only a few years ago, they would have been some of the first people saying it is completely immoral and we stand side by side. Incidentally, to finish my point on the Dean, I was really impressed that he did not allow himself to be drawn on the politics of it. So there was, unusually, I think, a point of clarification to the Dean and he simply said that we should try and look after the most vulnerable in our society. That leads me to think, well, does that mean that the Council of Ministers might think that they are off the hook or that previous administrations might think that they are off the hook? Because they said: "Well it is okay because we look after the most vulnerable, we give them the money back that they would have spent on food ... that we calculate that they would have spent on food." Now, first of all, before we get into the administration of that, how much does it cost for them to sit down and work out how much some poor people in the Island spend on food and how much we should be giving back? So an administrative process. But let us not look at that because that is not really the meat of the argument. The meat of the argument is that there are so many people, and I think we have heard it in other places, the "just about managing", the J.A.M.s, as they are called. There are lots of people in Jersey that we know that fall outside the cracks of the system. The "just about managing", perhaps the ones who have not been here for 5 years. How do we justify people who will never be able to qualify for a food bonus because they are not eligible for whatever reason, but who are nonetheless living very marginal existences? Saying to them that 5 per cent you are paying, good on you, because you are doing that so that some companies in Jersey can avoid paying any tax at all. That is the reality we are dealing with, and I do not say that in terms of blame. I am not pointing the finger at any one Government or this Government. But that is the reality, is that we are taxing the bread in people's mouths so that some foreign companies can continue to pay zero per cent tax in Jersey. At a time when we are seeing properties being left empty in Jersey. I know about them, that are either owned locally or not locally, and people are realising, hang on a minute, who is this Island run for? When we are making policies in this Assembly. We elect people into this Assembly to make policies presumably for the whole Island, and yet time and time again we see policies being made for people who do not live here. Not even necessarily people who do not live here, but entities that do not live in the Island. That is who the Island is run for, they think. They come and listen, possibly, to a debate like this today, or more likely they read about it later on and they realise, yet again, the Assembly has decided that they know best. That it is all right to tax the essentials in life. I want to listen to what Ministers say. I am hearing that there is probably a lot of cohesion. They are standing behind the comments that the Council of Ministers have issued. But I know that the Council of Ministers is much more sophisticated in terms of its makeup, in terms of the individuals who make it up. It is not simply a core of Better Way candidates who are going to follow the party whip every time. We have got intelligent people from all over the Island from different backgrounds. I remember one of the candidates, I will not name her but she knows who she is, and I remember her standing on the platform saying that we need to consider a G.S.T. holiday. I

remember thinking: “What does that mean, a G.S.T. holiday? That is a really interesting idea. I wonder how that is going to get through the Council of Ministers, if she ever ends up being a Minister.” It is a really interesting idea and maybe that person will say: “Well that manifesto pledge no longer counts because it has been supplanted by the Government’s mini-Budget and that has done the job and I no longer need that.” If that is the case, she needs to stand up and say that. Of course there are many ways to skin a cat, if you excuse the unfortunate expression. But when we make pledges like that on an election platform, it is really important that people follow through, I think, on their policies and if they say: “I am not going to do that anymore” ... listening to the Channel report yesterday, I do not always do it, and I commend Deputy Kovacs. I thought she did very well both in her opening speech and on the interview for that. There was a lady outside Iceland, in Les Quennevais I noticed at the precinct and she said, yes, it would definitely help if G.S.T. was taken off food, even if it was just done temporarily. Well, I think we can do better than that. I think we can do better than a G.S.T. holiday. I think we can do better than taking it temporarily off food. We can take it permanently off food. Now lastly, I will leave with this point. Deputy Kovacs did touch on it and we talked about U-turns, of course, have we not. I particularly like the clever phrase that Deputy Gorst did a U-turn somewhere between Le Hocq and L’Etacq. I came in on the bus with my wife this morning and we were reading it in the paper, and my wife said: “Did you write that?” I said: “No, not at all.” I said: “I wish I had.” I said: “I think that is Deputy Kovacs words, but I am going to ask her about that.” I am oversharing. But it is a good line, and when we talk about U-turns, I am reminded about one that happened only a few months ago. We have a, now, Chief Minister, who brings to the Assembly a few months before an election a very correct proposition, one that we might have brought ourselves, which said to remove G.S.T. on sanitary products. Of course the expected arguments came back from the Government of the day, the machine, which says you cannot possibly do that because G.S.T. cannot have any exemptions in it. Cannot have any exemptions and if we do that it is going to be administratively burdensome and it is also not going to be effective. Indeed, the Minister for Social Security, Deputy Martin, stood up and said: “Look we do not need to do this because we are going to make all of these products free.” It was that Minister for Social Security who made sanitary products free, that was her idea. It was not the current Government. But in spite of all that, Deputy Moore - Senator Moore at the time - and Reform Jersey said: “No, that is fine, Deputy Martin, you can make the sanitary products free but you are also going to take G.S.T. off them.” The Assembly agreed with Senator Moore. The Assembly agreed that it was right to take G.S.T. off sanitary products only a few months before an election, and I suspect the public knew that is the right thing to do. Why? Because it is immoral to tax the basics in life. It is also immoral to tax something which only women pay for. How much more immoral is it to tax something that everybody has to pay for and that nobody can get round. If you want to avoid tax, if you are rich, you can do it. How do you avoid tax if you are poor? In Jersey, you do not avoid tax if you are poor because we even put it on the bread in your mouth. I will leave Members with that thought. For me it boils down to a very basic ethical issue: what kind of Island are we running here? What kind ship are we running here? It has got to be one that runs for the people, not simply for those who are able to avoid tax if they want to.

1.1.5 Deputy H. Miles of St. Brelade:

I address the Assembly today as the Minister for Home Affairs. Therefore, as the Minister with responsibility for Jersey Customs and Immigration, who are, of course, responsible for the collection of customs import duties, which includes import G.S.T. It is acknowledged that the Deputy’s proposition does not prescribe how or where the zero-rating of food is administered. If her proposition is successful, a decision will need to be taken as to whether to adopt the U.K. V.A.T. framework or make other arrangements. As we all know. G.S.T. is currently levied on all goods on arrival in the Island, unless they are subject to a relief, of which there are very few, and her proposition does make specific reference to U.K. arrangements where V.A.T. is charged on import. I therefore wish to ensure Members are made aware of what the operational impact of the removal of G.S.T.

from food on importation might be. I have had long conversations with officers at customs and they indicate that the removal of G.S.T. from food would create significant operational disruption were it to be administered on import, which would directly impact the public. By the very nature of being a small island, the majority of the food and drink we consume is imported and often in mixed consignments as opposed to being imported in bulk, as is the case in the U.K. Additionally, it should be noted that private imports through a customs clearance process in proportion are far greater here than the U.K. So, the impact upon the public, as opposed to a wholesaler, is significantly higher. An individual in the U.K. who imports from an online retailer is likely to be supplied from a warehouse whose goods have all cleared customs formalities. However, goods imported into Jersey by the public, have to cross a customs border and so require declarations if they are above the *de minimis* level. The pitch is further complicated by planned changes that will see large offshore retailers collecting G.S.T. at the point of sale with no *de minimis* from July 2023. So, retailers who regularly ship through to Jersey, such as Amazon or HelloFresh, for example, would need to amend their systems to zero rate relevant food items, which they are not currently expecting to do and may not be able to implement. In which case we could see G.S.T. charged wrongly, which could result in a huge administrative burden to process refunds. The proposition does not acknowledge the resource requirements. If the customs and immigration service are required to support G.S.T. zero-rating on food, a significant investment in the freight handling system, known as CESAR, will be required. We will need to create a library of goods codes, accounting for every single food item so it can be ascertained on declaration whether G.S.T. would be applicable or not. It is currently unknown what the cost of this work would be or whether it would even be possible to implement this on or prior to the beginning of 2024, as per the proposition. Particularly given the ongoing impacts to the Customs and Immigration Department of Brexit and the changes to the *de minimis* due to be introduced next July.

[10:15]

What is clear to me, however, is that this cost would not be able to be met within existing Home Affairs budgets. The Financial and Manpower statement in the Deputy's proposition includes a figure of £360,000 to account for the cost of implementation for the Tax Department and the Law Drafting Office in addition to the loss of revenue, but it does not seem to consider the cost to Customs and Immigration, which are likely to be considerable. Additional resource would not only be required to develop and design relevant software, it is anticipated that a significant increase in staffing resources would also be required to assist with the navigation of the declaration process, which would become much more complex, with more consignments being detained for longer pending declaration. This would also have an unsatisfactory effect on freight companies. As goods currently imported into Jersey from the U.K. enjoy free movement under the Customs Union, it is unknown how many consignments contain foodstuffs which would therefore need to be declared using the Goods Codes functionality. An increase in goods being detained pending declaration will tie up staff resources within customs, leading to delays in the clearing of other goods which require officer intervention to collect customs duties. It is also likely that many of these items will be perishable, which increases the inconvenience for Islanders when they are detained. Not only will this require additional staffing or risk pressuring existing resource who, in my opinion are better served on the borders and anti-smuggling work, it is also likely to impact other activities the service undertake. Such as delaying the compliance and audit work currently undertaken and planned. So, I would ask the Assembly to seriously consider the significant resource implications of this decision, which goes some way beyond the loss of income from the G.S.T. currently collected on food. For my part I would prefer to target our spending directly at addressing the difficulties associated with the cost-of-living crisis, rather than using it to employ more customs officers and start yet another complex, expensive I.T. (information technology) development project. Given that the proposer makes reference to U.K. V.A.T. arrangements, I would like to draw the Assembly's attention to issues which could arise if we were to implement that framework in particular, and certainly the constitution arrangements have

been covered by Deputy Bailhache. We have talked a lot over the last couple of days about the humble Jaffa cake and the problem that that can present at the U.K. border but the true implications are likely to go much further. We would, in essence, need to make wholesale change in the way that goods arriving in the Island from the Customs Union would be cleared. This accounts for around 90 per cent of the goods arriving into Jersey. The only goods that would not be affected are those imported by G.S.T.-registered business who are some of our largest retailers. Imports by businesses with approved trader status, other smaller businesses and individuals would all be impacted and impacted significantly. Consignments imported by individuals, which are currently only detained on arrival in the Island from within the Customs Union if no value is declared or if they exceed the *de minimis* and, therefore, released once value is confirmed and G.S.T. is paid as needed, would require a full declaration using the goods codes to ascertain their G.S.T. liability. Undoubtedly, this would lead to more consignments being detained and disruption to the public. We receive complaints on a daily basis at Customs and Immigration about clearing G.S.T. on regular goods. For those who operate small business but who are not G.S.T.-registered or approved traders, the current position is that all goods are currently detained and released on payment of duty. If G.S.T. were to be zero-rated on imports a full declaration of each food item would, therefore, be required in line with the agreed framework before the consignment could be declared at all. This is highly likely to increase the administration burden for traders, potentially significantly. The level of detail in the U.K. V.A.T. framework is such that if Jersey were to adopt the same framework an extensive library of goods codes would be required, with businesses and individuals would need to navigate, declare all the goods containing foodstuffs. This is not a simple process. I do not want to mention Jaffa cakes again but, for example, flapjacks under one goods code are zero-rated but cereal or muesli bars require a different goods code and are liable for V.A.T. A caramel or millionaire shortcake is zero-rated under one goods code but a shortbread, which is partly or wholly covered in chocolate, is liable for V.A.T. under a separate goods code. These are just a couple of simple examples involving biscuits. They are certainly not exhaustive but they are indicative of some of the massive complexities of the U.K. system. As the responsible Minister, if I was challenged by a frustrated member of the public or commercial importer, I have to admit I would find this hard to defend. I acknowledge the needs in our community that have inspired the proposer to bring this forward. We must find a way of providing help to those who need it with the rising cost of living. The mini-Budget has gone some way to do that, as has the rise in the minimum wage. I commend the proposer for her commitment to seeking solutions to the most vulnerable in our community but I cannot support this proposition, not because I do not care, not because I do not understand the ethical arguments; of course I do but I cannot support it because I do not believe that the benefit it may bring comes close to justifying the additional cost and significant disruptions to the public or business. Whether we were to adopt the U.K. framework or devise another framework, it is highly unlikely that this can be implemented without introducing additional cost, disruption and significant complexity to the process of importing goods containing food. I ask Members to think carefully about the wide and various unintended consequences that could arise from this proposition before voting today.

1.1.6 Deputy G.P. Southern:

I rise as the latest contributor to this debate, having seen this debate one, 2, 3, 4 times perhaps, including arguments about Jaffa cakes and biscuits, which have, by and large, all been sold by the U.K. regime. Therefore, to adopt the regulations of the U.K. is a simple process indeed. The first thing I think I want to say and I remind Members, because it is important, it is vital in fact to this discussion, is that G.S.T. is a regressive tax. It has a proportionately higher impact on those with low incomes than it does on those with high incomes. The Council of Ministers' comments on pages 4 and 5 pretend that it is not so, that somehow we are being generous to those who are wealthiest but examination of the figures reveals a different matter of fact. If you look at the top 20 per cent of our population the average income is around £135,000, approximately 6 times what the average income in the lowest quintile, the lowest 20 per cent is, it is a ratio of 6:1, so 6 times richer at the top end of

our distribution than at the bottom end. What does this mean? This means on average, I, for example, spend something like £152 a week on food. I probably spend even more than that. What happens at the bottom end of the scale? How much do you think is spent on average on food at the bottom end of the scale? It is a rhetorical question, you do not have to answer it but I will let you know, it is £60 per week. Just imagine for a minute having to exist, once you have paid all your bills and you have paid your rent, on £60 a week, week in week out. Could you manage it? I doubt whether most people in this room could manage that, we would be in debt straightaway and indeed that is the case for people on the Island. Part of that is that they are paying G.S.T. on food, a moral issue as well as a tax issue. Remember, as Deputy Tadier reminded us, where is the origin, what is the origin of G.S.T.? It is to replace tax on companies with tax on individuals. It was a deliberate policy by the last Council of Ministers or way before that, the regime I will just call them, the previous regime, deliberate policy to transfer as much tax as possible from businesses to individuals and that is indeed what they did, and this is part of that change. I am told that apart from the people who voted for change in town, most of whom I can see here, there was a tremendous move for change as a result of the last election in the country Parishes as well. The entire Island voted for change. What are we going to do about this last remnant of tax policy from the old regime? Are we going to follow up and change it or are we going to chicken out once more? This is an issue that I believe we should be taking hold of and should be first on the list for change. Why? Because it is regressive and it affects the lowest paid more than the top end. Just to deal with one more point, we are told, we were threatened yesterday with the black hole - another black hole, we have seen them come and go but this black hole - produced by removing tax, G.S.T. from food: "We could not possibly do that, it would be a tremendous black hole." No, there will not. The figures in the proposition and indeed in the comments from the Council of Ministers shows that if we just leave things alone then G.S.T. will increase, increase year on year because of inflation. What is inflation going to do in the near future? It is going to go bonkers. We are expecting 12 per cent, maybe more. The gap, the £10 million that we are giving up in G.S.T. returns, will be eaten away fairly rapidly. The Council of Ministers says it will not be quick enough, it is going to take ages. The reality, I fear - and I think it will become a reality - is that inflation will continue at substantially high rates for some time before things smooth out and that in fact that gap, that black hole, will be filled relatively easy by G.S.T. that is still enacted on other issues. I believe that that is why we can fairly safely say after all these years it is okay to remove G.S.T. from food. Let us take the tax bill out of people's mouths, as Deputy Tadier so graphically told us.

1.1.7 Connétable A.N. Jehan of St. John:

I should start by assuring the Constable of St. Helier that I and the rest of my colleagues on the States Employment Board were as surprised as him to read the *J.E.P. (Jersey Evening Post)* last night with that headline. The proposer gave a detailed speech in her introduction, as well as an excellent report and included the Consumer Council, freight charges and the J.C.R.A. (Jersey Competition Regulatory Authority) in her opening. I have been surprised in the difference in prices for the same product from some local retailers published by the Consumer Council and, like others, would encourage members of the public to look at this valuable tool. Only last night when I got home we discussed how much more we now shop around, rather than getting all of our goods from one supermarket, as we had done for many, many years.

[10:30]

In terms of freight costs, this is an area that we need to have real focus, as it impacts not only on food but on all goods. Members may not be aware that the price differential on the Condor rate card is significant. I am now told that it is approaching £250 per trailer for somebody who ships goods from Portsmouth to Jersey, compared to the dominant player; that is £250 for every trailer somebody else brings in, they pay more. This is not good for competition. We have one major ferry company and one dominant freight company and it is not just the price of food that it affects but it affects all goods

on the Island. The Constable of St. Saviour mentioned the impact of G.S.T. on diesel and the impact on delivery costs. He, like most Members, may also be surprised that the current fuel surcharge for a return trailer on Condor is currently just over £300 per trailer. Yes, logistics companies are paying £300 a trailer or £11.53 a pallet. This was Brittany Ferries' charge, just under £100 for a similar crossing; that is a £200 difference or £7.69 on each and every pallet. I would like to ask the Minister for Economic Development, Tourism, Sport and Culture to look at both of these things before signing any new ramp licence. I would like to ask the Minister for Treasury and Resources to work with Ports of Jersey to limit any increases on harbour dues. I am informed by industry that they fear a double-digit increase ...

The Bailiff:

Connétable, I do regret interrupting you but could you perhaps explain why this relates to G.S.T. on food?

The Connétable of St. John:

Sir, we are talking about the cost of living, the price of food and these things impact directly on the cost.

The Bailiff:

The impact on the advisability of keeping or removing G.S.T.

The Connétable of St. John:

I am going to get there, Sir.

The Bailiff:

Thank you very much.

The Connétable of St. John:

Freight costs, including fuel surcharges and harbour dues all get passed on to the consumer, not just on food but on all goods imported. The J.C.R.A. have today confirmed that they are going to undertake a market study looking into the grocery sector. I hope that review will bear more fruit than the recent freight review that appeared to ignore the facts I have stated earlier about the difference in costs to providers. The Minister for Home Affairs spoke about the CAESAR system and my experience is at the other end of the system as an importer and exporter, and I concur with her comments. I would respectfully suggest that the additional requirements may be too much for the existing system. The detailed report attached to the proposition confirmed one thing for me and that is we need to help the less well-off, target the support to those who need it most. In closing, I would hope the Minister for Treasury and Resources has heard the various points about the different income opportunities and that he and the Council of Ministers will consider these during this term.

1.1.8 Connétable K. Shenton-Stone of St. Martin:

I am going to even annoy myself by saying I was trying really hard not to speak in this debate but I just have to. I see a huge hypocrisy with this Government, on one hand they are saying there is absolutely no money to assist the poorest in our community by removing G.S.T. and then low and behold they find £225,000 to pay a U.K. consultant, £225,000 plus expenses for working 3 days a week. That is including his hotel and his food. Where is the money coming from and what message is the Government giving us? I have deeply considered both sides and have been unsure but I will be voting with Deputy Kovacs because I believe it is morally wrong to tax food and I do believe we can find the money somewhere.

1.1.9 Deputy K.L. Moore of St. Mary, St. Ouen and St. Peter:

It has been an interesting debate so far and I think in this debate we have also identified how we agree on so many things. We all agree that a growing number of middle-income households are facing a difficult time. We all agree that we want to deliver timely and targeted measures to support those families and households and those on lower incomes as well because times are challenging. We know that and we understand that. But that is why on 2nd August this year this Government lodged a mini-Budget. It was debated on 21st September and we are really grateful to everyone in this Assembly who supported that mini-Budget. That mini-Budget was a £56 million package, a package that offered targeted and timely measures, measures that will not benefit higher earners; they will support lower and middle earners through a suite of measures, meeting all of those groups and helping them with their needs, whatever the needs within their particular household. That meant a minimum wage rise to £10.50, 50 pence higher than the Reform Jersey proposal, which was £10 obviously and 12 per cent increase of tax allowances, so that nobody pays tax on earnings until they are receiving £18,550. We have doubled the community costs bonus to £516 and, yes, thanks to Deputy Feltham's extension and the Assembly's agreement that is now extended to those who pay a small amount of tax up to £2,700. We have also doubled the C.O.L.T.S. (Cost of Living Temporary Scheme) payments for those who are on income support and we have also provided more money for the Consumer Council to provide their price check information. Just last week they identified the huge difference in the cost of a litre of fuel in Island, which is 30 pence, depending on the garage that you choose to fill up your car, if you are still running a car on petrol. What we want to do is pass on a tax cut, not to the higher earning households who consume more and are less impacted by the cost of living. We do oppose this proposition, not because we do not care about those who are struggling and the cost of living but because it is neither timely nor targeted. It is a proposition that will not come into effect until 2024. We too listen and meet with Islanders. We speak to Islanders. We have been out to meet groups such as the Citizens Advice Jersey, the Consumer Council, the Grace Trust, the Salvation Army and so many more. We are connected and we understand that there is a cost to a great number of members in our community in these challenging times. This neither is a debate about personalities; I think that would be a very sad route to go down. I have found it slightly disappointing to hear those suggestions. Every Member in this Assembly, as we identified yesterday, is here for a single goal and that is to simply serve our community to our best endeavours. We all have some slight differences in how we achieve that and that is the purpose of debate. It is not necessary to play the person, as the Minister for the Environment so eloquently said in yesterday's debate: "Let us play the policy." There are a small number of Members in the Council of Ministers who have campaigned to remove G.S.T. from food in the past, as Deputy Labey reminded us earlier. She herself has been so convinced by the measures ... although she is not convinced there are others in the Council of Ministers who have become convinced that the measures that we have brought forward so far do provide enough support to those Islanders who need it most and they will be supporting the Council of Ministers today and voting against this well-intended proposition. There have also been comparisons with the United Kingdom and they are of course quite unwise, as Deputy Bailhache and others have outlined. Not only did the last United Kingdom Government announce its mini-Budget 6 weeks after we did, and we all know what happened after that, but up there luxury food items, such as caviar, are not subject to V.A.T. but of course their V.A.T. rate is significantly higher than ours. We certainly do not want to have to consider as an Assembly increasing G.S.T. to a higher rate on other goods if we are put in a position where we have to compensate for the removal of G.S.T. on food. Deputy Scott yesterday reminded us that the F.P.P. (Fiscal Policy Panel) have given clear advice and they say that that includes protecting and growing our reserves to benefit future generations. In agreeing our Common Strategic Policies yesterday, those future generations and ensuring that we are a community where everyone can thrive is very much at the heart of what brings us all here together and drives us forward in our policy-making. If we are swayed by this proposal we would have to increase G.S.T. on other products or an increase in another charge or duty,

which, due to market conditions, might not raise enough cash; we simply do not know. Some have mentioned, and I think it is important to respond to the proposition that was successful last year, to remove G.S.T. from sanitary products, it is really important to make it absolutely clear that that proposition did not use the G.S.T. mechanism to do so, it had found a better way. However, since joining Government, and it was not a debate to remove G.S.T. from sanitary products and offer them for free, that would have been utterly pointless. It was simply a debate to remove G.S.T. and it was that debate that did encourage the Government to come forward and say: “Okay, fine, we will find a way of making them free.” That is now what we are doing and we will in the Government Plan remove the commitment to removing G.S.T. from sanitary products because we have made them available for free in our mini-Budget. The Constable of St. Helier spoke very eloquently as ever and he is quite right that we must have a greater focus on public spending. That is why we have a value-for-money project within our Government Plan. I can tell the Assembly that there are certainly strong challenges these days when contracts come to the States Employment Board and we take great care when thinking about employing more people. Because as the Minister for Home Affairs explained, this measure will raise the staffing costs, so I encourage the Constable to think again. Deputy Southern suggested that using U.K. rules is simple. Well we have rehearsed the constitutional issues and the impact upon our customs officers, then we have to also think about the increasing amount of trade that we are doing with our southern neighbours, thanks to the excellent work of Deputy Morel. What would we have to do with them? A completely different set of rules. Our focus is on ensuring that those who are providing our critical services, health and education, are able to thrive in our community and enjoy a good quality of life. I would suggest to Members that they enable us to do that and that means being able to deliver additional cash in that area. As the Minister for the Environment reminded us, the focus of this Council of Ministers is to focus on raising household incomes so that they can make their own choices rather than trying to manipulate prices: “The proposal costs a lot but delivers a little”, he said and I encourage Members to keep that at the forefront of their minds. That does not mean that you are not caring; that means that we are thinking sensibly, pragmatically but showing that those members of our community who have told us that they are struggling and worried are in our thoughts and in our actions. But let us help by targeting and delivering for people now and when they need it, not offering a little gesture that will arrive in a year’s time. We are small as an island and we have to be pragmatic and focused. That pragmatism is what has stood us well for many decades and centuries even, that is why we stand today in a strong position, that is why we could deliver a £56 million mini-Budget which offered targeted support to those who need it and maintained a balanced budget. Yesterday we agreed for our focus to be on Jersey being a community where everyone can thrive. These times are challenging for many and we know that we must support our main industry to thrive in order to continue to generate the employment opportunities and the revenue that it brings us. By offering targeted, careful and caring measures we can best deliver for those in our community who need it most.

[10:45]

This is not a choice about pragmatism or morality; I choose both.

1.1.10 Deputy E. Millar of St. John, St. Lawrence and Trinity:

I wish to support the points that have been made so well by the Minister for Treasury and Resources in our debate yesterday. As an Assistant Minister for Treasury and Resources, I must emphasise the significance of the potential loss of income if this measure is adopted today. The Government Plan will be debated next month and this will show a financial position that is only just balanced by the end of 2025. A reduction in annual income of £10 million cannot be absorbed without some other action. Deputy Kovacs does not adequately explain how she would bridge this funding gap. Without an increase in income, that is taxes, there will need to be reduction in government expenditure but there is no coherent plan on the table to make up the shortfall. I cannot support a decision which could lead to cuts in existing services in order to accommodate a reduction in future income. Turning

to the households who will see the most benefit from this proposal; the households with the highest incomes will see the greatest benefit from the proposed reduction in G.S.T. For every pound saved by a bottom quintile household, a top quintile household will be better off by over £2.50, somewhat ironic I think, given some of the comments we have heard this morning. This is not the way to target government support. Considering my role as the Minister for Social Security, I will briefly remind Members that there are existing mechanisms in place to compensate for the inclusion of food within the G.S.T. regime. These compensations have been available since 2008 and continue to be included within the tax and benefit systems. Income tax allowances were increased in 2008 and these increases are now baked into the income tax system. Income support allowances were increased in 2008 and again in 2011. Again, these increases are baked into the income support system 2008 also saw the introduction of an annual bonus designed to provide compensation to those households who neither paid income tax nor received income support. This annual payment is now known as a community costs bonus. The original value of this payment was directly linked to the annual cost of G.S.T. on food. Should this bonus scheme now be withdrawn if G.S.T. is removed from food? Assuming that food inflation stops now, which we cannot, assuming that the benefit is passed on by retailers, which is a big assumption, the benefit to low-income households is £150 per year. In 2021 the value of the bonus stood at £258.25. As part of the mini-Budget, as alluded to by the Chief Minister, we have doubled this payment to £516 and increased its scope to some taxpayers as a one-off measure for 2022. I would, however, like to correct and update some of the comments made by Deputy Kovacs yesterday about the community costs bonus and the application process. If Deputy Kovacs took the time to get her phone out and look on gov.je/C.C.B. (community costs bonus) she will see that the application process for community costs bonus is in fact very, very simple. As Deputy Ferey mentioned, we have also spoken to foodbanks and on our visit to a foodbank last week we have, I hope, persuaded them and shown them the application form on their P.C. (personal computer) in the office that it is so simple that they should be able to sit down with the people they help to help them apply for a community costs bonus; it is simply not a difficult application process. The fact that at the time Deputy Kovacs looked at numbers, there was a delay, is possibly due to the fact that we have had a very significant uplift in numbers of applications this year and also the added complexity of Deputy Feltham's amendment means that rather than simply saying: "Yes or no, this household does not pay tax", the tax authorities are having to go away and calculate household tax revenue to confirm whether or not the household is eligible for the bonus. Just to come on to the figures, as at yesterday's date 3,900 applications have been received, that is almost 4 times the number of households that benefitted last year; 3,700 households have been paid community costs bonus for this year, 200 are in process, 200 out of almost 4,000 are still in process. All claims up to 13th November have been paid. It is a simple application process. A new community costs bonus will be developed for 2023. This will continue to fully support households from the cost of G.S.T. on food when they pay a small amount of tax; that will be reviewed for next year. We have committed to a scheme to be rolled out in January 2023 which will help those families who have under 5-years residency. In summary, these areas provide well-targeted support to Jersey households and were agreed at the time as an appropriate response to the need to include food within the G.S.T. regime to ensure that the tax system remains broad, low and simple. Shortly after my election as Minister for Social Security I was faced with the challenge of helping to devise a mini-Budget at great speed. I am proud of the scheme that was put together in August and approved by the States in September. This has provided immediate targeted support to local households for the autumn and winter and extra support through both the income tax system and the income support system from January 2023. I will also be developing a new community costs bonus for 2023 and will announce those plans as soon as possible. The Government is not waiting until 2024 to address the challenges facing households today. It has already taken decisive and positive action and will continue to do so. I would also like to just comment briefly on the implications for our law of adopting the U.K. system. Deputy Bailhache has given us a very clear and, if I may say, concise discussion on the implications as a matter of constitutional law for adopting U.K. law. Deputy Tadier, who I believe is not a lawyer, says we can

just discount those as being irrelevant. I also would remind this House that Deputy Bailhache is a lawyer - and I am sure he will not mind me saying - of very many years' experience. He has held all of the top legal jobs in this Island and there are very few Jersey advocates who would dare to suggest that their knowledge of constitutional law comes close to approaching his. I am certainly not one of them and I would simply ask this House to be very careful in disregarding his advice. I would also just like to comment on what the U.K. law says about V.A.T. on food, and I can do so relatively quickly. If anybody has read appendix A, which is on page 21, it describes value added tax on food like this: "Food V.A.T; the supply of anything comprised in the general items set out below, except a supply in the course of catering." That has its own challenges, which we will not discuss here and: "(b) A supply of anything comprised in any of the excepted items set out below, unless it is also comprised in any of the items overriding the exceptions set out below which relates to that excepted item." Basically, it is in, unless it is out, unless it is in; how straightforward is that? In my previous role I was often asked to review draft orders to be granted by the Jersey court; those often came from English farms, essentially, and was reviewed by Jersey lawyers and sought permission for U.K. liquidators to exercise their powers in Jersey. Those draft orders would often say something along the lines of: "A liquidator could use all of the powers available to him or her under section 226 [and I am guessing] of the Insolvency Act" and I always resisted that on the basis that in my opinion - and it is my opinion really - that if a Jersey court is going to make an order that is going to be served on a person living in Jersey and is going to be valid and binding in Jersey, the person who receives that order should be able to understand what that order means without having to seek English law advice. So it will say you must set out and feel what those powers are because taking Jersey law advice is one thing but taking U.K. law advice to understand a Jersey court order to me is completely inappropriate. I think what adopting the U.K. system would do is not just requiring businesses to take legal advice. There is nothing wrong with businesses taking legal advice from Jersey lawyers because let us remember Jersey lawyers charge G.S.T. on their fees and they pay income tax, and I am told quite handsome amount of tax on their handsome incomes; they are the benefits. Adopting this proposal would be pushing Jersey businesses and Jersey individuals to seek U.K. legal advice. It would also be pushing Government to seeking U.K. legal advice - and 2 of the Connétables have referred to it this morning - we all know how much the public does not like Government going to U.K. consultants and I can tell you if you think a medical professional is expensive just wait until you see the costs of a U.K. specialist tax lawyer. In brief, I ask Members to reject this proposition and to support the Council of Ministers in their ongoing targeted and timely response to the cost-of-living crisis.

1.1.11 Deputy L.V. Feltham of St. Helier Central:

Firstly, I would like to thank Deputy Kovacs for bringing this proposition for debate. The diligence she has shown in putting together her report and addressing every potential risk or issue has been outstanding and something that we all need to aspire to, including Ministers. I wanted to focus my input in this debate on core principles, as this is a decision of policy. However, unfortunately, due to some of the rhetoric we have heard I find myself discussing some administrative aspects that really should be addressed by the civil service once the Assembly has given its direction. I will repeat what I said earlier in the week, it is our role to lead. If you are a Minister that is about to or has read out their speech prepared by an officer, I hope that you have checked that what you say reflects your values and that you have done enough due diligence yourself to know that what you are saying is factual and accurate. I want to address some of the comments made by Deputy Gorst yesterday. Now the Chief Minister, I can see the Chief Minister about to press her button.

Deputy K.L. Moore:

Sir, I was thinking of a point of order. I think the Deputy did make some assertions about the potential behaviours of some people in the civil service who may or may not have written speeches and I was not quite sure whether that was very appropriate.

The Bailiff:

I have to say I did not hear anything that was overtly critical. I think the Deputy merely said it is for the Members of this Assembly to lead and that if any speech has been written or presumably contributed to by officers, then hopefully the person who has delivered the speech has satisfied themselves that it reflected their values. I am not sure that ...

Deputy K.L. Moore:

Sir, I think it was the reference to factually accurate and I think that is what causes me some issue.

The Bailiff:

I have to say I did not hear a criticism there, I simply heard a statement that if someone is presented with a list of facts they might wish to check some of them; that is all I heard. But was that your intention, Deputy Feltham?

Deputy L.V. Feltham:

Yes, absolutely. It was to suggest ...

The Bailiff:

It was not suggesting anyone would be deliberately inaccurate in what ...

Deputy L.V. Feltham:

No, I was not. I was suggesting that perhaps Ministers should do the same amount of due diligence that Deputy Kovacs has done.

The Bailiff:

That is ... yes, please carry on.

Deputy L.V. Feltham:

I wish to address some of the comments made by Deputy Gorst yesterday, by the Chief Minister today and Deputy Millar, the Minister for Social Security as well, as much of their argument focused on the definition of food, which the proposition has suggested should be taken, although it gives some flexibility. It says that the U.K. V.A.T. definition should be used as a starting point. The Ministers may use any other such categorisations that they would like to use, so there is some flexibility there.

[11:00]

I caution Members that if they are going to take legal advice perhaps they should do so from Members that have read the detail of the proposition. Why was I so surprised of the Minister's criticism of this? Because I was sat in the room when the Minister's own officers advised Deputy Kovacs that this would be the simplest definition to use on Island. We asked if an all-food definition would be better, whether other countries' definitions may be better but, no, the answer was that it would be far simpler to utilise the work that had already been done and was widely understood. I would have hoped that the Ministers had received the same advice from officers, one in particular I will not name but it was the same officer mentioned by the Minister for Treasury and Resources. I also do not agree with the Minister for Treasury and Resources' suggestion that using this definition because of the policy decisions to take G.S.T. off of food would lead us to adopting the U.K. V.A.T. system lock, stock and barrel. For one, G.S.T. and V.A.T. operate differently but also making certain items zero-rated, reducing or increasing rates are policy decisions that would need to be made by this Assembly. Dare I say it, and the Constable of Grouville is a much better-versed person in this, but I am sure that we could add the flexibility in around Jersey Wonders. The Minister for Treasury and Resources also told us that he does not think it would be easy and that other work would have to stop in order to implement this proposition if adopted. Again, Deputy Kovacs and I addressed this in our meeting with the Minister's officers. Both of us having public sector backgrounds we understand that you

cannot just snap your fingers and make things happen and also that the public sector is under pressure to deliver multiple existing projects and programmes. But we also know that the public sector should respond to the decisions taken by the Assembly. At first, we were given the answer that the Minister seems to be referencing, all about complexity, cost and administration. As Deputy Kovacs and I have undertaken our Lean training, we started asking why? Firstly, it was complex legislation and the time that it would take, and what we did then was asked them to go back and do their workings out. Because, surprisingly, the officers could not tell us what the cost and the resource implications were. When they came back to us the figures were considerably less than I was expecting, given the resistance we were facing. It was a project team to develop law with L.D.O. (Legislative Drafting Office), create administrative procedures, et cetera, £60,000: increased size of G.S.T. team by 2 or 3 staff years £150,000 a year, G.S.T. return and I.T. changes in customs I.T. £120,000. Being rather familiar with the Government's project management framework and having completed a number of project-sizing matrices before, I can confidently say to Members that this is not a major government project. In fact, it is the type of project that would be initiated by departments on a regular basis without any Ministerial oversight. I am at quite a loss as to why Ministers are taking such a large interest in this component of the proposition. They might wish to request a full list of all projects currently being undertaken by their departments so they can do a compare and contrast on the public value provided by those. I was also surprised by the speech made by the Assistant Chief Minister with responsibility for technology. I thought this Government was elected on a mandate for change, so to hear him continue the previous Government's mantra that computer says no is disappointing. I would hope that this Assembly can move away from the technological determinism that constrained the previous one and that this new Assistant Chief Minister would lead the way in technology enabling change and, more importantly, technology being developed that can react nimbly to the policy decisions of Government and this Assembly. Where I do agree with him is when he suggests that tax policy can be improved. For me the removal of G.S.T. on food is one such improvement. What we are making today is a policy decision, not an administrative one. What is the policy that should be adopted when it comes to raising revenue and whether the Government should be raising revenue by taxing essential food items. If adopted the financial implications of loss of revenue will not start until 2023. The Government has ample time and opportunity within next year's government planning process to bring forward progressive changes to tax policy to replace this lost revenue. The Assistant Chief Minister suggested some, Deputy Kovacs also suggested some; our party would also bring forward some that are aligned to our manifesto. Our tax policy is clear and it was clear when we stood for election. Let us be blunt about this, Government sees people purchasing basic food items as a revenue-raiser and in times of increased food costs such revenue to the Government will increase; that is more money out of people's pockets. Today we are making a policy decision, not an administrative one. It is a policy decision about whether Government should raise revenue when people buy basic food items. In making this decision we individually need to consider our values and whether this is the way that Government should raise revenue or if - get your Bingo cards out - there is a better way. I do not believe that people should be taxed on their basic food basket and we should bring more progressive measures to raise the revenue in the next year. I urge you to support this proposition.

1.1.12 Deputy P.F.C. Ozouf of St. Saviour:

The Chair often has difficulty with Members introducing or repeating arguments and I am certainly going to try and introduce a new reason why Members should not vote for this proposition. I, as Members will recall, am somewhat of a veteran of G.S.T. exemption debates. We have had 8 of them, the last time I was looking at the numbers. I was known to be one of those speakers, we think affectionately of the late great Constable of St. Clement and his rum baba speeches. We speak of Jaffa cakes and we have heard of tea cakes. These are not laughing matters, they are real. I would remind Members that following those debates, those well-intentioned debates, which I have no doubt Deputy Kovacs of St. Saviour - I am wearing my St. Saviour's badge here - is bringing, I understand

that there are many Members of this Assembly that have a moral issue with it. However, it also should be remembered that the equivalent of G.S.T. on food and other essential items has been given back to taxpayers in forms of wider tax allowance, not once, not twice, not 3 times but 4 times. It was given back in terms of income support payments, which were permanently raised. It has also been given by - and I reflect memorably - the work of the former Deputy Le Fondré in bringing forward that very G.S.T. bonus that is now called the community costs bonus, when under the leadership of our Chief Minister, has now been massively increased. The cost of G.S.T. for essential items has already been baked into people's incomes; they have already had it, not once, not twice, not 3 times but more than that. The mini-Budget, as the Chief Minister and the Minister for Treasury and Resources have said, has done that just thing. I was out of the Assembly and I apologise, I was on a conference call with Greg Hands, the Minister for Trade, trying to advance our interests in trade as the U.K. tried to extend their goods, to try and lower the cost of living by increasing trade deals; the meeting went reasonably well. I did not hear the contributions of some Members but I know that some Members have spoken, particularly no doubt Deputy Bailhache, on the issue of the legal exemptions. Deputy Feltham said that V.A.T. exemptions would be the simplest way of dealing with it. They are not that simple; it is just the least-worst option I say to Deputy Feltham. It is the least-worst option, the least-worst option of a very, very ... and it is not overplayed, it is not overstated, it is an administrative nightmare. I note with interest that the Co-op, an interesting organisation, is the one that is saying they are going to bring forward their costs of G.S.T. right through to their consumers; well done the Co-op. But I would point out very respectfully that the Co-op does not pay tax. On the Consumer Council website, have they got lower food prices because they do not pay 20 per cent tax? I do not think so and that is the point, is the goods are priced at the price which the customer will bear and it is about competition. Well done Co-op but come on, bring down your prices because you do not pay tax; the others do, you do not. Sorry about that. When we say that the Deputy talks about complexity, the least simple, she is, I think in her remarks - and I absolutely accept them - that we want to have this Assembly involved in those exemptions. Are we really going to start having debates about Wonders? I am not sure, I have asked whether or not Wonders under the U.K. rules would be in or out. What about black butter? Are we going to start having debates about whether or not G.S.T. is involved or in or out? Is this Assembly going to start, as Deputy Feltham seems to suggest, about whether or not it is going to be in or out of these vital foods? Let us not go there. It is not an underestimate to say that the legal challenge would be a complete waste of public money. It would be a complete waste of the legal fees that would be incurred by the retailers. What happens? Companies do not pay tax, ultimately it is the employees, it is the owners - unlikely in the case of the Co-op, as we have heard - or it is going to be the consumers that pay. Increased costs, increased complexity, that is going to make competition worse. It is not something that I think has been raised in a force that Members would expect me to but I want to see more competition and lower prices in our grocery market. The threat of new local low-cost retailers and, yes, in the U.K. I am a proud customer of Aldi and Lidl, even the lower-cost operators. They are the ones in the U.K. that are lowering prices and they are not just doing it, before somebody says they prefer Waitrose to Aldi, it is the arrival of those low-cost retailers in the U.K., and now Aldi's fourth position in the market, that has driven down costs of groceries across the board. Have we got a Lidl and Aldi or the other ones in Jersey? No, we have not. The front page of the *J.E.P.* today shows empty shelves. I am working with my colleague, the Minister for Economic Development, Tourism, Sport and Culture, who is not here. He wants to get more retailers from France. Do you know what, there is an Aldi and a Lidl in Saint-Malo and Granville? Let us get those real low-cost retailers, let me petition nicely the Minister for the Environment and the planning panel to see whether we can find a site that we can get one of those low-cost retailers in Jersey. It is the threat of competition that drives down prices and, by the way, it is going to be a lot easier to get those retailers in if we can say there is no complex V.A.T. rules. If we get them in from France, who have different rules, it is going to be a lot easier. Low, broad and simple we are going to be able to tell these retailers: "Please come in, please come and compete and drive down the cost of retailers in Jersey."

[11:15]

I have been astonished in this Assembly over the 19 years that I was here, do Members remember the purchase of Asda, our low-cost supermarket, 8 hours before the Competition Law was brought in by the then C.I. (Channel Island) Traders; 8 hours? Why did they do that? Because they wanted to infringe competition, they wanted to stop what would have otherwise been something that would have meant that competition would have been narrower. I say and I still say I was outraged by the fact it was 8 hours before that Competition Law came in. The law did make a difference, when C.I. Traders was bought and taken over by Sandpiper, we then had different and now we do have a more retail vibrant market. We have got Waitrose, Morrisons, M.&S. (Marks & Spencer) and the Co-op. But I must say that in my absence there seems to have been a bit of a lack of oomph in the last Assembly in relation to competition matters. I certainly am looking forward to working with Deputy Morel with his oomph for getting in lower-cost retailers from France. I think we can do it and we will benefit Island consumers. If I could take all of the time that officials are going to have to take in introducing a complex system of V.A.T. exemptions on food, which apparently are going to be changed because we are going to have decisions made in this Assembly about it, if we could bottle that time and put it into attracting low-cost retailers, of which we have not one that is going to drive prices. The cost of groceries, not just food, is a real cost to families; in the United Kingdom, in France, across the European Union and it is particularly acute in our Island. We do not have one single cost retailer. I look forward to Deputy Kovacs' summing up. Does she think that reducing the cost of food by removing G.S.T. food exemptions. If she would like to use her absolute enthusiasm as a very valuable St. Saviour Deputy to bring in more competition, I think that is going to make a real difference to working families, those people who are struggling at the cost of living. But of course they are better off because of the good work of our mini-Budget under the leadership of the Chief Minister and the Minister for Treasury and Resources and the Minister for Social Security. Unlike the U.K. we brought a mini-Budget in which was costed and affordable and I have got no doubt that the Council of Ministers, as we deal with the cost-of-living inflation crisis - which is probably not over - that we are going to have to do more and we are going to be alert to doing more. We are going to have to do it. It is by having competition, but also I am delighted to have the support of the Constable of St. Helier in this matter. Of course, that is very valuable. He did of course say that he opposed G.S.T. when it came in. He was right, but I would also say very respectfully, before we need to rewrite history, that if we did not have that G.S.T. ... it is not a magic money tree; it is money that is going into front line services. Would we have the kind of ability to put money in our health service if we did not have that G.S.T.? I respectfully ask Members to look at Guernsey. Look at their recent numbers. Are they going to have to introduce G.S.T.? They have put it off for 5 or 6 years, not a matter for this Assembly, but they now have an annual deficit according to a report I read yesterday of £220 million. I have the battle scars of G.S.T. I was the Member who had to say I had different figures given to me after I was elected in the raising of G.S.T. Deputy Mézec may laugh. It is no laughing matter for a Minister for Treasury and Resources to come in to see public finances numbers which I was told: "Oh, no, you can take it from the Strategic Reserve." Where would we be today if we would not have made those courageous decisions? When you look at inflation and look at inflation came in, did it actually get all passed on? No, it did not. That is the striking thing. That is the striking thing about when we brought in G.S.T., it did not all get passed on. What matters is competition. I understand the moral arguments that many Members have but I ask them, I implore them, let us keep our system of G.S.T. low, broad and simple. We will be more successful in targeting benefits in the way that we have done so in the past and we will be also more successful in bringing those low-cost retailers to Jersey that will lower the cost of living, that will deliver better value for those working families which the Deputy and all Members of this Assembly, whether a Constable or a Deputy, we know that the cost of living is a problem. We have known it for years and we need to do something about it. I hope that my zeal, my longstanding position, the very reason why I stood to this Assembly in 1999 about competition is back. It is back

with enthusiasm and determination. We are not well-served in competition areas, we have got to do more work, and putting the energy behind that is going to deliver far more - with respect to the Deputy - than taking G.S.T. off food as a symbolic item, which again I am also absolutely not convinced at all will lower the cost of food in those other businesses. It is only the Co-op I hear that has been advancing this; they have said that from the start. There are other retailers that are concerned. I have spoken to them; I know that. I am not having a conversation with Deputy Kovacs; I have spoken to them and they do not want that complexity. I do not want that complexity. It is a waste of money and we can do better. We can do better for our Island community by sending a clear signal that we are determined to lower the cost of living by having more competition. It is the threat of competition that works and let us send a clear message out. Low, broad and simple; let us do that. Not go with what I am afraid is a seriously failed and, I am afraid, incredibly expensive proposition, both to the taxpayer who is going to have to administer it, and the retailers that are going to have to administer and that is just going to go on higher costs. I am sorry, I cannot, as I have done in the last 8 debates, support an exemption on food.

1.1.13 Deputy S.Y. Mézec of St. Helier South:

I am delighted to follow that speech. Deputy Ozouf spoke about the rewriting of history so let us be clear about the history of G.S.T. In a few weeks' time this regressive tax will have existed for 15 years and if you could sum up the history of that tax with one word it would be this word: failure. G.S.T. did not achieve what it was set out to achieve. G.S.T. was introduced at the time that Zero/Ten ... hard truths obviously hurt, Sir. G.S.T. was introduced to fill the black hole created by the introduction of Zero/Ten and it failed to do so. It failed to do so at its outset which is why a few years later it had to be increased from 3 per cent to 5 per cent, in stark contrast to the manifesto commitments of the Minister for Treasury and Resources at the time. Perhaps he thinks that is the point I was about to make. A few years later we discover the black hole in public finances still existed and so from 2014 we had ...

The Bailiff:

Please carry on.

Deputy S.Y. Mézec:

I understand we are barely quorate; it is not like we are debating anything important or anything. The black hole in public finance from 2014 led to the austerity package that that Government cruelly imposed on some of the poorest and most vulnerable people in our society. We can talk about all the rebates that were provided through some benefits but that £10 million cut in support to the poorest people in Jersey was particularly vicious and it was evidenced to have been vicious by the work that was done by Statistics Jersey in looking at rates of relative poverty in Jersey. The tax was a complete failure, and it was always going to be a failure. Many people saw that at the time. Some of those voices still in this Assembly. What we saw with the introduction of G.S.T. was a removal of tax from corporate profits - the key word there being "profits", if you are a business that is not doing so well at a particular time and not making profit you do not pay it, it is only on those that make profit so it is progressive - taking tax off of those succeeding businesses and instead putting that tax on people's basic living expenses, which we have seen the impact on through various reports that have been produced for this Assembly about how the tax take has changed over those last 15 years, taking it away from those most able to pay it and putting it on those least able to pay it. The Dean spoke yesterday, not landing on either side of this debate which of course is appropriate as an unelected Member of this Assembly, but he did encourage us to keep bringing forward propositions aimed at trying to help the vulnerable. I can give him our assurance that we will certainly try to do that but when he said those words it reminded me of a Brazilian bishop, whose name I had to Google to remind myself, from the 1980s, Hélder Câmara, who said: "When I feed the poor they call me a saint. When I ask why the poor are hungry in the first place they call me a communist." I think this gets to

the attitude that the Government seems to have, which is that if we want to help the vulnerable in our society, rather than finding the root causes of the hardship that they are facing we will just throw more benefits at them. We will just increase the benefits bill, and bear in mind that some of those benefits at least are funded through regressive taxation where the middle earners proportionately pay the higher rates because we have caps that apply to the highest earners, and so we find ourselves as a society more and more where those in the middle who pay the highest tax rates are taxed more and more so we can fund a greater benefits bill for people on the lowest incomes, rather than trying to address the root causes of why many of them may find themselves financially vulnerable. I do not think that is the right way to go about it. I have no hesitation whatsoever in voting to support increasing the benefits bill when it is necessary - there have been times in recent years where it has been unfashionable to do so - and I have wholeheartedly opposed cuts to the benefits bill. But are we really saying we think that that is the appropriate direction of travel, to have a group of people in our society who become more and more reliant on benefits being paid out rather than to support them with genuine financial independence, a genuine ability to manage their own lives through their work and paying their bills because we address those bills as being affordable in the first place. I think as a long-term strategy that is very problematic and it will continue to see that further squeeze on middle Jersey that so many of them resent. Questions have been raised about the affordability of this proposition and how it is funded which, I have to say, is hugely ironic. The Minister for Social Security spoke about the subsequent years in the Government Plan which will need to be funded and the knock-on effect that this may have on it. Well, let us remember that the Government Plan itself is predicated on several years after 2023 of savings in spending for which not a penny of detail is provided in the breakdown in that Government Plan, which stands in stark contrast to the recommendations from the Fiscal Policy Panel. But that is okay. It is absolutely okay to say: "Well, we will balance our budgets with this prediction that will make these savings without a single line of detail on that, against the economic advice we are getting, but if somebody dares come up with a proposition to try to remove G.S.T. off food, with plenty of alternative suggestions about how that revenue can be raised, we will apply a totally different standard to that argument than to our own." I think that is unacceptable. But I think the argument that has wound me up the most - it has been hinted at a couple of times today by the Chief Minister and yesterday by other Members - is about wanting our debates not to get personal. Well, in politics you have to make decisions and you have to be accountable for those decisions, and if not even the majority but perhaps even a minority do not like the quality of the decisions you make they have every right to say so and they have every right to direct their criticism at the people who they believe are responsible. That is not being personal, that is being political, and it is entirely legitimate to do so. I raised one Member before who broke an election pledge when he raised G.S.T. previously. I think it is legitimate to raise that because it helps inform the public on how they might choose to exercise their democratic franchise in the future.

[11:30]

But surely it cuts both ways. If you do not like politics being apparently personal when you are trying to hold people to account for their records, I think you also cannot expect to say to Members of this Assembly that you have to defer to somebody because of their professional background, irrespective of the quality of their argument. That is exactly what the Minister for Social Security asked us to do when she referred to Deputy Bailhache's argument. I will not defer to it because his argument was absolute nonsense and I question whether he had even read the wording of this proposition. He fearmongered and suggested that in adopting this proposition we would be giving legislative authority to Westminster. That is nonsense for 2 reasons. The first reason is because it simply is not true. What we have before is not an Order in Council asking us to extend U.K. legislation to Jersey; it is a proposition asking us to come up with our own legislation to effect a decision. Look at the wording of what is in the proposition. It does not say to adopt the U.K. V.A.T. legislation, it says what we adopt to be based upon, so that means it will be Jersey law that ultimately governs it, this Parliament remains sovereign in that regard. Then you go further down in the proposition and it says

“or such other categorisation identified by the Minister for Treasury and Resources”. So we are not, as a simple matter of fact, delegating any authority on the running of our Island to another Parliament which is not democratically accountable to us. He was simply wrong to suggest so and I will not accept an argument put forward by someone when it clearly is at odds with the wording in front of us just because that person happens to be an experienced lawyer previously. It cuts both ways; you cannot pray in aid someone’s previous career to be personal and expect that to delegitimise other arguments. But of course the second reason why that fearmongering is nonsense is because we do it all the time anyway, to extend U.K. legislation to Jersey. This Assembly very often in the time that I have been here has voted on Orders in Council to have U.K. legislation extended here. That then gets registered in the Royal Court. We do it by consent and we do it because sometimes it is beneficial to Jersey to do so, so I will not accept that argument for one moment. The Minister for Home Affairs spoke about the significant operational disruption that would be caused to customs if this were to be adopted, which I found most interesting. I and the proposer of this proposition met last week with a representative from customs to understand these issues and understand practically what they would involve and work out what would have to be done to overcome any particular challenges that it might pose. We did that to inform ourselves before this debate, obviously an important thing to do, but we did it also because this Assembly may decide to adopt this proposition and if it does adopt the proposition it does not matter how much you have complained before the proposition you just have to get on with it; accept the decision and get on and deliver it, which is what customs will have to do. So they will have to have a plan B and, do you know what, I thought the plan B sounded okay by me. There are plenty of ways that they can get around some of these challenges to make it easier to bring goods into the Island and have a G.S.T. regime on them that allows us to collect the revenue that we ought to be and provide as much convenience as possible to those running customs and to those customers as well buying goods from outside. There are plenty of things that can be done and those will be easier, in fact, if we align ourselves as closely as possible to the V.A.T. arrangements because many of those businesses from outside the Island will already have processes in place for differentiating between what types of food are chargeable for G.S.T. or V.A.T. and which are not. The benefit of aligning closely with those V.A.T. rules is that a lot of the hard work has already been done so these questions about Jaffa cakes, these questions about gingerbread people with a chocolate button or whatever on have already been dealt with elsewhere. Why do they need to be an issue here? The businesses in the U.K. will already have their processes in place. If it is going through something like Amazon you just extend their systems and their billing mechanisms for the regime that already exists for sales internally in the U.K. to what they do in Jersey. Easy to do. When it comes to goods being stopped at the border in Jersey before being released after G.S.T. payment, well, I would say as somebody who occasionally has that happen to me that the system is already a pain. I do not think there is any way of making it not a pain. It is annoying, it is necessary; I do not make that as a criticism, it is just a pain when you are expecting to receive something and then you have got to go through some bureaucracy to get over it. If it is a mixed pantry with some chargeable goods and some non-chargeable goods in it you will have to do a dropdown menu where you pick which items in there are chargeable and which are not. Again, that can be easy to reconcile if you are aligning with the same V.A.T. classifications because whatever you are ordering from the U.K. will already know what the regime is and they can send you an invoice saying: “These are the ones with V.A.T. on it, these are the ones without.” So you hold it up against your dropdown menu, click, click, click, done. It will take a bit longer but that is it. I would hope that some customers would actually be quite pleased for that, even though it will take a few minutes extra in that dropdown menu it will be because the goods will be cheaper that they are buying, so I would have thought they would be pretty pleased with that. Deputy Ozouf’s comments about competition lowering grocery costs; of course in theory that all makes sense and I wish him well in attempting to deliver that in Jersey. But I did quickly Google to see what statistical evidence there was about some of the claims he was making and that is that at the moment even with the competition he refers to in the U.K. food inflation

is the highest it has been on record, so it is not doing a lot of good up there. I have been completely caught off guard by that clock, Sir, so I urge Members to support the proposition.

The Bailiff:

Does any other Member wish to speak on the proposition? If no other Member wishes to speak then I close the debate and call upon Deputy Kovacs to respond.

1.1.14 Deputy R.S. Kovacs of St. Saviour:

That has definitely been a long debate. I would like to thank all Members for their comments and contributions. I believe it has been a worthwhile debate and perhaps a subject that we have not heard the last of just yet. We shall see. Members will be relieved to hear that I will address the generality of comments, which I hope covers points that have been raised. Before going into the main thing I want to say I want to explain a few points. In the comments paper from the Council of Ministers they have explained in a chart on page 4 and 5 how the lowest decile is getting much less than the highest 2 deciles put together in income if that is happening. What they avoided saying is that this is considered for all the food, not just the basic food, and of course when all the food is included the higher earners will spend more on the luxury items which are more expensive and there will be more revenue if you consider just the amount of money spent. If you look at the percentage of the income that people are spending from their salary towards food the figures are going differently. Also, we are not looking just at the lower decile, we are looking at the middle 2 ones, which have not been included at all, because as we have all seen in this debate the middle class are struggling the most. That category are the ones that are not having enough support. For lower income ones there has always been some sort of benefit, some sort of support so far. Still, they are saying on point 7 under the chart that the benefit for higher income household could be partially reduced by only zero-rating basic food stuff. So, by admitting that, if we just include the basic food stuff the situation is different. So, if we do include the income and the 2 middle income categories that is 60 per cent of people that will benefit and not just the 2 upper deciles. So that is one point. Like the joke from Le Hocq and L'Etacq I have another joke given about how the accountancy works. It has been said that if you ask an accountant how much is one plus one they will ask you: "How much do you want to show it?" In my accountancy it will always be 2; I do not know in others. Still on this chart, if you take the first decile, not considering just household but the lower decile has more of a 1 per cent household than the other deciles, then the actual percentage per person spend makes a much bigger difference. So you can see the report is not quite right there. I always like to refer to facts and, as Deputy Feltham said, I did a lot of due diligence. I think the biggest due diligence that was done on this subject since whenever it was brought to this Assembly. I looked into Scrutiny reports, into surveys, statistics, assessments that have been done, and one of the Scrutiny reports when these kinds of exemptions were brought in discussion by Deputy Syvret was very insightful information in there. I will quote from there something highlighted from the Melbourne Institute of Statistics in 1998 about carrying those and updated after with the same: "Food is ... a higher share of total expenditure for households with low total expenditure. Households in the lowest quintile spend is over a quarter per cent of their total expenditure on food and on alcoholic beverages, comparing to 13 per cent for those in the highest quintile." Going farther it says: "... expenditure on food, expressed as a proportion of income, is 4 as high for the poor as for the rich. A tax on food will bear 4 times as heavily on the poor as on the rich. Exempting food from taxation greatly increases the progressivity of the tax system." In a study of the effects on inequality of consumption taxes levied are differential rates, a specialist there found that: "the exemption of food has the largest effect on the inequality of net income." I forgot to say at the beginning, which is really relevant, besides the Scrutiny work the actual specialists that have contributed to this - just to add value to the words I am saying - were a senior lecturer in tax, freelance tax consultant, tax and law policy writer; so it is not just my words saying and it is an in-depth research on this. They continued to say in this research: "It is frequently claimed that a tax on food is not really regressive, because high income households spend 2 or 3 times as much on food as

low-income households. This claim involves a misinterpretation of the term ‘regressive’. Even though upper income households may spend a greater absolute amount on a given commodity, a tax on that commodity is regressive whenever the proportion of income spent on the commodity is greater for low income than for high income households.” It also states that the differences in the average expenditure on food per person between highest and lowest income households is always going to be greater and it is a totally different figure than what we have been given so far. The sub-panel also noted on that research that between the lower income and higher income households a person that belongs on the large household in quintile 5 and gains the advantage of economics of skill, that person can eat better than a person in the lowest quintile for the same amount of money. In the sub-panel’s view this further emphasises the regressive nature of not zero-rating food.

[11:45]

Talking about the complexity and the compliance part that this proposition will enhance, still from the same report from the Australian Select Committee from these experts that were queried and from the panel review it says: “A major study of V.A.T./G.S.T. compliance costs by the United Kingdom National Audit Office cited by [I will not say the name] found that the Canadian and United Kingdom V.A.T. systems, which exempted food had lower compliance costs than the New Zealand system which fully taxed food. The general impression is clear that there is no huge gross compliance cost burden in countries that zero-rate food as compared with countries that do. It would therefore appear from the United Kingdom evidence that the burden on compliance of a G.S.T., in aggregate, is not unduly serious. Computerisation of accounts has the potential to reduce the cost of compliance considerably. This also applies to compliance costs associated with zero-rating. Indeed, the president of the New Zealand Employers Federation, in his advice to his Australian counterparts submitted to the committee as part [of that discussion] confirms that computerisation reduces the cost even of zero-rated goods. In any event, computers are programmed to calculate the G.S.T. at the appropriate rate on data entry. In summary, the committee concludes that the compliance costs of zero-rating food as an issue is grossly overstated, particularly in the context of the huge increasing compliance costs associated with the introduction of a G.S.T.” which no one talked about. Talking about the U.K. wholesaler, still from their findings here and the specialist confirming: “It would not be a burden to supply invoices to Jersey companies showing that the fresh produce was zero-rated and it would actually be easier to implement the same systems for cross-collaboration.” The same Minister said that he believed the pain involved in administering a G.S.T. system with zero-rating for basic foodstuff would be acceptable because of the social benefits involved if following the U.K. system. Also mentioned after their finding: “It would be extremely unlikely for companies on the Island to legally contest the definition of zero-rated items. It was explained to the Panel that challenges in the UK predominantly came from the manufacturers, and as the zero ratings would predominantly affect the Island’s retailers, rather than manufacturers, (who are mainly based in the U.K.; this was not thought to be a potential problem.” On top of that the Minister for Treasury and Resources was saying that he is willing to do a separate tax tribunal to deal with anything as tax, so that will mean we will have specialists who will have all this information in the background, we will have a very relevant database to look at that, plus the U.K. as a complex system as they say it is, has dealt with most of these complexities already. So they have all the precedents there just to look at it. So that is on this part. Something that has been missing from this debate is that there has been very little mention of the very real issues for me and for the general public, and that is that food prices and food price inflation is at its highest level it has been for over 40 years and there is no sign of this stopping soon, as everyone heard like me when I have mentioned the 14.7 per cent food inflation from the Kantar U.K. study, and that their measurement on the same items in a shopping basket since 2008 onwards show an increase of £682 if we look at the same product year on year. Also there has been little comment about how our community are dealing with this, and the answer is that increasing food prices are causing some very real challenges which the benefit system is not dealing with. I mentioned in my opening speech that we know charities are having to cope with increasing demand

against a background of less being donated, and that is for the onset of winter. A few days ago it was announced that the Lions Club of Jersey's 3 main beneficiaries of the 2023 Swimathon will be the foodbanks of the Salvation Army, the Grace Trust and St. Vincent de Paul. Growth in these 3 foodbanks in an international finance centre with billions of pounds sloshing about; does this make Members proud or suggest that perhaps we have got something wrong here? A number of Members have mentioned an online petition being poorly supported. Well, there could be good reasons for that, and that is a pen and paper petition in 2007 about the introduction of G.S.T. had almost 20,000 signatures and States Members took no notice. As I said in my introduction, it could be a contributory factor why people do not register to vote. To refer to the low uptake of the most recent petition online, I have picked up on it as soon as it came online and I got in touch with that lady, and because the wording that she has put in there was not just to food and would have made it more complex and complicated, I told her that I am taking this over so she does not need to promote it anymore. That is why it has not been brought up for the people to see it and take on. But it is also worth a mention that when my proposition was submitted the *J.E.P.* did a poll on the same day and 1,300 people answered over a couple of days and 86 per cent of those were saying they want the G.S.T. off food. I thought I had given enough examples of how any reduction would be transparent by publicity from traders, oversight by the Jersey Consumer Council, the J.C.R.A. and Statistics Jersey in the retail price index, as well as the general public. This certainly gives me comfort. They have sufficient funding, they said they have that on their schedule for this term, and Jersey is a small enough jurisdiction for this to be seen for people to take account on. In their comments on my proposition the Council of Ministers chose to use the U.K. example of when changes in V.A.T. were made to period products and this was not fully passed on. This is rather ironic really because the then Senator Kristina Moore brought a proposition to this Assembly which has approved to make all sanitary products exempt from G.S.T. and to request the Minister for Treasury and Resources to issue the law drafting instructions. Interesting, despite the report and proposition then being long on emotion and short on facts, it was approved and none of the issues we have just discussed here were raised at all. Following on from this they are now to be free and in the proposed Government Plan £1.7 million has been identified for this over the next 4 years. I wonder where they found the money. No one questioned. My reason for saying this is that a number of Members have suggested that my proposition should have included revenue-raising measures to compensate, however, I do not see any evidence that this happened here and I can dig out many other examples if insisted upon. So I believe it is legitimate to ask if we have double standards here; rules for the Ministers and different rules for the rest of us. Or it always has to be something to be picked up on even when not necessary and then you say you want us to work collaboratively. Is it really like this now, how this Assembly wants to operate? Why can we not all be more solutions-oriented and collaborate constructively and in a timely manner. I am saying that because I was disappointed about the last-minute meeting invited on Friday by the Minister for Treasury and Resources to discuss my proposition when in fact officers there and everyone else in the room was left to believe that I was the one that asked for that meeting. So in fact nothing had to be discussed because there was not any negotiation to look at. My feedback on that to the Minister was that these kind of meetings would be good to happen but much sooner after my submission - mine was about almost a month ago - and to be in a more constructive way oriented to find common solutions on how something in discussions could work for everyone, not just to find excuses. They tell us to make sure when we bring propositions that we show how we bring the money for it, although that is not always the case when Ministers bring theirs on. But then when I do show a clear math calculation that my proposition could be even overfunded, this is being ignored. The Minister for Treasury and Resources has talked publicly about zero-rating food creating a black hole in the budget. Well, I would respectfully suggest that this is absolute nonsense. Even after explaining my figures yesterday he insists this is not funded. Is this badwill done on purpose, or I need to help explain my calculation clearer, as I am very good with numbers. I will explain it once again then. Members will see on page 8 of my report that the income from G.S.T. was £106 million in 2021. This is the actual figure, it is not a guess. The Treasury estimates, or guesses, as

shown in the proposed Government Plan, a sum of £107.5 million in 2023. This is an increase of under 1 per cent year on year for this. Again, I would respectfully suggest that this is a most unlikely outcome with inflation above 10 per cent. It is just not going to happen like that. It will be much more than that, I would suggest. Can I remind the Chief Minister what she said during the States debate on 31st March 2022. This is on page 11 of my report. She said: "It is of course an evolving situation and it is one from which the Government benefits as higher prices increase their receipts from G.S.T." So, there you have it from the Chief Minister no less, but many other specialists confirm the same. So again, I respectfully suggest that the Minister for Treasury and Resources has been unnecessarily alarmist in this public comment as to what the much-needed removal of 5 per cent G.S.T. on food would do to public finances and other budgets. I am fairly confident that an inflationary effect would continue to see year-on-year increases on the collection of G.S.T., even with the removal of it on food. So let me explain it again in clear figures if the basic food zero-rate G.S.T. would be implemented; £10 million estimated loss for all food. I repeat for all food, as it could not be estimated just for basic food which is much less, £360,000 estimate from the Tax Department to include the necessary changes to law systems and additional staffing including project managers and everything that is to look at that. The revenue to be used towards this now is as follows; £3.7 million estimates of growth in G.S.T. collection, that has been given by Treasury as an estimate when we know now we have a double-digit inflation, and we know as well that the estimate on what was over-collected last year from G.S.T. only was £12 million and inflation then at around 3 per cent, and then overall G.S.T. collected on all food equivalent is only about 10 per cent of all. Then £6.5 million is the budget for the current community costs bonus, which is in place to counter the cost of G.S.T. on food, but for a smaller number of people that struggle with food cost and that needed the help. Then I also said that I have lodged another proposition which could bring up to £5 million if that will be accepted. Even without this £5 million the £3.7 million from before plus £6.5 million from the community costs bonus, that is £10.2 million, so above the £10 million which is for all food, I repeat, not for just the basic food. If we add the £5 million for the proposition in case it is approved we have even more money to use towards anything else that we might need. I have followed all procedures correctly and brought everything in time. I have asked the officers at the Greffe if the additional funding from the new proposition has to be amended to be included in the paper, or it is sufficient to mention in the debate. They have checked the procedures for me and it was confirmed that it is sufficient to be mentioned in the debate, which I did. A couple of issues that have been mentioned which I believe are interrelated, and these are to do with red tape and capacity of computer system. Firstly, I want to remind Members of our spending on information technology on page 61 of the Government Plan. It shows the following: "The project total is £131.7 million with over £50 million spend planned over the next 4 years." In the narrative of page 61 it says: "Integrated technology solution that will enable a variety of government functions to utilise the same unified systems. This will provide greater efficiencies to users and better realise the project's ambition to greater a broader all-encompassing back office I.T. system for the Government of Jersey." So I think the stories we have heard about systems unable to cope may be exaggerated. Is someone really saying we have spent over £180 million on I.T. and it is not fit for purpose? Then I seriously wonder the value for money. Also, I have spoken with an I.T. specialist and I was told that there are many bespoke systems that are available off the shelf for smaller businesses for a few hundred pounds. So I would suggest some Members may have been unaware of this; apparently some of this information is usable even via mobile phone. What I also want to explain, as I mentioned before, I have been working in retail, in hospitality, in accountancy, I ran a business, so I am working and have been working on a daily basis with exactly the systems that have to be changed. From the till companies to change additional categorisation of product, yes, they will need advance notice to have time to do that without being under pressure. But as an example, to introduce the coding as a one-off at the beginning, because after that the systems will take it off, for 14,000 items in a convenience store to be introduced as coding will cost £250. So where is that big amount of money that the small businesses that do not have it will be there?

[12:00]

Everything just seems very exaggerated. Then it is being told that it is going to be a big burden on the hospitality system. From the onset the proposition says that the catering food, it is not going to be included. What is going to happen at the ... because I own a business in hospitality, what is going to happen is going to be that the supply of food they are going to receive is going to be zero-rated. It is going to be clearly itemised in their invoices, which they will pass directly into their accountancy system. The rest does not change at all. That is to refer to the email that Deputy Gorst has circulated yesterday saying that the poor hospitality industry will face additional burden when they have to change their menus and their prices. With every change that we do, with every system that changes, every tax that we change in this Assembly and in the Island will be in different departments and different activities that will have to make small changes to the systems. But that is the natural process and we find solutions and we work with it. But it is nowhere near as complicated as it was made to be looked at. Members have put their faith in the community costs bonus, however, I am aware that the processing application is very slow, as it came from especially those 2 complaints of the people I met in the street, and I was not alone there when that happened. Originally it was estimated 14,000 people would qualify. I understand that less than 14,000 applications have been received, we understood the figures, but this is not covering for everyone. It will be reviewed; we do not know in what sense it will be reviewed after but this format is ended at the end of this year. So most of the measures that are in the mini-Budget are very welcome, and I commend the Council of Ministers for bringing it in so quick because it was helping many people. But not sufficient. As Deputy Helen Miles as well as has stated, it went some way but not long enough, I would say. So the financial forecast estimates from the Treasury and advisers; some degree of both confidence and accuracy is placed on this in order to create a black hole how they said in the public finance. I would contend that is simply not the case, as you have seen in my figures. I wish to also share the following with Members to demonstrate how far out some of the guesstimates are in a short period of time. The mini-Budget was lodged by the Council of Ministers on 8th August, debated on 13th September. At paragraph 8 the proposition says: "Increasing the personal income tax threshold by 12 per cent." At paragraph 7 on page 3 it says: "In these exceptional times the Council of Ministers is proposing significantly above inflation increases in personal income tax allowances." Well, now we know what they are doing is nothing of the sort because even the 12 per cent allowance has been already eaten by inflation. We do not have any proof that the housing market has slowed down. We have asked them politely how they said, but I do not see that working in any way, and until that part especially is addressed we are going to continue to keep on having increasing food prices. Because Jersey inflation rate is likely predicted to be more than 12 per cent, and we know that wage increases are not keeping pace with that, so to say in mini-Budget that what is being proposed will be significantly above inflation, increasing personal income, is inaccurate. Nobody is better off if we consider all the other pressures. There is no measurable benefit after the temporary measures are finishing; whereas what I am promising is a measurable medium-term benefit, but on long term also, to thousands of people in and out of the community, without the need to beg for it. As I mentioned, I do not think the mini-Budget provided financial support sufficient for thousands of people, and for others that financial support has been there but will disappear shortly. But the very real cost of daily living, including the inflationary cost of food, still exists. Supporting my proposal will provide ongoing support. In response to the Scrutiny report, S.R.19/2022, in the mini-Budget the Council of Ministers says: "We recognise the importance of evidence-based policymaking when bringing forward proposals." My question then is how much more evidence do we need? I have included lots of evidence and facts in my speech and in my report from respected community organisations. Another question here is what is it about the evidence that is not clear when many people in our community are struggling with living costs because of food prices? Maybe Members should go outside on the street and ask them. Maybe these people need to shout louder because their voices are not being heard. Also in the same report from the Corporate Services, the Council of Ministers said: "The

Government will always as a matter of principle strive to base its decision on the best evidence available at the time.” Again, I and others have provided this evidence, factual, so now it is time for principles, to do the right thing and base this decision on the evidence that is screaming at us from many trusted organisations in our community. These organisations gave us vital and valued support to help us through the pandemic. We needed them then, we listened to them then, we should listen to them now. They are in touch with the very real world. Sometimes it is not about another strategy or writing or reviewing another policy; it is about getting out there at the street level, connecting with people and doing something that really matters to them and has a measurable outcome with real effect. I wish to make some further comments on finance and manpower. There have been mutterings about how many extra staff would be required to administer removing G.S.T. from food, however, I have seen no accurate estimates of this and my understanding is that some, if not all, of this could be incorporated into existing roles and enhancing with the technology available for product recognition. I must say as well that I am very much aware there are a lot of projects in place, including in Treasury, including in customs, for enhancing this project. So these are ongoing and some of them even ready to come out. So to say that their systems are updated to be able to even do a small categorisation in products, a library of products which are having their codes as a one-off, I think is very overstated. To continue with that, I am very much aware of important investments in these current projects to enhance the system both in C.L.S., Tax Department and also CAESAR 2, which is an upgrade to the customs systems, also in the light of the *de minimis*. Being projects in progress it is much easier to build in any additional functionality necessary to categorise items while still in work. Considering the level of investment in this, it is expected to be an advanced enough system to ease any process and there should not be any problem in doing the necessary product categorisation for such change. If it cannot do that much, again, I query the value for money. Both the Treasury and Customs Departments have confirmed that it would be an easier process for the related changes to the system and legislation if Jersey chooses to follow the U.K. V.A.T. framework regarding food categories as the design can mirror the U.K. arrangements and can replicate the systems, both in Treasury administration, in customs, for retailers and for everyone else. Nevertheless, to mention the wording of my proposition. I have been working with the Greffe to make it in the most flexible way to not be restricted. Even the wording “based on the U.K. categorisation” shows that is a base to look at because, still from the Treasury, I was advised that would be the easiest way to go about it. But as well as saying “or any other suitable systems that can look at the zero categorisation” so it is in the power of the Council of Ministers to take it off from all food, do the U.K. categorisation; whatever categorisation he finds in the world or adopts locally that he finds suitable for that. So I think I am being very reasonable to put it in the power of the Minister, which he has the will, I hope, to look at. I have also noted that the report R.146/2022, the proposed Government Plan, it mentions on page 76 that 13 extra staff have been recruited for personal and business taxation customer services. I am aware that the contribution part will move soon from Customer and Local Services into the Tax Department, but so will the staff that worked, so what are these additional 13 staff used for if not for enhancing and speeding service and changes in processes and for assisting where need, with the navigation of the declaration process? I also understand directly from customs that 5 staff are required and were already approved within these new projects for customs to meet the processing required for the reduction in the *de minimis* levels of G.S.T. from £135 to £60. However, I have not heard any highlighting of this and how cost-effective it all is, because I know that below certain levels the amount collected in G.S.T. exceeds the cost of doing so. I also want to highlight that at the customs point, as with the retailers, the accent is added on a small number that would be affected a bit more, but not unrealistically doable, and to generalise that everyone will be affected the same way it will create an unnecessary, alarming effect. Speaking with customs myself, after they had handed the paper asked by the Council of Ministers on what they think might be the effect of this change there, I have further clarified with them that the effect is not as big as was originally thought to be at an initial high-level look. I will explain the process briefly and I hope you will be patient to listen to it. Everyone that has a business selling food and has a turnover over £300,000 per year, which are

the majority of food retailers, or even the ones below that are doing regular importations, are already registered for G.S.T. including with customs. This means that there is no need to stop the parcels at customs when importing food, and the G.S.T. is paid by the retailer directly to Treasury on a quarterly basis, instead of paying it at customs, then filling the return to offset it against the G.S.T. they collect from selling this food to customers; so no impact there. The ones affected could be the businesses under the threshold and they import food more rarely, and the personal online food shoppers. In the first case the businesses will have to fill out an online declaration before the parcel is released with the value, which still has to be done currently, and select from the scroll down menu after customs will insert the library items, to select from the scroll down menu in the CAESAR system used by customs the G.S.T. codes for each product that are zero-rated, additional to the current declaration. The supplier provides an itemised invoice anyway from which list the business can introduce the same item lines into CAESAR. If using the U.K. categorisation that invoice would already show the zero-rated items, making it quicker to add it to the system. An option suggested to ease this process further came actually from the tax officers, and for the ones that are also responsible with G.S.T. when we have met. This was to zero-rate the food items with no G.S.T. at the point of entry as well which would create a similar effect to the businesses that are registered for G.S.T. at customs not needing to file returns, avoiding the additional administration and reducing compliance issues. On the point before, personal shoppers, many online food sales of the ones done at personal level would be involving *de minimis* tax, therefore, some stuff from those 5 mentioned would be dealing with both aspects of the sale at once. At the same time the Council of Ministers have mentioned that in the changes in lower limit, which the *de minimis* applies, the G.S.T. will be charged at the point of sale with the supplier paying then the G.S.T. directly into Treasury in which case the buyer is not impacted. If that did not happen the buyer has to select for declaration from the CAESAR system the items bought which are zero-rated, which realistically at a personal level it could not often be too large amount comparing with a business. Therefore, I do not see any reasonable explanation to need any more additional staff at customs for the purpose of zero-rating G.S.T. on basic food. Then these 5 staff mentioned above, as already obtained for the *de minimis* part, which could be for sure covering the G.S.T. import aspects as well. On the retailer part, I have spoken with retailers and wholesalers at all levels, small, large, I have spoken with Jersey business which engaged with their businesses, so every challenge that they have brought up has been put in my report, has been researched and has been explained in this speech here. After numerous conversation and contacts I am convinced that retailers will take any changes to their system in the pricing of food stuff in their stride. If we have English company connections and then the I.T. and Finance Departments can deliver changes in a couple of weeks.

[12:15]

Sandpiper are to operate Marks & Spencer food shops in the U.K. soon so we will be well aware of the pricing regime, especially as it will be just food focused. I have also spoken to a tech guy, as I mentioned before, who has told me the system can be relatively easily integrated for small shops, they just need advance notice for it. He even suggested it may be possible that it could be achievable using a mobile phone, which begs the question why have we spent all this money again for these I.T. systems, as per the Government Plan, if the resulting system cannot even do that much of product code categorisation. Although I had to address some of the technical issues, that is not the real issue here. The problem is that there are some very real, significant increases in the price of food, the highest for over 40 years with no sign of stopping. So my proposition started to address the cost of living but it is not just for that. It is more than that. Food is something to be living on and people will need ongoing assistance with food, not just in this crisis. This crisis triggers it even more. I had so far in majority very positive engagements with different States Members regarding this proposition and I hope the vote will be in the same positive note. However, I still want to give you 3 examples of very disappointing comments coming from some of them, including from Council of Ministers. One would be: "I do not fill anything different in my shopping basket. I do not stay to count the

cost.” This, in other words, if it does not affect me, so what if it affects many around me. Number 2: “I have not had time to read your report” which I mentioned it was lodged almost 2 months ago, “but I support such-and-such” which was already explained in my report. Number 3: “I would vote a certain way but I am worried about the repercussions to my role”, hence my questions without notice to the Council of Ministers yesterday and the previous sitting regarding the code of conduct and the minutes of the Council of Ministers’ decision-making meeting. During the last election many of us engaged with the public in a variety of ways. They were telling me, and I am sure to many of you as well, that States Members were not in touch, did not listen to public opinion and, most importantly, did not act. I hope this will start changing and we will remember with every occasion involved who has elected us and who and what values do we represent. This proposition comes also from my experience of knocking on doors in the election campaign and people supporting the removal of G.S.T. I will respectfully say to Deputy Ozouf that I am looking after the St. Saviour people that elected me because that is why they supported me to be here for. They do so because it is unfair, unnecessary and at a time of cost-of-living crisis, but not only, adds a disproportionate cost on to the bills of families across the Island. If we would be to start introducing now the G.S.T. and had the option to leave food out of it would you still think it is moral to add it to be taxed? I certainly do not. When this G.S.T. was introduced it created the biggest red tape and cost possible on all industries, population and to all departments and everyone that I have spoken with confirm the same, from Treasury, customs, retailers, population. But did they care about the changes and impacts this has on everyone then? No, because it was in their interest to have it implemented. On top of the statistics show how much the prices went up on everything before adding G.S.T. even, both in 2008 when introduced and same in 2011 when increased to 5 per cent. We allow many companies not to pay tax, we freeze alcohol duty but we tax food, something that none of us can survive without. Where is the fairness and the morality on this? I have clearly showed the red tape, they said it is more pink than red, and something very doable. Every change on anything that this Assembly brings will have some sort of impact in different departments or industries but it does not stop us to bring it as we find solutions. Why, when something is brought from outside of the Council of Ministers, we always look at finding all the excuses in the world instead of working together towards the solutions to see that happening? Previous Assemblies committed to putting children first. How many of you had checked the Child Right Impact Assessment at the end of my report to see just how big an impact of not being able to afford to buy food has on them? Do you know how many children and families go to bed hungry at times on a regular basis? Many of them are not on benefits. Now we have the chance to remove a tax on the food for them and their families, for the pensioner that is counting his last pence for a loaf of bread, for the hard-working families that, despite working 2, 3 jobs to survive, are not qualifying for benefits but before the end of the month does not have money left for putting food on the table for their family. So this proposition, it is costed, it is not just for now, it is for ongoing support for people. I am very confident that we can clearly monitor it if the prices are passed to the retailer. The large retailers have confirmed they will work with their I.T., so we have all the means to see it. The relevant experts in the systems and industries, including taxes and customs, have clearly explained the factual that the red tape, it is pink. Also the Solicitor General confirmed to me that the wording of my proposition gives all the flexibility they need to choose the best system that we can implement for all, so if we agree with this proposition this sends a positive message to people across the Island who are struggling at the moment. It says this Assembly will do everything it can to make life easier and will support the public demand to remove G.S.T. from food. So, as I say, it is not just me saying this, it is factual, it is in the many hard-pressed charities, organisations leaving the community, and all other organisations in the industry that this is needed. We know this because they have told us about the record numbers of people approaching them for help with food parcels, for donations they have to do to foodbanks, for how they have to feed their children every day. These issues are in the public domain. Just check the social media and you will see how many comments are just related about it. We have a crazy situation whereby supermarkets are donating surplus food or individuals are making donations of foodstuff and then they are paying tax on it. I

would ask: “Are we really that hard up that we need to do this?” Perhaps Members should ask themselves. My proposal, if approved, will not reduce food bills tomorrow but it shows our collective commitment over the medium term. The Minister for Treasury and Resources has all the means to do it sooner than that and COVID showed us that we can do it sooner if we want to. In general terms, I do not believe we are here to make excuses and promote the “cannot do” attitude when the opposite is required for the benefit of our community. We come from different backgrounds with different views and opinions; however, collectively we want to achieve the same things: to live in a Jersey that works for everyone. I believe my proposition shows this and I ask for Members’ support. I will end with how the Chief Minister ended her proposition: where this is a will, there is a way. I ask for the *appel*. Thank you.

The Bailiff:

The *appel* is called for. I invite Members to return to their seats and I ask the Greffier to open the voting. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The proposition has been defeated: 17 votes pour; 27 votes contre; no abstentions.

POUR: 17		CONTRE: 28		ABSTAIN: 0
Connétable of St. Lawrence		Connétable of St. Helier		
Connétable of St. Martin		Connétable of St. Brelade		
Connétable of St. Saviour		Connétable of Trinity		
Deputy G.P. Southern		Connétable of St. Peter		
Deputy C.F. Labey		Connétable of St. John		
Deputy M. Tadier		Connétable of Grouville		
Deputy M.R. Le Hegarat		Connétable of St. Ouen		
Deputy S.M. Ahier		Connétable of St. Mary		
Deputy R.J. Ward		Deputy S.G. Luce		
Deputy C.S. Alves		Deputy I.J. Gorst		
Deputy S.Y. Mézec		Deputy L.J. Farnham		
Deputy T.A. Coles		Deputy K.L. Moore		
Deputy B.B. de S.V.M. Porée		Deputy P.F.C. Ozouf		
Deputy C.D. Curtis		Deputy Sir P.M. Bailhache		
Deputy L.V. Feltham		Deputy D.J. Warr		
Deputy R.S. Kovacs		Deputy H.M. Miles		
Deputy M.B. Andrews		Deputy M.R. Scott		
		Deputy J. Renouf		
		Deputy R.E. Binet		
		Deputy H.L. Jeune		
		Deputy M.E. Millar		
		Deputy A. Howell		
		Deputy T.J.A. Binet		
		Deputy M.R. Ferey		
		Deputy A.F. Curtis		
		Deputy B. Ward		
		Deputy K.M. Wilson		
		Deputy L.K.F. Stephenson		

Deputy R.S. Kovacs:

Can I just thank everyone for all their comments, especially the ones obviously that supported it, and I can assure this Assembly that it is not the last time that you will be hearing about this subject.

2. States of Jersey Development Company: reappointment of 2 non-Executive Directors (P.101/2022)

The Bailiff:

The next item of public business is the States of Jersey Development Company: reappointment of 2 non-Executive Directors, P.101, lodged by the Minister for Treasury and Resources. The main respondent will be the Chair of the Corporate Services Scrutiny Panel and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion - (a) to reappoint Tom Quigley and Richard Barnes as non-executive directors of the States of Jersey Development Company Limited for a period of up to 3 years in accordance with the Memorandum and Articles of Association to take effect from the delivery to the company of the notice referred to in paragraph (b) below, (b) to authorise the Greffier of the States for and on behalf of the States to deliver a notice to the States of Jersey Development Company Limited in accordance with Article 21(b) of the Memorandum and Articles of Association to give effect to such appointments.

2.1 Deputy I.J. Gorst of St. Mary, St. Ouen and St. Peter (The Minister for Treasury and Resources):

This is a proposition which the Greffier has just read out the detail of what it is in connection with. The Articles of Association for S.o.J.D.C. (States of Jersey Development Company) were updated and approved in 2020. Those changes changed the term of office for non-executive directors to 3 terms of 3 years to encourage succession planning. These 2 individuals are coming to the end of a second term of 3 years, so if Members support this today they will be entitled to serve for another 3 years which will allow the board to carry out succession planning. The C.V.s (curriculum vitae) of the members are attached to the proposition, they have suitable experience, in my view, and bring value to the board while that succession planning is undertaken. I maintain the proposition.

The Bailiff:

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

3. Rent Control Tribunal: Chair and Member nomination (P.106/2022)

The Bailiff:

The next proposition is the Rent Control Tribunal: Chair and Member nomination, P.106, lodged by the Minister for Housing and Communities. For the purpose of this debate the main respondent is the Chair of the Environment, Housing and Infrastructure Scrutiny Panel. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion, in pursuance of paragraph (1) of Article 3 of the Dwelling-Houses (Rent Control) (Jersey) Law 1946, as amended, to appoint the following persons to act as Chair and members of the Rent Control Tribunal for a period ending on 12th April 2023, namely: Simon Burgess, chairman; Ian Gray, member; Guy Aubin Morris, member; Neil Andrew Buesnel, member; Rose Colley, member.

3.1 Deputy D. Warr of St. Helier South (The Minister for Housing and Communities):

I would like to thank the Assembly first of all for allowing me to bring this proposition today. My officers reminded me that the reason for missing the deadline, for which I was criticised, was not down to inefficiencies. Unfortunately, the recruitment of the fifth panel member took longer than

anticipated because one of the candidates was out of the Island for most of October and was in a location where Wi-Fi was unavailable, meaning that a Teams interview was not possible. When we debated the composition of the Rent Control Tribunal I made it clear that it was my intention to recruit a fifth panel member which is why I withdrew my original proposition. I have done this and now wish to move forward. You may remember that I proposed to nominate members of the Rent Control Tribunal in August. Although a proposition to change the composition of the tribunal was defeated, I took on board the arguments put forward and used it as an opportunity to cast the net further afield. As a result, I believe I have now achieved a more balanced panel. I have pleasure in bringing to the Assembly my nominations for 5 Islanders who are all community-spirited individuals with a broad range of experience and expertise in areas relevant to the needs of the tribunal. I admire any individual willing to give up their time to make a positive difference to the lives of Islanders.

[12:30]

The Assembly's previous debate raised the issue of the tribunal's rent-setting powers. I want to be clear that the 1946 law, the law that allows me to bring the tribunal back into action, does permit the tribunal rent-setting powers but only in terms of the leases stated under that law. Therefore, as part of its work, the tribunal will consider how to apply its powers to a wider range of leases in Jersey. Let us allow them to get on with that. What we need to do now is appoint our Rent Control Tribunal so members can work on delivering a modern, statutory mechanism for the protection of both tenants and landlords. Should the Assembly support my nominations today we will, for the first time in over a decade, have a working tribunal that will offer a mix of perspectives and technical expertise independent of government and capable of delivering a modern, fit-for-purpose tribunal that we all agree is necessary for Jersey.

The Bailiff:

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

Deputy S.Y. Mézec:

It is some questions to the Attorney General if that is okay.

The Bailiff:

Yes, indeed.

Deputy S.Y. Mézec:

In the Minister's speech he referred to the Rent Control Tribunal only having power over certain leases that were prescribed in the law. Could the Attorney General clarify what kind of leases those are?

The Bailiff:

Is that the only question for the Attorney?

Deputy S.Y. Mézec:

I am sure there will be supplementaries after that.

The Bailiff:

Are you able to assist, Mr. Attorney?

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

Yes, I believe I am. The law that is in question here is an old one in that it dates back to 1946. The law contains an article which is Article 2, which concerns its application, and there are a number of express exclusions to the application of the Rent Control Tribunal's jurisdiction. Perhaps the most important one is an exclusion for where a dwelling home is let for a term of less than 9 years on a

written contract, which is expressed as conforming and conforms to a standard form of written contract prescribed by regulations, and there is a separate set of regulations issued under the law. So that is, on its face, potentially quite a broad exclusion in that many tenancies will be what is referred to as “paper leases” in that they are not contracts passed before the Royal Court on a Friday afternoon, and that is contracts for less than 9 years’ duration. So, in terms of the tenancies which may be an issue, there are fixed-term tenancies which may be for a fixed-term of say a year which come to an end at the year and then may be renewed subsequently. There are also periodic tenancies which may be expressed to endure for 6 months or a year or 2 years but then may roll on subsequently if the parties so agree. I have to say that in terms of case law, in terms of exploring and decisions of the Royal Court which decide how those provisions are to be construed, case law concerning this particular law is very sparse. It goes back really to the 1970s. It does not, for example, consider the way in which this law interacts with the Residential Tenancy Law of 2011, so, for example, there may indeed be questions which might be pursued by landlords as to whether it applies to flats at all. There is a decision of the Court of Appeal from 1972 I think that it does apply to flats, but that decision was made in circumstances where the Residential Tenancy Law had not been passed, so there may be a potential question there as to whether it now applies to flats at all. I think the short summary of my answer to the Deputy’s question is that the law does need some urgent attention in terms of being revised. The Minister I think said in his opening speech in support of this proposition that he would hope that the members, or the proposed members of the new tribunal would get on and consider these sorts of questions. So, I hope that is of assistance to the Deputy and to Members generally in answering the Deputy’s question, but I think the key point is that the law does need some urgent updating and that should be pursued in accordance with the many laws that are due to be passed by both the Council of Ministers and maybe brought in response to Backbenchers’ propositions during the term of this Assembly.

The Bailiff:

Anything further, Deputy?

Deputy S.Y. Mézec:

Quite a few further that do arise from that answer. The Attorney General gave a very helpful answer there. He referred to, I believe, section 2(d) of the Dwelling-Houses (Rent Control) (Jersey) Law 1946 about a letting term of less than 9 years on written contracts. Do I understand his answer therefore to mean that the Rent Control Tribunal will not have jurisdiction to adjudicate on rent increases applied to residential tenancy agreements that have been passed in accordance with the Residential Tenancy (Jersey) Law 2011 which exclusively applies to tenancies of less than 9 years?

The Attorney General:

I think there will be real difficulties with the jurisdiction of the Rent Control Tribunal in those circumstances. The 1946 law does, for example, contain a criminal offence in relation to failing to comply with its terms, so there may be arguments that might be pursued by a landlord that its application and exclusions are to be ... well, the law generally is to be strictly construed and the exceptions to its application should be broadly construed. So, there are a number of difficulties with this law and I repeat the terms of my earlier answer that it does need some urgent updating.

Deputy S.Y. Mézec:

There are still some questions just to have absolute clarity on this. The Dwelling-Houses (Rent Control) (Jersey) Law 1946 Section 2(d) says that: “Provided that nothing in this law shall apply to a house or part of a house let for a term of less than 9 years on a written contract which is expressed as conforming and conforms to a standard form of written contract prescribed by regulations made under Article 7.” He described that as posing difficulty. What I am asking him is does it provide certainty that this Rent Control Tribunal as established under this law does not, as the legislation

appears to say, have the ability to intervene on rental levels set on tenancy contracts which are of less than 9 years, as virtually all tenancies today will be because of the Residential Tenancy (Jersey) Law 2011? Does it pose more than difficulty, does it say that they do not have the *vires* to adjudicate on those rental tenancies?

The Attorney General:

I do not think I can go further beyond my previous answer because it may depend on the precise written terms of particular contracts. Contracts may be drafted in accordance with the written contract prescribed by regulations under Article 7, so it is possible that if the contract does strictly conform to that format, then there may be an argument that the contract is within the jurisdiction of the tribunal. However, many contracts, I am sure, will not be drafted in accordance with that prescribed format. They are probably more likely to be drafted in accordance with the format which is commonly adopted in relation to the Residential Tenancy (Jersey) Law 2011. So, I cannot really go beyond what I previously said because it may depend on the terms of the particular contract. But certainly that provision, in my view, does create real difficulties as regards the jurisdiction of the Rent Control Tribunal and I think I cannot go beyond what I have said in my previous answers.

The Bailiff:

Anything further?

Deputy S.Y. Mézec:

Yes, Sir.

Deputy S.G. Luce of Grouville and St. Martin:

A point of order?

The Bailiff:

Yes.

Deputy S.G. Luce:

It is clear that there is work for the Rent Control Tribunal to do and much updating to do also, but is this line of questioning relevant, as we are electing members to the rent ... these questions will be relevant regardless of who we elect.

The Bailiff:

Well, I was going to come on and ask that you clearly have in mind, Deputy Mézec, a sequence of questions, and I do not know if you have reached the end of that sequence, but Deputy Luce's point I think is well made. We are deciding whether or not to elect particular persons to the tribunal. Are you able to tie these questions to that particular issue?

Deputy S.Y. Mézec:

Certainly, and I hope to do so. What I am trying to understand from the answers the Attorney General is the powers that we are going to be giving to people who will be appointed under this proposition. It is important for us to know whether or not we want to appoint them, whether we want them to have those powers that they will have under this law. So, it is helpful for us to understand what the scope of those powers are to determine if we want to make those appointments or not.

The Bailiff:

I understand that but I hesitate to say it appears that the Attorney's advice is simply to the effect that it is uncertain what the powers are at this point because there are various arguments and it will depend upon the precise wording of each individual agreement. Is that a fair characterisation of your advice, Mr. Attorney?

The Attorney General:

Yes, it is a fair summary.

Deputy P.F.C. Ozouf:

May I make a point of clarification?

The Bailiff:

A point of clarification from the Attorney?

Deputy P.F.C. Ozouf:

No, from Deputy Mézec.

The Bailiff:

Deputy Mézec is not speaking at the moment, he is asking questions. If he comes to make a speech then certainly it will be open to him to give way for a point of clarification. So, in the light of that, do you have further questions that need to be asked in this matter?

Deputy S.Y. Mézec:

I believe I have got one but then it also depends on what his answer is and whether that gives rise to ...

The Bailiff:

If there is one more, please do ask it, yes.

Deputy S.Y. Mézec:

The last question that I think I would like to ask at this point again relates to the tenancies of less than 9 years which this law appears to suggest are excluded. Could the Attorney General confirm whether my understanding is correct or not based on the Residential Tenancy (Jersey) Law 2011 if a residential tenancy is for a term of more than 9 years, is that required to be registered in any way?

The Attorney General:

I think I would need to check the answer to that. Obviously if the contract is for more than 9 years, then it should be within the jurisdiction of the Rent Control Tribunal. It is also registered in the Royal Court as a contract. Yes, it is registered in the Royal Court.

The Bailiff:

We have reached that point where I would normally ask if Members wish to continue or Members wish to adjourn for the luncheon adjournment. If this is likely to be a significant debate, well then clearly it is a matter that Members might wish to adjourn. Is the adjournment proposed?

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The adjournment is proposed; I think it is appropriate at this time. The Assembly stands adjourned until 2.15 p.m.

[12:43]

LUNCHEON ADJOURNMENT

[14:16]

The Bailiff:

At the risk of being immediately objectionable, Deputy, I do not think you can bring sandwiches or biscuits into the ... **[Laughter]** Okay, all right. Very well, questions having been asked of the Attorney General, the assumption that there are no more to come, we then open the debate. Does anyone wish to speak on P.106?

3.1.1 Deputy S.Y. Mézec:

Quite an assumption there, I was tempted to think of some more over the lunchbreak but I think the Attorney General has been very helpful in the answers he has provided, if you ask me, are hook, line and sinker, which is that the Rent Control Tribunal we are being asked to establish will not have the power to do what it is being suggested it has the power to do. The tenancies which will fall under its jurisdiction to be able to adjudicate are ... **[Interruption]** The tenancies that will be able to be adjudicated on their rental conditions when it comes to this tribunal will be so few and far between them so as to render this tribunal essentially powerless. Those tenancies where they will have jurisdiction are set out in section 2 of the 1946 law, along with the exemptions which are so wide-reaching and, in my reading anyway, appear to pretty much discount the tenancies which exist under the 2011 law, a law which is clearly out of kilter with the 1946 law which uses very different types of language to describe what they apply to. So, for example, the 1946 law refers to houses which the Attorney General clarified that there may well be some case law that says that can include flats. That is very different language to what is in the 2011 law which provides much greater detail as to what constitutes a residential dwelling. These laws do not match, they do not work together. I would guess that that is probably one of the reasons that the tribunal fell into disuse previously. Excepting that it is probably inappropriate to use the floor of this Chamber to organise any form of gambling, I would otherwise have been tempted to place bets on how many cases will come to this rent tribunal if it is established. I would have thought the number that will arrive at this tribunal will be somewhere close to zero which then poses the question: what is the point in using this law to appoint people to a body which will not have any real powers, will not be able to provide protection to tenants even in the short term because there will be virtually no tenancies that will fall under its remit. It does render this exercise totally pointless. That is why, despite me being very clearly on record in supporting the existence of a rent tribunal, I did not do it in the 2 years I was Minister. There was no point in using this law to do so, and it is why I certainly will not be voting to appoint members to this tribunal today. It is a waste of time and money, it will not have any powers, it sends out a wholly unhelpful message to members of the public to suggest that there is now a body upon which they can rely on to help them when in law they cannot rely on it because it does not have those powers. It is much better to use this time and energy instead to put towards that comprehensive review of the Residential Tenancy Law and the funding to do that which originated in my time as Minister because I knew that work was necessary in order to have a tribunal that one day would be empowered to effect proper rent control measures on residential tenancies. It is a much better use of our time and energy to get that law up to date, strengthen it along the lines which were proposed originally by the Housing Policy Development Board to put in very clear restrictions on how and when rent increases can be applied and, importantly, to improve security of tenure. Because one of the other risks that occurs here is that if a tenant chooses to go to this rent tribunal, irrespective of whether the tribunal rules that they have jurisdiction over that case or not, they will be putting a big target on their back for their landlord to subject them to a revenge eviction. In the Residential Tenancy (Jersey) Law 2011 there are no real protections from revenge evictions. The only protection which exists is the Petty Debts Court being able to provide for a stay of eviction to, rather than evict them at the end of a notice period, be able to step in and say: "This will cause hardship to the tenants so they need a few more months at the very least." But the Residential Tenancy (Jersey) Law 2011 states very, very clearly, in a periodic tenancy the notice period is 3 months, and there is no need to provide a reason whatsoever. The landlord can do it because they fancy it, they can do it with reason, they can do it without reason. They have to provide nothing towards that and only if there is hardship can a tenant refuse to budge, make them go to the Petty Debts Court for an eviction order and challenge it at that point, but there

will not be a legal basis for saying: “No, absolutely not, you cannot evict this tenant” for the simple reason that the Residential Tenancy Law says they do have the right to kick them out. The only thing they will be able to do is impose a greater time on the landlord to provide some leeway for the tenant if they are facing hardship. So we do not have adequate protection in law for people from no fault evictions or revenge evictions, and this tribunal does not change that if constituted under the 1946 law. In fact, it provides false hope and it provides a risk to tenants that they may upset or anger those whose decisions they are trying to challenge for which they will not have adequate protection from. They will not be empowered to stand up for themselves under this tribunal. That is why, as a constituency representative, if this tribunal is established under the 1946 law, I will not, in good conscience, be able to encourage my constituents who come to me with concerns about their rental situations to engage with this tribunal because I would be worried that I would be inadvertently giving them advice that would lead to them becoming homeless and that would be an irresponsible thing for me or anyone else to do. So there is an alternative way around this which is what the Minister should do, which is that he should withdraw this proposition because, for the reasons I have stated, it is a waste of time, it will have no power, it appoints people using a law which is totally superfluous to any of the other purposes that the Minister says he wants to use this tribunal for. It will not operate as a tribunal, it will hear no cases, it will not function in that way. If he wants to use a panel of people to help advise him to inform what is included in a reformed Residential Tenancy Law, he has the ability to do that unilaterally without referring to this old law and without referring to the States Assembly to do that. It does not impose any of these requirements that exist in the law on that. He can get on with that and that would be a better use of energy to do that. So, that is in itself I think a very good reason for voting against this waste-of-time proposition. I am afraid to say that there is a bit more to it though in why it should be voted against. I am going to be absolutely clear at the start of making this point, because there have been comments about Members getting personal in these debates, I will not make any comment whatsoever on the personal characteristics of the names we are asked to appoint here for the simple reason most of them, I do not know them, a couple of them I have met on a few occasions and like and respect. The ones who I have not met, I have no reason to doubt their personal integrity or their willingness to contribute positively, so I make no comments on that whatsoever. What I am saying is objective which is that it is wrong and inappropriate for the chair of a membership organisation to sit on a panel where the tenants of those members will go to complain about those members. It is inappropriate and wrong. It does not matter who the person is, it does not matter how great they are or whatever the concerns are, ticking that box alone makes that appointment totally inappropriate. It would be like having the chair of the Police Officers Trade Union on the Police Complaints Panel. That would be considered totally inappropriate because that person represents members and has a duty to those members to advance their interests, and that is incompatible with heading up a form of complaints process against those members, as so it is also for the chair of the Jersey Landlords Association to be a member of a body where tenants will be asked to go to complain about the potential behaviour and conduct of those members; that is inappropriate. I do not know the individual who is proposed for that. I have absolutely no reasons to doubt that person’s ability or integrity but it is purely by the fact that he holds one role that he must not hold this other role; that is totally inappropriate. Of course, it is made even more inappropriate by the fact that earlier this week we received a communication from that body to lobby us, as of course they are free and able to do, which said in it in their comments towards an earlier amendment debated in this States sitting about rent control, that that body opposes rent control. So how can somebody who is on record as part of an organisation which opposes rent control be appointed to a tribunal with the *raison d’être* of applying rent control? It makes no sense whatsoever, it is an inappropriate appointment. So, for those 2 principal reasons, the first being that this tribunal will have no power, will not be able to do what we are asking it to be set up to do because it is based on an out-of-date law which is not fit for purpose, and because there is a proposed membership which has as part of it something which will undermine any form of trust in that body’s ability to operate objectively, this proposition must be rejected. We must say to the Minister for Housing and

Communities that the work he seeks to do in reforming the Residential Tenancy Law is the place to focus his efforts on. That will, I hope, be a positive outlook for improving the rights of tenants, for providing them with protections against excessive rent increases along the lines of the protections that were proposed in the Housing Policy Development Board which was for European-style rent stabilisation, a form of rent control which is evidenced in the jurisdictions that use it to provide for greater affordability in the rental sector to those tenants without many of the negative side effects that occur under other models of rent control. In voting against this, we will be saying to the Minister: "Go ahead with that work, that is more constructive, that will hopefully lead to a better outcome, but do not use an out-of-date, not-fit-for-purpose law to establish a body which will not be able to fulfil its entire purpose because of the terms in that law which make it out of date, which will provide false hope to tenants that it is a body that can help them in the short term", when in the short term it cannot because of the law, and to appoint people on to it who, irrespective of any personal ability or integrity that they have, because of another role they hold clearly provide for what will give rise to a worry about conflicts of interest. Tenants will not be able to engage with this, it will not help them in the short term, and in voting against this we provide for a better option for the Minister to seek to do what I certainly hope happens as soon as possible, which is the introduction of a fit-for-purpose rent tribunal and legislate for a form of rent control which is fit for purpose for Jersey and not to waste our time with this mistake.

[14:30]

Deputy M.R. Scott of St. Brelade:

I am wondering if I might ask another question of the Attorney General.

The Bailiff:

Yes, you can ask a question of the Attorney.

Deputy M.R. Scott:

I was just looking at the way that this law is structured and the exclusion from its ambit of contracts which are expressed as conforming and conform to a standard form of written contract prescribed by regulations made under Article 7. So we kind of established that this law is already restricted because it applies to dwelling houses but then it excludes from its ambit contracts, rental contracts that are of a term of less than 9 years on a written contract which is expressed as conforming and conforms to a standard form of written contract prescribed by regulations made under Article 7. So perhaps I just did not follow the answer to Deputy Mézec's question quite well but that seems to suggest to me that if a contract says I am conforming - not the contracts, I am talking in the first person - but I am conforming the regulations made under this law, then that gets excluded. Most contracts presumably, because it is an old law, do not say that. I just wondered if that is my kind of interpretation because it perhaps affects how many contracts might fall under its ambit.

The Attorney General:

That is a valid point that the Deputy raises. I have to say, I do not have in front of me residential tenancy contracts but the point the Deputy raises is a valid one, that if the contract is expressed as conforming to a written contract then arguably that might mean that it does not fall within the exclusion; that is a possibility. But this is an area where, as I say, there is not a legal authority in the courts which governs this specific point, and my view is that there are plenty of grounds for dispute and litigation over this particular law and how it applies. So, I remain with my previous point that I made in response to the questions to Deputy Mézec that this law does need to be updated and in particular its interaction with the 2011 law, it needs to be thought about carefully.

3.1.2 Deputy M. Tadier:

I think to reinforce the point, we are being asked to vote to appoint members to a board to enforce a law which either does not exist yet or to enforce a law which we know - and Deputy Scott has quite rightly recognised it so it is not a Reform conspiracy here by any means - but it is a very flawed law and the Attorney General has confirmed that. We only have a law that deals with rent control of unregistered buildings, lodging houses, and that is because they are the only buildings in Jersey that have rent control. Now that opens up a very interesting question anyway. If rent control is okay for lodging houses, why is it not okay for the vast majority of people who do not live in those rental properties, who rent in the open private market sector or indeed even in social housing, which might also be subject to some form of rental control. I am not even going to touch then on the composition of the board because my position is the same as my party leader's, quite independently come to that, but also happy to abide by the party position anyway which is that we do not believe that this is the right time to appoint any kind of board if you are setting them up to fail. This seems to me to be nothing more than window dressing because there is nothing for this board to do. We are appointing them until 2023 but it is unlikely that there will be anything for them to do until at least 2023. I cannot see this Government acting fast. They are a Government who are opposed to rent control anyway. They do not believe in rent control, they believe in as much market as possible, and in fact even more market, please, and as little regulation as possible, it would seem, so *plus ça change*, more of the same. I do not get what we are doing here and so it is with that in mind that I would ask for a reference back. Not a move on to the next item incidentally because that would be entirely undemocratic but there is something that we do not have as an Assembly here which we need before we can appoint people, people who may or not be the right people for the job, and I will save that argument for later. I believe in making the argument for a reference back, Sir, you will tell me if it is in order. I think we need to see the detail. Where have we heard about detail before with their army of civil servants who can work, and do work very hard for them? I know they do and they have to listen to these kind of debates also. Even my speeches. The piece of information I would like is the law. I want to see the law under which the rent tribunal will be operating. I do not want to see a link to a document that a previous Minister for Housing set up which is already out of date, a Minister for Housing who I got on very well with but who has been ejected from this Assembly, and the Government of which was also ejected from this Assembly by the electorate. I do not wish to see that redundant document which talks about ideas that are not from this Assembly or even this Government. I want to know what the Government's plan is when it comes to a blueprint for that tribunal to work for. Sir, I know you are looking through the Standing Orders, and I would have quoted the number to you but I am sure you have it, and it is probably a good time to allow you to consider that. If I may be permitted, it is not simply the fact that we do not have a law, it is we also do not know the remit that the panel will have. We do not know the types of tenancies which this tribunal will be able to adjudicate on, whether they will be able to adjudicate on them at all and, if so, which kind? So when we have a constituent that comes to us and says: "I have been living in a property ..." and I had one a few days ago in Grouville and they said: "I have been living in this property for years, the rents are now threatening to go up, there is work that needs to be done."

The Bailiff:

Well, Deputy, you have made a proposition for a reference back and I think if you continue with your speech then we cannot have that reference back. My first question is would that be seconded? **[Seconded]** Very well, could you specify what information or what further actions you are requiring so that we can consider the basis of the reference back?

3.2 Rent Control Tribunal: Chair and Member nomination (P.106/2022) - reference back

3.2.1 Deputy M. Tadier:

The 2 intertwine, there may be other points, but certainly the 2 most salient points I can think of are that we need to know which tenancies this will apply to and which it will not, at least what the vision is. At the moment we do not have either of those, we do not have that information and we do not have, more fundamentally, the law. I am not necessarily saying that we need the full law, I would like that law to be in place first, but certainly we need to know the framework and the policy, not simply a plan from the last Government. I am seeing some nods from the Chief Minister. I do not think that this should be something that they dig their heels in over, I think they could acquiesce to that request and come back and bring us the policy detail so we all know what we are voting on. It is those 2 points.

The Bailiff:

Thank you very much indeed. Well, if of course the proposer were to be content, then it would be a matter of withdrawing the proposition with the leave of the Assembly and coming back on a later day armed with more information but the application for a reference back is in order. It is something on which there is no discretion, it is entitled to be proposed, and the Deputy has it seconded and he has specified the information he is seeking. So the debate is now on the reference back. Does any Member wish to speak on the reference back?

3.2.2 Deputy P.F.C. Ozouf:

I will look at the clock and try and limit my remarks as I think my voice is going. Apologies for that. I oppose the reference back. I have heard the observations of Deputy Mézec and others and I thought the Minister for Housing and Communities was doing, as this Council of Ministers is trying, to act by which is action not words. We have an imperfect rent tribunal ... it is quite difficult when there is constant chit-chat on the left.

The Bailiff:

Yes, I am sorry, I was concentrating on making notes, but Members will please avoid making comments during other's speeches and in that way we will all ...

Deputy P.F.C. Ozouf:

There is a rule I think that ...

Deputy M. Tadier:

That was me, I was asked a question by an Assistant Minister behind me about the Standing Orders that ...

Deputy P.F.C. Ozouf:

It happens a lot, that is all.

The Bailiff:

Yes. Well in principle no matter who it was, could it not happen again, please?

Deputy P.F.C. Ozouf:

This Government is committed to action not words. We have an imperfect rent tribunal and the Minister has made it quite clear that the Minister is going to look to the rent tribunal to do the best that they can within the legal powers that they have. But what we are also asking this group of individuals to do is to bring forward forthwith as soon as possible changes to their work. I could not think of a better way - and I am not using words, that was a slip - but it is a better way to appoint this rent tribunal for them to attend to the work that they can do and that they can then use the powers

that they have got. I think that setting up this rent tribunal sends a very clear message that this Assembly and this Government is determined to deal with the requirements of appropriate rent tribunal cases as soon as possible. I am enthused by that because I think that is the ... I often say, and have said in the past, that the best form of regulation is the threat of it. The fact that there is going to be a rent tribunal in place, imperfect as it is, is going to make sure, with the additional remit that the Minister for Housing and Communities made comment on which I very much heard him say in his opening remarks that he is going to bring forward changes as appropriate that can be advanced either by triennial regulations as a standalone body or to amendments under the remit of the law, would be a clear indication that this Assembly wants to see an organisation, a mandated organisation that is going to deal with the issue of unfair rents. So I do not hear the argument at all for the reference back. We know that there are issues, the reference back is not going to really tell us any more than we already know, that there are uncertainties in relation to the scope and the ability of the rent tribunal. They can get into office and they can get on and deal with the cases that they can. They can also highlight and hear in public the matters they can do, so I do not hear that a reference back is going to do anything. The preferable way, I would suggest, is to reject the reference back, appoint these individuals, and send a clear message that we are going to have a tribunal dealing with rent control that is also going to be listening and having the ear of an interested Minister, a motivated Minister, a Minister that is very clear, backed by the Council of Ministers, to deal with unfair rents. That seems to be the most efficacious, the most efficient, and that is delivering action, not words, because I think the public are sick and tired of hearing words. I do not think we need any more words. We need action, and action can be best delivered by rejecting this reference back, going ahead, appointing this tribunal, and getting them to the work with their dual role, if I may say, that is a dual role of getting on with what they can do and identify what they cannot do, and advancing with the Minister and this Assembly's consent as appropriate the work that they need to do to expend their remit. So, I ask Members to please carefully consider action not words, let us put in place something, let us give them all the possibility, let us give them all the positivity that we can possibly can to get on with the task that we need to do in this difficult market.

3.2.3 Deputy S.Y. Mézec:

Deputy Ozouf said he had not heard a reason for this reference back; that is a natural consequence when you were not listening properly in the first place. This reference back is absolutely clear what it is asking for. It is asking for detail on what kinds of tenancies will benefit from the services of this tribunal and right now we have not got a clue. We do not know what types will. The law is written in virtually ancient language that does not correspond with the types of words that we use to help identify what kinds of tenancies exist in the year 2022. How many tenancies out there will be able to be subject to the jurisdiction of this tribunal? Is it thousands, is it hundreds, is it a handful? When I look at the exemptions that are provided in the 1946 law, my suspicion, and unfortunately it can only be a suspicion because we do not have the information, my suspicion is that this may not apply to more than a handful of tenancies.

[14:45]

I would like to know for definite whether that is the case because I will get constituents coming to me with problems with their rental contracts who will want some form of resolution to those. If I am directing them to a rent control tribunal which allegedly exists to support them and then it turns out when they get there it does not, I am risking them being subjected to revenge tactics from those who are angry about them standing up for themselves and challenging those practices and that would be an irresponsible thing for me to do. We are asking the Minister who, in the report to this proposition, has provided 3 paragraphs and a sentence before the bios of those who he is asking to appoint, which does not give any indication of what help will be available. There are no documents of information for prospective users of this service, there is no draft page for the government website for us to be able to flick through and see who will be able to benefit from it, but as it currently stands, having

heard the answers from the Attorney General, it sounds like those tenancies will be few and far between them and we do not have absolute clarity on that. If there had been an answer from the Attorney General or from somebody else to be able to say: "I can say with confidence looking at this law that this tribunal, if it is re-established, will have the jurisdiction to be able to adjudicate over all ordinary tenancies which currently exist in Jersey under the 2011 law" which is what almost all residential tenancies in Jersey will do, then we could breathe a sigh of relief and say: "Okay, that means we can have a degree of confidence that the Rent Control Tribunal will have some of those powers that it is alleged to have in this proposition" but at the moment we do not know that. Our strong suspicion is that it might be close to none, and if it is close to none, that has a material difference on whether a proposition should be adopted to establish a tribunal if it is not going to be able to carry out the function that exists in law to be able to carry out. So, the reference back is asking for that information. I do not think that is too much to ask. If the Minister cannot provide that, then it undermines the value of the proposition. If he can come back and say, and incidentally he would be coming back at the point that he should have been making this proposition anyway if it were not for the truncated lodging period, so he could come back and say: "These are the types of tenancies that can benefit from this service." If he can do that he would provide great comfort to those who are worried about this. But, without that, this proposition is close to meaningless and we are setting up a body that will not have any power. That will be a waste of time. So let us get that information to determine whether it is a waste of time or not. Because it looks like it is and that is the risk.

3.2.4 Deputy G.P. Southern:

My concerns are somewhat different to the previous speaker's in that what I am concerned about is that this body, as currently constituted, or suggested, is clearly conflicted and would not make a good body to make rules on tenancies because they are tied by their loyalty to their fellow landlords.

The Bailiff:

Deputy, I hesitate to interrupt you, but those are arguments against not adopting the main proposition. But as to whether it should be referred back, those do not appear to be any of the reasons that are in the reference back. In fact to the contrary, the reference back relates to what tenancies does it apply to. So if you could confine yourself to the merits of that as a reference back, that will be in accordance with Standing Order subsection (3).

Deputy G.P. Southern:

In that case, hearing your words, if the case for a reference back is the case that needs to be made, then I am going down the wrong track, you are right.

3.2.5 Deputy A. Howell of St. John, St. Lawrence and Trinity:

Over the summer, we had 2 lots of young friends whose rents were raised by their landlords by 50 per cent. I contacted the now Minister for Housing and Communities and I said: "Please can you help" and he said: "Do not worry, Andy, we are going to set up a tribunal" and I was very reassured by that. Because I thought it was very unfair on my friends and they have had a really terrible time and it has been very stressful, and the Minister for Housing and Communities is trying to do everything he can to help in these situations. It is only today that I realise, thanks to the advice given by the Attorney General, that unfortunately it would not have made any difference to these young friends and I wanted to make a difference to them. So that is why I think it would be sensible if we could refer back so we know. Because we all want the same thing, we all want to help people who have been badly treated. But it does say you can have a reference back if there is any ambiguity or inconsistency in information relating to the proposition, which has already been provided to the States, to be clarified. So, I really support you, but I just feel that we are not going to be able to help these friends because they only have a licence or they have only signed a contract for a year. We have heard it has to be over 9 years. So, they are not going to be helped and I think we have to say

thank you to the people who have offered to stand to be on this panel, because they are jolly kind and they are giving up their time, but we have to know what we are doing and how we best can help everyone.

3.2.6 Deputy J. Renouf of St. Brelade:

Could I just ask before I speak about a clarification again on the exact points that we are being referred back on?

The Bailiff:

As I made a note, it is primarily over which tenancies would the tribunal be able to exercise any jurisdiction, because that is needed to be known before one knows whether you should set it up and who you should appoint to it. I think you have also asked for at least a framework of what the new law, if it is proposed, or the new tribunal will provide for.

Deputy J. Renouf:

Thank you. I hope I can stay within the parameters of that in terms of my comments. I would say in a wry kind of way that rarely have I seen so much energy expended in a determined drive to do nothing. The attempt to refer back is an attempt to delay. It is an attempt to stop action happening. It ignores the central point, which is being made here, which is that we are engaged in a sequence of events. This is not the end of what we are doing, it is the beginning of what we are doing, and it is the beginning of what the Minister is doing. He is keen, at the earliest opportunity he can, to put in place the first building block in a sequence of events, or a sequence of measures rather, that we hope will help tackle the crisis. That ability to see this as a process rather than an end point is a critical one here. We are doing the best we can. We are responding to previous debates in which it was explained that the feeling was that the tribunal was not constituted in a sufficiently broad way. So the Minister has responded to that and come back at the earliest opportunity, too early for some, but the earliest opportunity he can to try to remedy that. But still that is not good enough, we need more detail, we need everything written down first. That information will come. It is a sequence. What this really seems to me to talk to is a real antipathy towards the whole notion of the tribunal. It is not a reference back designed to help us build a tribunal to be something better, it is a reference back as part of what is beginning to feel like a bit of a guerrilla war to prevent it coming into being. So I feel, for that reason, that we should reject the reference back, put in place the very first building block, in the full knowledge that more information will come back and obviously the tribunal will not go into effect without proper terms of reference and so on. That is all information that one would expect to come. But let us get on with the first step so that we can move forward.

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

I am pleased to follow the last speaker, but I do not feel we can proceed on the basis of the uncertainty, which has been stated earlier on in the debate. My inclination is that those members who have been put forward are being treated unfairly in that they will have just such limited powers to do the work they are expecting to do. It would be better to refer this back. I would say to the Minister for Housing and Communities, please accept this reference back, either re-present it to the Chamber or you can withdraw it and resubmit it in a better form, so that it is far more palatable for Members to be able to support. So, I shall be supporting the reference back.

3.2.8 Deputy M.R. Scott:

It is good to hear Deputy Mézec focus on productivity because that is one of my passions. We have also had some interesting discussions earlier today, or was it yesterday, time seems to be becoming a blur, on what are wrecking motions. It is totally true there is no clarity, but maybe what I can say there is clarity in, in this law, is it says in Article 3: "For the purposes of this law, the States shall appoint a tribunal to be called the Rent Control Tribunal." We have a legal obligation. So now we are having some sort of discussion about what is the ambit, how many kind of leases are going to

come within the remit of this rent tribunal? We do not know. We do not have the data. There is that need, and as you have already witnessed, my fellow States Members, I had an exchange with the Attorney General about how you identify the leases that are excluded and is it possible that they almost have to self-identify themselves and they might not exist anymore, in which case the scope is a lot broader than perhaps might have first been suggested. So something needs to be established here and the real question is who should be doing it. Now, I would say it is the Rent Tribunal. Its first task is to establish its jurisdiction and to take legal advice to give guidance on it. At least that is what I would hope it would do. Now, if you referred this to Scrutiny, are they going to get the legal advice? Maybe. But as long as it is got then maybe that is where the need lies. We have also mentioned this concern about conflict of interest. This is a discussion that we have already had in the States Assembly regarding the composition of the tribunal.

The Bailiff:

I think some background noise is disturbing the speaker. Obviously, it is always possible for Members to speak between each other during the course of the speech, a lot of important discussions take place in those circumstances, but they must be very much at a whisper and there should not be a background hum, which will disturb a speaker speaking.

Deputy M.R. Scott:

Thank you. I would expect this Rent Tribunal, with its band of professionals, to look into questions of how you manage conflict of interest. Most importantly, this panel needs to be adequately resourced. I really want to emphasise that because I have been part of a statutory panel, which struggled because it lacked resourcing. I was not talking about people, I was talking about the money, the support needs. So I would like us to be holding our Minister to account to ensure that this tribunal can be set up, establish what its ambit is, and to deliver guidance. Once it has that legal advice, to be able to say: "This is what we can look at." Yes, I agree, it is unfortunate we do not have a better legal framework in place. It does only deal with dwelling houses. It should be broader. But I do agree it is a start. I still am aware that there is a law. Maybe somebody who was Minister for Housing and Communities before should have gone to repeal it or replace it, I really do not know. I do not think we need to discuss that.

[15:00]

I just think we look at the law and it would be useful for States Members to look at laws, given that we pass them, review them, and just think, right, we have that legal obligation, let us do it, let us show leadership to our community, obey the law, get on with it.

3.2.9 Connétable D. Johnson of St. Mary:

I have to say I have a large measure of sympathy with Deputy Mézec in this. The public as a whole will think at last we are having a rent tribunal put in place, and they will believe that their property, whatever size it might be, may well be within the sphere of its influence. To be told, not for us, because we are all capable of looking at the law ourselves, or to be advised in no uncertain terms that this law might apply only to a limited number of properties, does beg the question as to why it is being introduced in isolation. I do therefore have a lot of sympathy with the idea of the reference back. I do though revert to the earlier question from Deputy Scott of the Attorney General and the properties to which the law does apply. It says: "Nothing in this law shall apply to a house or part of a house let for a term of less than 9 years on a written contract, which is expressed as forming and conforms to a standard form of written contract ascribed by regulations under Article 7." I simply enquire whether the Minister for Housing and Communities, through the Law Officers' Department, could get specific advice as to whether such regulations have been made. If most properties are not going to be included within the ambit of the current law, yes, I am in favour of a reference back on the basis, not only that we need to know to what properties that law will apply and to what properties

the Rent Tribunal, composed, I am sure, of very worthy people, will exercise their judgment, but also because I do not believe it is the role of the tribunal itself to determine what that role should be. It is for this Assembly to determine that. I believe that should be a prerequisite to their appointment. So I shall be supporting the reference back unless the Minister can give me comfort in saying that law is on the brink of being published to that effect.

The Bailiff:

Mr. Attorney, are you able to assist as to whether there have been regulations made under Article 7? Shall we move on and come back to you, Mr. Attorney.

3.2.10 Deputy R.J. Ward of St. Helier Central:

I will just stick to the reference back. A reference back is provided as a position in this Assembly, if we are looking at trying to find more information so we can make, in my interpretation, a better decision. That is exactly what we are trying to do here. I thank the other Members of the Assembly who have spoken and are considering exactly that point. To talk about this is just the beginning as a notion. But we need to consider that as a notion and this reference back, what it does, it gives us some detail on what that beginning looks like. Because, at the moment, we do not know what it is. Now, I do not want to get out of the reference point, but we cannot give false hope with a rent tribunal, and I would say we all agree that we want a rent tribunal, but that is just not a name, it is a body with teeth. There is not the information currently that assures us that body will have teeth and indeed, from the answers from the Attorney General, it is clear it will not have much of a remit, if any at all, on rented dwellings on this Island until that law is changed. I go back to the point as well that this was to be debated in the next sitting and it was brought forward. I think it would be really significant in terms of co-operation of this Assembly if the reference back ...

The Bailiff:

Excuse me one moment. The Connétable is anxious to make a contribution to the Greffier's collection. Please carry on, Deputy.

Deputy R.J. Ward:

It would be significant in terms of whether we are going to work across this Assembly on these types of things, it is something we do all agree on, if this reference back would be accepted, more detail would come back to the Assembly. Because there are obvious concerns across here. To be quite frank, I think if the reference back was lost by one vote, for example, it would not be good for the decision-making that we are making. Let us look at the quality of the decision-making. I do not think anyone is opposing a rent tribunal here. What we are trying to say is could we please know what it means. The 2 points on the reference back by Deputy Tadier are exactly ... I mean I was thinking there is some other stuff, but we cannot add them now, in terms of timescales, et cetera. Because timescales are so important. But I think that it is so important that we have in terms of the debate around this. Also, I totally agree with Constable Jackson, he talks about are we setting up a panel and really not giving them the opportunity to do the job that we want them to do? Because that is not fair to the panel. Forget who is on it for now, if you are going to set up a panel, let us let them do the job properly for us. Otherwise they are going to sit there and say: "The States have set us up for nothing." It will lose its credibility. This step forward for this Island is about credibility and will have more credibility if the reference back is taken and we have that type of detailed information, which is clearly needed by Members across this Assembly.

3.2.11 Deputy I.J. Gorst:

Standing Orders do not give much flexibility about a judgment on a reference back. So you will request it, it was seconded, information was requested, you had no leeway on whether to ...

The Bailiff:

The first note is there was no discretion allowed for the Chair in this. Sorry, I did not mean to interrupt you, but you are absolutely right, there is no leeway.

Deputy I.J. Gorst:

Thank you, I just wanted to make that point, because it does seem slightly strange, because the reference back is not in connection with what this proposition is all about. This proposition is a proposal for members of this tribunal. Yet the request from the mover of the reference back is asking for other information, not information around the individuals, which the Minister for Housing and Communities is proposing. But, as Standing Orders allow, that has been allowed. The reason I make that point is because we know from the debate that was taking place before the reference back was made, at least one individual confirmed that they would be voting against this panel because they thought one individual was inappropriate. I do think we just need to be careful about whether we are not confusing a number of issues here. These individuals are more than eminently suitable to populate this tribunal. That is what the Minister is asking for in this proposition. Are there other questions that the Minister is in the course of answering and working on together with his colleague Minister, the Minister for the Environment? Not the Minister for Energy and Climate Change, but the Minister for the Environment. Yes, there are. That is perfectly legitimate to ask some of those questions. For my part, that should not stop Members from agreeing these eminently suitable individuals to populate this tribunal. I do start to have nagging or niggling concerns about why we are asking for a reference back and why are we asking for what in effect is further delay? Because, as Deputy Howell said, right now individuals are suffering. The population of this panel may not indeed help those 2 individuals, but it is a step on delivering help into the future, rather than a step back and a wait. It is a step forward. I say that because many Members have stood in this Assembly and said: "We are in a housing crisis." During the election, Islanders were asking lots of questions around housing and were feeling hopeless, whether that was in the buying part of the market or encountering difficulties in the rental section of the market. I am not sure that by deferring again, the Minister has already been asked to defer this by Members, now he is being asked to defer it again; the Minister is keen to take action, to get things done. He is being, not quite Tigger-like, but almost, in trying to pull every lever that is available to him and trying to take action, being creative in the action that he is taking in regard to meeting some of the challenges that Islanders are facing in regard to housing. So we find ourselves at that difficult juncture. We could wait again for further information, let the Minister go back and spend a number of weeks answering everybody's legitimate questions about what will or what might or what is possible and when might A happen or B happen, and on and on. Or we can simply say, this afternoon: "Yes, here we have 5 individuals, eminently suitable, been through a good and proper process to populate this tribunal" and allow the Minister to get on and start delivering. Or we can defer again. I do not think, on balance, perhaps it comes from experience, I have done enough deferring and dithering, now is the time to start taking action and I support the Minister in the action that he is seeking to take today and I ask Members to do the same.

3.2.12 Deputy D. Warr:

I thank all those who have spoken in support. Deputy Renouf, Deputy Scott, you all make really valid points. The point about appointing a tribunal panel, or a panel, is to do precisely what so many of the Assembly Members here in this discussion are wanting to be done. They want to get on, sort out this 1946 law. Deputy Howell makes an absolute point, there are 2 individuals here who have seen huge rental increases, nobody is doing anything about it. Let us try to sort things out. Let us get things moving. If we do not have a panel in place, we cannot establish anything. We cannot get anything. We cannot even begin to get the ball rolling. What annoys me a little bit here is we, in the Government, are accused of scaremongering. Deputy Mézec, these famous lines of his: "False hope. Revenge evictions. Petty debts." It is unbelievable. I have here, as everybody else is getting legal advice from the Attorney General, I asked for some legal advice of my own. You can by Ministerial

Order increase the 3-month period already a landlord gives notice to quite a greater period, both in the case of fixed-term tenancies and periodic tenancies. So Deputy Mézec is not correct in his assertions that these tenants who are unfairly evicted do not have some comeback. So there are quite a few, we are not allowed to use the term “mistruths” here, but inaccuracies, put it that way, being mentioned here. I want to get on and deliver a panel of very, very capable people who will get on and deliver and sort out the issues, which have been brought up in this Assembly today. Let us get on with it and let us do it today please.

3.2.13 Deputy T.A. Coles of St. Helier South:

I am going to respond quite quickly to the Minister for Housing and Communities. Because the reason why we need a reference back is he is referencing a panel and a tribunal, so which one are we forming? Are we forming a panel to help draft the law or are we forming a tribunal to help with the rents? Because that is not clear in your proposition. So I do believe we need the reference back so we can ask this question before we can appoint the appropriate panel or tribunal.

The Bailiff:

Does any other Member wish to speak? Attorney General, you wish to offer advice?

The Attorney General:

Yes. I was asked 2 questions, whether there had been regulations issued under Article 7 of the 1946 Law, and the answer to that is, yes, they have. But they do not deal, unfortunately, with the standard form of written contract ascribed by regulations under Article 7. Whether they ever did would involve an exercise with the States Greffe to check their drafting file to see whether they ever did contain a standard form of written contract.

[15:15]

In terms of the consequences of that, it may be said, as Deputy Scott mentioned, that may mean that most contracts, because they cannot conform with a standard form of written contract, will not fall within the exclusion. That is a question of fact. I am afraid I do not know the answer to it. It would involve some checking as to whether there is any standard form of provision in a residential lease, which deals with this particular issue. In relation to the Minister’s question to me - I think he was referring to the 2011 Residential Tenancy Law - yes, there is power for the Minister by order to extend the period, which is currently 3 months, by which a landlord can give notice to quit to a tenant and that can be done by Ministerial Order. That is an option, which the Minister may wish to consider. I hope that answers the 2 questions that have been raised.

The Bailiff:

Deputy Howell, you put your light on, you are not entitled to speak again.

Deputy A. Howell:

A point of law really.

The Bailiff:

Firstly, if you wait for me to finish before you come back. You are not able to speak more than once. You are entitled though to ask a further question of the Attorney General, so is that what you are wishing to do?

Deputy A. Howell:

It was just a point of law. I just wondered, is it for the tribunal panel to change the law or the Minister to change the law or this Assembly to change the law?

The Attorney General:

The tribunal panel cannot itself change the 1946 law. That is a matter for this Assembly. In terms of what it can do, at the moment it has to operate within the current parameters of the law as it stands. It is a creature of statute. Its powers are set out in this law and it is confined to the jurisdiction that is conferred on it by this 1946 law.

Deputy P.F.C. Ozouf:

May I ask a further point of law?

The Bailiff:

I beg your pardon?

Deputy P.F.C. Ozouf:

May I ask a further point of legal clarification?

The Bailiff:

Yes, you can, but I think, Deputy Jeune, you want to ask a point of law, or did you want to speak?

Deputy H. Jeune of St. John, St. Lawrence and Trinity:

No, I would just like to be excused because I have a doctor's appointment, so I just want it on record, as lots of people seem to do that.

The Bailiff:

Very well. Then I am assuming, Deputy Feltham, did you have a question or did you want to speak?

Deputy L.V. Feltham:

I wish to speak.

The Bailiff:

Very well, yes, Deputy Ozouf, further question for the Attorney.

Deputy P.F.C. Ozouf:

I thank the Attorney General for his clarification. Would the Attorney General be able to provide some reassurance that the tribunal would be well within their abilities, if requested by the Minister, to suggest law drafting instructions, which would then be brought forward to the Minister and the Assembly? Because that is, I think, what the important point is, is that the law is imperfect, but we are asking effectively ... the Minister has indicated that he wants the tribunal to be asked to bring forward changes based upon their experience of the work and that of course they cannot pass laws but they can ask for legal amendments and that would be perfectly in order for the tribunal to make, if requested to do so.

The Attorney General:

In principle, yes, is the answer to the Deputy's question. The law provides at Article 3(4): "The Minister may appoint a clerk and such other officers and servants as the Minister thinks fit of the tribunal and there shall be paid to them such salaries and allowances as the Minister thinks fit." So that confers a jurisdiction on the Minister to provide the tribunal with legal advice or other support that it needs and the panel ... I do not see any provision here which would prevent the panel from providing a report to the Minister on what it can and cannot do.

Deputy P.F.C. Ozouf:

I am grateful to the Attorney.

3.2.14 Deputy L.V. Feltham:

What I am hearing here is an awful lot of confusion around what this tribunal will be able to do and also its purpose. I am wondering, in fairness to the people being appointed, whether they are clear about what is going to be expected of them as well. More importantly, it is really important that us, as the States Assembly, are very clear about what we are appointing people to do and why. Further, this reference back is very important because the people that you may appoint to a panel that are going to advise on law changes may well have different skills to the types of people that you might appoint to sit on a tribunal. So, we need to be really clear about what the expectations of the people that are being appointed today are, or not today. I would support the reference back. I think the reference back has been brought in the spirit of collaboration, so that the whole Assembly can get behind the appointment of this tribunal. So, I encourage Ministers to support this reference back because it will enable that collaboration, that openness, and that transparency that you promised us all.

3.2.15 Deputy M.R. Le Hegarat of St. Helier North:

As time this afternoon has progressed there has become more and more confusion. Having been somebody that has worked within legislation for over 29 years, it is always important that we are fully clear as to what is expected of us. That is whatever role we take, whether that be a police officer, customs officer or a tribunal. We have to be clear about expectations of what we are being asked to deliver. I am not even going to talk about the fact of whether we do or do not think that the people being asked to be on that panel are suitable or not. Because that is not part of what we are considering this afternoon in relation to the reference back. But I am concerned about the information that has been fed back to us by the Attorney General. So, from my perspective, I want it to be clear to me, as a Member of this Assembly, and having been elected by St. Helier North, what I am agreeing to. So, therefore, I think a reference back is really needed. Because we need to be clear about what we are asking this tribunal, panel, whatever you like to call them, is being asked to do. Because that is, to me, imperative. It needs to be clear to them, it needs to be clear to us. I also do have concerns about when we suggest that they may be bringing forward some forms of legislation, because that is our job. I know people are shaking their heads, but that is exactly what was said behind me I am afraid. So I just want some clarity, so I will vote for having a reference back, because I think we need clear lines and we need to know what we are doing.

3.2.16 Deputy P.M. Bailhache:

It is not uncommon for debates on references back to generate confusion. I wonder if I might first of all clarify my own line by asking you whether I have correctly understood the reasons for the reference back, which are, firstly, to obtain information as to the kind of tenancies which are covered by the law; and secondly, to get some information as to the powers or functions of the tribunal.

The Bailiff:

I had understood the second part of the reference back was to gain information concerning the statutory framework that is proposed in short order under which this panel would function. I did not understand the second, and I think Deputy Tadier is nodding, so those are the concerns.

Deputy P.M. Bailhache:

Thank you for assisting with that. I do not think that either of those grounds justifies a reference back. Article 2 of the 1946 law says that: "This law shall apply to any contract whereby one person, in this law referred to as the lessor, grants to another person, in this law referred to as the lessee, a right to occupy as a residence a house or part of a house in consideration of a rent." That is the starting point. It is true, as the Attorney General has informed the Assembly, that there are exceptions. It would be a matter for the tribunal, if it is seized with a reference from a tenant, to decide whether it had jurisdiction under the law to deal with a case or not. Nothing in a reference

back is going to change that situation. It is all set out in the law. The law may not be a very good law. The law may be out of date, it may need revision, but it is there. It is in black and white. It is not an appropriate ground, in my view, for a reference back to ask for clarification of what is in a law. Now, as to the second point, it seems to me that it is only when the tribunal is established and operating that it will be possible to establish clearly what the defects of the 1946 law are. If, for example, the tribunal finds that it does not have jurisdiction to deal with a particular case, then clearly that is a case for, if the Assembly agrees, changing the law to make sure that the jurisdiction is extended. But to suggest that the Minister should come back and say what he is going to do before he has had the experience of what the tribunal is doing seems to me to be putting the cart before the horse. In my view, the reference back should be rejected.

3.2.17 Deputy K.L. Moore:

Simply to say really, I think Deputy Bailhache has taken the words out of my mouth and expressed it in a much more eloquent way than I could. So I thank him for his words. Really, this is an unfortunate situation to be in and I really do not think that the Assembly intends to slow down the progress that the Minister for Housing and Communities wishes to make. But unfortunately that would be the situation if the Assembly voted for this reference back. So I do ask Members to support us in continuing to drive forward developing the changes that are necessary to the Residential Tenancy Law in order to make this tribunal function properly and in the way that we all hope that it will. So I do ask you to reject the reference back and let us make progress.

The Bailiff:

Thank you very much, Chief Minister. Does any other Member wish to speak on the issue of the reference back? If no other Member wishes to speak, I close the debate and call upon Deputy Tadier to respond.

3.2.18 Deputy M. Tadier:

First of all, can I thank you for clarifying as the debate went along exactly what the 2 points were. I think that should be fresh in Members' minds now. They are 2 valid points that first of all meet the requirement for reference back. These are pieces of information, which not just this Assembly, and not just this particular variation of democracy that we have in distribution of seats, but any self-respecting Assembly should be asking for exactly the kind of information that we are seeking here, so that we know exactly the future direction. I will deal with that point first before coming on to the second point to address Deputy Bailhache's points. It is fair enough to say let us take a first step. But whenever I go somewhere into new territory and I do not know my way around, I put my phone on and I put on the maps function and I find out where it is that I need to get to and what the direction is to get me there. Because, if I just say: "It does not matter, I will do that later" I will start walking, I will take the first step and then the second step, and then you find out I have gone in completely the wrong direction and I have got into all sorts of trouble because I need to be over there, not over there. So you have to do a complete U-turn, perhaps not the first time today, and go in a different direction. So it is really important that we know exactly what we are doing, not for the sake of us, not because of any pride that we might feel as Ministers or as Backbenchers, but to make sure that, if we are giving a new tribunal that has not existed for quite a while to come into existence, we need to know what their *raison d'être* is. It is a bit like Aladdin summoning the genie at the Christmas pantomime, and then the genie comes out of the bottle or the lamp and says: "Okay, what do you want me to do?"

[15:30]

"I had not really thought about that." "Well it is a shame because you have 3 wishes and you need to use them." "Can you help me decide what I want to do?" "No, I cannot do that, that is not my job. The law of being a genie does not allow me to do that. Do you maybe fancy putting me back in the lamp and then calling me when you need me to do some proper work?" Because this is the way

we are treating these no doubt very esteemed individuals, putting them in an invidious position. I would say to Deputy Bailhache that the confusion started a long time before the reference back was appointed. The reference back came because there was confusion and we did not know the grounds that we are dealing with, not the other way around. If there is a cart being put before any horse, it is exactly the Minister, unfortunately, who is doing this again. The Minister cannot say: "I want to set up a panel, really it is a tribunal, it is a tribunal I am setting up, but I want to set up a policy panel. I cannot call it that because the last Government had a penchant for policy panels and we did not really like them." Because, especially this one, they are not elected Members. It is not for us to appoint members of the public who have no mandate to come up with policy for Ministers because they do not know what they are doing. That is the way it looks. That is the effect that it will have. I think the Attorney General was being quite clear, it is not simply convince me or my party colleagues, but I noticed there was an intervention from my Constable in St. Brelade who said we do not have the right information. I even read between the lines earlier that is what Deputy Scott was saying. She is willing to go along with it, but the information is not there. If I were talking to the Ministers perhaps more informally outside, if I had the ability, I would say: "Why are you resisting this reference back? It is in your own interests. It is in the panel's, in the tribunal's, interests to make sure they know that they have the powers." Then we have a question from Deputy Ozouf, he asked the Attorney General desperately, after he has given very clear advice that this only applies to a very small subsection of tenancies in Jersey, and I will get on to that in a moment, he says: "But of course if we wanted to do something different we are still allowed, are we not, Attorney General? In the law we are allowed to do something different at some time in the future if we wanted to do that, and we could appoint clerks, could we not?" "Yes, of course", the Attorney General said: "You can do whatever you like. You can appoint clerks." You do not need to ask the Attorney General his permission to do that, you are the Government, you do whatever you like. You give the tribunal whatever powers you like that you think that they need to do the job. But the point is we need to know what those powers are. We need to know what the policy framework is that they will be operating under because they need to do it. Our constituents need to know, when they pick up the phone and they say: "Is my tenancy covered by this?" Deputy Howell, and it might be someone on my road, it might be one of my neighbours who comes to me and I refer them to Deputy Howell and say: "Talk to Deputy Howell about this one, you are her constituent." She says: "Well I am afraid you have to go and see the panel but it does not necessarily apply to you." So rather than giving people false hope, you want to know that you have the information that you can vote on where it is completely clear and it is not for the tribunal to be set up to be developing policy for the Minister in the absence of a policy and a law existing, because we do not have the law in place. But on a more practical point, it is a bit like the gardener, is it not? You would not ask a gardener to come around and do your garden and say: "Which bit of the garden do you want me to do?" "I do not know, it is my wife asked you to do the garden, but she is not here at the moment." "Have I got any tools to do it?" "No, you do not have any tools." "Should I do that bit?" "I do not know." The gardener says: "Just forget about it. Call me when you know what you want to do." But if we are to appoint, because ostensibly we are supposed to be appointing members to this panel, now we do not know if they have the requisite skills, not that I am talking intellectually or professionally to do it, but if they do not know what type of people they are going to be dealing with, what cases they are going to be dealing with at a tribunal, we do not know if they are going to be resourced. This proposition does not talk about any funding requirements, it says: "This is cost-neutral, no financial and manpower implications." I would like to know, if it is going to be dealing solely with lodging houses, who lives in lodging houses? Tell me. Who tends to live in lodging houses in Jersey? It is people with non-quals, it tends to be foreign nationals, it tends to be people who may not have English as a first language. It might be Polish, it might be Romanians, it might be Portuguese, it might be Kenyans. Do the panel ... are we setting them up - the tribunal, let us interchange - do they have the requisite resources that they need to deal with complaints and adjudications in Polish, in Romanian, in Portuguese, possibly even in Swahili. Shall we leave that there? I am not convinced that they do. I do not think that I or Deputy Howell or the Constable of

St. Brelade, and hopefully other Members, have the information that they need to deal with this. So I think I have made the point. I do not wake up in the morning thinking I want to bring a reference back to the Assembly. I do it because, as an individual Member who has been elected to this Assembly 14 years ago, I have esteem for this place. When I used to sit in the gallery and look down and see some of the decisions that were made, you can take a win or a loss in politics, it is fine, we all know that. That is the way politics works, sometimes you win, sometimes you lose. But when you see decisions that are being made when you do not have the information and they are effectively unsafe, we do not do ourselves any favours as an Assembly or as an Island, and that is simply what I will be looking out for. I would hope, if ever the boot was on the other foot, that the Assembly would have the decency to tell me if I was making those mistakes.

The Bailiff:

The *appel* is called for. I ask Members to return to their seat. The vote is on the reference back. I ask the Greffier to open the voting. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The proposition for a reference back has been adopted: 23 votes pour, 18 votes contre, no abstentions.

POUR: 23		CONTRE: 18		ABSTAIN: 0	
Connétable of St. Lawrence		Connétable of St. Helier			
Connétable of St. Brelade		Deputy C.F. Labey			
Connétable of Trinity		Deputy S.G. Luce			
Connétable of St. Peter		Deputy S.M. Ahier			
Connétable of St. Martin		Deputy I.J. Gorst			
Connétable of St. John		Deputy K.L. Moore			
Connétable of St. Ouen		Deputy P.F.C. Ozouf			
Connétable of Grouville		Deputy Sir P.M. Bailhache			
Connétable of St. Mary		Deputy D.J. Warr			
Connétable of St. Saviour		Deputy H.M. Miles			
Deputy G.P. Southern		Deputy M.R. Scott			
Deputy M. Tadier		Deputy J. Renouf			
Deputy M.R. Le Hegarat		Deputy R.E. Binet			
Deputy R.J. Ward		Deputy M.E. Millar			
Deputy C.S. Alves		Deputy T.J.A. Binet			
Deputy L.J. Farnham		Deputy A.F. Curtis			
Deputy S.Y. Mézec		Deputy K.M. Wilson			
Deputy T.A. Coles		Deputy L.K.F. Stephenson			
Deputy B.B. de S.V.M. Porée					
Deputy L.V. Feltham					
Deputy A. Howell					
Deputy R.S. Kovacs					
Deputy M.B. Andrews					

4. States Employment Board - Annual Reporting (P.107/2022)

The Bailiff:

The next item of public business is the States Employment Board - Annual Reporting, P.107, lodged by Deputy Andrews. For the purpose of this debate the main respondent will be the Chief Minister and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion - to request the States Employment Board, from January 2023, to publish annually (a) a breakdown of civil servant and public sector worker remuneration across salary bands, to be presented as percentages of government department payroll

expenditure and overall government department expenditure across all government departments; (b) civil servant remuneration over £100,000, to be presented as a percentage of government department payroll expenditure and overall government department expenditure across all government departments; and (c) combined consultants' aggregate remuneration, to be presented as a percentage of government department expenditure across all government departments.

The Bailiff:

Before we start, Chief Minister, do I understand correctly that your Government is accepting this proposition?

Deputy K.L. Moore:

Correct, yes.

4.1 Deputy M.B. Andrews of St. Helier North:

I am delighted to be bringing forward this proposition before the Assembly. During my election, I was absolutely paramount that we had to see structural reorganisation of our government in terms of payroll expenditure. What we have really seen in recent years is the expansion of payroll expenditure in terms of headcount and there needs to be a reappraisal. In order to reappraise payroll expenditure, we need to be informed by data, and quite simply all I am doing is looking to ask questions in terms of the data that needs to be collected, hence why I have been looking at, in particular, salary bands and salary bands, to be more specifically mentioned with every single government department. That is relevant to overall payroll expenditure and overall government department expenditure. But, not only that, when we are reading part (b) of the proposition, we are looking at those who are remunerated over £100,000. The same thing will apply. So, we are looking at the percentage of those who are receiving £100,000 or more to be derived as a percentage of salary for the department, but also as well as an overall percentage of government department expenditure. Also, when we are looking at the final item as well, we are looking at consultant remuneration. Of course, there will always be a need to use external specialisation, however we also need to be ensuring that we are holding each government department to account for the use of consultants external to the government. Hence, this is why I have brought forward this proposition. I do not think I need to be bringing forward any further mention to this debate and I do look forward to hearing what fellow Members have to say.

The Bailiff:

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

4.1.1 The Connétable of St. John:

Both the States Employment Board and the Council of Ministers have considered the proposal and are pleased to support the proposition. It is crucial that the public sector delivers value for money and, as we heard earlier today, the States Employment Board are working hard in this area. The proposal will produce additional reporting that in turn aids accountability and, importantly, action. The proposition is supported as a positive step in this direction.

The Bailiff:

Does any other Member wish to speak? If no other Member wishes to speak, then I call upon Deputy Andrews to respond.

Deputy M.B. Andrews:

I call for the *appel*.

The Bailiff:

The *appel* is called for. I invite Members to return to their seat. The vote is on P.107. Members have had the opportunity of returning to their seats. I have not opened the voting yet. I ask the Greffier to open the voting. Members have had the opportunity of casting their votes. Then I ask the Greffier to close the voting. The proposition has been adopted: 38 votes pour, no votes contre and no abstentions.

POUR: 38		CONTRE: 0		ABSTAIN: 0
Connétable of St. Helier				
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Martin				
Connétable of St. John				
Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy C.F. Labey				
Deputy M. Tadier				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I.J. Gorst				
Deputy L.J. Farnham				
Deputy K.L. Moore				
Deputy S.Y. Mézec				
Deputy P.F.C. Ozouf				
Deputy Sir P.M. Bailhache				
Deputy T.A. Coles				
Deputy B.B.de S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy M.R. Scott				
Deputy J. Renouf				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy M.E. Millar				
Deputy A. Howell				
Deputy T.J.A. Binet				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy K.M. Wilson				
Deputy L.K.F. Stephenson				
Deputy M.B. Andrews				

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**The Bailiff:**

That is the end of public business, except for the arrangement of future business, and I call upon the chair of P.P.C. (Privileges and Procedures Committee) to propose the arrangement for future meetings.

5. The Connétable of St. Martin (Chair, Privileges and Procedures Committee):

The arrangement of public business, as agreed at a previous sitting, the next States meeting begins on Monday, 12th December, at 1.30 p.m. Please expect that this sitting will probably last until Friday afternoon or evening on 16th December. Bearing in mind the Government Plan is usually a long debate, we now have several other items on the agenda, including the Hospital Review, P.109, and P.11, the Draft Health Insurance Fund, which will elongate what is already a very busy week. I would like to give notice that to be efficient and to get through the extremely busy agenda, we should consider having shorter lunch breaks and finish slightly later each day in order to accommodate public business. I would like to suggest that we have, instead of a 1½ hour lunch break, we have an hour lunch break, and maybe finish at 6.00 p.m. each day, which would give us an extra 5 hours.

The Bailiff:

In which case I will take that as a proposition. Do Members agree that we would have a truncated lunch break to last for an hour simply each day as opposed to an hour and a half? Very well, we will do that. We can deal with late sittings as and when matters come along, depending upon whether that is necessary. Do Members agree to adopt the future arrangements for public business proposed by the chair of P.P.C.? Thank you very much indeed. The Assembly stands adjourned.

5.1 Deputy L.J. Farnham of St. Mary, St. Ouen and St. Peter:

Before the Assembly adjourns, I am just wondering about the running order for the next States sitting and whether it would be appropriate, given that the proposition I have lodged, P.109, could be dependent on the outcome of the Government Plan debate. For example, I have requested the Government to produce some figures based on a previous agreement of the States Assembly, for example the Budget Financing and Land Assembly P.80/2021. If, for example, as I understand, the Government were to lodge an amendment, which sought to withdraw the approved borrowing, that might impact on my proposition.

[15:45]

So, I wondered at what time it would be appropriate to ask if the Assembly would consider taking my proposition prior to the Government Plan debate. If now is the time to request that, I would like to do it. Thank you.

The Bailiff:

It is open at the arrangement for future business for Members to propose that particular issues are taken in a different order. Consequently, if you wish to make a proposition, Deputy Farnham, that P.109 is taken at the start of business on the next sitting, then it is open to you to do so.

Deputy L.J. Farnham:

Of course, that would only be necessary if the Government were to lodge an amendment, which changed one of the previous States decisions in relation to my amendment. So it is difficult, without knowing what the Government's proposals are, I do not want to jump the queue.

The Bailiff:

In which case perhaps the thing to do is to wait and see if there is an amendment. Can you assist with this, Chief Minister?

5.1.1 Deputy K.L. Moore:

I am a little surprised by the Deputy's suggestion, given that we circulated earlier in the week to States Members a letter to explain to them exactly how we propose to move forward with the hospital situation. I would have imagined that would have given the Deputy all the information that he requires. He is aware that there is an amendment forthcoming and equally we expect to have a

proposition before the Assembly that will offer time for scrutiny prior to a proper debate in the Assembly, as Members would imagine, under the processes that we have to operate within.

The Bailiff:

Obviously, I do not know what the amendment says, Chief Minister, I do not know if Deputy Farnham does, but it may be that the right thing to do is to wait until the beginning of the next sitting, Deputy, and then decide, when you know all of the information, whether you wish to urge the Assembly to take it as the first item of business.

Deputy L.J. Farnham:

Yes, I was aware of the correspondence, but previous experience over many years has taught me to wait for amendments to materialise. So, I am quite happy to wait until the beginning of the debate and, if necessary, ask the Assembly's forbearance at that stage to discuss mine first at that stage.

The Bailiff:

Indeed, and may I respectfully suggest that, in the event you wish to make that proposition, you notify Members by email as soon as you know you are intending to do so, so that thought can be given to that when you make that application.

Deputy L.J. Farnham:

I will, thank you, and thank you to the Chief Minister.

The Bailiff:

Very well, the Assembly stands adjourned until 12th December 2022.

ADJOURNMENT

[15:47]