

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 9th SEPTEMBER 2025

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[9:30]

The Roll was called and the Greffier of the States led the Assembly in Prayer.

COMMUNICATIONS BY THE PRESIDING OFFICER

The Deputy Bailiff:

1.1 Welcome to His Excellency the Lieutenant Governor

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

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

2. The Minister for the Environment will make a statement regarding the States of Jersey Complaints Board Findings: Ministerial Response (R.101/2025 Res.).

The Deputy Bailiff:

The next item of business is a statement by the Minister for the Environment regarding his response to a States of Jersey Complaints Board report.

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

I rise today to respond to the report of the Complaints Board to do with the Northern Leaf hearing and, more importantly, to acknowledge the genuine concerns raised by residents living near Retreat Farm. First and foremost, I recognise the impact this situation has had on their lives, the disruption, the distress, and the feeling of being unheard. These are not just complaints; they are heartfelt expressions from people who care deeply about their homes and their community. I want to thank those who came forward. Speaking up is never easy, and their voices have helped shape the way we respond. The site in question, Northern Leaf, has been the subject of extensive scrutiny. Officers have investigated issues including odour, noise, light and planning. Some investigations have led to enforcement action. Others, after careful and objective assessment, have not met the legal threshold for statutory nuisance. I understand this can feel technical or even dismissive, but I assure Members that every concern has been taken seriously. The Regulation Directorate has followed the 4 E's mode: engage, explain, encourage and only enforce as a last resort. Officers have dedicated hundreds of hours to this matter and their professionalism deserves recognition, even as we acknowledge the emotional toll on residents. I must also address the findings of the Complaints Board report. While I respect the Board's role, many of its assertions are based on perception rather than evidence. For example, the suggestion that the officers prioritised company interests over residents is unfounded and undermines the integrity of public servants who have acted ethically and diligently throughout. The key issue of this case centres around odour. The law requires objective assessment, not subjective opinion. Odour must be judged by qualified Environmental Health practitioners using internationally recognised and well-established methods, including what is known as the "sniff test". To dismiss this approach is to disregard decades of sound environmental health practice. To ensure thoroughness, I instructed officers to conduct a detailed odour assessment involving multiple practitioners. The findings, included in my report, confirm that a statutory nuisance is not occurring at a level that would be prejudicial to health or constitute a nuisance. The Directorate has fulfilled its statutory duty. I recognise that the complainants do not agree with the assessment; however, this matter is now considered closed. A new investigation could be opened only if there is a material change in circumstances. While odour is present, its mere presence does not meet the threshold for

statutory nuisance. I must reject any recommendation that would compel unlawful action, such as serving a notice without sufficient evidence. It would be manifestly wrong for the Board to recommend that I act *ultra vires*, beyond my legal powers. The law is clear: the Minister must be satisfied that a nuisance exists. That threshold has not been met. While I am rejecting the recommendation of the Board with regards to odour, I have accepted the other 3 recommendations as outlined in my report, being: to publish a redaction policy on planning representations, which is found on gov.je; to ensure conflict of interest declarations are embedded in customer policy; and to ensure that business interests are not prioritised over impact on neighbours. With regards to planning matters, the Board made no conclusions that there had been any concerns, which I must take as nothing was found to be lacking. Last Thursday the Planning Committee approved a range of planning applications, however they were minded to refuse the application relating to the chillers, which is one of the main concerns of neighbours, centred around noise disturbance. There are more committee procedures to be followed to confirm the decision on 25th September, and as Minister, due to the potential for the submission of further appeals, I cannot make any further comment in relation to this. To support constructive dialogue, I have commissioned independent mediation. This initiative brings together residents, the business, and Government representatives in a neutral, structured forum. It is not a substitute for regulation, but it offers a path to address concerns that regulation alone cannot resolve. I am disappointed that mediation was not central to the panel's recommendations. In a case so deeply rooted in community tension, mediation offers a way forward built on empathy, dialogue and mutual understanding. I also want to acknowledge that this speech is a response to the report itself. I am aware that questions may arise about my future engagement with the States Complaints Board and my attendance at hearings. I have concerns about how the hearing was conducted, and we are raising those concerns, along with other areas, where we believe improvements could be made directly with the States Greffe, and I hope, in due course, with the Board itself. I remain committed to ensuring that all voices are heard and that our actions are guided by fairness, evidence, and compassion. Together, we can find a way forward that respects both community well-being and lawful process. Thank you.

The Deputy Bailiff:

There now follows 15 minutes of questions, and the first question is from the Connétable of St. Lawrence.

2.1.1 Connétable D.W. Mezbourian of St. Lawrence:

I rise to speak on behalf of the many parishioners who have over the years contacted me regarding, as the Minister has just said in his statement, the odour and the noise from the chillers. Notwithstanding the Complaints Board's findings, they continue to contact me. One of my main concerns is the odour. Last week you did not need to sniff for odour in St. Lawrence, you breathed it in, if there is such a thing. It was so strong. It was in St. John near the Marks and Spencer shop facility, it was at the Hidden Garden in St. Lawrence. I could not step out of my car without the stench overwhelming me, and I must admit I did feel sick, and this is a complaint that has been made by the near neighbours who have put up with this for many years. I am coming to a question, Sir. Will the Minister ... he has just told us categorically that the issue of odour is closed. How can it be opened again? Because there is an odour; there is no doubt that there is an odour. You do not sniff it, you breathe it in.

[9:45]

Deputy S.G. Luce:

I am grateful for the Constable for that observation. I have said that the matter is closed and it is. It could be however reopened if there is a material consideration that changes in this matter; if the growing cycle changes, the buildings change, something material change. The Constable will understand - she is a member of the Planning Committee - the concept of material considerations. If

something changes, we can look at this again. I want to address just very quickly that the Constable mentioned health, and it is important. The term “prejudicial to health” means injurious or likely to cause injury to health under Article 1 of the Statutory Nuisance Law. The determination of prejudicial to health is not based solely on testimony of complainants. It is a determination of the expertise of Environmental Health practitioners in evaluating the likelihood of injury to health. There must be an underlying threat to health from disease, and disease in this context is not a reference to infection but the legal connotations of the word referring to the absence of health, and it has got to demonstrate a tangible impact on health. I cannot stress enough to Members the challenge I have had with the Statutory Nuisance Law. It is a criminal offence and the bar is extremely high. I will say no more than that for now and wait for some other questions.

2.1.2 The Connétable of St. Lawrence:

The Minister has just said something needs to happen to allow him to open, I believe, an investigation again into the odour. Can he clarify what that something could or would be?

Deputy S.G. Luce:

I am advised that a change to material consideration would be something significant, a difference in the cropping policy of the ... so there was an enormous amount of additional material being grown, a difference to the structure of the building, a difference to the way the buildings were operated, something like that. But there will have to be, I am advised, a significant change in the way things are done onsite for something to be opened.

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

I ask this question on behalf of the neighbours of Northern Leaf at St Lawrence, my constituents. Please can the Minister confirm that following the Planning Committee’s refusal of consent last Thursday he will ensure that the chillers, which have been present illegally at Northern Leaf for the past 4 years, are removed by 13th September 2025, as required in the law by the enforcement notice, I think first issued in January 2024? So that is 18 months ago.

Deputy S.G. Luce:

As I mentioned in my speech, and as the Deputy said, there is an enforcement notice in place on the chillers. In order to rectify that enforcement notice, the company concerned submitted a number of planning applications recently. As I said in my speech, the Planning Committee sat last week to determine those. Five were approved and one, the application for the chillers, was refused. Those of you who know Planning Committee rules will know that when a decision of the committee goes against the officer recommendation there is what is known as a cooling-off period, so that decision to refuse the application for the chillers will go back to the next Planning Committee meeting I believe at the end of this month, where that decision will have to be ratified. At that point the committee will have officially made a decision to refuse the chillers. There still will be an opportunity for an appeal and there will still also be a small amount of time for the enforcement notice to expire. At that time I will certainly be needing some legal advice as to what I can and what I cannot do, but as I am sure the Deputy will appreciate, if the decision is taken to ratify the decision to refuse, the applicant does have the ability to appeal that decision, in which case I would be called upon to determine that appeal and I cannot really comment further other than the process, which I believe I have described.

2.1.4 Deputy A. Howell:

I really find this is making a mockery of the whole thing for the neighbours. This has been going on for such a long time and they have been asking me, they have been saying: “What are you doing?” and it just ... this is an enforcement notice, which should be enforced. If the chillers were refused ...

The Deputy Bailiff:

Do you want to come to a question, Deputy Howell?

Deputy A. Howell:

Please, could he look at this? Thank you. Because it is very disappointing and I am not sure what I am going to say to my constituents.

Deputy S.G. Luce:

All I can say at this moment is that the enforcement notice has not expired yet, so there are still some days to run, but there are proceedings in place. The application was made to rectify the reason for the enforcement notice. That is not unusual. Where an applicant is making an effort to find a way through the problem and to resolve the problem it would be very unlikely that a successful case would be taken to court because, at the end of the day, what one is trying to do in all these planning matters is to rectify things so that everybody is happy. In this particular situation, we have an appeal system where a decision is taken and if either side disagree with the outcome there is an appeal process, which they can follow. It may well be that if the Planning Committee decided to approve the chillers, that the neighbours themselves might want to appeal that to an independent inspector because they felt that was the wrong decision. I have to work with the processes that I have, I have to work within the laws as prescribed, and this is the way we work currently.

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

Minister, you acknowledged in your response to finding 5.5 that the law had to be amended so that environmental impact assessments are now requested for medical cannabis growing facilities, presumably because of the environmental risk involved. Does this not suggest that the industry was established in haste, without sufficient strategic planning, leaving regulators to manage these consequences?

Deputy S.G. Luce:

The Deputy may well know that I was a member of a Scrutiny Panel that looked very closely at medicinal cannabis growing in Jersey right at the outset and we felt at the time very strongly that an E.I.A. (environmental impact assessment) would be necessary. I can remember quite distinctly somebody arguing that an environmental impact assessment was not the same as an assessment which was done to assess the environmental impact, or words to that effect. Quite how we started and how we got away with things at the beginning of the medicinal cannabis industry in Jersey, I am not sure. But I am sure if we could go back and do it differently, we would start from a different point. That being said, the establishment of medicinal cannabis growing at Retreat Farm was done in the very early stages of this industry, and it did not require an E.I.A. to be done before it was established.

2.1.6 Deputy H.L. Jeune:

Given the shortcomings that the Minister has described, what steps will the Minister take to ensure that any future new industries are not established without robust environmental safeguards from the outset, and that the regulator or regulators are properly equipped to oversee them?

Deputy S.G. Luce:

It is my understanding that we have changed the rules and new entrants into the medicinal cannabis industry have to supply an environmental impact assessment.

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

In a public statement published on this matter, the Minister described the growing of cannabis as similar to agriculture and said from time to time odours appear to those dwelling in the countryside. But given the description of the odour recently in the area, and the witness statements from the residents who all describe this as being a practically constant presence, does the Minister really consider that this is equal to an odour from agriculture that comes from time to time?

Deputy S.G. Luce:

I am going to have to go back and talk to my officers again but, as I said in my speech, there were initial officer reports. We have responded every time to complaints but more recently I asked for a complete reassessment by a number of different environmental health practitioners in my department. They conducted 33 visits, there were 176 records of incidents written down, and only on 4 occasions did they feel that the level of smell had reached a level where statutory nuisance would be present. I am told that the odour is not persistent. I am told that when officers go up there quite often, it is not as strong as it has been described. It is very difficult. As Minister, I have qualified staff who are trained to do these jobs, to assess odour, and to come to the Assembly and hear my colleague, the Constable of St Lawrence - and I trust her word implicitly - and if she says she feels ill when she gets out of the car I take that very seriously on board. I just touch very briefly on agriculture smells in the countryside and the Deputy, like myself, lives in the countryside and we are fortunate to do so, but with that sometimes comes smell. If we went back 25, 30 years, the smell in wintertime of rotting cauliflowers was something we had to endure for months on end. Anybody who lives near a dairy farm will at times be subject to the smell of slurry or, worse still, silage, which has not fermented particularly well. There are smells associated with agricultural production, and I think we have to put up with that. But I take on board a persistent smell of a particular intensity is something else altogether. But I go back to my qualified officers who are trained and regularly updated in their training on statutory usage when it comes to odour. I rely on them. My sense of smell is not anywhere near good enough and they are trained to assess odour to a particular level. This assessment cannot be done by a machine. The only way to do it is to use the human nose, and I am relying on them for their assessment.

2.1.8 Deputy K.L. Moore:

How much time has the Minister taken himself to spend in the vicinity to assess his own view?

Deputy S.G. Luce:

I cannot say that I have spent a huge amount of time in the vicinity, but I have in the past attended on the site on a number of occasions. I can say that to the Deputy. I am also more recently in a slightly more challenging position inasmuch as with the planning matters, any matters which might involve an appeal, I am very well aware that I may be called upon to make a subjective and proper decision on appeal. I need to be really careful how involved I get with any of these matters.

Deputy M. Tadier of St. Brelade:

Will we be extending question time, just to know now maybe?

The Deputy Bailiff:

There is the ability to extend the time for up to 15 minutes. Do Members wish to extend the time for 15 minutes? In that case we extend for 15 minutes.

2.1.9 Deputy M. Tadier:

There is an irony I think that will not be lost on everybody that somebody who grows one or 2 plants for personal medical use is likely to find themselves with a hefty fine, perhaps before you, Sir, in the other place or even in prison, but a company who grows tons of it in the middle of suburban Jersey is apparently just doing business as usual. Does the Minister accept, or can he confirm, that the threshold and the bar that he spoke about in statutory nuisance and prejudicial to health, does that also include the definition of mental health?

Deputy S.G. Luce:

I have to say to the Deputy I have not seen the words “mental health” in any of the laws that I have reviewed when it comes to statutory nuisance.

2.1.10 Deputy M. Tadier:

Does the Minister accept that there has clearly been some prejudice to health, and we have seen it from what we have heard from residents and neighbours talking about the toll that this has had on their mental health, the inability to enjoy their own homes, so does he ultimately accept that? Does he believe that perhaps ... he said that the bar is high. Does he believe that the bar is perhaps too high and would he look to bring amendments to the law if there is evidence there to suggest that a lower threshold of actual nuisance should be implemented by the end of his tenure?

Deputy S.G. Luce:

I want to say, and I have said it a number of times, I absolutely accept that neighbours in the vicinity of Northern Leaf are affected by the smell.

[10:00]

There is no doubt that there is a smell, I am not trying to say that. There is no doubt that there is a noise that comes from the chillers. But the difficulty I have is that, as I said, Statutory Nuisance Law in Jersey, it is a criminal offence and the bar is extremely high. I recognise that this law would benefit from a review. I have said that in the past and I can say it again now. The project was scoped previously but due to competing demands it has not been taken forward. But I do support improvements to the law and I have acknowledged this. It is a high evidential threshold in terms of proven impact and statutory nuisance has to be assessed on a reasonable person. There is a gap - this is what I am coming to - in Jersey law in the provision for civil action for a nuisance in Jersey which limits options for Islanders when a nuisance does not meet the statutory thresholds. Improvements to the Statutory Nuisance Law itself alone will not address this. I believe, and I have said this before, that common law nuisance legislation should be developed to fill this gap. This is not a new concept for this Assembly. It was debated in 2009 when the inadequacy of the voisinage legislation was highlighted. I am happy to say that I am sure this is not the last that we are going to hear of statutory nuisance in this Assembly. I will be back here in the not-too-distant future making more statements about statutory nuisance. I would say again, it is a criminal offence. The bar is extremely high, very difficult to get to. The other option in Jersey is very little. In the U.K. (United Kingdom), there is a civil nuisance which comes ...

The Deputy Bailiff:

Your answer has now been almost 2 minutes, Minister.

Deputy S.G. Luce:

Sorry, Sir. I think Members will have got the gist of what I am trying to say.

The Deputy Bailiff:

Deputy Ozouf, your phone went off, I think, so you will have to pay the usual penalty.

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

Indeed, Sir, I apologise.

2.1.11 Deputy J. Renouf of St. Brelade:

To return to the findings of the Complaints Board, it is 5.5 they say: "In relation to the odours the Board consider that the current burden of proof was set outside of reasonable levels" and they used that conclusion to develop an argument that said that officers should have taken a novel approach or found some way to find a way to bring a criminal prosecution. Would he take the view that it is not the job of officers to take a novel approach because to do so would fatally undermine any prosecution that were mounted because a defendant would simply be able to claim that you had invented new

tests purely to bring this case against us? Therefore wherever the fault lies it is not with officers who simply have to work within the laws that they are provided with.

Deputy S.G. Luce:

I think it has been suggested by the Complaints Board that I should try to increase case law in this issue by taking some cases to court. The law is very clear, in my view, unless I have evidence to show that statutory nuisance is occurring I cannot take that case to court. If I were to do that I would be not necessarily laughed out of court but certainly thrown out because it is incumbent upon me to have the evidence before I go to court. This is the challenge that I have. Obviously it would be nice to have some more case law but I need to be absolutely satisfied that I have the right evidence in front of me before I take a case to court to see whether it is meeting that incredibly high bar, that high level that the Statutory Nuisance Law insists that we have. It is a difficult one but I am very clear in my position in this law, I need evidence in order to take it to court. It is not my job to take cases to court where I do not have the evidence just to make up case law.

2.1.12 Deputy J. Renouf:

Is the corollary of that, that we should understand that the Minister's view is there are 2 things needed; one is to strengthen the statutory framework and the second is to bring a civil set of penalties or law? Or is it his view that only one of those should be pursued? If so, which one?

Deputy S.G. Luce:

If I had the choice, I would certainly go for the civil nuisance because I think there is too big a gap between statutory nuisance and not acting at all. As I said, we could review statutory nuisance and make some improvements but that will not give us the ability or will not give complainants the ability to meet the civil nuisance, which is obviously not a criminal offence, and the bar is much less high.

Deputy K.F. Morel of St. John, St. Lawrence and Trinity:

I first wanted to ask, am I allowed to ask a question just as another Minister? I just wanted to check that first.

The Deputy Bailiff:

No, I do not think so. Not under established principles, no. So that means, Deputy Millar, your question probably falls away as well.

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

My question has been asked and answered.

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

Is the Minister aware that some residents of St. John have had to move out of their homes due to the persistent nauseous odours? This is totally unacceptable and surely this is a clear impact on health. Does the Minister agree?

Deputy S.G. Luce:

I think I would best start by saying I am not aware of anybody that has had to move out of their home because of the smell, and if they have moved out of their home I have no evidence in front of me to show why they might have done that. They may say it is smell but to say it is prejudicial to their health, as I said earlier when I read out the official wording of the law, again it is a very high bar to achieve. I am not aware that anybody has moved out of their home, is the simple answer.

2.1.14 The Connétable of St. Martin:

If I give evidence to the Minister that people have moved out of their home, would he take it forward?

Deputy S.G. Luce:

Obviously, if people have moved out and the evidence comes before me, I will have to have a look at it. But as I said to the Constable, I am certainly not aware of anybody that has moved out of their home.

2.1.15 Connétable R.D. Johnson of St. Mary:

My question follows that from my fellow Constable. The Minister has replied to the effect that he considered the matter closed. I am aware that in connection with the recent spate of applications, E.I.A. assessments were prepared - indeed, I have seen them - if I understand the position correctly, one of the tests is not only the strength of smell but the frequency. To assist residents, the department did helpfully ask them to get in touch with them if there was evidence of smell so they could go and monitor it. Going back to the Minister's reply that the matter is closed, given that the frequency could affect the ongoing such nuisance that it is, would he pledge to keep that line of communication open so that residents can indeed contact his department as and when there is an instance of smell, on the basis that if they were so frequent that would be a material factor in determining whether the thresholds have been reached?

Deputy S.G. Luce:

To be absolutely clear, where I said the matter is closed, that was specifically to do with odour. It was not to do with planning or anything else or noise. It is the odour that is the section of this inquiry that we have closed. My officers have responded to hundreds of emails and telephone calls over this issue. As I said, I recently required them to do another extensive review of the smell situation at Northern Leaf that involved a large number of qualified Environmental Health practitioners. As I said, 33 visits and only 4 occasions where there was a possibility that the level of smell met a statutory nuisance level. I can appreciate that it is very difficult for Members to hear that that situation is now closed when they get out of their cars or they visit the site and they can smell the odour coming from the site. I will have to keep the situation under review, but for now it is closed. But I would go back to the point I made right at the end of my statement, which is that I have engaged mediation on this, where we have the opportunity for residents and for the company involved and for Government representatives to get together around a table to discuss all these issues to see how we might move forward together. I am aware that some residents have found recently things have been improved, but I am also absolutely aware that some residents have found some things have not improved. But I would urge everyone to get involved with mediation so that we can all sit down outside of a regulatory situation where officers have to be very black and white. The Regulation Department is very prescriptive. I would urge them to come along and sit down and discuss these issues to see how we might move forward.

2.1.16 The Connétable of St. Mary:

I thank the Minister for his reference to the mediation. I am aware of that and I, as Constable of one of the Parishes involved, have agreed to partake in that but it does not address the basic question, that the frequency of smells, if that continues, it is only that which is going to determine whether the statutory nuisance threshold has been reached. I do repeat the question. But I think the last E.I.A. assessment in relation to odour did specifically draw attention to the possibility that an ongoing monitoring could take place? I ask him again, would he agree to keep the channel of communication open to enable that to be done?

Deputy S.G. Luce:

I absolutely guarantee that I will keep channels of communication open so that we could move forward together. In the first instance, the mediation process could well be that. But I do say to the Constable, if there is a way of monitoring the smell which is simple and straightforward for the department to do, which does not involve hundreds of hours of officer time, I am prepared to give that a go. We are not going to respond to complaints about odour; I need to be very clear. I cannot

continue to allow my officers to go out every time we receive a phone call or an email. We have had many officers tied up for days, weeks, months and years we have been on this. We have to draw a line at some point, but there must be a way that we can, at regular intervals, keep an eye on the situation. But I have to say to States Members that if we move forward with a situation where every time an email comes in or every time a phone call is received an officer has to leave the department and go to St. Lawrence it will cost us. Not that money is important, but it will cost us time and money and officers will not be doing other work.

The Deputy Bailiff:

I do have questions from the Connétable of St. Lawrence and Deputy Howell, they have already asked questions so I will take a question from Deputy Scott; the last question.

Deputy M.R. Scott of St. Brelade:

I was wondering whether I might propose that the question time be extended if Members want?

The Deputy Bailiff:

No, because there is no facility to go beyond 30 minutes.

2.1.17 Deputy M.R. Scott:

Very quickly, is the Minister aware that mediation is not going to remove annoying odours? Also, whether the process of mediation is not quite the same as really investigative resolution, so while it ... it is not the same as an ombudsman would actually deliver?

The Deputy Bailiff:

Twenty seconds, Minister.

Deputy S.G. Luce:

I appreciate that mediation may not take away the smell, or may not take away the smell immediately, would be what I would like to say. We do have new owners of the business at Northern Leaf, and I have found them very receptive to suggestions, very receptive to any ideas of ways that they can move forward with their neighbours. I think their intention is very much to work with the neighbours and to come to some sort of outcome where everybody is satisfied. Now, I do not know quite what that will be, but I know there are things that can be done, efforts that can be made, and I would hope that through mediation and discussion the 2 sides in this argument just getting into a conversation about how they move forward together might be the way we proceed.

PUBLIC BUSINESS

3. Reduction of Lodging Period

The Deputy Bailiff:

Before we start Public Business, decisions need to be made about whether to reduce the minimum lodging periods in relation to 2 matters on the Order Paper. First, there is an amendment from Deputy Jeune to her own third amendment to the Draft Elections (Senators) (Jersey) Amendment Law. Standing Order 32 needs to be suspended in order that the amendment can be listed for debate at this meeting, and the lodging period needs to be reduced so that it can be debated as well. Deputy Jeune, do you make that proposition?

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

Yes, Sir.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition so that that amendment can be debated at this sitting?

[10:15]

All those in favour of adopting the proposition, kindly show. Those against? The proposition is adopted. Secondly, there is an amendment to Extension of Section 75 (Electronic Travel Authorisations) of the Nationality and Borders Act 2022 to Jersey, P.58, lodged by Deputy Bailhache. Deputy Bailhache, do you propose under Standing Order 26(7), the lodging period be reduced to allow this matter to be debated at this sitting?

3.2 Deputy P.M. Bailhache of St. Clement:

I make that proposition, Sir.

The Deputy Bailiff:

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

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

I think perhaps there should be an explanation as to why there is late lodging because it is a significant amendment to a piece of legislation, I believe, or a law, which was lodged - I cannot get my words out today - some time ago.

The Deputy Bailiff:

Does any other Member wish to speak on this proposition to reduce the lodging period? I call upon Deputy Bailhache to reply.

3.2.2 Deputy P.M. Bailhache:

Deputy Ward is right, I think an explanation is called for. I apologise to the Assembly for the late lodging of the amendment. It was caused by the fact that my attention was really only drawn to this proposition by a presentation that was made to the Legislation Advisory Panel by officers of the Immigration Department a few days before the amendment was lodged. It seemed to me that there was an issue to be considered, and that was why I lodged the amendment. So I maintain the proposition.

The Deputy Bailiff:

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

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

I would just like to remind States Members I did email them to say that the P.57 Draft Regulation of Care is listed on this Order Paper, but I have informed States Members that I am delaying that so that Scrutiny can do some work on that proposition.

The Deputy Bailiff:

Thank you, Minister, for that.

4. Suspension: Deputy P.F.C. Ozouf of St. Saviour (P. 64/2025)

The Deputy Bailiff:

The next item is Suspension: Deputy Ozouf of St Saviour, lodged by the Privileges and Procedures Committee. The main respondent is, of course, Deputy Ozouf. I remind Members that under Standing Orders, the Deputy may speak twice during the debate. Accordingly, before the proposer is asked to reply, I will invite Deputy Ozouf if he wishes to address the Assembly at that stage. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion – to agree, in accordance with Standing Order 21A, to suspend Deputy Philip Francis Cyril Ozouf of St. Saviour for 28 days with immediate effect as a sanction for breaches of the States Members' Code of Conduct as detailed in the Report R.127/2025.

4.1 Deputy S.M. Ahier of St. Helier North (Chair, Privileges and Procedures Committee)

This debate is not just about Deputy Ozouf, it is about us as an Assembly and whether we take breaches of our Code of Conduct seriously. P.P.C. (Privileges and Procedures Committee) has brought this proposition today because of Deputy Ozouf's conduct. He has been found to have breached the Code of Conduct on several counts, namely: paragraph 2, Public duty; paragraph 3, Personal conduct; paragraph 4, Conflict between public and private interest; and paragraph 5, Maintaining the integrity of the States. Therefore, we have proposed a sanction of suspension upon him. Some Members have commented that this proposed sanction is disproportionate because the infraction committed by Deputy Ozouf was relatively minor. Let us explore that for a moment. He drove at twice the legal speed in a green lane and did not display an up-to-date insurance disc. It was not a couple of days out of date, it was from June 2023. I agree that either of those could be regarded as minor misdemeanours in themselves, but the Deputy compounded matters by failing to engage in the process, missing 3 Parish Hall Inquiries, and then only attending the Magistrate's Court because he was alerted to the court date by a journalist looking for a story. If a member of the public missed 3 Parish Hall Inquiries and failed to turn up to a Magistrate's Court hearing, then their arrest would have been ordered. But, because Deputy Ozouf was a public figure, a journalist spotted his name on the court list. As an elected Member of this Assembly, his name stood out. It was notable because people expect better of us. They do not expect us to be breaking the laws we ourselves have made. We are all bound by a Code of Conduct which serves to maintain standards of behaviour, which engender respect and trust in this Assembly. The crime is not the key focus here. What is important is he broke the law, failed to engage with the accepted processes and in doing so breached the Code of Conduct. Everyone makes mistakes but Deputy Ozouf's lack of engagement not just with the legal process but with the complaints process which followed, showed a disregard for rules and procedures. The 4 people who submitted complaints about Deputy Ozouf to the Commissioner for Standards did so because they considered that his behaviour was not befitting of a States Member. They expected better. We know from the 2024 Jersey Opinions and Lifestyle Survey that trust in this Assembly is low and so we should be listening to the public when they tell us that a Member's behaviour has left them disappointed and reduced their trust and respect for us all. Let us be under no illusion, we are all affected because the public sees us as one entity. We are all tarred with the same brush and even more so if we fail to apply sanctions when a Member breaches our Code of Conduct. When I took over as P.P.C. chair I saw my role as being the champion of good standards, and we should all question what standards we think are appropriate if we decide to reject this proposition and the message that sends to the public. Are we saying there are different rules for States Members? Do we think that it is appropriate for Members to break the law? Then why should the public obey them? Do we think that it is appropriate for Members not to attend Parish Hall Inquiries? Then the public can take it that they do not need to either, and that will inevitably erode the Parish system which, I do not have to remind Members, is a vital part of our Island heritage and serves to reduce the burden on the courts. Do we think it is appropriate for a Member to not engage with the Commissioner for Standards when she is investigating complaints against them from the public? Then why do we have a commissioner? And why tell the public that we are answerable to them for our behaviours when we think we are not? Encouraging quality candidates to come forward is absolutely essential if we are to turn the tide and increase voter engagement. It has been said that this proposition, if adopted, will discourage people from standing for election. If it discourages people they think would struggle to abide by the laws of the Island of Jersey and the Code of Conduct then I do not think that is a bad thing. Surely we want people to look at joining the Assembly with a

sense of pride. No one would apply for a job at a company which had a poor reputation and where poor behaviours among its staff were disregarded. You would be concerned that in joining you would be seen in the same poor light. This proposition demonstrates that the majority of Members of this Assembly believe and abide by the Code of Conduct and consider standards to be important. Although Deputy Ozouf did apologise to the court and latterly to the Assembly, his subsequent poor engagement with the commissioner did not demonstrate any change in behaviour. In fact, there was a continuation of the disengagement and avoidance. The commissioner wrote to him on 21st February 2025, received no response, and commenced her investigation on 13th March 2025. Deputy Ozouf subsequently voluntarily made an apology to this Assembly on 19th March of the same year. Continued lack of engagement with the commissioner further delayed the review process until an interview with Deputy Ozouf was eventually conducted on 6th May 2025. I cannot emphasise enough that all Members should engage with the commissioner in a timely fashion when a complaint is being investigated, and to not do so shows a lack of respect for the commissioner's role, the Code of Conduct and the complainants. The Deputy has advised us of his A.D.H.D. (Attention Deficit Hyperactivity Disorder) diagnosis, and I am aware that the Greffier and her staff have reached out to him during the last few months on numerous occasions to provide support and advice and to signpost counselling. Reasonable adjustments have been made but his diagnosis, while providing some explanation to some of his behaviours, does not excuse them. People with A.D.H.D. are not above the law. If Deputy Ozouf maintains that his poor mental health was responsible for him missing emails and not reading letters, how is it that he was able to continue submitting questions and propositions and actively participating in this Chamber throughout that same timeframe? Deputy Ozouf chose not to engage with the Parish Hall process. He chose not to deal with the commissioner until it risked being regarded as another breach of the Code. Those choices must have consequences, especially if those choices damage this Assembly's reputation. P.P.C. is not seeking to make an example of Deputy Ozouf. This is not a personal vendetta against him. We have to listen to the public and they have expressed incredulity that Deputy Ozouf has ignored just not the rules which apply to all Islanders but also the rules which apply to him explicitly as an elected Member of this Assembly. This was not his first time in court nor was it the first time a commissioner was found him to have breached the Code. We have a strong Code of Conduct because that helps keep democracy intact. We appointed a Commissioner for Standards because we wanted to have someone who could review complaints impartially and then present findings for us to act upon. It is uncomfortable to be passing judgment on a fellow Member, and I appreciate that, but this is the system we have adopted and we must take all complaints seriously and be seen to follow a fair and transparent process if we are to build public trust. In this instance, Deputy Ozouf was found to have breached the Code and P.P.C. accepts that. Deputy Ozouf accepts that. This is the sanction the committee considers to be appropriate and it is a matter for Members if they choose to apply it. I make the proposition.

The Deputy Bailiff:

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

4.2 Suspension: Deputy P.F.C. Ozouf of St. Saviour (P. 64/2025) - proposition to take in-camera

Deputy K.F. Morel of St. John, St. Lawrence and Trinity:

Under Standing Order 81, I wondered if I might propose that this debate be taken in camera.

The Deputy Bailiff:

Well, you may make the proposition. Is the proposition seconded? **[Seconded]** Does anyone wish to speak on the proposition that this debate be held in camera?

Deputy M. Tadier of St. Brelade:

Should the proposer not speak on it first?

The Deputy Bailiff:

Yes, the proposer; Deputy Morel.

4.2.1 Deputy K.F. Morel:

Having listened intently to the chair, and I fully understand why a sanction is sought with regard to the Deputy's conduct and, like the Deputy himself, I do not excuse that in any way. What I do have an issue with is, and we saw this with the previous similar debate in this term, is the public element of this when I believe we are discussing matters which pertain effectively to somebody's health and somebody's mental health, and I find that the fact that that is being done in public is humiliating and is highly likely to actually exacerbate those sorts of matters. I liken this essentially to if any employer in this Island were to conduct a disciplinary process in public they would be condemned. **[Approbation]** While I appreciate we are self-employed, we are effectively acting as an employer in this situation. In no other situation would you have this sort of thing discussed in public. I am not contesting the proposition in itself but I am absolutely contesting the fact that the public humiliation should not take place.

[10:30]

The Deputy Bailiff:

The proposition has been seconded. Deputy Ozouf, your light was on, do you want to speak now on this?

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

If I may, Sir. I am truly grateful for the Deputy's proposal and for the seconder. I have thought about this and I think that the idea that I am protected from public scrutiny relating to this matter, I think it is important there is a proposition that is in public. Whatever the outcome of that, the public will not know what the arguments for and against that were. I have already been public about it and now not to deal with this in private will, I do not think, strengthen public opinion. As uncomfortable and as grateful as I am for Members, I think that Members are responsible and they will be saying what they want to say. I think that precedents, transparency and openness is what we need. As uncomfortable as it is, as important as it is, I think it must be in public because we are here to serve people and they deserve to hear. I am grateful for Members' consideration; I will be okay.

4.2.3 Deputy M. Tadier:

The idea that no firm in Jersey would hold its H.R. (human resources) processes in public of course is very easy to rebut, is it not, because we are not a firm. We might consider ourselves a bit like the old firm, the old boys' network but, essentially, the difference is we hold our recruitment processes in public. No company in Jersey would have public meetings where they recruit people and they ask members of the public to ask their potential employees questions to see if they get elected. That is done in public; admittedly the voting part is done in private. It is absolutely right that Parliaments all across the world will have open and transparent processes for the removal, the sanction and the suspension of their Members which might be done in different ways but there is a public process here. I think given the fact that Deputy Ozouf himself does not want this to be held in camera, when I finish speaking, should give cause for the mover of the proposition to think about that. I am really disappointed because last night I anticipated this. I took to social media, very rarely use it these days, former Twitter, but I said: "We are seeing lots of questionable parliamentary devices at the moment; I would not even be surprised if some Members were to ask for a secret debate tomorrow (today). This is sadly a resurgence in the Assembly of the Jersey way which I hoped was a thing of the past." How long ago was it that the Committee of Inquiry made recommendations that the States Assembly, all of us, now, in the past and in the future, should be taking steps to rid ourselves of that, I think

largely unfair label of course, because there are so many good things that Jersey does. But the “Jersey Way”, as it was coined in the Committee of Inquiry, was a cover-up culture, a culture that allowed things to be brushed under the carpet for individuals who held responsibility, positions of influence and power to get away with it without answering to the public. Essentially, this is not exactly the same but this is absolutely about one of our Members who has breached the Code of Conduct, who has been through a process, and it is absolutely right that that process be done in public. I do ask the Member for St. John, St. Lawrence and Trinity to withdraw his suggestion that this should be held ... let us not talk in euphemisms, “in camera” in Latin means “in Chamber”. We are in Chamber now of course. What it really means is secrecy and lack of transparency. That is not anything any of us should be supporting today.

Deputy K.F. Morel:

If I may, and I do like to listen to my constituents when they have an opinion ...

The Deputy Bailiff:

You cannot make a speech now. Are you applying to withdraw ...

Deputy K.F. Morel:

... Deputy Tadier being a constituent. I am concerned about the mental health implications - I listened to Deputy Ozouf particularly - and as a result I would like to ask the Assembly if I may withdraw the proposition.

The Deputy Bailiff:

You propose to withdraw the proposition. Is that seconded? **[Seconded]** Those in favour, kindly show.

Deputy M. Tadier:

Could we have the vote, please?

The Deputy Bailiff:

The appel has been called for. Members are invited to return to their seats. This is a proposition to withdraw the proposal under Standing Order 81 to conduct this debate in camera and I invite the Greffier to open the voting. If all Members have had the chance of casting their votes, I ask the Greffier to close the voting. The proposition has been adopted:

POUR: 43		CONTRE: 2		ABSTAIN: 0
Connétable of St. Helier		Connétable of St. Helier		
Connétable of St. Peter		Connétable of St. Peter		
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy G.P. Southern				
Deputy C.F. Labey				

Deputy M. Tadier				
Deputy L.M.C. Doublet				
Deputy K.F. Morel				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I. Gardiner				
Deputy I.J. Gorst				
Deputy K.L. Moore				
Deputy S.Y. Mézec				
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 C.D. Curtis				
Deputy L.V. Feltham				
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 R.S. Kovacs				
Deputy A.F. Curtis				
Deputy B. Ward				
Deputy K.M. Wilson				
Deputy L.K.F. Stephenson				
Deputy M.B. Andrews				

The Greffier of the States:

Deputy Luce and Deputy Ozouf voted contre.

The Deputy Bailiff:

We now move back to the debate.

4.3 Suspension: Deputy P.F.C. Ozouf of St. Saviour (P. 64/2025) - resumption

The Deputy Bailiff:

Who wishes to speak next on the debate?

4.3.1 Deputy P.F.C. Ozouf:

I thought I was called. Members often say this in the Assembly, I was not planning to say much because I thought that I had already said an apology and the context, et cetera, et cetera, but I feel that I have no choice but to simply clarify. That is all I wish to do, is I just wish to say it is a matter for Members, it is a political matter for Members, and I am sorry that there was a ring-binder moment there. I meant to abstain on that last vote because I will abstain on the underlying thing. It is a matter for Members; I am in Members' hands, this is a public process. I said I did not want to say much because I am so embarrassed that we are taking up States resources, and States resources are being taken out on this issue. It is on the record that certain things have been said. I would politely, if I may, tell the chair of P.P.C. that I was not found in breach of the Code of Conduct in 2018. I was absolutely, and always have been, entirely attempting to comply. I was one of those Members that brought the code in, we did not used to have one, and I thought it was important that Members show that they act properly, in good faith, with honesty and integrity and avoid bringing the States into disrepute. That is why I am so horrified that certain aspects of my conduct, which I have sought to contextualise but not excuse, would explain why those difficulties have happened. I was not, I believe, found guilty of breaching the code in 2018 by the commissioner or by P.P.C. What happened was that political and media pressure, much as the Deputy of St. John, St. Lawrence and Trinity has said, were difficult. I must say to Members that on that issue I have never really dealt with, I guess, the trauma that arises from that. I was found to be not guilty of any suggestion of a police inquiry. I went through a lot - and Members have to - and I am a longstanding Member of this Assembly. I have served in various capacities and we all change and develop. We develop different skills, things happen in life, but we are here to serve the public, and that is what I have always sought to do. We are all different and I am sorry if my particularities are irritating to some Members. I know that in the first day that I was here I was described as a "Jack-in-the-box" putting my light up and down because I was worried about States audit reports. In those days I was the youngest Member for some 15 years. I think I calmed down a bit later on but it does speak almost to the fact that some of us are different. I do now know that I have A.D.H.D. and that is not an impediment, it is not an excuse. Part of the reason why I have said it ... just as I have been the only openly gay Member of this Assembly for many years - I know there are others - but I was for many years. I just thought I am a private person, like we all are, but there are certain issues in our private life that I believe we should publicise. This is a private motoring matter but it is public and I have paid due attention to those issues. If I may say, it is not quite correct to say that I was only informed of the Magistrate's Court issue by a journalist. I was initially informed but concurrently I was also informed by others, including one very senior Minister who kindly also told me. The fact that I did not see, like the second Parish Hall Inquiry, the letter, I did not see it, the fact is I did turn up to the Magistrate's Court on time and prepared, alone, and dealt with the administration of justice, as was expected of me. I think too, if I may say, to take bits and pieces of the activities that I have or have not done and to use them as justification to say that I am not willing to engage is, with respect, not my intention. I have no intention and do not choose not to comply with rules. I have been a Treasury Minister, I was an internal auditor, a fraud investigator and I know what rules are but I would just say to Members, sometimes in life one finds some difficulties. I have had some difficulties and I believe I have been open about that. The team around me is no longer there, so I have to make new arrangements in place. It is a lonely place, like I know other Members have had, and I do not want people that are lonely to think that when they find life difficult, somehow that is not made to be an acceptable situation. It is not an excuse, it is contextualised. When I speak about the administrative help that one needs, I am working to find that administrative help because I need it. I have always needed it,

and I know that, because I need to put that in place. That does not mean I am incompetent, it does not mean that people with A.D.H.D. or any other neurodiverse minority issue are different. I am capable and I want to serve. It is up to Members whether or not they think that the explanations and mitigation I have given are sufficient or not to deal with the most severe sanction that is possible for P.P.C., which I have never seen in all my years of this Assembly, but that is a matter for Members. Life moves on and I would accept, without question, Members' final decision. I ask for Members' understanding, as I did yesterday. I thank them for their understanding in me as being an ordinary person, not above the law, compliant with the law, respectful of the honorary system, respectful of our system of justice. One rarely talks about the things that one does - rarely - because they are private. I was very happy last night when I assisted some Honorary Policemen trying to find an individual who was lost until 2.45 this morning. The things we do. I am not saying where or what it was but somebody was lost and I went to go and help them. One does that but one does not talk about it, but one respects honorary service and service. It is service to our community that matters and I wish to continue to serve. I am grateful for the Bailiff's ruling on what that is in relation to a suspension or not. I will answer Members' questions but I do not think I have got anything else to add apart from what I have already said, which is that I had not had intention, it was not *mens rea* that I did not engage. I know Deputy Bailhache has made some other observations about the Parish Hall Inquiry system. I think I am going to leave it there. I will answer Members' specific questions. I am intensely embarrassed taking up States Members' time on this because we have got massive public issues. I will leave it there. Thank you.

The Deputy Bailiff:

Thank you, Deputy. Does any other Member wish to speak on the proposition?

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

As I rise, I would just like to remind Members that I am a member of P.P.C., one of the members of P.P.C. on the executive side, and this was not a decision that we took lightly. It certainly was not a unanimous decision and we laboured long and hard over what would be the correct course of action. Since putting this out into the public, people have asked me: "Is a vote of suspension, by taking this course of action, are we setting a precedent?" The next one of us who unfortunately gets caught speeding, the public expectation will be that we will also face a vote of suspension which amounts to a *de facto* £4,000 fine because once we are out of the Assembly for 28 days, that is without pay. But of course there are different circumstances in this particular case which have been highlighted already by the chair, but I would just like to bring a slightly different colour to some of them.

[10:45]

Failing to attend a Parish Hall Inquiry when invited to is not a good look for any Member. I draw on my own experience, because I served as a Centenier for the Parish of St. Helier for a term 25 years ago. What I would do at the end of each session is if anyone had failed to appear, I would get on the phone and speak to them. Very often if it had slipped their mind, they would happily come down, particularly if it was something that the Centenier could have dealt with. Equally, there were some people that said: "I am a busy person, is this likely to go on to court?" and I would say: "On balance that is possible" and they would say: "Well send me a summons instead and I will deal with it in court" and of course, that was their prerogative. I do not know if processes have changed at the Town Hall from when I served as a Centenier but to get 3 invitations to attend a Parish Hall seems to me to go above and beyond what would ordinarily be expected. I do not know if that was done because it was the Deputy in particular that was involved. I do not know, I can only draw on my experience and the way that I would run Parish Hall Inquiries, so that was something that certainly entered my thinking. Not engaging with the Commissioner for Standards, of course, it is paramount that if we do have a commissioner in place that the commissioner is engaged with at the earliest opportunity and that cases can be carried through. While I was firstly in favour of a vote of censure, and our

minutes do reflect that, it was particularly because I had sat on P.P.C. in the previous Government and we had dealt with cases. One of them, which in my eyes was probably the same, if not even worse than what we are facing with Deputy Ozouf, we dealt with that by way of censure, so there seemed to me to be a slight inequality there. I think the only guiding balance is public perception: what do the public expect is going to happen today? I think on balance we have arrived at the right decision in P.P.C. and I am sure many Members will wrestle with this decision personally. I think when I take everything into account, my view is that I will be voting for the proposition.

4.3.3 Connétable K.C. Lewis of St. Saviour:

This has been in the mix for a while now. I am not excusing Deputy Ozouf's behaviour in any way, shape or form, but in mitigation the Deputy has lost recently his life-long partner, followed closely by a close family member. Combine that with his A.D.H.D., I am not sure if I could hold it together, I must admit. But it has come to court, the Deputy has apologised profusely to the Honorary Police, to this Assembly, to the Commissioner for Standards and the people of St. Saviour and the Island who have elected him. It has gone to court, he has been fined £575, not a small amount, and I think a line should be drawn under that now and we should move on. I think the Deputy has learned a lesson and I wish him well for the future. I will not be supporting the proposition.

4.3.4 Deputy P.M. Bailhache of St. Clement:

I circulated a press release and Members will be aware that in my view a suspension of Deputy Ozouf for the matter with which we are concerned would be disproportionate and an unfair penalty. What we decide is important because if the Assembly can act unfairly towards Deputy Ozouf, it can do so towards any of us. If a Member acts dishonestly or violently, that is a different matter and suspension is justified, but that is not in question here. Suspension should be reserved for serious misconduct. I have heard that some Members are contemplating abstention and I hope that no one will do so. We all have a view and Members should be prepared to stand up and be counted. The chair of P.P.C. thinks that suspension is not unfair but I think P.P.C. are taking into consideration things which they ought not to do. They state in their report the committee is resolute that should there be future breaches of the Code of Conduct by Deputy Ozouf, it will seek to apply further sanctions as appropriate. It seems to me fairly clear that at least some members of P.P.C. had in mind the immigration matters with which he has been charged but we do not know the detail of those matters. We do not know the mitigation, nor has he been dealt with by the court. It is elementary justice ...

The Deputy Bailiff:

Well those matters probably should not be referred to at all, I think, Deputy Bailhache, at the moment; it is *sub judice*.

Deputy P.M. Bailhache:

I am sorry, I did not hear.

The Deputy Bailiff:

I do not think they should be referred to at all at the moment, those matters, because they are before the courts.

Deputy P.M. Bailhache:

Thank you.

Deputy M. Tadier:

There is presumably parliamentary privilege in here, is there not?

The Deputy Bailiff:

Yes, but there are Standing Orders as well in terms of referring to these matters: Standing Order 107.

Deputy M. Tadier:

Can I clarify, it is not to be heard by you, is it, Sir?

The Deputy Bailiff:

Well it is not but my role in the other place is irrelevant to my role here; I am simply an independent, impartial Chair interpreting your Standing Orders.

Deputy P.M. Bailhache:

I think I am entitled to say that it is elementary justice that a man can only be punished for those things for which he has been convicted or found proved. We cannot consider anything else; that is for another day. There are 2 charges against Deputy Ozouf: one is failing to display an insurance disc in his car, and that is quite clearly not a suspension offence. The more significant one is speeding but how many of us can honestly say that we have never committed a speeding offence when late for an appointment? I think the only difference between Deputy Ozouf and many of us is that we have not been caught. The Assembly would be sparsely populated if everyone who had committed such an offence were to be suspended. How many other professions have a policy of suspending employees if caught speeding? I cannot think of any. P.P.C. says that the Deputy's actions and lack of regard for the Island's laws and judicial process have damaged the integrity and reputation of the Assembly. If his failure to attend Parish Hall Inquiries is said to be a lack of regard for judicial process, I think that is wrong, as Deputy Ferey has said. The Commissioner for Standards found, and I quote: "Failing to attend a Parish Hall Inquiry displays a disregard for accountability and a lack of respect for legal obligations." Unfortunately, the commissioner was mistaken. There is no legal obligation to attend a Parish Hall Inquiry. It is a courtesy to respond obviously to a request to attend a Parish Hall Inquiry, and Deputy Ozouf displayed discourtesy in not responding to that, but discourtesy is hardly a suspension offence. If it were, again, this Assembly would be very sparsely populated. It follows from the commissioner's mistake that she was wrong to conclude that there was a conflict between public and private interest. That provision of a code was not relevant to Deputy Ozouf's conduct. In truth, there were 3, not 4, breaches of a code but none of them justifies the extreme penalty of suspension. To say that the integrity and reputation of the Assembly have been damaged by Deputy Ozouf's conduct is, in my view, highly debateable. I think that this debate itself is damaging to our reputation. Deputy Ozouf acted foolishly and wrongly but when a Member goes astray the punishment must fit the crime. If P.P.C. had imposed a reprimand, no one could complain but a suspension involving in effect another fine of more than £3,000 is way over the top. Members have heard the Deputy's statement; I think he has been punished enough. **[Approbation]**

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

I speak today as deputy leader of Reform Jersey and on behalf of the party to make our party position clear. We will be supporting P.P.C.'s proposition today. Our assessment of the proposed action to suspend Deputy Ozouf is that it is both a proportionate and appropriate action. We think it is proportionate as a sanction should be assessed in line with the scale of breach of the Code of Conduct. The breaches outlined in the Commissioner for Standard's report are not just a matter of ill temper or poorly-chosen words for which an apology would be more appropriate, neither is it a matter of just inappropriate action which may be a case for a censure. In this case the Member has failed to follow due process and has also broken the law. These actions bring us as an Assembly into disrepute; therefore, a suspension is the correct sanction. I acknowledge that some Members may feel discomfort with this process, particularly in light of the Deputy's diagnosed A.D.H.D. While it is vital to approach such matters with sensitivity and respect for neurodiversity, all Members must be held accountable for their actions. Inclusion and accountability must go hand in hand. Suggesting that a diagnosis exempts someone from scrutiny risks undermining the integrity of our processes and could erode the confidence of employers and institutions having an inclusive leadership. Our disabled and neurodiverse communities have overcome significant barriers to contribute

meaningfully to our society and they deserve to see that inclusion is about fairness and not exemption. **[Approbation]** Suspension is also appropriate as it aligns with actions that may be taken in similar circumstances in the public sector. While I am conscious that it is usually a mutual act during investigation within the public sector, our current procedures mean that P.P.C. takes any action following the conclusion of an investigation and not during. At this point I have to say that our party does feel that this proposition cannot be voted on without taking into consideration other factors that are in the public domain related to Deputy Ozouf's conduct. Were the Deputy a public servant working within the public sector, the disciplinary policy would have been followed and the employee would be suspended pending the legal process. Therefore, we consider a suspension at this point entirely appropriate. Why would we seek to treat ourselves any differently to other public servants? We are also mindful of the strength of feeling about these matters of the constituents that we represent, many of whom have asked us to support this sanction. That is our position.

4.3.6 Deputy M.R. Scott of St. Brelade:

I agree with the chair of the P.P.C. in one respect; this vote is about us as a States Assembly. In considering the proposition I thought very hard about this and exactly what are we doing as a States Assembly.

[11:00]

Are we dispensing justice or are we applying the rules of a club? That leads me to question some things about the process whereby we have come to this point where we are looking at the proposition that is placed before us. I would like to thank Deputy Ferey for explaining some of this because it does seem that the P.P.C. had considered a vote of censure, first of all, and then somehow were persuaded to turn that into an actual proposition that we suspend Deputy Ozouf. I note that Deputy Tadier very much has promoted transparency in this but I do think one thing that is very important is how do we dispense justice? What rules do we use? What is that process? If this is about justice, of course. Deputy Feltham, I am grateful that she has spoken on behalf of the Reform Party. This is about proportionate action, of course, and I am not sure who is claiming to be an expert on that. I believe that perhaps in similar circumstances employees might be suspended with pay. I cannot really comment on how this would have been dealt with in that way but it certainly would not have been dealt with in an open hearing. As I think about this maybe to some extent - because this is about us - it is about our procedures that are on trial, trials by ordeal, show trials, all those things can come into mind when we are talking about the way that we are doing this right now. Coming back to this subject of dispensing justice - because, as many people know, I do have a legal background and I perhaps have an idea in my mind about how justice is dispensed - I think about things like jury vetting, I think about consistency of the application of rules. I think about rules even for interpreting rules, none of which our processes, that I am aware, that the P.P.C. does when it is proposing what it might describe as a fair and proportionate proposition. I cannot yet be persuaded that the actual proposal in terms of the nature of the offences is proportionate. I would just simply like to refer to some things in the public domain that might make me question this. I might go to the U.K., I might look at Angela Rayner who has resigned a public position to do with a matter that involved deceit. I am not aware that Deputy Ozouf has done anything deceitful. I have had a situation, I have been part of a debate of this States Assembly where we were discussing a case of bullying and harassment, interference with the proceedings of a panel which, by the way, there is an actual offence, contempt of the States, that attracts 5 years for that, but it was not like the P.P.C. seized that one and shook it about and seeking to lobby the commissioner. But, no, what we had was that a Member did not respond to the commissioner. In that situation, what did we have: we had a vote of censure. So somehow now, bearing in mind that a Magistrate who is probably subject to the highest kind of ethical standards in the British Isles, they will not be suspended for what are relatively minor motoring offences or to fail to display papers, notwithstanding that they have had insurance. Let us just think a bit more about this suspension; what does it mean? Well we have got an explanatory

note and basically while he can do constituency work, he will be deprived of the tools to basically carry it out. He cannot attend committee hearings, he does not get paid, he cannot come on the States premises, and we think that that is really how we serve the public and his constituents. I note that there was mention of 4 members of the public who complained but I do not exactly know what precisely they were complaining about. Were they talking about a catalogue of offences? At the end of the day is everybody's fate and the actual severity going to come down to how many members of the public complained about something? Because I see danger in that in the same way that I have seen the P.P.C. object to the idea of a recall mechanism. I frankly think I would prefer the recall mechanism because typically you get far more people saying: "We do not want that person to serve as our elected representative" than 4 people who come in response to a press report. I am aligned with Deputy Bailhache in this matter. I think it is very disappointing that the P.P.C. did not put forward a vote of censure which I think I might have been persuaded to support. I note, and I agree with the Constable of St. Saviour, all of what he said about the apologies, about the fact that justice in the case of the speeding fine was dispensed, and how much do you want to kick somebody when they are down? For that reason I will not support this proposition.

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

Deputy Tadier, when we were debating whether to hold this debate in camera, said that this is not a normal workplace. It is a very true comment, of course, and therefore it would not be sensible to apply the rules of disciplinary processes carried out in firms and businesses to this place. I guess he is right in what he said about the experiences we go through to retain our jobs, is certainly not something you would expect a person in a normal workplace to put up with but we do it because that is the system that exists. I think Deputy Feltham was wrong when she compared the suspension to the workplace because of course, as has been alluded to by Deputy Scott, suspension in the workplace does carry your salary; you do not lose your salary when you are suspended for an offence which you may not have committed. Of course, as Deputy Bailhache said, there is a swingeing fine relating to this suspension if it is carried forward. I was disappointed to hear Reform say that they will be supporting this because they have had this enormous postbag of people saying that they are concerned about Deputy Ozouf's behaviour. It is really hard, is it not, these days to know exactly what the public thinks because it really does depend on where you get your knowledge. Do you get it hunched over your laptop, when you should probably be in bed, or your iPhone? Do you get it when you are in your Parish or your district, people coming up to you? I have not been approached by a single constituent who has asked me my views on whether Deputy Ozouf should be suspended or not. Not one person has contacted me. That may be because I am not considered to be approachable or it may be that my constituents have got more important things on their minds when they stop and talk to me, as they do about many things. Deputy Bailhache, I thought, pinpointed an important error that was made by the Commissioner for Standards and this had not been rebutted by Privileges and Procedures Committee. In fact, when Deputy Bailhache circulated his press release highlighting this mistake in the process that has been applied to the Deputy, I assumed that P.P.C. would have withdrawn their proposition straight away. If this was a legal case, the legal case has collapsed because the judgment is not sound, so why is it being pursued by P.P.C.? Why do we have that stone-deaf proposition from the chairman of P.P.C. which seemed to me to have absolutely no ability to hear what the Deputy had said in his statement yesterday evening. This morning I happened to watch on breakfast television a report about Ofsted and the devastating report card that was given to a headteacher which led to her suicide. It was pointed out this morning that Ofsted could have dealt with that differently. They could have got the problem fixed with the school which was not doing too badly - it was not a failing school for sure - and that tragic outcome could have been prevented. I want to finish by saying that we are, I think, particularly the older Members of the Assembly, learning slowly about the importance of mental health in our society, in our lives, in our constituents' lives and in our own lives. I do not think we are there yet but it does seem to me that there is a real issue here around the mental health of a Member. I think it is absolutely wrong that we are pursuing this. Indeed, I did

look to see whether we could have moved on to the next item at the beginning of the debate because back in the old days you could do that. I remember earning the wrath of a Constable, my predecessor, when he proposed something which I thought was simply a waste of the Assembly's time. After he proposed it I stood up and said: "Can we move on to the next item?" and we did. Problem solved. I have been informed this morning that now we have a ruling that there have to be 10 people who speak before we can do that. Now I am not sure how many people have spoken but if we have reached the magic number of 10, I would certainly like to propose that we move on to the next item.

The Deputy Bailiff:

You are number 8.

The Connétable of St. Helier:

I am number 8; well I cannot do that. I will conclude my speech and sit down.

4.3.8 Deputy M. Tadier:

I rise to speak partly in a personal capacity and I am also a member of P.P.C. I would just like to note that our deputy leader for the party has given, I thought, an excellent speech and outlined in a very measured manner what the party position is. As the second-most senior Member in terms of long service of our party, I have got the benefit and sometimes the problem of having corporate memory, only second to Deputy Southern, so I can remember not just what has happened in this sitting but in perhaps the last 4 Assemblies that I have served in. Of course, when I started off in 2008 I was on the first P.P.C. there and I have always had a strong interest in process and in standards that Members should hold themselves to, so I speak very much in that vein. When the last speaker stood up and, he is adding to what I said yesterday on what used to be Twitter, that again we are seeing devices being proposed, parliamentary devices being proposed, which will have the effect of curtailing legitimate debate in here, like we had earlier, and we are getting it now from the Constable of St. Helier, rather than dealing with the tough issue that we have got in hand. Deputy Bailhache is absolutely correct that we are all put in here to represent our constituents and to vote one way or the other. I do not think any of our constituents will thank us if we decide to abstain on this. If we abstain we might as well not be here, so I think that is absolutely correct. Where I part company with Deputy Bailhache is that he said something which pricked my interest, or piqued my interest even, which was that he said: "If this was a matter of violence or dishonesty then it should certainly have a sanction applied to it, which is to suspend a Member." But I recall of course that only a few years ago, I think it was not long after the Committee of Inquiry into historic child abuse had reported back, that they found one Member of this Assembly to have lied, both to the Assembly and to the Committee of Inquiry. That was former Deputy Andrew Lewis who at the time was acting as the Minister for Home Affairs. He was somebody who categorically was found to have lied, that was the outcome. Deputy Bailhache of course at the time - I cannot remember if he was Senator - stood up to defend Deputy Lewis, saying that he should not be censured because in fact it was a censure motion, it was not a suspension motion. It seems to me that of course the now Deputy Bailhache would have been arguing, saying that he had not lied. It seems to me that Deputy Bailhache is perhaps more interested in the individual rather than the offence that is caused. Because of course if he is happy to defend somebody who has lied to an Assembly and lied to a Committee of Inquiry, I would say being defended by Deputy Bailhache ...

[11:15]

Deputy P.M. Bailhache:

Will the Deputy give way?

Deputy M. Tadier:

I will not give way unless it is a point of order. If it is a point of order I will ...

The Deputy Bailiff:

If it is a point of order, yes.

Deputy P.M. Bailhache:

No, it is not a point of order; will the Deputy give way?

The Deputy Bailiff:

Will you give way?

Deputy M. Tadier:

I will give way.

Deputy P.M. Bailhache:

I think the Deputy should tell the Assembly that in relation to the individual in question, whom I will not name, there was a considerable issue as to whether in fact he had lied. He denied lying and I think the Assembly ought to be aware of that.

Deputy M. Tadier:

Even now the Deputy cannot name him; it is in the public domain. It was Deputy Andrew Lewis, and he was acting as the Minister for Home Affairs at the time, and he was found to have lied in a Committee of Inquiry. It shows that Deputy Bailhache is unwilling to accept the results of an independent body when they report back when it simply does not align with his views or his politics. Of course, one does have to go back a little bit further when it comes to ...

The Deputy Bailiff:

Deputy Scott, your point of order?

Deputy M.R. Scott:

Could I have a point of clarification?

Deputy M. Tadier:

No, Sir.

The Deputy Bailiff:

No, he is not giving way.

Deputy M. Tadier:

No, she can use one of her other covert party members perhaps later on to make a speech for her. One does not have to go back too far to ...

Deputy M.R. Scott:

Sorry, could I have a point of clarification? Or point of order.

The Deputy Bailiff:

No. A point of order, yes.

Deputy M. Tadier:

Can we stop the clock, please?

The Deputy Bailiff:

Yes.

Deputy M.R. Scott:

I just would like to understand what this covert party I am a member of is.

The Deputy Bailiff:

Well that is not a point of order.

Deputy M. Tadier:

Can I continue?

The Deputy Bailiff:

You can but I do remind you that you are obliged not to impute improper motives directly or by innuendo to any Member of the States under Standing Order 104. **[Approbation]** I do not think that everything you have said is necessarily directly relevant to the proposition.

Deputy M. Tadier:

I better make sure I stick to the facts then which are on the public record. The facts are, as I have said, Members are intelligent enough to make their own conclusions from that. The other point I would say is that - it is a valid point to make - Deputy Bailhache has form in defending the indefensible in this Assembly whereas what we are here to try and do today is come to a balanced position about when a Member has acted inappropriately, and been found to have acted inappropriately, what is the right sanction, if any, that we apply? Of course, we can go back to the saga of Roger Holland, who was an Honorary Police Officer, who Deputy Bailhache, when he was the Attorney General, knowing that this person was a convicted paedophile, thought it was okay for this person to be ...

The Deputy Bailiff:

No, Deputy Tadier, you must stop this. This is a debate about whether or not to suspend Deputy Ozouf, not the history of Deputy Bailhache's dealing with third parties who are not Members of this Assembly. It is inappropriate what you are saying, you know it is inappropriate, you must stick to what is before the Assembly: this proposition. **[Approbation]** If you do not do so, I will have to require you to stop speaking which I do not want to do.

Deputy M. Tadier:

I accept the ruling of the Chair; I am simply trying to say that there is a history and a pattern of behaviour from certain Members in this Assembly to not want to seek accountability when there have been blatant and egregious inappropriate behaviour in public office and this is what we are debating today. To get back to the point, I think that the Constable of St. Helier made, that there is not any public interest in this issue; simply not true. There was a public meeting that took place just over a week ago in St. Brelade which was attended by the 4 Deputies and the Constable, which was kindly chaired by a member of the media. One of those questions that came up, which of course was uncomfortable for us, I think, was the question of how we were going to vote in the suspension, and I think that was addressed. It was quite clear that the public in that room who attended wanted to talk about this issue and they had very strong feelings. The response that they responded most clearly to with most approbation I think was the unequivocal answer that our Constable in St. Brelade gave saying that we should not be debating this today. I think a lot of us agree with that. The reason we should not debating that is because, in the words of our Constable, the Member should have done the honourable thing by now and have resigned from public office. Because there had been a series of breaches that have taken place, just not now, but there is a pattern of behaviour which P.P.C., of which I am a member, has recognised, which is that it goes right back in time. The corporate memory which I speak of are the questions that still remain over those inappropriate credit card transactions that took place when he was the Minister. Although that is not what we are debating today that is in the public's consciousness, that is something that will come up. If anybody has been on social media, the results of having made that public statement last night, that Deputy Ozouf made, was that it of

course became a story on the mainstream media which was then replicated on social media, had the effect that there were lots of comments. Some Members in here would have read those comments - I am not going to read those comments out - but Members might wish to avail themselves to think about whether there is strong public feeling in this. Of course, the Constable of St. Helier may wish to read some of the comments from potentially those many St. Helier parishioners who have contributed to that debate. Of course, there is the more recent anger, and I think this is where a lot of the public feel more angry about this, is the fact that a Member of the States Assembly, possibly somebody who was also a Minister at the time, has been in the Petty Debts Court over a period of time. That is where there is strong anger. There is something in the States of Jersey Law which Deputy Mézec pointed to yesterday, which is that if you are made bankrupt then you cannot be a Member of the States Assembly. Now is that right or wrong? I do not know, that maybe needs to be revisited in the future. But clearly the message that has gone out with that requirement is that if you cannot manage your finances sufficiently and you become bankrupt, that you are not an appropriate person to be a Member of this Assembly. What does that mean if you cannot pay your rates, if you cannot pay your bills, should you also be a Member of the Assembly? These are questions that the public are asking; I do not have a definitive answer for that. Then I turn to the issue of the Parish Hall Inquiry. Now what I am slightly disappointed with is that there was an opportunity for Deputy Ozouf to answer the questions and explain why he did not attend, why he did not engage and what went wrong. I have not heard that so I am quite happy to put my hands up and say that I have not always been a fully-converted zealot for the Parish Hall Inquiry system. I think it has definitely got its merits but I have warmed to it over the years from what I have seen in this Assembly. I also know that my esteemed colleague in St. Brelade, Deputy Miles, who is also a doctor, did her doctorate on the Parish Hall Inquiry system. I have got a copy of it at home that I acquired and it is a very good read, and I can see why she fully deserves her PhD for that. She is also doing a review at the moment into the Parish system, which I wish her well with. Certainly, I have known for a long time that you do not have to attend the Parish Hall Inquiry system; it is alternative to necessarily going to court and it is a way that justice can be administered in a less formal way and there are lots of merits that we know about it, about keeping people, especially young people, out of the criminal justice system. I have never heard Deputy Bailhache say before that you do not have to attend the Parish Hall Inquiry system. Maybe we should have a big ad campaign to just tell young people and tell people who get stopped: "By the way, you do not have to attend the Parish Hall Inquiry and do not go if you do not want to." I used the words "2 fingers" yesterday, I am not sure if you would permit it, but one could figuratively give 2 fingers to the Parish Hall system. That is perfectly fine according to Deputy Bailhache because you do not have to attend. The issue here is that Deputy Ozouf did not not attend, if that is the correct phrasing, the Parish Hall Inquiry because he did not have to, he did not attend for some other reason. Did he get the letters? We do not know. He has not clarified whether he got the letters or whether he simply ignored the letters or the letters remained unopened. But again that does not speak to good organisational skills that you would expect to have from an elected Member of this Assembly. I am really concerned, and I would be interested to hear from some of the Constables here - apart from the Constable of St. Helier who is not supporting this - what effect this might have on the Parish Hall Inquiry system on the wider Parish system if a States Member who ostensibly supports that Parish system does not see fit to attend on 3 occasions. Should other members of the public attend Parish Hall Inquiry systems or should we simply do away with it and rely on a more formalised court system? I would be really grateful to hear from Constables whether they think that is correct.

The Deputy Bailiff:

The Chief Minister was going to speak; he is not here. Does any other Member wish to speak on the proposition?

4.3.9 Deputy A.F. Curtis of St. Clement:

I will not speak for long. It is an interesting set of arguments provided and it shows that I think none of us are true experts in ethics. But what confuses me in this in understanding where to go - and I have put a lot of time and thought into this - is which threshold was breached to bring forward a proposition for a sanction? Is it the motoring offences, is it the respect of the Parish Hall process or is it the attitude and lack of engagement with the Commissioner for Standards? We have heard that the Parish Hall process might be discourteous but is it understandable - and I take on board the argument provided - and I do not think that really should form a material consideration here. The Deputy may well have got away with far less by way of court punishment if he had attended. He chose not to, he may have got more, we do not know; that is a court process. Is it the motoring offences? Given this is a first for the Assembly to decide when to sanction, I believe, I think that was highlighted - I see the nods - we are in some ways considering what to do when somebody is found in breach of a law in a court and given a fine. I am trying to work out whether we are getting 2 bites of the cherry on Deputy Ozouf or any Member who breaches a law to the extent that we have seen. He was found in breach of the law, he was fined, and we found that in doing so that is a breach of the code, but he has been sanctioned by the court. The question to me that I do not know - and I would like Members to think on and to talk on - is this different to where many other breaches could arise from? The code covers many breaches which would be of a civil or professional matter. The use of a sanction might be because it is felt that the person, while found in breach of the code, would escape justice if a sanction was not brought and these powers at disposal of us as an Assembly when that breach has occurred seems like the Member has got away scot-free. But this Member has not, this Member has been punished by the court to the extent the court felt was appropriate for the offences and it leaves a big - and I will be honest - question mark in my mind what our role is when it comes to these types of offences. Lastly then, in trying to understand our consistency, it is disappointing but understandable that the Deputy failed to engage properly with the commissioner but slow engagement with the commissioner, while it may slow the speed of processing a complaint and complaint handling, does not, in my view, undermine the integrity of the Assembly to the extent of other breaches in which this Assembly term have adjudicated. It has been highlighted by Deputy Ferey that we have had one censure in this term. In looking back at the proposition, that censure in many ways was exacerbated because the case in question undermined access to confidential information during live and confidential investigations, none of which I believe has occurred during this complaints handling by the commissioner. I am left in a very difficult position, like all Members, asking what would I want in my position, knowing we are all at some point imperfect, but importantly asking what consistency are we following in regards to this?

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

This is not an easy matter for the Assembly to consider. Wherever a proposition comes before us regarding the future of a Member of this Assembly, we are reminded that behind the titles, behind the debates and the responsibilities we all carry, there are people, both States Members and Islanders, who deserve at all times our very best care and attention. Public life carries with it unique pressures. The demands are constant and scrutiny is sometimes intense and often the support available does not match the weight of the responsibility we carry. When colleagues are facing personal or health difficulties, it is all too easy for this Assembly, and indeed the wider community, to focus on performance, accountability or outcomes and to lose sight of the people behind the roles. We have made progress, considerable progress, in how we talk about mental health in our Island. Stigma is lessening, awareness has grown and services are improving, but this progress must also extend into the heart of our political life.

[11:30]

As leaders we must be willing to recognise vulnerability in ourselves and to each other and to respond with the compassion and criticism that is appropriate. The events leading to this proposition I think serve as a reminder that we need to do better. Members must feel able to seek help when they need

it and to be supported rather than judged when they do. The structures around us within this Assembly, within the Government, across our public services, and indeed across the whole Island, must provide that support in a way that is practical, confidential and genuinely effective, and in a way that enables each and every one of us to deliver the very best service to our Island. At the same time, it is right to acknowledge that Deputy Ozouf's conduct has fallen short of the high standards of behaviour that this Assembly and the public are entitled to expect from their elected representatives. That is a serious matter and, with that in mind, I believe it would be right for the Deputy to reflect carefully on his own health, on his position, and to consider whether stepping down in order to focus fully on himself and his well-being may be the best course of action for this Assembly. **[Approbation]** Of course, I say that while keeping in mind that the ultimate sanction for this Assembly is the ballot box. This Assembly has a duty of care not only to Islanders but also to each other. Whatever decisions are taken today, I hope we can commit ourselves to strengthening the culture of care, respect and understanding within this Chamber. That is how we will maintain the humanity of our politics and ensure that those who step forward to serve our Island are not left isolated when they face challenges in their health and well-being. In turn, we will all become better equipped to provide the very highest standards of service that Islanders rightly expect and deserve.

4.3.11 Deputy I.J. Gorst of St. Mary, St. Ouen and St. Peter:

I am pleased to follow the Chief Minister. This, by its very nature, I suppose, is a personal debate in that we are dealing with an individual; one of our colleagues. Therefore, hopefully, you will forgive me for perhaps being a bit more personal than I would have liked to be. The first point that I want to make is one which Deputy Bailhache made so eloquently about proportionality. It will be up to each Member's conscience about whether what we are being asked to vote on - a removal from this Assembly for that period of time - is proportional to what Deputy Ozouf has done. In considering that proportionality, I wonder whether Members might consider their own actions, as other Members have asked and as Deputy Bailhache articulated so well. Have we all put our insurance disc on our car on the morning that we ought to have done? I know sometimes, on at least one occasion, I thought I was putting my insurance disc on my window, but - I do not know whether any other Member does this - sadly, I was putting it behind the existing one and it was not on display. I could say I am grateful to my wife for pointing this out at some point in the future. And which one of us did not speed, whether it be by one mile an hour or more, even on our way home last night? We out west have had some extensions to our speed limits, and I cannot be the only one who, even having seen the notice of the extension, was driving along and was somewhat surprised to see the actual signage up. I would not like to admit to how fast I was driving. There is very clearly a question about proportionality. But the issue that I really wanted to consider and discuss - and I do so with some nervousness because the old saying is so true: "All families are the same in their own individual way" - is about living with neurodiversity. I know that I am not the only Member who lives with neurodiversity in their family. There are others who have been living with it for so much longer and for whom their experience will be individual and personal in their own way. I am not a medic of any description and I am not a professional in living with those conditions. On the one hand, it is such a privilege to live with someone with neurodiversity in one's family because they bring so much joy and vibrancy, and they can be so generous. Yet on the other hand, sometimes the simple things like administration, like dealing with fight-or-flight, like being organised - the things upon which our interactions in our societies are based - can for some be so very, very challenging. But they can also be some of the most entrepreneurial, most innovative and most creative members of our community. Like the Chief Minister, I am so pleased with how we as a society and an Assembly have found the strength, as has happened elsewhere, to talk about neurodiversity and, more broadly, mental health. For me, talking is good because it builds understanding, but also action is important. As we know from Deputy Ozouf's 2 apologies ... we remind ourselves he has apologised to this Assembly and to his constituents twice. We also know that for some experiencing living with neurodiversity that in itself is incredibly difficult. Because each of us knows the strength it takes to apologise, not knowing

what the consequence of taking responsibility will be. As we know from those apologies, Deputy Ozouf very clearly does not extend his neurodiversity as an excuse. Absolutely, he does not; nor am I, in my remarks this morning, extending it as an excuse. But I am asking Members to consider what message it sends in how we vote today. A certain Member here to my right talked about something which I do not like to use - a term I do not like to use - but for me, part of what makes Jersey great is that in its functions and in its systems, it can be and is proportionate. It is understanding. The whole of the Parish system is based on being close to members of our community. The Parish Hall Inquiry, whatever the rights and wrongs of this case, is based on giving people a second chance, is based on being merciful. That is part of what makes this such a great community to live in. Therefore, for my part, I have no disagreement with the Commissioner for Standards; I hope she will continue to do her work and that she will do it diligently. But the whole process does lead to a decision in this Assembly, which, for my part, does not cast doubt on the process prior to. We are left as the ultimate decision makers in light of what P.P.C. have asked of us; therefore, we cannot step back from making that decision. We have to make a decision today. I hope that Members will make a decision recognising the proportionality of what is being asked. I cannot, either logically or in my heart, find that this 28-day suspension is proportionate and therefore I ask Members to think about that. Also, as they are passing judgment - I think there is only one other Member of this Assembly who has got experience of passing judgment in another place, but we are being called upon to pass judgment today - that we might be merciful. **[Approbation]**

4.3.12 Connétable R.P. Vibert of St. Peter:

Like many Members, I am finding it very difficult to reach a decision on this. I fully support P.P.C. in the way that, following the report from the Commissioner for Standards, that they believe that they must take this forward and request some form of sanction in respect of Deputy Ozouf. However, I also perhaps have an understanding - and I have spoken about this some years ago in the past - that from the age of 14 through to probably 33, until I was properly diagnosed, I suffered some severe mental health problems from time to time. While we have said we cannot take that into account, I think that somebody who has been through that and continues to suffer in that ... just like Deputy Ozouf mentioned yesterday, I have to put mechanisms in place to cope with certain situations, and sometimes that simply does not work. Therefore, I really do understand how when you are suffering from these forms of mental illness - and I hope the Deputy does not mind me referring to this - that you simply do not realise that your actions are not identical to everybody else. That is a position I found myself in. I thought: "Everybody thinks like this", and I made probably some bad decisions, but I did not really think that my actions were that different from anybody else. But, of course, they were and other people recognised that. It is not always very easy to take advice from other people. I think we have to consider that factor. I also, like Deputy Gorst, consider: "Is this proportionate?" As a Centenier, I have had people not turn up for a Parish Hall Inquiry, and you do consider it disrespectful.

[11:45]

But is it something that warrants sanctioning a Member of the Assembly, and is a speeding offence equally something that we should sanction a Member for? Like Deputy Gorst, the new speed restrictions in St. Peter were introduced and the signs went up while I was on holiday. I was aware that they were coming, but I may or may not have this morning failed to notice at least one of the new restrictions. I am not admitting to anything, but I think I may have done; there is a new stretch along by Marks and Spencer that was not there before, and I may or may not have noticed that that had come in. Anyway, I ask Members to make a sensible decision here. I fully understand the position of P.P.C., but from my own experience of mental health issues, I would find it difficult to support this.

4.3.13 Deputy J. Renouf of St. Brelade:

Like others, I hesitate to speak in this debate. We are all flawed human beings, we work in a system that is not perfect, we are subject to a great deal of pressure, and we all make mistakes. But I do think there are some fundamental issues here which we have perhaps been diverted from during this debate. We have committed collectively to a Code of Conduct and to a process for investigating breaches and for determining sanctions, should breaches occur. I think the public rightly expect us to abide by the processes that have been put in place and to act when breaches of standards have been found to have occurred. The case of the former Deputy Prime Minister in the U.K. has been mentioned, and I think what that has shown is the public have an exceptionally low tolerance for politicians who fail to uphold high standards, even when there are mitigating personal circumstances, as indeed there were in her case. Incidentally, was not found guilty of deceit; the relevant section of the judgment on her concluded that she acted with great integrity but she was found guilty of failing to meet the highest possible standards. I do believe that, in Jersey too, the public want us as politicians to take responsibility for our failings and to accept consequences of behaviours that breach the standards to which we have committed. In relation to Deputy Ozouf, I note the following points. I know that Deputy Ozouf has been through an exceptionally difficult period and continues to have challenges, which have been discussed at length, and I have immense personal sympathy for him, as I hope he knows. **[Approbation]** I also note that he acknowledges and accepts the verdict of the Commissioner for Standards that he is in breach of the standards. The only issue, therefore, is the sanction and the question of proportionality. Is an apology sufficient or should there be real sanction? I do have to raise some significant facts - awkward facts, if you like - because I do note that the Deputy only apologised to the Assembly after an investigation was opened. The Member should not be surprised that the timing of his first apology in the Assembly, a few days after the commissioner had opened an investigation, invites the interpretation, correctly or wrongly, that the apology to the Assembly and to his parishioners, however genuine, was also a response to extreme political jeopardy. I note also that the Deputy promised to respond to the Commissioner for Standards, but did not. For me, this brings the central issue into focus, which is the failure to engage with the commissioner's investigation. For me, this is the central charge because I do think that risks undermining the processes to which we have committed. I think that those actions - or lack of actions, if you like - do not seem like the actions of someone who is taking full responsibility for their behaviour, or who truly recognises the gravity of the situation and accepts that when actions or behaviour fall below the required standards there should be consequences. I note also the wording that the Deputy used in his second apology yesterday regarding his non-attendance at Parish Hall Inquiries: "Of course, I would have wished that the non-attendance at the Parish Hall Inquiries would not have occurred." It is a strangely neutral statement, as if the non-engagement was something that happened to him. As mention has already been made, there has not been an explanation. Nevertheless, the Deputy has accepted that he breached the conduct and, unlike Deputy Bailhache, has not, as far as I know, queried even the question of the 4 different paragraphs of the breach that the commissioner identified. In deciding the appropriate sanction, I think it is appropriate to consider past behaviour. It is not a comparison I want to use, in a way, but it is the only one I can think of: that in court cases, in general, past behaviour is not used in determining guilt; there are exceptions. But it is relevant when it comes to sentencing in a court. The Deputy has already pleaded guilty in the courts to a number of offences in the Petty Debts Court. In this case, he has also conceded that there were breaches. For me, the key issue here is not the criminal issues; it is the process. The process that we committed to as an Assembly. There may be problems with that process; I note that in Guernsey there is an appeal process, which we do not have. There may be problems, indeed, in the way that the process is undertaken, and those might be valid criticisms and valid issues that we should address. But I think the public would say to us: "Well, you have undertaken to follow those Codes of Conduct as they are, and you are able to bring changes to it, should you wish." We have not done so, and this is the process that is in place now. It is the one that we should therefore follow, regardless of whether or not it has flaws. As I said at the beginning, there are flaws in all processes. For me, overall, the question is: has the Member breached the standards? Yes, he has. Has that

reflected badly on the Assembly? Yes, it does. The sanction is interesting; people have raised the question that it is the upper end; it is, in fact, the maximum sanction that can be applied. I think the point that was made at the Parish Hall meeting which we attended was that the problem may be that we do not have a sufficient range of sanctions, not that the sanction is excessive. Taken on its own, without seeing it in the context of a range of sanctions, a 4-week suspension does not sound excessive. It sounds excessive when you place it in the context of the fact that it is the only significant sanction that we have available. I think a 4-week suspension feels proportionate in the circumstances. It was open to Members to bring amendments to reduce it. It could have been reduced to a one-week sanction by amendment - that would have only been one sitting suspended - and no Member chose to do that. We are left with the choice: either we vote for this proposition and stick by the principle that there should be consequences for breaches of the Code of Conduct, or we say that in this case there should be no actions taken as a result of those breaches of the Code of Conduct. I err towards the side of saying that there should be consequences and I will therefore be voting pour.

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

I just want to highlight one thing. I am quite disappointed because we seem to be making light of the fact of a speeding offence that was double the speed limit. **[Approbation]** This is one of the “Fatal 5” in the Policing Plan for 2025 to 2028. There are all sorts of statistics which will say at what speeds you have various impacts if you have a crash. My disappointment with some of the Members in the Assembly is the fact that we are not recognising that. In a 15 miles an hour zone what you find is many pedestrians. I walk regularly around the roads where I live. There are horses, there are children, there are dog walkers, there are cyclists. Those roads were decided to be put at 15 miles an hour because of the level of activity within them. I recognise that if you hit somebody at 30 miles an hour - which is double the speed limit of a 15 miles an hour zone - that impact is unlikely to have the same impact on an individual than if you were driving 80 in a 40 miles an hour zone. But if you were driving 80 in a 40 miles an hour zone, I would suggest you would have lost your licence because it is deemed to be excessive. In fact, from memory, probably 65 is where you would lose your licence. Now, this is what worries me; people do not think this is a serious offence. I do, and I will not apologise for that. I think this is a significantly serious offence and I will tell you why. I spent 25 years in the police dealing with road traffic incidents of all sorts; not all of them fatal, of course. But also, from a constituency point of view, one of the highest levels of complaints I get is from residents within my constituency about the speed of vehicles. People have been knocked over walking on some of our small roads by pedal cyclists late at night when they have not been seen. I think this is an important factor. When somebody says they do not think this is serious - I want this on record - I do, Sir. I accept that we all make mistakes. When somebody says: “Oh, we have speeded”, well, now we need to start considering that fact and stop ... it is difficult; when you drive along a road, you have to concentrate to stay at 15 miles an hour. You have to concentrate to stay at 20 miles an hour. If you look across the Island, we have gone from 15s; we now have many more 20s; we have a lot more 30s. In fact, you might as well never drive more than 15 miles an hour because the roads now across the Island swap and change all the time. But I want to make the point that I think it is a serious offence. The second thing I would like to say is that a lot of people have been concerned about this is double jeopardy. Actually, as a police officer, if you were convicted in a court of an offence, guarantee it, you are on a discipline code and you will be dealt with under a discipline. I am not saying that we are the police, but we are under a code of conduct. We are under a code of conduct. We might like to think that we do not need to be dealt with under that code of conduct, but the public’s perception is that we should be.

[12:00]

Like with emergency services, people expect a certain code of conduct. They expect people not to be breaking the rules. From my perspective, I do feel that there has to be some way of dealing with this when a Member breaks the rules, so I will be supporting P.P.C. I have been on P.P.C. in the past.

I know it is difficult and I know it is challenging, but I just wanted to make the point that I think speeding is a serious offence.

4.3.15 Deputy K.F. Morel:

I think we all agree that speeding is a serious offence, but we also all agree that we have all done it. Therein lies the issue in terms of understanding why P.P.C. has gone straight for this 28-day suspension when a vote of censure, in my opinion, would have been a much more appropriate response and, given other matters, would have allowed escalation elsewhere if required. I spoke earlier for the debate to be held in camera, not because I felt secrecy was required but because I felt humanity was required. One of the things that I really worry about in this Island is division and a lack of humanity, particularly because - as Deputy Renouf has said - we are all flawed human beings. I do fear that, in political debate, it is quickly forgotten that we are all flawed human beings. Every single one of us in this Chamber has offended in different ways, whether that is against loved ones, against family, against the law, whatever it is. We get things wrong; we do things wrong. We have also stood here in this Assembly ... most of us, certainly, will have at some point made a speech saying how we need to help people with mental health conditions, how we need to help and be understanding, how we want greater diversity in this Assembly, and how we must ensure that these things are taken into account and have a more diverse Assembly. As you come up to an election, that will be said a great deal: about the need for diversity in this Assembly. My concern is that when I see a committee jump to a much more severe sanction than is necessary, in my opinion, that it suggests there is an element of hypocrisy. "We want diversity but we are not willing to adapt to diversity." That really worries me because I agree that we should have more people with diverse conditions of all sorts in this Assembly, whatever that diversity is. But in order to do that, we have to then be flexible to adapt to their needs and the public have to be flexible to adapt to their needs. I thought Deputy Gorst spoke incredibly well as someone with experience, because people do have different needs. I was nodding my head when the Connétable of St. Peter was saying that he learnt late that other people did not think like him. That is something I have been learning a lot over the last few years. Apparently, you do not all think like me; this is something strange to me and something that I am learning. That is why my concern here is the public nature of this - but fair enough, that has been dealt with - and then just the level of sanction. Deputy Tadier spoke about a matter before this Assembly many years ago, where I believe that the sanction was a vote of censure. I would suggest that those matters were much more serious in many ways than these because they included, it was found, deceit. This, to my knowledge, does not. I think deceit is very poor; if you are a States Member you should not be deceitful. But if you are a States Member, you should be human and that means you will err and you will make mistakes. I would like to think that, as an Assembly, we try to support people to learn from their mistakes and grow and develop in that way. I do not feel that running to suspension ... which, I also have to point out, and nobody has mentioned this at any point, a Deputy is democratically elected by the people. To take somebody out of this Assembly is basically us saying to the people who have elected that person: "We know better than you right now and we are therefore overturning for a period of time your democratic decision as a people." That is something that has not been mentioned and does need to be mentioned in this Assembly. I think we can become quite judgmental and quite officious and think that we are holier than thou. My problem is that I know I am not holier than thou. I think other Deputies in this Assembly should also understand that they are not holier than thou. We all make mistakes; it is that simple. I feel that, if you are going to seek sanction, you should at the very least start at the bottom and work your way up, not start at the top and go where after that? That is why I find it very difficult to support this proposition. I will continue to listen; my mind is not wholly made-up, but you can see certainly which side I think I am leaning to. I do worry about this Assembly and its penchant for punishment and sanction, because to me that is not what States Members should be doing.

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

I, too, want to mirror what Deputy Kirsten Morel has just said. I want to be part of an Assembly that is kind, compassionate and forgiving. We have all made mistakes. I agree with Deputy Le Hegarat that speeding is serious. I agree that we need to put our windscreen discs in the front. I think that the Parish Hall Inquiries are excellent, especially for the youth of this Island, so that they do not become criminalised. But I really feel that this sanction of 28 days not in this Assembly is too harsh and I will not be supporting the P.P.C. in this instance.

4.3.17 Deputy D.J. Warr of St. Helier South:

I rise not to say very much at all because I think a lot has already been said, and “humanity” is the word that comes to mind. It just struck me, Deputy Gorst’s commentary; we are a Christian society. There is a famous line which runs in the Bible: “Let he who is without sin cast the first stone” and I think we should remember that sometimes in this. We have got lots of mitigating circumstances. I appreciate Deputy Le Hegarat’s commentary around speeding offences. Nobody died, which is obviously always a positive. It is interesting that Deputy Tadier made this commentary about criticising everybody else, when he himself has actually been sanctioned by this Assembly in the past but failed to mention that.

Deputy M. Tadier:

Sir, would the Member give way?

Deputy D.J. Warr:

Yes, Sir.

Deputy M. Tadier:

I just wanted to know what the Bible says about speeding in green lanes, Sir.

The Deputy Bailiff:

Well, that is ... Deputy Warr.

Deputy D.J. Warr:

It is not even worth responding to that, Sir. **[Laughter]** Grace is what comes to mind, and I think it is really important that we are graceful in this Assembly. I would like to leave it at that.

4.3.17 Deputy M.E. Millar of St. Mary, St. Ouen and St. Peter:

I am also not going to say a great deal, because much of it has been said before. I do share some of Deputy Alex Curtis’s concerns, but there is nothing unusual in a criminal conviction turning into a disciplinary proceeding. That is what this is; it is a disciplinary proceeding. In many workplaces a speeding offence would not trouble the waters at all, unless you were likely to lose your licence and driving was a key part of your role. I was involved, a very long time ago, with an employer who called and said: “We have got a youth worker who has been arrested for possession of class A drugs. Can we suspend him?” Things like that. If you have a youth worker who is possessing class A drugs, then clearly, as the employer, you would want to consider what to do. I am not going to discuss Deputy Ozouf because my issue with this is the process. I thought that the debate that we had in January of last year was the lowest point in my short term in politics, but I think this one is a very, very close second. I agree with Deputy Morel that disciplinary proceedings are held in private. I have chaired and been part of many disciplinary proceedings, and people have lost their jobs as a result of those, but they have been in private. There is no need, really, I do not think ... whether the public need to know the outcome, whether the public need to know what everybody thinks about it, is a question. We have to remember that what is in the public interest and what is of interest to the public are not necessarily one and the same thing. I do think we need to deal with all of these things with compassion. I would really hope that P.P.C. will go away and consider whether this is the best process to follow. There is no reason why we could not set up some form of disciplinary panel with

independent people, if we needed to - which is what happens everywhere else in the public service - to consider such matters like this and not have the humiliating and, I agree, inhumane spectacle of someone's washing being aired in public. There may be many examples that the P.P.C. could look at; I do not know if C.P.A. (Commonwealth Parliamentary Association) have guidelines. We all like C.P.A. and they have some useful things to say. I would hope that P.P.C. will consider how we deal with this type of thing in the future and whether it really needs to be in public. The last thing I would like to say is that I find it quite surprising that some of those who are most keen to have this in public are also those who are most keen to uphold human rights. We talk about human rights a great deal in this Assembly and we bend them and we stretch them and we misinterpret them, and we create new human rights where none exist. But there is a very clear human right to privacy of your private life, your home and your correspondence. I think that we have very, very much strayed into breaching that human right today, and I really hope that P.P.C. will take that into account in future.

Deputy M. Tadier:

Sir, can I raise what I think is a point of order? It took me a moment to process what Deputy Warr had said. He said that I had been sanctioned by this Assembly, but it is simply not true. I was wondering whether he would withdraw that erroneous comment.

The Deputy Bailiff:

I think it is too late for that now because he has finished his ... there is a point of order, I suppose. Is that right? Do you want to withdraw that?

Deputy D.J. Warr:

Sir, I understand that the Deputy was suspended for a day for sending an email around to the Assembly Members. I would wonder if he could confirm that.

Deputy M. Tadier:

I can confirm that is not true, Sir; it never happened. Never been suspended from the Assembly...

The Deputy Bailiff:

Right, leave it; I cannot rule on that so it is not a point of order.

Deputy D.J. Warr:

If that is the case, I withdraw then.

4.3.17 Deputy I. Gardiner of St. Helier North:

I really struggle with this debate because I listen to the Members and it feels like if you are supporting P.P.C. you are not human and you are not compassionate. It feels like fully blackmailing. Now, we do need to be human. We do need to deal with the matters. There are some matters for which we do not have the right processes. We talked about sanction and proportionality and we are going into if the disc is there or not; if the speeding was there or not; if engagement with the process was there or not. Deputy Gorst raised it; there is lots of joy and there are lots of new ideas coming with people with A.D.H.D. and from others, and I think that Deputy contributed over the years a lot to this Island. Does it mean that the rules can be broken? I do not know. Actually, no, I do know. I think that Deputy Ozouf said: "I am a long Member of this Assembly." Absolutely, and we are grateful for the contribution. "I was Treasury Minister. I was on all these jobs." When you are a longstanding Member of this Assembly and have spent a lot of time in the Executive, you should know ... Deputy Ozouf should know better what the rules are and what is expected from States Members. We are all expected to do this. I think that one of the difficulties is about personal responsibilities. Unfortunately, for whatever reason, during this term, 3 legal matters arose with Deputy Ozouf, not with other Members. If we are talking about care, I think that it is important to care - I really, really care - but first of all, it is a self-care.

[12:15]

If, because of the different circumstances that I would have, for example, in my life, I am not able to perform for some time as a States Member, I am taking a leave. The person needs to get personal responsibility to get better and to perform. Listening to the chair of P.P.C. - I think it was chair of P.P.C., unfortunately if I did not write it - that while Deputy Ozouf failed to engage with the process and while he did not meet with the Commissioner for Standards and with Parish Hall Inquiries, Deputy Ozouf continued to put propositions and bring them at the States Chamber. So, how are we choosing what a person is able to do and what a person is not able to do? I do not know. For me, care for yourself starts from the beginning. Care for the public - and this is big question - does public is cared by this behaviour? The third thing is care for fellow Members. We have all been put today in this position to debate, and if we are talking about personal responsibility, I think each Member can consider how they would act when there are 3 legal procedures over the top. I feel really confused, crushed, compassion; it is a lot of different emotions. But I do believe that there is a process. It is not one standing thing; it is just so many things came together. I would expect there is a personal responsibility taken in a different way and not just in the word and in acts, so I will continue to listen.

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

I will try to keep this brief. Like Deputy Gardiner, I am really struggling with this. Deputy Renouf mentioned the different degrees of sanctions and I think that is what I am really stuck on, because this does seem quite severe. Also, Deputy Morel raised the point that the electorate have not consented to this. Of course, I am a representative of the Parish of St. Saviour, of which Deputy Ozouf is also a representative. I am not clear on what that electorate would want us to do, so it feels slightly undemocratic to be making this decision without understanding that; so, that is something that I am still considering in the way that I will vote. Lots of people have mentioned compassion; that is a principle that is at the forefront of everything I do, and I feel really sad for Deputy Ozouf that he has felt forced to disclose a medical diagnosis in order to present some mitigation. Nevertheless, I agree with previous speakers who have stated that standards are standards, and laws are laws, and I feel that the buck does have to stop somewhere. As the creators of those laws and people who have agreed, as part of the role that we are appointed to do, to uphold the very highest standards ... and let us not forget that we are expected not just to comply with the law like any other citizen, but we are expected to attain higher standards of behaviour than the average citizen. That is something that I take very seriously, and I think we should all take that seriously. Something else I have learned from this debate is that we need to have a bit more of a humane approach to each other. It is not just something I have learned from this debate, actually; it is something I have said previously, and I think Deputy Morel mentioned it and Deputy Gardiner did too. I wanted to draw Members' attention to processes that are available via the Diversity Forum. We do have these procedures whereby if something goes wrong sanctions are considered, et cetera, but there are also procedures and discussions that are underway at the moment in the Diversity Forum about how we can help Members who might need a bit more support, who might have disabilities or neurodevelopmental conditions, such as A.D.H.D., to have the support they need to attain those high standards. It is very possible to perform this role to an extremely high standard with disabilities and neurodevelopmental conditions. I would hope that perhaps the Deputy in question, but all other Members who care about this and who have said that we need to have these high standards and that they have compassion for Members with disabilities and neurodevelopmental conditions, that they might get a bit more involved with the Diversity Forum and think about how we could all be helping each other a bit more to attain those high standards. That is my hope for this Assembly. I am still unsure of how to vote on this, given the fact I do think the sanction is a little severe. Somebody mentioned a U.K. Member of Parliament who recently resigned, and I think we do not have that culture in our Assembly of taking those immediate actions to step aside from a role when something has gone wrong. Perhaps we need to do a bit more of that and get ahead of things and say: "I am

really sorry; I did not meet those high standards; this is the action I am going to take”, rather than waiting for something to be imposed on us. I know the Deputy does get another speech; I do wonder if he might feel able to do that. I think it might be less painful if that was the approach. I know that other Members, when sanctions have been recommended by P.P.C., have said in their speeches that they recommend that Members vote for it because they accept the sanction. That is just a suggestion for the Deputy; it is, of course, for him to consider. I wanted just to correct Deputy Warr, actually. In fact, when we look at the data on belief in our society, we are largely and significantly a non-religious society. As a humanist, I could not let that go. But as a humanist, I think it is important that we remember that we are all human, and we do all have varying personal circumstances from time to time. There are many Members who have suffered bereavement and who, I think, can deeply empathise with what the Deputy has gone through. The support is there; the support can be improved. I hope that, collectively, we will reflect on that and consider how we can improve that going forward.

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

Like others, I was asked this morning by the media what way I was going to vote, and I said I did not know. I have to say that while I supported the vote to allow the Deputy to make his statement yesterday afternoon, I was left disappointed with its content as I was expecting more. We have heard this morning in the debate some excellent speeches from both sides of the argument. Deputy Feltham spoke about our employees and how they could be suspended. There is a difference, however, in that suspension in that circumstance is described as a neutral act and, importantly, is with pay. We are being asked to support suspending someone without pay. We have heard from Deputy Ozouf that he remains confident and capable, and from the proposer that the Deputy remains productive with questions and propositions. I would like to echo the comments of the Minister for Justice and Home Affairs with her views about speed. It is not a laughing matter and those people who have suffered as a result of speed would have been horrified to hear some of the comments in this Chamber this morning. The Collision Reduction Plan is a need following the amount of injuries caused, often by speeding drivers. Yes, we have probably all exceeded the speed limits, but as the Minister for Justice and Home Affairs explained, the driving offence was double the speed limit. We have heard a little bit about the Parish Hall system, and Deputy Gorst spoke about its strengths. I think the Parish did show consideration in warning the Deputy not once, not twice, but 3 times to attend an Inquiry. Deputy Morel and Deputy Millar both said employees would not have a case heard in public. I would remind them and Members that employment tribunals are heard in public; indeed, there is a very public case that is live at present in the Royal Court. I find myself still in the same position as when I arrived. I do not believe that I have ever abstained and I will not abstain, but as I stand, I am still not sure of the way that I will vote. None of us have brought an amendment and I am sure I am not the only one who is regretting that now. I will listen to both parties summing up with a great level of interest.

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

This is such a difficult debate but, fundamentally, we are here to uphold standards. Saying this, I still do not know how I am voting. I have enormous respect for P.P.C., for the Commissioner for Standards and for the Honorary Police. I take the point of a previous speaker who said that we seem to be divided in here, but that if we do vote with P.P.C. we are guilty of not having any kindness or compassion. Well, kindness, compassion and humanity is something that I try to live by. I also do not like the fact that some Members have tried to hijack this with neurodiversity. I have years of experience of neurodiversity because 2 of my family members ... one has A.D.H.D. and one has high-functioning autism. To me, neurodiversity with them is a superpower. They have A.D.H.D., they have high-functioning autism, but they do not go around speeding, they do not go around going through lanes at double the speed. As someone who brought in a proposition for road safety, it is so extremely important. Driving at 30 miles an hour in a 15 miles an hour zone could have caused life-changing injuries or death, so it is not something to be laughed about. It is not something that we

can all say: “Oh, yes.” I am somebody who probably annoys people because I do drive within the limits. Because that is just me; I am not particularly keen on driving so I just drive within the limits. I have an old, clapped-out car because that is what I like and I am not a speed king. I am not perfect in any way; none of us in here is perfect in any way. We all have lapses and that is human nature, but we are in elected office and we should raise our standards and be aware that we are open to public scrutiny. It is very uncomfortable but this would not be happening in a States Chamber if we were not elected States Members, so there is something in our life ... we get elected and we have to be aware that we are public figures. I have spoken with Deputy Ozouf at length about neurodiversity and I am always here to be supportive. I do not know how I am going to vote, but we just have a duty to uphold standards and whichever way we vote, I am certain, knowing every single person in here, that whichever way we vote - if we vote pour or we vote contre - we are all Members who have a level of kindness, compassion and sensibility. I do not know how I will vote.

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

There are many and various reasons why I wanted to become a Member of the States Assembly, but passing judgment on my fellow States Members was not one of them. I could have stayed in the youth panel and continued to work there. I could have put my name forward to see whether I might have become a juror, if I was interested in passing judgment. But as the Minister for Planning, people might say: “Well, you pass judgment all the time.” But in certain circumstances, if this was a planning issue, we would all certainly be completely conflicted. However, with planning issues we have independent inspectors from the U.K. that we use frequently and they recommend to the Minister how we might move forward. In this instance, we have the commissioner who has investigated and come forward and said: “Yes, there has been a breach and something needs to happen.” This, of course, is where we find ourselves now with trying to decide what the level of seriousness is and where the sanction should lie. Like others, I cannot put my hand on my heart and say that I have not exceeded the speed limit at some point in time. Certainly, I can remember times where I had vehicles - tractors, lorries, vans - scattered across Parishes and in yards and sheds and fields, and finding them all with the right insurance disc in the right place was a challenge. But it is interesting to hear about speeding, and I completely concur with the Minister for Justice and Home Affairs, the Constable and others about the seriousness and the effects that speeding can have. But I would say to States Members, if we are going to sit here and pass judgment on a speeding offence, let us have some more evidence. Daylight? Nighttime? How many people were around?

[12:30]

Was it wet? Was it dry? All the sort of questions that police officers would be putting forward in a case if we were to decide the severity of the offence. I do take on board that 30 miles an hour in a 15 is well over the limit, but there could be mitigating circumstances in any offence and we have not heard any. When it comes to the Parish Hall and engaging with the commissioner, that is certainly something that I would not have done. I am sure the Deputy would look back on that and regret it. All of us respect the Parish system entirely. I would have been there waiting at the door, had it been me. But we get back to the point of the proposal from P.P.C. today and where we go. I have to say, I feel very uncomfortable about the level of sanction that is proposed here. I worry about setting precedents for the future, but I completely accept that the Deputy is not without fault - far from it - and he knows that. I do not think the level of sanction is correct but pushing the contre button also concerns me because it sends the signal that I do not think a sanction is appropriate when I do. So where I go I will have to see, but Deputy Tadier said we should not push the abstain button if we are prepared to sit in this Assembly and I usually agree with him. In this instance I worry a lot about the message I send depending on which button I push.

4.3.22 Deputy C.S. Alves of St. Helier Central:

The Code of Conduct is part of our contract with the electorate and P.P.C. has a duty of care to the public to ensure that elected officials uphold that contract with the electorate. So in the interest of due diligence and given the seriousness of this matter, it was only right that this Assembly was given the opportunity to consider it. I would like to address some of the comments that were made earlier about the commissioner. Just like we are not here to adjudicate on the law, the commissioner was not adjudicating on breaches of the law; she was adjudicating on the breach of the conduct on the code and that is her job. There was no mistake; she simply noted the Deputy's failure to abide by the accepted processes and procedures and that is the breach. The commissioner is not expected to be a legal expert; she is an ethics expert. Was Deputy Ozouf's behaviour in line with the Code of Conduct? It was not, and that should be the focus of this debate. It is disappointing that some are using this debate as an excuse to criticise a commissioner for doing her job. It is never easy to be complained about but we can be 100 per cent certain that the commissioner follows a transparent and fair process. One thing that has not been mentioned, unless I missed it, is that we are lawmakers. That is our primary role as politicians: to make the laws. As such, I feel it is vitally important that we lead by example and that we follow those laws and the processes associated when those laws are broken, otherwise - quite frankly - we make a mockery of the system and ourselves. It is not one rule for us and another for the public. Many Members have mentioned already the Care Inquiry and I would like to mention the use of the term the "Jersey Way" which unfortunately we know has negative connotations. I would rather it did not because I think that COVID showed us that we can really turn that around, but unfortunately it was used to describe a culture of lack of transparency, resistance to change and protection of powerful interests. That inquiry revealed how this ethos fostered coverups. Taken from a simple Google search I found that although the Care Inquiry made recommendations to improve the situation, the term the "Jersey Way" continues to carry a negative perception. Quite recently in 2019 a Scrutiny Panel noted that it was still associated with a failure to support complaints and achieve positive results. We know that the public continues to accuse us of sweeping things under the carpet and refusing to listen and to act. We also know that this is one of the top reasons that people choose not to vote and the reason why we have the lowest voter turnout in the O.E.C.D. (Organisation for Economic Co-operation and Development) countries. I would like to ask Members: do we really want to reinforce this view? Do we really want to be seen to be unable to hold ourselves up to a code that we signed up for when we took public office? Unlike my Constable, the Constable of St. Helier, I have had constituents contact me, not just on social media and via messages but also in person or even when I am walking through the streets of St. Helier. I think many of us would agree that the public have made their views quite clear on this matter. Public perception matters and I think Members need to remember that none of us would be here without the public. So I hope that Members will think about that when making their final decision.

The Deputy Bailiff:

Thank you, Deputy. Does any other Member wish to speak on the proposition? Accordingly, we move to the final stage of the debate and we will hear first from Deputy Ozouf and then from Deputy Ahier.

4.3.23 Deputy P.F.C. Ozouf:

I repeat that I am intensely embarrassed that public time is being taken up over me but I take some comfort from the fact that there has been some incredibly important speeches about standards and the importance of them, which I absolutely agree with. It is a difficult process, as other people said, but it is what it is. I just offer some comments in relation to corrections. We have an oath of office that requires us to be honest and proper in the way that we speak in this Assembly, and so where there have been understandable issues which have been raised during the debate about this specific misdemeanour that I did, I just feel ... because Members have made reference to it and they have basically said if and when that, or whatever, and I just wish to correct for the record. In relation to the Parish Hall Inquiry, and the Constable of St. John, I was in no way undermining the importance

of the Parish Hall Inquiry system; I want to apologise. But it might be helpful - based upon Deputy Ferey's thing to say - the first issue, one learns a lot about processes. The first one I was told at the roadside and then because of the issue of the insurance disc I said in my statement yesterday that I did the insurance disc and I simply was not reminded of it. I am not criticising the States Police I was not reminded of it, but I did not receive anything in the post. The second one I did but it went unopened; I never saw it. That is because I was moving and other things. The third one I knew about, and what I have said to P.P.C. is that I prioritised ... I knew about it, I prioritised assisting a member of St. Saviour and I put my public duty ... I am sorry, I put my public duty to help an individual on that occasion, and that is the reality. Then I found out that of course I was going to the Magistrate's Court anyway. To deal directly with the Minister for Home Affairs and speeding, because I realised that ... I was informed that the 31 miles an hour was a trigger that would go to the Magistrate's Court anyway. It was the timing of the Magistrate's Court which was the issue, for the avoidance of doubt. I knew at that stage I was going to be going to the Magistrate's and I absolutely agree, if this is any way that I can send out a clear message that the code that we should not speed, I absolutely agree. I fell short on that morning. I know that road, I know exactly where the green lane starts and stops. There are no green lanes in Trinity and St. Saviour, there is in St. Helier, it is a segue in between. I know it and, yes, I was discombobulated because I was going to a family meeting dealing with the issues that I have referred to. I will not go into it. I was late and I was getting told off for being late when I was trying to deal with something. I am sorry but there was no danger, it was not wet, but I do not say that in any way, I just ... I was asked for the context and I am saying it. But I was dealt with by the magistrate after I offered to give a full apology and the magistrate dealt with me and I immediately said that of course I accepted the penalty. I also would like to work with the Constable of St. John; I only noticed on 20 miles an hour in Longueville yesterday around Waitrose that I want to do. We all must uphold speeding. I am sorry that on that one occasion I was speeding because it was a lapse of judgment. Issues of A.D.H.D.: this is not an excuse, but I do not want people with A.D.H.D. to think that because of the challenges that they have ... which I have masked. I do not joke with the fact that I was regarded I think as a very organised Member of this Assembly, because I had support. I did not realise it at the time but when my support network, both within Ministerial office - that is fine, that is politics - and my own personal situation fell apart, I have had difficulties. It has taken me time to rebuild that but I am determined to do that and I am sorry that I fell short in relation to that. In relation to the Commissioner for Standards herself, I have found real difficulty. The Greffier maybe will know, I spent hours ... to refer to Deputy Renouf, do I take the question of standards seriously? Absolutely. I have spent hours, and any Member that wishes to look - as I have asked people to do - at my computer and see the scale, the hours of attempts that I tried to answer the question but could not deal with the last issue. Activities in the States, we send kindly a draft to the States and then they sort it out, they do all the typographical errors. They deal with it. Fantastic. I was not able to do that for some unknown reason, which I am told is a previous issue. I was not found guilty of breaking the Code of Conduct previously and I am so uncomfortable that I have to defend myself but I have got to say certain things. I live with the 2017 nightmare when I stood aside voluntarily from a Ministerial office because I said: "There is public concern, I am going to step aside, if I have done wrong I will resign." I was put back because I was found to not be wanting, and then there was another issue that was raised which I also then had to deal with in the public domain and I bear the scars of that. But I was not guilty, I was not charged, and I was not found to be against the Code of Conduct. That issue effectively has been a very difficult issue and I need mental health ... I think they call it post-traumatic stress. I was traumatised by that experience because it lasted for 18 months, but I stepped aside, offered to resign, and the Chief Minister said it was a distraction from the Government so I was sacked, and understandably so; I have no issue with that. The issue about Ministerial responsibility is different from that of States Members and I am even nervous about speaking fast because I feel that the Assembly deserves answers to certain things. I take full responsibility for the issues of the Commissioner for Standards and I am sorry that I have found that last step of sending a proper and considered report to the

Commissioner for Standards in the way that I did, because I tried. I tried. I also need to say that I had intended - because I contacted the Greffier and I think the chair of P.P.C., who contacted me immediately after the Magistrate's Court - I was going to make a statement straight away. But then I was advised by people around me who were concerned about my mental health, about the drubbing I got on social media, which I do not look at, and I basically delayed that statement. I apologise for that. I had intended - it is on the record - to make an apology forthwith after I was chased out of the Magistrate's Court by media, which is what we do, we accept that. So I do say to Members politely that the apology yesterday, the first instance since the commissioner has done her report, at my own ... I had no resistance in terms of the decision, I made the decision to do the personal statement to apologise because that is what I think the right thing to do is. Past behaviour: Petty Debts Court. I have to say I have not been proven guilty in the Petty Debts Court. I have been alerted to non-payment of bills, the most significant one of which was not mine but I took responsibility for somebody else's. There was administrative error. If anybody wants to check that, it is the fact, but unfortunately I could not say who that bill was because they were alive and I took responsibility for a family member's bills and there was a mix up, but I could not say because they did not know I was paying his medical bills. So I was not ever, ever, found guilty of not paying a bill. The Petty Debts Court, which I did try to explain to the commissioner, who also said to me during the interview - and P.P.C. has the whole transcript - that the whole transcript was not going to be given to P.P.C. The whole transcript was so they can see it. The transcript does say it was going to be excerpted and the whole thing was sent, so it has got all that information in. Members do not have that of course. On the issue of Commissioner for Standards, sorry, I have learnt. I have tried. I hope Members will forgive that last bit but it is because of the previous issue. I have learnt that now and I am dealing with it, and I have found ways of dealing with it.

[12:45]

The C.P.A. guidance about whether or not this penalty ... I asked the chair of P.P.C. ... I duly attended, I co-operated of course with P.P.C. and went to the meeting. I tried to offer mitigation, I explained all the background, apologised; I do not think any member of P.P.C. would say I did not fulsomely and in my own terms. Then I received the email that I was to be suspended. I emailed the chair of P.P.C., respectfully and properly. as I think it is proper to do. I have not circulated, I have done no lobbying, I have done no criticism of anything, but I just wish to say that I did ask the chair of P.P.C. if he could kindly explain why the most severe sanction had been done because I did not understand how breaches of the code - and that I accepted - to have been found wanting, would result in the most severe sanction that can be made. I also gave examples from across the Commonwealth, 180 Parliaments and assemblies, that I could find no suspension that was proportionate. So I asked whether there was going to be some publication and some information about why P.P.C. had gone to the absolute maximum 28 days, just out of politeness. It is up to Members to decide. I am just wanting to say, I did say that the C.P.A. guidance does also say the issue was that the Commissioner for Standards is not a policeman or woman and that they are not there for being a policeman. So I was discombobulated. I do not understand why there has been an exception made, or there has been any explanation of why this is a proportionate sanction. It is up to Members to decide that, but that is what I said to P.P.C. and I went through in detail and gave Australia, United Kingdom, New Zealand, Canada - because they are Francophonie - France, and loads of other. I had no response. The chair responded to me and said: "It was made clear at the meeting you had at P.P.C. on 14th August that there would be no further correspondence on this matter once the meeting had concluded. The opportunity will be to discuss it in the Chamber." That is it. I still do not understand the proportionality, if I may respectfully say. If we are now going to be operating on a triage of offences then I think that the message needs to be clear for the public as to what it is. If it is going to be for what I have done - and bearing in mind the mitigation - then that is now clear that that is going to be the guide. But I did ask for a guide and I was given nothing. I do not want to have to be in this position to have to defend myself because I have apologised, I have had difficulties, I have worked

very hard to try and deal with those issues because - and Deputy Gardiner said - I carried on as Minister for External Relations when my civil partner died. I carried on. I did everything I possibly could. I also had an uncle that was in the twilight of life which I had 24-hour care for. So it was difficult but I still did the public interest first, serving Jersey and serving individuals, and I continue to do that day-in day-out, as I am sure other Members do. I must say, I have not had one constituent who has raised the issue of my failures in relation to that. They have been welcoming of my assistance, like no doubt the other Deputies. I have honestly not had one criticism directly to me to say: "You should resign" or: "You should do this" or whatever. I am very welcomed for the assistance that I give, and that is what we like doing; we are here to serve people. We are here to serve. Maybe it is my Catholic tradition of having to go to confession and confessing what you have done wrong and then be forgiven. I thought that is what you do and I thought that is what we had. I have not any particular Catholic adherence, I do go to different services in different faith communities because I respect inclusivity. I am not going to say to Members whether they should ... I will abstain because it is like a court, I do not think the defendant should basically vote for their own situation, so I am going to abstain and it is up to Members to decide whether or not what I have had to say, with respect and courtesy and with slight pressure because of the time ... I am so embarrassed this has taken so long and I will sit down. I think I have answered every Member's questions that they have. I have garbled through. I am just looking around to see if there is any Member that has any question that they wanted to have clarification of, because I think I hopefully have answered them at speed and I apologise for that speed. It is an A.D.H.D. trait.

The Deputy Bailiff:

Thank you, Deputy. I note the time. Do Members wish to adjourn or continue?

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

The adjournment is proposed. Are Members content to adjourn?

Deputy R.J. Ward:

Sir, is there anyone else to speak?

The Deputy Bailiff:

No, just the chair of P.P.C., that is all.

Deputy S.M. Ahier:

Sir, I will be brief.

The Deputy Bailiff:

Are Members content to continue?

Deputy M. Tadier:

Sir, can I ask a point of order? When we get to the vote can you confirm that it needs 25 votes to pass?

The Deputy Bailiff:

It does not need 25; it is a simple majority. The chair of P.P.C. will respond.

4.3.24 Deputy S.M. Ahier:

I want to thank everyone who has spoken and I recognise that this has been a very uncomfortable debate for us all. I would particularly like to highlight the excellent speech by the Constable of St. Martin, who has obviously personal understanding of the condition, and that was of great note. I disagree with Deputy Bailhache in relation to the disproportionality argument, but there is something

I agree with him and that is concerning abstention. I believe that this is a binary choice whereby you either believe that Deputy Ozouf should be sanctioned or you do not. When he said stand up and be counted I tend to agree with that sentiment. Deputy Morel mentioned the previous case of lying to the Assembly with a certain Member and the reason why he only got a vote of sanction on that occasion was that suspension was not immediately available then. It was only after there was a third offence during a single term that we could suspend a Member, so that was the only appropriate action that could be taken at that time. Some Members consider this proposition to be a disproportionate response to Deputy Ozouf's driving offences. I hope that during this debate the speech I made and those of others will have emphasised that there are broader concerns here than just speeding and failing to change a tax disc. Deputy Ozouf, in not attending a Parish Hall Inquiry, set a bad example as a leader to Islanders. He then failed to engage with the Commissioner for Standards until it risked being regarded as a further breach of the code. As an Assembly we need to determine whether we take breaches of our Code of Conduct seriously. Some Members have expressed concern about Deputy Ozouf's mental health and whether this should be taken into consideration as mitigation of his breaches. I agree that it should be a consideration, but it is a matter for Deputy Ozouf whether he feels that given his health concerns he is currently best placed to serve this Island. Some Members have used this debate as an opportunity to criticise the Commissioner for Standards for her processes. Some have even questioned why she did not fully understand the Parish Hall Inquiry system. The Commissioner should not be required to have a deep understanding of our Honorary Police and practices. She should not really need to know anything about how our court system works. She only needs to know what our Code of Conduct says and whether that code has been breached by a Member's actions. Expecting her to be an expert on our laws would only be a necessity if we also expected Members to be breaking those laws on a regular basis. This Assembly adopted the Commissioner for Standards Law and this Assembly agreed our Code of Conduct. This Assembly created this system. If we do not like it then it is within our gift to change it. A revised version of our code will be lodged for debate by us in a few months' time and I urge Members to come forward with amendments if they do not consider what P.P.C. lodges to be the best way forward. It is vital to democracy that we have a set of standards against which we can be held accountable to the public by each other and by ourselves, but good conduct is just as much about our culture as it is about formal rules and structures. Building and maintaining a strong, ethical culture requires constant vigilance and we must remember that a single transgression damages the public's trust in an individual Member, and an individual Member's bad behaviour can damage the trust placed in the institution to which they belong. One of the key factors which affect whether someone is regarded as trustworthy is others' perceptions of their behaviour and, crucially, whether this meets expected standards. Where this Assembly is concerned, trustworthiness relates not only to the behaviour of individual Members but also to our ability to show that behaviour is of a high standard and will be dealt with if it falls short. If we wish to rebuild Islanders' trust in this Assembly, we have to demonstrate that we care when our code is breached, otherwise there is no point in having one. I make the proposition, and I call for the appel.

The Deputy Bailiff:

The appel has been called for. Members are invited to return to their seats. I ask the Greffier to open the voting. If all Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. I can announce the proposition has been adopted.

Pour: 29		Contre: 17		Abstained: 3
Connétable of St. Brelade		Connétable of St. Helier		Connétable of Trinity
Connétable of St. Martin		Connétable of St. Lawrence		Deputy S.G. Luce
Connétable of St. John		Connétable of St. Peter		Deputy P.F.C. Ozouf
Connétable of St. Clement		Connétable of St. Mary		
Connétable of Grouville		Connétable of St. Saviour		

Connétable of St. Ouen		Deputy C.F. Labey		
Deputy G.P. Southern		Deputy K.F. Morel		
Deputy M. Tadier		Deputy I.J. Gorst		
Deputy L.M.C. Doublet		Deputy K.L. Moore		
Deputy M.R. Le Hegarat		Deputy Sir P.M. Bailhache		
Deputy S.M. Ahier		Deputy D.J. Warr		
Deputy R.J. Ward		Deputy M.R. Scott		
Deputy C.S. Alves		Deputy R.E. Binet		
Deputy I. Gardiner		Deputy A. Howell		
Deputy L.J. Farnham		Deputy T.J.A. Binet		
Deputy S.Y. Mézec		Deputy K.M. Wilson		
Deputy T.A. Coles		Deputy M.B. Andrews		
Deputy B.B. de S.V.M. Porée				
Deputy H.M. Miles				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy B. Ward				
Deputy L.K.F. Stephenson				

The Deputy Bailiff:

Accordingly, Deputy Ozouf is suspended for 28 days from today. The Assembly is adjourned until 2.15 p.m.

[12:58]

LUNCHEON ADJOURNMENT

[14:17]

5. Draft Residential Tenancy (Jersey) Amendment Law 202- (P.24/2025)

The Deputy Bailiff:

The next item is the Draft Residential Tenancy (Jersey) Amendment Law, lodged by the Minister for Housing. The main respondent is the chair of the Environment, Housing and Infrastructure Scrutiny Panel. Before the summer recess the Assembly agreed, in accordance with Standing Order 79, to request the Environment, Housing and Infrastructure Panel to consider whether it wishes to have the draft law referred to it. Deputy Jeune, I must ask you, do you wish to have the draft law referred to your panel?

Deputy H.L. Jeune of St. John, St. Lawrence and Trinity (Chair, Environment, Housing and Infrastructure Scrutiny Panel):

No, Sir.

The Deputy Bailiff:

Thank you. Minister, we now begin the debate again. I ask the Greffier to read the citation and the Minister will then propose the principles.

The Deputy Greffier of the States:

Draft Residential Tenancy (Jersey) Amendment Law 202-. A law to amend the Residential Tenancy (Jersey) Law 2011, including to improve tenants' rights under residential tenancies. The States, subject to the sanction of His Most Excellent Majesty in Council, have adopted the following law.

5.1 Deputy S.Y. Mézec of St. Helier South (The Minister for Housing):

In the run up to this debate I was not entirely sure how to approach this speech, given that it is for the exact same purpose as the one that I gave at the last sitting, so I did genuinely give serious consideration to simply standing up today and saying: "I refer Members to my previous speech" and then sitting back down again. But Members will be relieved to learn that that will not be what I will be doing. There is still much to be said, and events in the intervening time have given us plenty of material to work with; in particular the report from the Environment, Housing and Infrastructure Scrutiny Panel - which I will reference later in my speech - which has been extremely helpful, and I thank them for their work. But since the last debate the basic facts have not changed. Jersey has a Residential Tenancy Law that provide an inadequate framework for governing how residential tenancies operate in Jersey, which falls far below good practice and leaves ordinary Jersey people just trying to live their lives vulnerable to practices that nobody can muster up any justification for. This happens not because of a lack of education or a failing to enforce the rules that already exist, but because those rules are flawed. Those flawed rules allow injustice to prevail against fairness and decency, and this is known far and wide among Islanders, many of whom consider it to be one element of our multifaceted housing crisis that has left so many lacking confidence that they can enjoy a prosperous future in Jersey. I reinvoke Members to consider the cases that I mentioned in the previous debate such as the woman in her 60s who is living with cancer in a home which is developing mould, where the landlord has told her that she will issue an Article 6 notice to her if she complains any more about it, and there is nothing this woman can do about it. The young woman who embarked on a tenancy with her boyfriend, signed a renewal because it was all going well, but after it fell apart a month into that renewal found that the only way she could get out of her obligation to pay 11 months' worth of rent on a single income was to pay an extortionate fee that she could barely afford, and there was nothing she could do about it. Or the single mother who needed to move home for the well-being of her young daughter, found a tenant to replace her and did all the work to make it happen and put a deposit down for a new rental home, only to be stung at the last minute with a completely made up fee that she just had to pay because she had no rights. There was nothing she could do about it. All of those are real cases that I have encountered but was powerless to help with because the law was not on their side. The framework of fixed term tenancies that do not allow flexibility for when life-changing circumstances occur, combined with insecure periodic tenancies that can be ended on the whim of a landlord for the most devious and morally unacceptable reasons, represents the worst of both worlds. It is out of step with how many other places manage their systems, including soon to add to that list England and Wales where the Renters Rights Bill just yesterday left the House of Lords on its unstoppable journey to becoming law soon enough there. Our complete lack of any provisions for how rent increases can be dealt with creates a race to the top, disconnected from supply and demand as rental contracts have no limitations on what increases can be extorted for a renewal or continuation. The tenant is helpless to negotiate or bargain because they can simply be given an Article 6 notice or have a renewal refused if they have the nerve to try to negotiate. In painting that rather bleak picture many will reasonably ask the question: "But what about the landlord/tenant relationships where everything is going well and there are not any problems?" Well, the good news is that we can strengthen our framework in such a way that prohibits the worst behaviour in the market, without unduly restricting those who are getting on fine, or imposing requirements that to the majority will cause more hassle than they are worth. It is a fact that the framework proposed in

this Draft Amendment Law is a passive one. It does not create reams of new bureaucracy to produce, or hardline requirements to surrender yourself to some state institution. It works on the premise that in the first instance everyone will just manage privately between themselves where common sense and mutual agreement will be allowed to prevail. It is only when things go wrong that changes will truly be felt by those who are responsible for wrongdoing, and that counts for both landlord and tenant. For any Member who wishes to dispute this in this debate, I do not want to hear platitudes or lines fed to them by lobbyists; I want to hear specifics. If, as happened in the last debate, a Member wishes to criticise the draft law claiming that it creates, for example, red tape, I want them to tell us what red tape and tell us specifically and clearly exactly what is that red tape proposed in this law. If a Member wants to claim that the law creates more state oversight of private contractual relations they should tell us exactly what state involvement is proposed by this law. Tell us the Article that contains it. If they want to claim that there are measures in the proposed law that disrupt residential tenancies in a way that damages those relationships that are going perfectly fine now they should substantiate that and explain clearly how and why the provisions in this law do that. Not just vibe but substance is what they should do when making those claims. I invite that challenge deliberately because when it comes to it I am confident that the critics of this law will be unable to meet that challenge because the fact of the matter is that this Draft Amendment Law proposes no new forms, no new fees, and no new permissions. This regime is exclusively to the benefit of good landlords and good tenants, and exclusively to the disbenefit of bad landlords and bad tenants. The framework I am proposing for tenancy types will deliver greater security of tenure for tenants while providing enhanced pathways for landlords to regain possession of their properties when they need to. The framework I am proposing for rent stabilisation is about the most moderate kind that you could possibly imagine where landlords will be free to propose whatever rent increases they feel are necessary, it is just that the tenant will have the right to appeal to an independent tribunal if it is proposed to be inflationary and unjustifiable. This service, in all likelihood, will probably not be used that much because the mere fact it exists will help influence behaviour and ensure those involved in imposing rent increases ask themselves the question: "Is this necessary and justifiable?" While the Draft Amendment Law itself in my view represents a cool balance that manages to provide a system that grants protections, without doing so at the expense of the convenience of others, I acknowledge that not everybody was convinced of that last time around. I have listened over the summer to those who still had misgivings about it and that is why I am accepting 2 amendments that I hope will allay the concerns that some had. I am accepting the amendment from Deputy Renouf, who is proposing that the limit on rent increases above which a tenant can become eligible to appeal it to the rent tribunal should purely be set at R.P.I. (retail price index) rather than the mechanism that I had originally proposed of either R.P.I. or 5 per cent, whichever was lower. While the combination of R.P.I. and 5 per cent came about from looking at practice that already exists in the market, I feel comfortable that the prospect of R.P.I. going above 5 per cent any time soon is slim enough that the R.P.I. level on its own represents such a substantial step forward for protections for tenants that moderating my position on this as an olive branch to others is something that I am happy to offer. This is pragmatism over purity. The second is that from the Scrutiny Panel, who have proposed introducing a new no reasons ground for issuing notice to a tenant. I might otherwise have been inclined against such a proposal in case it opened up a loophole that could be used to commit revenge evictions against tenants. But the notice period the panel have proposed at 12 months is so substantial that I just cannot foresee a situation where a landlord wanting to be harsh and unreasonable would have enough patience to see that through, but meanwhile it could be used by a landlord who was planning for the long term but felt that their circumstances were not necessarily covered by the other grounds that are provided for in the proposed new Article 6, and so giving them that option would not be unreasonable. I thank both Deputy Renouf and the Scrutiny Panel for proposing those amendments. Moving more broadly on to the Scrutiny Panel's report. I thank them for their work and the constructive manner in which they have engaged in it. I paid close attention to all of the evidence that they received as they conducted their review and I changed my position on some things

as a result of it. I have proposed an amendment to the grounds for notice on serious and repeated nuisance, which was in direct response to their work on this, and I am accepting several of the amendments they are proposing which I think will enhance the law.

[14:30]

Their report makes several points that stand out to me. In particular, many findings that they offer on the perspective of tenants; a perspective which has all too often not been adequately platformed in these debates. They found that many of the housing insecurities that I have attempted to highlight were fed back to them by tenants who either experienced them directly or feared that they would, and the impact that would have on their behaviour. The chair in her foreword to the report says that from the evidence they received it is clear that there is real merit in improving the current law, and I completely agree with her. They also heard evidence from several key organisations at the coalface helping Islanders with housing insecurity, such as Caritas, Shelter Trust and Sanctuary Trust, who are all in wholehearted support of this draft law. I have to admit though, my favourite part of their report is the line that says: "There is significant misinformation and confusion around the law and the proposed amendments, making it harder for Islanders to engage with the real issues." You can say that again. There is no doubt for me that the most depressing part of this whole episode has been the misinformation proliferated by some out of naivety and others out of something worse, that has made it harder to have a clear and constructive debate on this draft law. In my speech during the last States sitting I included a myth-busting section where I went through that misinformation and tried to set the record straight. I will not repeat all of that except to reiterate what I said earlier, that the draft law proposes no new forms, no new fees, and no new permissions; and anyone who suggests otherwise is not being accurate. Instead I want to focus purely on the freshest misinformation. A few days ago States Members received a communication from one lobby group. Of course I defend every member of our society's right to organise and engage in free speech, but as a source of some misinformation that has been spread in this debate I make no apologies for tackling those comments head on. I will focus purely on 3 statements. In fact you cannot even get through the first paragraph of their circular to us before finding misinformation. In this they described this legislation as rushed. The absolute temerity. This project has been in the works for over 5 years. It really is absurd to claim that it has been rushed. Far more attention has been given to this project than so many other pieces of legislation affecting Island life and our economy. Later on they refer to new periodic tenancies making it more difficult to obtain vacant possession. This is also false. The process for obtaining vacant possession will remain the same as it is now. The landlord issues notice, they expect that notice to be complied with. If it is, no problem; if it is not they seek an eviction order through the Petty Debts Court. That remains the same under the old law and the new law. The changes are in regards to the grounds for notice being issued, which in many instances will make it easier for landlords to regain possession of their properties. Instead of what we have now in Article 6 of the Residential Tenancy Law, which is a blanket 3-month notice period, there will be various lengths of notice, depending on the reason for issuing it. Some of those reasons - such as the tenant causing a serious nuisance - will come with a much shorter notice period so the landlord can get to the Petty Debts Court quicker if it is urgent and necessary. For the first time ever the Petty Debts Court will lose their discretion on a stay of eviction in some circumstances as some grounds for eviction will become mandatory. That is something that came about as a direct result of a suggestion from the Jersey Landlords Association in my consultations with them, and I offer that to make sure that for when those genuine circumstances arise and where a tenant is absolutely in the wrong and potentially causing harm and risk to that landlord's asset, that the law is not on their side but instead on the side of the landlord who is in the right. This law makes advances in that direction, which in some quarters does not get the credit it deserves for that. The only landlords who will find it more difficult to obtain vacant possession of their property will be those who have no legitimate grounds for seeking to do so but are acting in revenge or retaliation for a tenant seeking to have their legal rights upheld. If they attempt to do so the Petty Debts Court will now for the first time have the power to overturn that

notice on the basis of it not being issued lawfully. I contend that those who would seek to force a person or family out of their home in revenge or retaliation for simply seeking to have their legal rights upheld are not the people we should be standing up for. Lastly, under unintended consequences they refer to the consequences of making an error such as issuing an incorrect notice to quit can be severe, a £10,000 fine. This is false. Nobody - I repeat, nobody - will be faced with a £10,000 fine for making an honest mistake. The offence that they are referring to is giving false or misleading reasons to end a tenancy; in other words, lying. It means knowingly or recklessly stating a false reason for issuing notice, for example, wanting to get rid of a tenant for complaining about mould, so just issuing notice and claiming that you intend to sell the property but then letting that property out right away as soon as the tenant has gone. It is not for those who honestly and genuinely thought that they were doing things correctly, or had a change of circumstance arise after the notice was issued that meant they had to change their plans. In neither of those kinds of circumstances would they be covered by this or meet any public interest test for a prosecution. But it is no wonder that many of their members would report that they are considering selling their properties after being told that they could be made criminals for making an honest mistake. But it is not true and it is unfair to mislead honest people in that way, and I am confident that once they know the truth about how this law would affect them, many will end up asking the question: "What was all the fuss about?" In their email to their own members the Jersey Landlords Association referred to the election coming up next year. I have to say I think that is a misjudgement on their part. Of course I defend their right to freedom of speech and to make whatever points they wish to make, but I believe in making that point they are unaware of how their interventions in the political realm are viewed by the majority of the public. They are perceived when making these points as representing vested interests diametrically against the macro interests of the people of Jersey as a whole. They have frequently opposed common sense and proportionate proposals to improve regulation in the rental market, such as the Deposit Protection Scheme and the Rented Dwellings Licensing Scheme. They did this initially with some success but when they were eventually defeated they had all of their doomsday predictions proven wrong. Those States Members who were most closely associated with their agenda in the last term of office paid the heaviest price for it at the last election. I think the reason for this is obvious. People in Jersey want to live good lives and want the people they care about to live good lives, and they do not like seeing other people being treated unfairly. At the end of the day an agenda that says we should preserve the rights of bad landlords to throw tenants out of their homes in revenge for the tenant making reasonable requests or seeking to have their legal rights upheld, and preserve the right to ramp up rents until the pips squeak when there is no economic justification for it is just not something that people like, especially when the mechanism to correct all of that does not involve overbearing impositions on the good landlords. But it is not just renters themselves who feel that way. Affluent people in our society, middle-aged people in our society, want to see their children prosper in Jersey and they do not like much of this argument either. Many of these are people who, having bought their own family-sized home at a relatively young point of their adulthood, look on at their children's prospects where they will either have to live at home with their parents until they are in their 30s to be able to afford to buy a bog standard one-bedroom flat, or leave in their 20s and never be able to afford their own mortgage because they are spending over half of their income paying somebody else's mortgage for them. They recognise that this prospect is making their children consider a life elsewhere. In the last debate I spoke of my experience meeting students at J.C.G. (Jersey College for Girls) where I asked them how many were planning to come back to Jersey after university, and not a single one of them said yes. The public by and large want action on this subject and they resent the way that our politics has in the past been so beholden to minority vested interests. It has clearly featured as part of their thinking at the last election and I have no doubt that it will do at the next one too, but that need not be something that worries us because we have the opportunity to do the right thing. We have the opportunity to support a balanced and carefully considered piece of legislation that proposes a framework for renting that advances the rights of good landlords and good tenants, while taking proportionate action to counter the bad landlords and bad tenants. It is for

those reasons that once again I commend the principles of the Draft Amendment Law to the Assembly.

The Deputy Bailiff:

Thank you, Minister. Are the principles seconded? **[Seconded]** Can I remind Members of Standing Order 106 before we go any further, the declaration of interests obligation which arises in relation to this matter. Hitherto people have made declarations of those interests.

Deputy I.J. Gorst of St. Mary, St. Ouen and St. Peter:

I rise to confirm I am a landlord.

Deputy H.L. Jeune:

I rise as a tenant, a chair of a homeless charity that owns a number of properties, and a landlord.

Deputy J. Renouf of St. Brelade:

Landlord.

Deputy R. Binet of Grouville and St. Martin:

Yes, I am a landlord.

Connétable M. O'D. Troy of St. Clement:

I am both a landlord and a tenant.

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

I am a tenant.

Deputy T.J.A. Binet of St. Saviour:

Landlord.

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

I am a landlord but for a family member who does not pay any rent.

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

I am a landlord.

Deputy D.J. Warr of St. Helier South:

A landlord.

Connétable R.A.K. Honeycombe of St. Ouen:

I am a tenant and also my Parish have 39 rental units, I am not sure whether they come under this law or not.

Connétable R.D. Johnson of St. Mary:

Landlord.

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

I am a landlord.

Connétable R. Vibert of St. Peter:

Landlord, but only to family members who do not pay me any rent, and I am also a landlord of a house in the U.K.

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

I am a reversionary owner.

Deputy K.M. Wilson of St. Clement:

I am a tenant.

Connétable A.S. Crowcroft of St. Helier:

My wife is a landlord.

Deputy C.D. Curtis of St. Helier Central:

A tenant with a long lease.

Deputy R.S. Kovacs of St. Saviour:

I am a tenant.

Deputy A.F. Curtis of St. Clement:

I am a majority shareholder in a company that is a landlord.

Deputy P.M. Bailhache of St. Clement:

Landlord.

Deputy I. Gardiner of St. Helier North:

My husband is a landlord.

Deputy S.Y. Mézec:

Tenant.

5.1.1 Deputy B. Ward of St. Clement:

Before I present my speech I would like to extend my thanks to the Chief Minister for his understanding and respect following my declaration not to support the principles laid down in this proposition, and it is the proposition that we got originally, not the amended version, that has been given out in the speech today. May I also thank the Scrutiny Panel for their rather extensive report of some 299 pages, which was most informative, but I have to say I found it far too long and at times confusing and disjointed. In particular to the referencing of experts views, of which some of them there are about 18 recommendations, I had some difficulty in finding out the referencing and where they fitted in. However, I read the report with an open mind and hoped that it would provide me with comfort and assurance that my mind and views would have been persuaded to change. Sadly, this has not been the case. I am surprised and disappointed that little reference has been made to the Fiscal Policy Panel's economic outlook report - which was published in May this year - which very much tells a cautionary message of how we move forward, especially in slow growth areas which I will talk to later, and have and will affect our economic situation in Jersey going forward in such global volatile monetary climate.

[14:45]

My main reasons for rejecting this proposition are an extended version of my previous speech, which I said in May earlier this year. On the 5 per cent capping of rent increases at the 11th hour yesterday evening, this aspect I see has been as a matter of compromise and a positive move to be removed, which I welcome. However, when landlords make repairs and conduct ongoing maintenance they need to be able to reflect these costs proportionately. That is where it comes in about bureaucracy, that if you are putting it up you do have to give the evidence. Repairs, maintenance and service costs are not capped and reflect market forces and supply. The only option for the landlord is to absorb these extra costs or apply more bureaucracy - produce the paperwork, that is - to evidence their increases. Private rental charges have not spiralled but in fact have fallen by some 11.7 per cent, as

stated in the Fiscal Policy Panel's report, resulting in a loss since 2022 of £100 million to the economy. Yes, £100 million. I am unable to find the evidence to the contrary to justify a need to bring in rent stabilisation. The changes in tenancy contracts: renewable fixed term contracts benefit both the landlord and the tenant, so they both know exactly where they stand. This approach has worked very well for many years. Many landlords can demonstrate that they do show some flexibility for a tenant who requests an earlier release from their lease in special circumstances. Many landlords are reasonable people and want the best for their tenants; it is in everyone's interests. It is alleged that changes are being proposed due to revenge evictions. The evidence is not there. Out of some 21,000 public and private rental properties only 7 evictions out of 21 applications to the Petty Debts Court were upheld in 2022. The recent freedom of information results show that the Viscount's department handled just 2 private sector eviction cases in 2024 and there has been none recorded as of July this year. This is a very small number with some relating to social housing providers. The evidence sought demonstrates there is little or no evidence to claim there are significant numbers of revenge evictions. This clear lack of evidence purports to using a sledgehammer in my view, a sledgehammer to crack a nut and go over the top. I do not condone bad landlords and/or bad tenants, which can be dealt with under the existing law and regulations, therefore, I cannot see the need to make any changes at this time. Notice periods: personally I find it inequitable that notice periods are different - 3 months for landlords and one month for a tenant. Notice periods really should be balanced and equitable. As I previously stated, landlords are reasonable people and cognisant of people's special circumstances. They can and do vary notice periods, especially if a tenant's circumstances change, sometimes overnight through no fault of their own. For example, when a company ceases trading and closes, which has happened recently in the building sector. One particular firm is affecting 200 people. This is serious. I am extremely concerned that these changes may have an impact on the Island's economic stability. Rental attracted some 11.7 per cent towards our economic position in 2023. Out of the 45 per cent that rentals provide, the private sector provides the large proportion of rentals, some 72 per cent. Any downward trend by these proposed changes may affect the economic percentage, especially if private landlords leave the industry. The downturn will automatically place pressure on other areas of business and Government to try and make up that shortfall. All Members, please read the Fiscal Policy Panel's outcome report of May this year, which makes very sobering reading. I quote from page 7 on the slowest growing sector section: "The real estate activities - rental - contracted by 11.5 per cent, £100 million, reflecting a 13 per cent decline in house prices since their peak in quarter 3 2022 as high mortgage rates contributed to the decreased affordability and weaker market activity." Let us take some cognisance from that. There is a warning to us all in this volatile global financial situation. We have no idea what is around the corner. This is a serious risk factor which we must heed. What I find interesting is that previously the Assembly agreed to hold back - and I am sorry for saying this - £20 million from our States grant into the Social Security Fund, to help bolster businesses, increase employees' income towards the living wage, and to support improvements in Jersey's economic position. So why are we risking to counter this action? To me it does not make sense without clear evidence to make these changes to our rental sector. We currently have the necessary laws and enforcement regulations. In my view, may I encourage the Assembly to reject any moves which brings in a risk of changes and pressures on our economic position. We need to leave well alone in these uncertain global volatile times. Please may I note that this proposition introduced in other jurisdictions has had adverse effects. One example is the experience in the Republic of Ireland, which provides a sobering scenario of unintended consequences. Rental controls there led to a collapse in the private rental investment market and they have had difficulties to attract landlords back to the sector. Members need to be cognisant of other jurisdictions' mistakes and experiences, as to ignore it may be costly to Jersey in more ways than one. I feel that this proposition may be very well intended but, in my view, I think it is a short-sighted gain which may result in long-term pain. These proposals may impact tenants due to lack of security on not having fixed term leases with a definitive closing date. Fixed term leases set out terms for both parties to follow and understand. These proposals incur more red tape, as I alluded to, that when

you do increase you have to produce the evidence through, for example, updating lease agreements ... who consider exiting the market by either selling or wanting their properties back for family members or themselves. If this happens tenants will have to find other homes, especially 3-bedroom homes, which we all agree are in very short supply. This market reduction could incur tenant insecurity, higher rents, impact on inflation due to the demand for these types of accommodation. Properties are an owner's asset, whether it be owner occupied or a rental property. More legislation is unnecessary at this time. The Minister considers there is a housing crisis which is not going to magically disappear overnight, as more family homes are needed. But these proposals could further increase the housing crisis by creating a short supply. Overall landlords do act reasonably by way of notice and management of their properties. These proposals, in my view, interfere and place barriers for the owner to retain their properties back due to the proposed hoops and increased bureaucracy being suggested. This cannot be right. Based on these aspects that I have just expressed, I cannot support the principles at this time. Please may I encourage Members to reject this proposition also. Thank you very much.

5.1.2 Deputy C.D. Curtis:

The last speaker spoke about the risk of bringing forward this proposition. We only have to look at the current situation due to the last few decades of inactivity to see the risk of not doing so. I made a speech on this matter back in July. My focus is on the bigger picture: the effects of unaffordable and insecure accommodation on Jersey generally. I made reference to the fact that this proposition had the potential for much greater impact than on rental housing only, and that our whole Island's economy has been and is being affected by insecure and unaffordable accommodation. I received a good response to that speech, apart from one particular Deputy who made reference to my speech with what I consider to be a strawman argument, stating that if all the problems I had referenced could be solved by this proposition he would 100 per cent support it. Well, my speech stated that all the problems were connected to insecure and unaffordable accommodation and that is a fact. It is a fact as demonstrated in almost every single survey and analysis covering these matters over the last few years. Just to summarise, the problems in our Island connected to unaffordable and insecure private rentals are firstly young people leaving. The number of Jersey residents in their 20s and 30s keeps dropping. Many young people who leave say they cannot afford to live here. Secondly, lack of essential staff coming to the Island. There are difficulties for all businesses in recruiting and retaining staff and this affects the profitability of our economy and the standards that businesses can offer. Thirdly, difficulty in recruiting staff in the education sector affecting our children's education, well-being and skills development. It is not just staff in the education sector; top professionals from the U.K. have been reluctant to join our emergency services due to high cost of living and housing. There is a struggle to recruit and retain social workers, affecting the experience of children in care and other vulnerable children, in fact affecting their whole childhood. Also, there is a high cost to taxpayers due to unaffordable and insecure housing. Large amounts of taxpayers' money pay for the higher cost of agency staff and essential services. There are large amounts of taxpayers' money spent on the rental component for low paid work as claiming income support. There are serious issues for the future due to young people feeling unable to afford to live here. The likelihood of an older population with insufficient younger people to support them creating future well-being concerns and a potential huge gap in revenues. After housing costs, which are some of the highest in the world, 29 per cent of children live in households which are below the relative low-income threshold, which is unacceptable. The high rental costs result in families with little or no disposable income. Statistics Jersey shows a high proportion of people living in private rentals are in rental stress, so less money spent in the local economy. A really important point is about quality of life for people. Tens of thousands of people in our Island are affected by issues such as not knowing whether they will have their home in 2 or 3 months' time as the lease end approaches or that they may need to find another £200 or £300 per month like magic because they have no idea how far the rent might increase or that they may need to move their children miles away from their schools. These are the sort of issues that

we are here to address and yet the States Assembly has allowed for insecure and unaffordable housing to continue for decades, which leads me to the next point, which is low trust in the States Assembly and Government. They show there is not a high opinion of States Members. Many people say that we do not focus on the big issues like this one. Finally, low voter turnout because why vote when your needs are ignored?

[15:00]

Everything I have just listed could be improved to a greater or lesser extent by making rentals more secure and more affordable. The proposition aims to do that. To not vote for this is to vote to leave things as they are, and where things are now is not good. Or to vote for certain sweeping amendments brought which will severely curtail the intent of this proposition and, in my opinion, make it purposeless. To vote against the proposition is, in my view, a dereliction of duty. It is a priority in this Government's Common Strategic Policy, and I quote: "To provide more affordable homes for Islanders and more confidence for the rented sector." That is a Government priority. The Jersey Landlord's Association makes a case against this proposition. They are making a case for their members and that is what they are supposed to do. They are a lobby group. States Members are not here to support lobby groups. We listen to them, but we are here to do what is best for the Island as a whole. There is overwhelming evidence that high cost and insecure housing is damaging our Island in many different ways. I think this is one of the most important propositions to come before us and I urge Members to support the proposition.

5.1.3 Deputy P.M. Bailhache:

I am sorry to say that I think that the Minister's approach to this debate is regrettable. He has exacerbated divisions, publicly describing the debate as: "One hell of a fight", and shaped it as being as a kind of gladiatorial contest between vested interests and the forces of progress. I take exception to that. I have no vested interests. I want to protect the interests of landlords and tenants. I have declared an interest as a landlord, but I would add that during my life I have been a tenant on several occasions. I have been on both sides of the fence, and I am perfectly capable of applying an objective view to the Minister's proposals. The Minister objects to my description of his amendments as ideologically driven, but I am certainly not seeking to impugn his integrity. Quite the contrary. I think it is a description of a conviction politician, which should be thought of as being a compliment. The Minister does have a conviction that tenants are badly treated by the law. That is the ideology that drives him. He is wrong. I do not think there is very much wrong with the law. It is certainly not an inadequate framework, as he has suggested. It may need tweaks, and it may not be effectively administered or explained, but that is another matter. I want to address briefly the views of some Members that the principles should be adopted and the debate should move on to consider the detail. It will be obvious from the amendments that I have lodged that, in my view, the Minister's amendments are deeply flawed and, if we get to that stage, I shall explain why. But we should only adopt the principles if we think that the Minister is, broadly speaking, moving in the right direction. In my view, he is not. The general thrust of the Minister's proposals is that more regulation is the answer. He does not really understand what the problems are, but he has convinced himself that the solution is more controls. Landlords and tenants should be told what they can and cannot do, more regulatory bureaucracy should be established in the shape of a rent tribunal and rules governing what landlords can charge. That is not, in my view, the right direction. What would be the right direction? I think there are at least 2 things that the Minister could do which might lay the foundations for sensible amendments to the law. The first is to make greater efforts to ensure that landlords and tenants know what their obligations are but, more specifically, so that tenants know what their legal rights are. The 2011 law contains no express provision about explanatory guidance, but the Minister surely does not need a statutory prod to direct that some simple guidance be drawn up for the benefit of both landlords and tenants. The laws, regulations and orders are there, of course, on the website but they are not always easy to understand. Guidance in plain English would be of enormous benefit

to everyone. I was struck by the Minister's story in his address to us a few moments ago about the constituent with cancer who was living in premises with mould, which the landlord refused to address. The Minister explained to her the minimum standards rules, but the constituent was unwilling to use her legal rights because she feared eviction. Guidance might have explained that landlords cannot evict tenants. Only the court can order an eviction, and it does not have to. The Minister is shaking his head, but that is the law and if asked during eviction proceedings, the magistrate must consider a stay after taking into account numerous factors, including where the balance of hardship would fall and any other relevant factors. The fact that a landlord has failed to deal with mould must be a relevant factor. If the magistrate was told that eviction proceedings had followed because of a valid complaint about mould, I cannot believe that anything but a very long stay of execution would have been ordered. A tenant does have considerable protection. The law would not, as the Minister has asserted, have been on the side of the landlord. Simple guidance as to legal rights ought to go a very long way in helping people to resolve their differences. The second thing that the Minister could do is to assemble some data. There is virtually none underpinning these proposed amendments to the law. The Minister makes assertions, but the only apparent evidence is his inbox, which is obviously not available for inspection and critical analysis. He asserts, for example, that revenge evictions are perfectly legal in Jersey; a highly tendentious statement, but I will let that go. Where is the evidence that they take place? In his comments paper, the Minister admits that there is no data, but he states: "The number of revenge evictions are unknown by design." But whose design? Who has deliberately obscured the number of revenge evictions? It is a nonsense. No one knows whether there are in fact any revenge evictions. The Minister has invented a problem in order to justify the solution of preventing landlords from obtaining possession of their property other than in specified circumstances. He could request information from the Petty Debts Court as to the number of occasions tenants face eviction because of an action taken by them but he has not done so. Deputy Ward referred to this. It would be inconvenient to know, perhaps, that it rarely happens. Again, the Minister asserts that, and I quote: "Tenants can face excessive or unreasonable rent hikes with little or no warning." No evidence is offered to support that assertion. Given that landlords have an existing obligation under the 2011 law to provide tenants with an agreement specifying *inter alia* when the rent is to be reviewed and the basis of that revision, it seems surprising that excessive rent rises would be permitted by an agreement. Would a tenant really agree to a clause which allowed the landlord to impose rent increases as he thought fit? Rent increases have to be agreed. If a landlord proposes an excessive rent increase not covered by the agreement, the tenant can refuse it and should. Perhaps tenants do not know their rights but then that comes back to the question of the absence of clear guidance. The important thing is that there is no data supporting the assertion that excessive rent increases are imposed. I do not say it never happens, but we should know the extent of the problem before we start to legislate. Deputy Barbara Ward spoke of the economic challenges and the economic effects of the amendments. Where is an economic impact assessment of this legislation? Scottish experience suggests that it will diminish the supply of rented accommodation and as a result cause an increase in rental levels. Is that a fair assessment? Why has an economic impact assessment not been commissioned by the Minister? Deputy Curtis is concerned about unaffordable rents. If the Minister's proposal might make matters worse, we need to know. The Minister's proposals do include a provision for requiring rent information from landlords and if we get to the Articles, I will support it, and if the principles fail and the Minister brings back a freestanding provision seeking such information, I will again support it. I hope that Members will not support these principles. The Minister's approach is all wrong and if we get to the Articles, I fear that the complexities, both of the Minister's proposals and all the amendments, will mean that the likelihood of a satisfactory and sensible outcome is remote.

Deputy K.F. Morel of St. John, St. Lawrence and Trinity:

If I may just briefly? I was not here at the beginning of the debate, so I would like to be recorded as being a landlord, Sir.

The Deputy Bailiff:

Thank you very much.

Deputy M. Tadier of St. Brelade:

I need to similarly state that my spouse is a landlord.

The Deputy Bailiff:

Thank you. Who wishes to speak next on the principles?

5.1.4 Deputy H.L. Jeune:

The Assembly in July referred this Draft Amendment Law to the Environment, Housing and Infrastructure Scrutiny Panel as Members were concerned that they needed more information to base their final decision on. Our final report was published at the end of August. It provides the evidence and analysis to hopefully help Members to take an informed position. But let me be clear, this is not something that can be explained in a few pages. The issues are detailed, layered and require thoughtful examination regarding this principles vote. For the panel, our views have not changed since the July sitting in supporting the principles, but I will reiterate some key aspects for Members. The amendment law marks a significant shift in the tenant/landlord dynamic. As a panel, we are united on our view that reform is necessary and we fully support the Minister's overall objectives laid out in the principles of enhancing tenant security, improving transparency in the rental market and introducing stronger mechanisms for dispute resolution.

[15:15]

Housing is one of the most pressing and complex challenges facing Jersey today. With nearly half of households renting, a fair balance and effective rental sector is essential to the well-being of thousands of Islanders. Landlords are an important part of meeting this need and a fair and effective system benefits everyone. When we began our scrutiny of the Draft Amendment Law, our panel asked a simple question: will these reforms deliver what the Minister has promised? Will they mean longer and more secure tenancies? Will they make responsibilities clearer for both landlords and tenants and, above all, will they strike a fair balance in our rental market? To answer these questions, we looked closely not just at the wording of the law but at what it would mean in practice. We examined whether there could be unintended consequences, how workable the rules would be and what lessons we could learn from how other jurisdictions have approached similar reforms. To help us we engaged the Right Honourable Michael Tomlinson K.C. (King's Counsel), a senior barrister and former Solicitor General for England and Wales and member of the U.K. Privy Council. His independent report contained 34 recommendations, many of which shaped our findings, but some did not. We also went out and listened. Over 300 Islanders responded to our surveys. We took written submissions, held public hearings and met with landlords, tenants, experts, advocacy groups and sector bodies. The stories we heard revealed just how differently the rental market is experienced depending on which side of the tenancy agreement you were on. Tenants told us about the stress of unpredictable rent hikes, notices to leave with little warning, and the feeling of being in a system that is stacked against them. Some even had no written lease agreements at all. For those already facing financial pressures or language barriers, the insecurity was overwhelming. Landlords, on the other hand, spoke about their fear of over-regulation, of red tape making it harder to provide homes and of measures that might unintentionally drive them out of the rental market altogether. The panel found that the current system is confusing and often misunderstood and does not provide the clarity, transparency or fairness that either party needs. The panel also found that the Draft Amendment Law has been misinterpreted by all stakeholders in different ways. There is widespread support for better data, clearer rules and stronger enforcement because good landlord-tenant relationships do exist, but they are far from universal and when things go wrong it is often those without power or knowledge who pay the price. We found that in some areas the Minister's policy aims have not been fully

delivered in the way the law has been drafted and in other areas the proposals may have gone too far, either by leaving too much to be decided later through Ministerial Orders or regulation or by placing extra demands on departments that already have very limited resources. The introduction of rent stabilisation measures is a landmark shift. For tenants, it is about transparency and predictability, knowing you will not face a sudden steep increase that leaves you scrambling. For landlords, it is about whether the rules will still allow them to invest, maintain their properties and stay in the market. Key stakeholders emphasise that an annual rent limit with a notice period and limiting the rise to R.P.I. represented best current practices. That is best current practices. The panel received a substantial volume of evidence opposing the proposal rent increase limit of capping 5 per cent or R.P.I., whichever is lower, and we have heard today from the Minister of his acceptance to amend this proposal. But without reliable data on rental prices, we cannot properly assess the economic impact, which is why the Minister's proposal for a new data scheme is vital. Making periodic tenancies standard is intended to end practices such as silent non-renewals that are known to happen under fixed term contracts. The panel found a widespread perception of insecurity where tenants were afraid to raise concerns fearing non-renewal through fixed term or abrupt notice and, to remind Members, under the current 2011 law under periodic tenancies, it is still a 3-month for landlord and one-month for tenant notice period. That is what currently happens with no reason. While tenants supported these aims of the changes to periodic tenancies, there is no clear evidence that periodic tenancies alone provide more security than fixed term contracts. The Minister has proposed as well that an initial fixed-term contract must still be agreed for up to 3 years alongside the introduction of statutory grounds for notice for periodic tenancies, which is designed to create the tenant's security. That is the bit that we focus on is that grounds for notice for periodic tenancies. However, even with this, the panel have serious concerns about the shortest notice periods, especially the 7-day ground, and the need for clearer accessible guidance to prevent misuse by landlords or unwittingly penalise landlords due to misinterpretation of the proposed law, so the panel has put a number of amendments to strengthen the new tenancy agreements. The creation of a rent tribunal is positive, but questions do still remain about resourcing operations and reliance on secondary legislation. The panel has made a number of amendments to ensure that the rent tribunal remains a passive mechanism. The introduction of a 2-tier penalty regime may deter bad practice, but proportionality and enforceability remain still a concern, and this will be touched on if we get to the readings of the Articles and the amendments by the panel. An awareness of rights, both under the current law and of the new law, is low and without well-resourced, accessible support for both landlords and tenants, the reforms risk failing in practice. Throughout our review, one thing has become clear: tenants need greater security, transparency and fairness but landlords also need confidence and clarity if they are to continue providing homes. The law must work for both because, if we get this wrong, the consequences may be serious: fewer rental houses, higher insecurity, and a system that fails the very people it is meant to serve. While we support the broad direction of travel, we have identified several areas where we believe the legislation could be improved to ensure that it is fair, workable and proportionate, and I hope that I will have a chance to present these improvements during the Second Reading of the debate through the Articles. On this, I would like to make one point absolutely clear, the Minister himself has welcomed the panel's work, describing our findings, recommendations and amendments as constructive. He even urged Members to focus on them as a basis for the debate. It is therefore disappointing that the media, particularly the *J.E.P. (Jersey Evening Post)*, misrepresented our work as part, and I quote: "of the wrecking amendments". That is simply wrong. As I set out in my foreword to the report, the evidence shows that there is real merit in improving the current law. Islanders deserve a serious, open debate on the detail that affects their homes, rights and responsibilities. The panel has worked in good faith to develop evidence-led constructive proposals, so to portray this as anything else undermines Scrutiny's role, misleads the public and diminishes the hours of careful consensus building that we have undertaken. I would like to thank the Minister for not only accepting half of our amendments - that Members will discuss later, which partially pave the way for more comprehensive law - but for publishing his initial response S.R. 3/2025 to the E.H.I.

(Environment, Housing and Infrastructure) report today which largely fully or partially accepts most of the panels 66 findings and the 18 recommendations. I am also grateful to him for the time he and his officers gave during both the Scrutiny process and in informal discussions. Members will have seen that the Minister has drawn on evidence gathered by Scrutiny to strengthen his amendments, a clear demonstration of the value of Scrutiny in shaping good legislation. That said, the process could have been stronger had the Minister discussed those Scrutiny inspired amendments directly with us allowing greater consensus and shared understanding of the aims behind them. I also want to thank my panel for their hard work and teamwork in reaching consensus on the report, not only on recommendations but on the amendments themselves. As Members know, Scrutiny members are under no obligation to support amendments put forward by their panel. I am therefore particularly grateful that we are able to stand together on these principles and our proposed amendments demonstrating that diversity of a political opinion can still lead to genuine consensus. My thanks also go to the Scrutiny officers and special adviser. Their professionalism, patience and expertise have been exemplary. Their detailed forensic analysis of a complex set of amendments has been vital, giving the panel confidence to navigate these issues with clarity and precision. Their contribution has been essential to delivery of this report and to support the Members today. Finally, I would like to extend my sincere thanks to all Islanders who submitted evidence or took part in our hearings. Their contributions have been invaluable in helping the panel gather a wide range of perspectives and ensure that our work is surrounded in the experience and concerns of the community we serve. For now, I urge Members to support the principles of the Draft Amendment Law and to approach the detailed debate ahead with the spirit of collaboration and a shared commitment to thoughtful, balanced legislation that serves the best interests for both tenants and landlords. Thank you. **[Approval]**

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

I am delighted to follow the chair of the Scrutiny Panel. I think she put it really well and I wanted to reiterate that there is no war or battle here, and I think in this Assembly the majority of us are genuinely just trying to find the right compromise and listening to everybody involved. I think with the help of the Scrutiny review that we have been able to do that and consider all of the issues really carefully. Hopefully, once we have debated all the amendments following this in-principle debate, we will be able to get to something that is of the highest quality. It is really important that we consider this issue and take it seriously. The length of the documents has been mentioned by other speakers, and I think we have all felt that, have we not, there has been a lot to read? Again, it is a really important issue. There is not a lot else that is more important than housing, is there, than the homes that we live in; our health perhaps, the relationships that we have with others, but all of those things take place in the setting of our homes? In terms of documents, while we are talking about documents, I wanted to thank the Greffe for the guidance document that they have produced because I think that is really helpful, so thanks to the Greffe for that. A document that I read with interest was the C.R.I.A. (Children's Rights Impact Assessment) and I do check for these because they are documents that tell us, of course, the impact on children's rights that a proposition has, and I was pleased to see a really detailed C.R.I.A. with the Minister's proposition. I just wanted to raise some of the points that were within that C.R.I.A. document that perhaps Members may not have had time to look at. I looked through the Scrutiny review and I was quite staggered at the amount of evidence that was received by the Scrutiny Panel but when I looked through that, there was not a lot of talk about children and families. Again, that is why it is really important that we do have these C.R.I.A.s because it forces us to consider that point of view when, of course, children do not often have a voice in the political sphere. One of the things that was raised in the C.R.I.A. was a survey that was carried out, I believe, by the Children's Commissioner. I think it was called the Life on the Rock survey and housing was found to be one of the top concerns of children. As adults sometimes it is a huge concern for us, is it not, if we are looking for a house to live in? I think we have all had our own experiences with that. Children also have those experiences, but they do not have the power to make decisions around that.

Some of the children that took part in this survey, they spoke about ... and I will read some of their words: "The housing has been crazy too. The first house we rented for 2 years. Then we moved to another rented house and because we were under the impression in the first house that we would be kicked out, that they were going to sell it to developers to knock it down and end our lease, the second house we were renting and my parents decided they wanted to buy." It goes on and these experiences that children have of being moved around. I think universally the children who talk about this feeling of being moved around and almost being powerless to prevent it, it is really detrimental to children. One of the reasons why I will be supporting the principles of this is that I want to see that reduced and I think that these proposals will do that and I think some of the amendments will do that even more effectively. I will stop there and I think I might have more comments to make on the amendments, but I wanted to thank the Minister and the Scrutiny Panel for the work that has been done in the hope that we can get to something that is really good quality.

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

I thought I would speak at the beginning because - to follow the previous 2 speakers - I picked up something that was said by the chair of the panel, the comment that was in the report that there was real merit in improving current law. I think that is the key point because I speak in strong support of the principles of the Draft Residential Tenancy Amendment Law. This is not just a technical update; it is a moral and practical response to housing pressures faced by thousands of Islanders.

[15:30]

We are talking about the day-to-day experiences of thousands of people on this Island, particularly ... well, it is not particularly; one group that is picked out of that are young people. I have had lots of conversations recently across all of our schools and colleges with young people post-16 and we asked every single one of the groups: "Will you stay on the Island?" and there were some really mixed responses. One of the issues was around housing: how can they get secure housing for themselves so that they can build their futures here if they do not have that support from elsewhere? There is a real issue, but it is not just young people. It is people who want to downsize, elderly people who live just on a pension, for example, who are facing very expensive rents and no control, perhaps, over the rises in them and perhaps some insecurity in their housing at a time in their lives where that is exactly what they do not need. In the context of Jersey, nearly half of Jersey's households live in rental accommodation - nearly half - so it is a significant number. There have been insecurity, unpredictability and a lack of recourse and this law begins to change that. We have a number of amendments coming through; some have been accepted by the Minister. The Scrutiny Panel has done a lot of work on it. There are some, obviously, that I think are ... I am surprised that such significant changes were allowed in amendments. They were so I hope we do not accept those ones, but I hope we can get through the principles and get on to those debates. So, what does the law begin to do? It introduces a framework for rental stabilisation, a concept long overdue in Jersey and under this law, that means that rent increases will be limited to once a year with at least 2 months written notice. That is the reality of what this law is about. That is not radical; it is responsible. It gives tenants predictability, and it gives landlords a clear and fair structure. For many tenants, there is not significant extra money, particularly for young people who may face deposits and so on and come to the bank of mum and dad for those deposits, which perhaps they do not get back straightaway. It takes time and so you pay the next deposit as well. They are planning their incomes very much linked to their rents because such a large proportion of it is their rent, so they need time to adapt to any rent change. That rent stabilisation in that form is simple, it works and I think it is something that we should be supporting. This law also strengthens security of tenure. It requires landlords to provide a valid reason when ending a tenancy and if that reason is false, obviously then there are consequences, and the Minister introduced those consequences and told the reality of those consequences at the beginning. People are renting a home. A home is the most basic need for everybody and that security gives you security in so many places. Many of us may have had

experiences of not having that security, particularly when young, and it is not a good place to start your life. It is not a firm basis for how to build for the future so anything that gives that security, I think, is beneficial, particularly for families on the Island. But it does not prevent landlords from reclaiming their ... well, I put the word “property”, which is the home of the person living in it. In fact, it introduces mandatory grounds for eviction, including serious breaches of tenancy agreement, illegal activity or the landlord’s need to occupy the property themselves. These provisions protect the landlords from being trapped in untenable arrangements and ensure that they can act decisively when necessary. It is not about punishing landlords; it is about protecting tenants from arbitrary or retaliatory evictions, and it is about ensuring that a tenancy agreement means something. When you sign it means something and gives some protections given that you may be paying 30 per cent, 40 per cent, 50 per cent of your income each month. For me, for the first time, a very important part of this law is the establishment of a rent tribunal, an independent body to resolve disputes. This benefits landlords as much as tenants. It offers a clear, impartial process to challenge unreasonable claims, enforce contractual obligations and avoid costly legal battles. The courts are a place where many people will never go to get retribution because they are not set up for that. They are viewed as a last resort and that is not the place to solve simple disputes over a rental. A rent tribunal can simplify this and be a very beneficial change to our law. In the wider context - it will be mentioned, I am sure, so many times - the 2024 Jersey Opinions and Lifestyle Survey found that 64 per cent of renters who experienced a rent increase in the last few years struggled to meet housing costs. There are thousands ... over 20,000, 30,000 people renting; 64 per cent of those is a significant number. When we talk about election issues, this is an election issue because people are worried about their homes and we need, as an Assembly, to prove that we have not forgotten them, and I hope that we can consider that as we move through the principles and onwards. But that struggle to meet costs is not sustainable; it is not acceptable, and it is driving young people out of Jersey. It is also driving a section of our community out of Jersey who are around 40 or 50 with children who are leaving. Some of the most skilled people to say: “I can survive elsewhere and I can buy, or I can rent just in the same way and have other opportunities.” So, the impact of this ... yes, it is complete. Data is difficult but it is happening. But if we wait so long as well, if we record something and do nothing now, it will be too late. I can refer back to the last population policy that came forward and the detail there was about our numbers increasing too quickly on the Island: “There are too many people coming to the Island.” That has changed rapidly within the course of 2 or 3 years, the view on where we are, and these things change rapidly. You cannot afford to wait to make change. This law is a response to reality. It aligns with our Common Strategic Policy, which was voted for in this Assembly almost unanimously; I think there was one vote against. It reflects years of consultation, as mentioned, tenants, landlords, housing trusts, advocacy groups. It is measured, it is proportionate, and it is deliverable. It is not anti-landlord; it is pro fairness. It recognises that a healthy rental market requires trust, transparency and balance. It protects tenants from instability but also protects landlords from uncertainty, bad faith and legal grey areas and so we have a choice. We can continue to defend the status quo that leaves tenants vulnerable and communities hollowed out or we can agree in principle and say that in Jersey your home should be secure, your rent should be fair, and your rights should be respected. I want to highlight that this law ... I go back to the Scrutiny Panel because obviously I am a great advocate of Scrutiny. I spent most of my career on Scrutiny and it has undergone rigorous scrutiny. The principles were sent back for that scrutiny. We have now seen that, the 286-page document, a fantastic read. I always recommend a large document and the Scrutiny Panel reviewed the draft in detail, found that it aligns with our strategic priorities on housing and cost of living, so it is doing what it needs to. There are amendments to be debated, and those changes may be made. That is for later on, but we are at the point of principle at this moment in time. The report supports the law’s aims of delivering longer, more settled tenancies, stable rental returns for landlords and clear responsibilities for both parties. The legislation is not rushed; it is evidence-based and carefully considered. The Assembly decided by a small margin to return the principles to Scrutiny. We are

now back with those, and I urge Members now to support the principles and then have a thoughtful and considered debate over amendments as they come forward. Thank you very much.

5.1.7 The Connétable of St. Mary:

I shall be relatively brief and not touch on the detail of either the Scrutiny Panel's recommendations, of which I am a member, or the Minister's main proposals. I would like to stress the point made by both my chair and others by referring to one paragraph in our report: "At its core, the Amendment Law represents a reconfiguration of the relationship between tenants and landlords. The evidence collected demonstrates a stark divergence in how each group views the reforms, approaching them from fundamentally different perspectives on rights, responsibilities and the balance of power in the rental market." Quite aside from the submissions made to Scrutiny, I know that Members have received direct emails from a variety of people on both sides of the camp more or less saying vote yes or no. That demonstrates a lack of understanding as to how nuanced the law is and the amendments are, and it deserves a greater explanation, and that is what Scrutiny has set out to achieve. We are discussing here the principles. Hopefully, they will be approved so we can go on to debate in more detail some of the amendments and the provisions and if any Member has misgivings about certain of the provisions, they can vote against that particular point at that stage. We need to get past first base by approving these principles. I do emphasise that. The Members refer to the polarisation between the 2 groups. There should not be a polarisation. A tenancy agreement is of mutual agreement, and we need to get united on this, and the Assembly needs to assist in that unitedness. I suggest that if we reject the principles, that will be a black mark against the Assembly and will be taken as a lack of respect for the electorate, if not Scrutiny.

5.1.8 Deputy M.R. Scott of St. Brelade:

If you are going to drive a car that is about to crash, remember only one person is driving it. I refer to Deputy Catherine Curtis's speech. I have an interest in Islanders being properly housed and supported because this is important to the economy. In turn, the economy supports them and all Islanders, and the economy needs to be supported. I accept availability and quality of housing supports the economy but this law in its current form does not support widespread availability on quality of housing owing to our current economic environment and the state of our housing market. It focuses on redefining rights of a potentially small and unspecified number of individuals, with the aim of supporting them at the expense of the long-established property rights of many. There are many ways to crack a nut and I sympathise when Deputy Barbara Ward describes it as a sledgehammer. These proposals have been developed and scrutinised in a silo in the absence of an economic impact assessment. The Minister was provided with one by Government's Economics Unit last week, which has set out the issues. It subsequently was shared with the Council of Ministers through official channels yesterday. I do not know if the Minister has shared the economic impact assessment with his Scrutiny Panel but it affects their position on available economic advice, to which they referred in their report. This law will not solve the issue of unaffordable rents, which I have to say was why it was of interest to me in terms of my own engagement with my own constituents. I have been very concerned about unaffordable rents. But it will not solve it because the problem is an economic one. Rising costs are nothing new and they are happening everywhere. In our own Island we have a problem, unlike anywhere else, that makes rising rents unaffordable for quite a few, and that is the far greater extent to which inflation has grown more than businesses in the Island.

[15:45]

This has meant profits and wages have not kept pace with inflation and, therefore, that is a major factor in terms of people not being able or struggling to pay rents. I would dearly love to be introducing or supporting measures to magic up an economic transformation of this Island, which I dearly would love to see. But I am an Assistant Minister whose delegated role in the economy lies elsewhere. The Minister for Housing is not responsible for improving productivity either. He has

been working in a silo. However, bringing in measures that do not support the economy are not helping with widespread availability and quality of housing is counterproductive to his very own objectives. The economic impact assessment, to which very few of us seem to have had sight of unfortunately, has pointed out how this law in seeking to support tenants has created significant reasons for landlords to divest and for others not to invest in buy-to-lets. High interest rates, increases in stamp duty, the proposed removal of mortgage relief, the extra costs of compliance with the proposals and indeed the Economics Unit did do a calculation on this showing the expense for landlords. This negatively affects the availability and quality of rental properties for your and my constituents. I for one do not want tenants to be forced to tolerate relationships with unsympathetic landlords. I want them to have more choice and indeed there are many other ways of supporting them, whether it is greater availability of social housing and indeed that is quite a major part of the market or at least rentals. A lack of supply can exacerbate the issue by depriving them of choice. This law, because the Scrutiny Panel's report has been mentioned in certain content of it and I am going to emphasise something very much, it is overly complex. It is seeking to support people in a way that is more complex than is necessary. In that respect, you may also call it red tape, along with the obligations of landlords. I would say that in terms of the Common Strategic Policy there are some issues there. I try and think, how did it end up so complex? How did we even end up in a situation where right now we are debating this law without having had the information that I believe that all States Members should have been able to take into account? As I have mentioned, part of the problem is silo. But I would say it comes down to this, there was not really an agreed problem statement. We had the Common Strategic Policy saying will improve arrangements for both tenants and landlords. But we never said what exactly is the problem. How are we going to solve this with a single law? Instead what we have found is that the Minister has suggested that there is a problem and not everybody can say, well, that is the main problem here. Indeed some are not even aware of it. I personally have not had any constituents come to me and talk to me or complain about revenge evictions. I did mention this to the Minister for Housing, who said: "They do not go to you, they go to the Citizens Advice Bureau", which I thought was quite interesting. I find it somewhat ironic that Deputy Kovacs asked the Minister for Housing yesterday what steps he was taking to counter misinformation. The reported response of the Minister to the States Members' decision to delay this debate, at least this is what the press report says: "The delay was down to cowardly politicians as a deliberate act of sabotage, driven by vested interests playing dirty tricks and that this is what happens when you have politicians who do not have the courage of their convictions." I have the courage to say I do not believe that really was an acceptable way to respond to a proposition brought by Deputy Inna Gardiner, who at the time - and it is recorded in *Hansard* - explained her reasons for bringing that proposition. It was to enable more information to be available to States Members because they were deliberating could they support the principles or not. Did they have enough information? Even now that information eludes many. The Minister did not respond to the delay of the debate by saying: "I will seek to accommodate Members' concerns." Much of the problem with the complexity of these proposals, and I perhaps will give a moment to go through this sort of logic, the way that I have tried to in my discussions of why I had personally tried to amend this or bring an amendment to this law, what the kind of logic has almost been. It has been I want to make things more secure for the tenants but then on the other hand I want to let them get out in certain situations. All the time I have said: "Okay, just explain to me, what are the courts doing that is wrong?" There are court mechanisms that support people in these circumstances. Is it that tenants do not know their rights? Because, as Deputy Bailhache says, they cannot be evicted, other than by order of the court. Even when you look at the order of the court, if a landlord brings proceedings about rents, they can rewrite the contract. The court is there to look at things from a case-to-case basis and provide relief for tenants. In this general framework of allowing people to dispose of their properties with relative freedom, the court is there to dispense justice. But instead I find that what has happened is that it is almost like the Minister has decided: "Okay, I am going to decide what is fair." Some of the questions I have been asking him that I still have not got an answer to, but he might well choose to do so in his

speech, is what is so fair about preventing a landlord to terminate a lease in accordance with its terms, to provide a home for a beloved and disadvantaged niece or nephew? Because I do not believe that is in the reasons that he thinks are acceptable, as opposed to a grandparent who may have abused them in childhood. What does he know about these personal circumstances? What is fair about preventing sophisticated contracting parties, such as multi-millionaires who want 5-year fixed-term contracts? What is fair about preventing them to make their own judgments in what is fair? What is fair about forcing the policy judgment of the Minister or lay Rent Tribunal members on what is fair on parties in substitution for the courts dispense on a case-by-case basis? What is fair about depriving the court of jurisdiction when considering rent matters, and if the Rent Tribunal has not been involved, to exercise its discretion? What has been wrong with it? Because if that is been part of the problem statement I really would have liked to have known. It has never been presented to me as part of the problem statement. What is fair about introducing measures that would make every rental property a form ... and I know that Members will take issue with this, like a kind of social housing? Because what I mean by that is that basically you have to rent on the terms that the Minister thinks is fair in terms of you terminating, you exercise and things, regardless of the court. I have some difficulties in comprehending all this. What is fair about disincentivising investment in buy-to-lets that will impact on the choice of property available to tenants and lead to further economic contraction, quite possibly that could hurt our own community? What is fair? I come back to, because I seem to have gone into the whole area of misinformation, Scrutiny has pointed out the lack of certainty created by the Minister's proposals and the increase of his Ministerial powers. What we see is there has been a lack of joined-up and systemic thinking and that creates risk for Islanders' well-being if the Minister is supported in pursuing his current course. I did work on an amendment in the absence of an economic impact assessment being prepared and shared and being part of the information available to Scrutiny and to States Members. I have to say, and I really would have enjoyed my summer much better if I had just jumped off this vehicle before it crashed into flames. I think some people will say: "Well is it still safe to drive if my amendment is accepted?" I would say: "Yes, it will not be perfect." I know that the Minister is already beginning to scoop out things where it could have been better and likewise I can pick holes in his. Hey, extortionate fees for leases. How come we are still allowing that to happen? Because basically that is one of the things that was raised by Scrutiny. I have not solved it, they have not solved it, though he might pick it up and solve it. As I say, people will be saying, no, you have been involved in all this anyway. Other than I really was concerned, I wanted to come out with something positive on behalf of my own constituents.

5.1.9 Deputy A.F. Curtis:

Scrutiny has conducted a thorough review of the law and I can keep my comments on the principles brief, as the Connétable of St. Mary covered most of what I wanted to say. The most important point, I think, is the argument put forward by some to us in exchanges, as the Constable said, has been one of for or against the principles. The reality is, unfortunately, unexpectedly nuanced. I personally believe that we found through our review that many policy decisions in the Amendment Law are just that; they are policy decisions. Some are being made in the absence of evidence. That is not necessarily something one can blame the Minister for because evidence may not exist for that but they are, nonetheless, policy decisions he is intending to pursue. For example, the move to periodic tenancies as a requirement after the first term was something that our expert adviser could not confirm was the best policy decision. In fact he offered us a range of, I think, 5 recommendations Members can read in the annexes that could both retain this as an option or revert to something different. This was down to the fact that this is a decision as to how we wish to structure the law; it was not inherently better. For me I see a concern under moving to forced periodic tenancies. We heard through a lot of responses to tenant surveys that they want security and flexibility. Landlords, we also heard, as our chair said, no, they have a level of control and certainty. The question still remains whether under periodic tenancy systems tenants will have more security or not and it depends on how one defines that security. For example, under a periodic tenancy forced on a tenant and landlord, the tenant will

never be more than 3 months away from a potential need to leave the property because the landlord will have been granted by that tenancy under the law reasons to give notice. In all likelihood the reasons a landlord might give are those that they would have given to not renew a fixed term, such as sale of property, renovation or occupation. Meanwhile in a fixed-term tenancy, as we heard from submissions, being the majority form of tenancy on the Island, many tenants will have security of tenure starting at least 12 months, winding down to their date of renewal. Parishioners of mine who have longstanding tenants highlighted examples where they have tenants who wish to invest in the property for home improvement or garden improvements to make it a place to live.

[16:00]

They, in particular, did so because they were granted 3-year tenancies. These are tenancies without break clauses for the landlord. They are not unilaterally supportive of the landlord. If we have a chance in the Articles, we will have a chance to debate improvements, as Scrutiny Panel saw fit, to cover this area and we will touch on those later. Likewise, on rent stabilisation, an R.P.I. increase could help cap rents. But personally I am concerned that these will lead to rents tied to R.P.I. in all instances. It may be a case that for some tenants and for some types of tenants this is a better solution, based on their type of landlord, whether their landlord was a poor landlord. But there are tenants who will face greater regularity of increases than they do currently because landlords are quite happy to be below R.P.I. to secure a comfortable sitting tenant. However, the panel has clearly found a number of measures proposed that are valuable and evidenced; data collection, notice periods to avoid silent non-renewals, greater clarity on fees and charges, to name a few. As I say, though nonetheless, some of these areas covered are clear policy choices and it is for Members to decide whether they think that policy direction will improve the balance for landlords and tenants or in the greater scheme of things not. Fortunately for Members we have, albeit in a complex way, a chance to bring forward changes to the extent that we desire. Deputy Bailhache has proposed a fairly fundamental amendment, splitting out multiple sections of the law. This, while not perfect, provides Members a chance to express where their policy position lies. The panel is clear there is room for improvement. It is for Members to decide where to take that. I would reiterate that by highlighting that the panel has proposed an amendment to Deputy Bailhache's amendment, which would ensure that the law can move forward and Members can choose which way they vote. Deputy Bailhache in his speech said that we should agree to the principles only if we agree to the general thrust of the law, and that is a very principled way to do this and we debated the definition of the principles back in July. While I have frustrations and misgivings with parts of the law that I will vote against, should we get to the Articles and I will look to retain certain positions, I do see a need that we signal that this law can continue to change and there are areas to improve. I highlighted - and although it may seem minor - data collection. A debate as to whether an R.P.I. cap is right and the evidence that could be collected will require data collection. The Minister's proposed mechanism for collecting this data is through the Rented Dwelling Licensing form. I remind Members that most applicants will have done that in around May to June last year and the next period for data collection will be in less than 12 months. If we do not create a mechanism now to change the law to collect that data, our ability to make evidence-based data collection to inform whether we need an R.P.I. cap, whether rent stabilisation measures are appropriate or could hurt, will be a debate we will have to have further in the future, not sooner. I would like to be able to have that debate in full. I do believe that there are parts of the law that can be accepted and, as such, I will support the principles but be making my points again as to which parts I will not be supporting in the Articles.

The Deputy Bailiff:

Deputy Wilson, your light was on briefly. Yes.

5.1.10 Deputy K.M. Wilson:

I will be brief. There are a number of points that people have already made that I will not repeat. But I think we all agree that the principle that tenants deserve security and landlords deserve clarity is not in dispute. But the question is whether these proposals, as they are drafted, deliver a balance, that balance that people have talked about or whether or not they risk creating new problems. I just wanted to pick up on Deputy Ward's comments about rent stabilisation and that any increase in rent should only happen on an annual basis; this is a better solution for those who are renting. But he fails to mention that some landlords choose not to increase rents annually, which I presume for some tenants would be an advantage. We have not seen the data which tells us how many times landlords do this or indeed how many of them do it. Could it be the case that the principle of rent stabilisation, as it is proposed, is that we are in danger of building into the law a mechanism for increasing the annual financial burden on tenants? I would suggest that in strengthening some of the principles behind this proposition that some data modelling would have assisted our understanding of the impact of that principle, which I believe goes to the fundamental heart of the landlord and tenant relationship. Deputy Mézec has agreed to removing the 5 per cent cap because he thinks there will not be an increase in R.P.I. above 5 per cent. If this principle was key to his proposition, then why has he changed his mind so quickly? It would be good to hear what his thinking is now on the measure to be applied because it feels to me that this is law-making on the hoof. He says restricting reasons for ending a periodic tenancy enhances balance. But when landlords are left with virtually no flexibility that cannot be balance. It is a disincentive to let a property in the first place. He says that a 12-month minimum period protects tenants but is it fair or even practical on a small island where family, financial or business circumstances can change overnight? The principle we should be upholding is fairness but for both sides, not creating unintended consequences in an already fragile housing market. This Draft Amendment Law risks tilting too far and if landlords walk away from the market, tenants will be the ones who will ultimately suffer. It is my view that we should be aiming for protections that are proportionate, workable and genuinely balanced. Because principles only mean something if they work in practice. The principles, as we have talked about around clarity, fairness and balance, are sound in theory. But in practice, in relation to the way in which the law is proposed at the moment, they do risk creating rigidity, complexity and imbalance, while failing to address the wider housing affordability and security issues in the Island at the moment. I just want to say that housing is not just a contract. It is a social necessity. It is tied to health, it is tied to security and it is tied to dignity. If we do not get the principles right, then we are building instability directly into our society and our economy. I agree with Deputy Bailhache that the Amendment Law, as it is written, is the wrong starting point, at a time when we should be addressing affordability, stability and fairness in the rental sector. We cannot rely on a framework that ignores these fundamentals. I cannot support the regulations on first principles because they are built on the wrong foundation. I believe that we deserve a housing law that at the same time meets our economic reality, as well as protecting our people. I am afraid these regulations, as written, do not do that and I cannot support them.

5.1.11 Deputy J. Renouf of St. Brelade:

I will start by saying that, like Deputy Mézec I wondered how best to approach this debate, given the speech that I made last time. His first thought was simply to refer Members to his previous speech. I am sorry to say that my first thought was simply to read out my previous speech but happily, like Deputy Mézec, I have had second thoughts. I just want to reflect a little bit about some of the history around this because housing is a significant issue in this Island but it is part of a bigger picture. I think you could say reasonably that the central issue we face as a democracy is that on average living standards have, essentially, not risen in, say, western democracies for the sake of argument, for 15 or 20 years. We can quibble about the details of that, exact dates and so on, but in Jersey, as in much of the developed world, the financial crash marked a turning point and we have never really got fully back on track. Of course many people have got better off in that time but, taken as a whole, living standards have been squeezed and remain squeezed. I think this is not a good situation for democracy. People feel anger because their lives are not getting any better and, what is worse, they cannot see

how their lives or the lives of their children are going to get any better. We see the results of that in the rage, the frustration, the impatience around political debate. We see it in the grasping and seductively simple solutions; Brexit, tariffs, a tax on immigrants and so on. We see it in the popularity of politicians who feed the public those simple solutions. How do we respond in Jersey? How do we make a case for improving people's lives without resorting to political extremes, which is I have to say where I come from? Our options are limited, partly because we are a small island lashed by economic storms over which we have little or no control. But also we have self-imposed limits; the Jersey model is based on low taxes and stability, redistribution, except at the margins, is not something this Government ... although taken as a whole, I know there are exceptions, redistribution is not something we tend to consider. Actions have been taken during this term of office to improve living standards. The Government in which I was a part significantly increased tax allowances and raised benefits, at the same time this Government has increased the living wage, among other things. These are good steps. But I am afraid the public have bagged them and noticed that their lives are still squeezed. We need to do more to improve the lives of that very significant section of the population who are under pressure and for whom Jersey is not currently delivering. These people are concentrated to a significant degree, although by no means exclusively, in the private rental sector. There are of course 2 dimensions at least to the stress on those who rent, rental stress and insecurity. If we look at rental stress, Statistics Jersey say that more than 80 per cent of low income people in private rented accommodation are in rental stress. They also say that in the 8 years to 2022 rents increased well ahead of earnings. Well ahead of earnings. There has been a small correction since but nowhere near enough to compensate for the increases over the previous years. Therefore, improving the conditions for renters and ensuring that the rental sector works for tenants and landlords is important. We come to the question of these principles and the extent to which they may or may not help. The fundamental point here is you start from a point either of thinking that change is necessary or you think it is not. Deputy Bailhache was very clear that he does not think it is necessary, that the current laws are sufficient and some other Members have echoed those points. I come at it from the point of view at the basic level that change is necessary and desirable and that, therefore, we should support the principles and get into the detail of which particular bits of the proposals will help and will not. But I think to stand here and say that the current situation is completely tickety-boo is really not plausible and it is not what people in this Island who are struggling would expect of this Assembly. I think they will expect us to engage in some reasonable debate about some detailed measures that might improve their situation. That is what passing the principles will do. It does not commit us to much at all in terms of the actual details because we have amendments down that would remove an awful lot of the substance of this. But it would at least in debating that suggest to people that we take seriously the situation in which they find themselves. We take seriously that they would like to see improvements. I do think, with the greatest of respect, that to argue that it is not necessary to improve the current situation is, I think I would say, naïve. I think we do need to offer improvements. I do have some sympathy for the Minister. He has been told, and indeed Scrutiny have been told, that the proposals or things they have written are overly complex. I suspect that had they produced a much shorter report it would have been criticised for not being detailed enough and not anticipating all the issues. The accusation was made that the Minister does not understand what the problem is and I think that is unfair. I think it is true to say that no one really knows the full exact contours of every detail of the problems that the rental sector faces. But I think the Minister knows its shape and its scale and has directly identified it.

[16:15]

I think it is perhaps wilful to ignore the evidence that has been built up over the years to suggest the problems in our housing market, rental market, whether that is media reports, the Scrutiny report, the evidence cited by Deputy Doublet and *Life on the Rock*, evidence presented by charities and so on. There is plenty of evidence there to indicate that there are problems which need addressing if we open our eyes to see it. I do want to address this question about whether there is really a problem.

The allegation has been made by some people that the Minister has invented a problem, particularly in terms of revenge evictions and so on. I think maybe the term “revenge evictions” does not help here, I do not know. But to my mind the issues here are twofold; it may well be the case that not many people are told by their landlord: “I am kicking you out, I am ending your tenancy early because you have complained about something.” That may well be the case but they do not have to, under the present system, do that. They can simply wait for the tenancy to end, which will be a short-term tenancy because that is what we mostly have, and then not renew it. Not renewing a tenancy is not an offence. No tenant can take a landlord to court for that and the landlord does not have to give their reasons for not renewing. That is the hole that sits in the heart of our tenancy arrangements. It is completely impossible to say to what extent that happens. Because I think the Minister says it right, by design the law does not allow us to identify that problem. However, we have been told it by an awful lot of people. I have been told it by constituents in various forms, a form which says: “Look, I am just not prepared to put in a complaint because I need this roof over my head.” It may be that the argument is made increasing supply will solve the problem but not necessarily. There are many problems with that argument but one of them is that maybe people want to stay in the house in which they are living, rather than have to move somewhere else. That is something as owner/occupiers we take for granted of course. I think there is more than sufficient evidence to say there is a problem. That, in itself, would justify us approving the principles and moving to debate the detail. It is also the logic of the decision that was taken in July when the Assembly asked Scrutiny to go away and look in detail at this. Scrutiny have done that and they have come back with some very detailed and quite sophisticated responses to this. It would seem to me to be perverse for this Assembly to say that we should send Scrutiny away to look at this, to do detailed work and then say: “Well, we are not going to debate anything of which they have done.” I think a minimal position which this Assembly could adopt is to pass the principles and at least get into that debate. There have been questions raised around Deputy Mézec’s style and the question of whether that has helped or not is, I think, moot. We are not voting on his style. We are voting on the words within the proposition and the amendments that he has indicated he will accept. Whatever language he has used, his actual actions are, I think, reasonably significant; he has moved. He has accepted amendments, and I thank him for accepting the amendment that I put forward and he has clearly explained why. I think there was an accusation made that this was making up policy on the hoof. How can you win? If you reject amendments then you are intransigent, if you accept them then you are just making it up as you go along. I think I would prefer, having been briefly a Minister myself, to be given credit for meeting people halfway. The final point perhaps, it has been talked about that the fall in rents is £100 million cost to the economy. It is not a loss in the sense that that money has disappeared from the economy. It has disappeared in terms of landlord income. But it has reappeared in the pockets of tenants and for them to spend. That is a distribution issue, not a size of the economy issue I think. In any case, I think, as I said earlier, the rise in rents has been very, very significant over the last 8 years and the corrections that have happened since then do not unwind those rises. I think for that reason I do not think that that is a reason to reject the principles. I think overall these are pretty moderate proposals, particularly when the amendments that the Minister has accepted are taken into account. If we are not going to take action now, what are we saying to those people whose lives are under pressure, whose housing situation is precarious, who are vulnerable because they are on short-term tenancies, no matter how long they have lived in a property and a landlord can simply not renew their tenancy? We are not even going to address this problem. I think we do need to shift the terms of trade in favour of tenants. I know some landlords are resistant. Changes brings uncertainty and make life more difficult for landlords. But I think that is landlords who may be acting unreasonably. Some tenant gains may come at a cost to landlords but I do not think most will. Most of them have minimal impact on landlords and there will be some gains for landlords, which I think is important to remember. Not everything is a zero sum gain. I think we can make the situation better for both landlords and tenants. The exact detail of how we do that depends on how we approach the Articles. But not passing the principles would be a huge kick in the teeth to people who have

asked for us to consider this matter and indeed I think perverse, given the actions of the Assembly in referring this matter to Scrutiny.

The Deputy Bailiff:

Thank you, Deputy. Does any other Member wish to speak on the principles? I invite the Minister to reply. Deputy Kovacs and then Deputy Millar.

5.1.12 Deputy R.S. Kovacs:

I want to begin with what bothers me most in the opposition to these regulations. I want to highlight this clearly for my States Members colleagues, for those in the gallery and for the public listening online. When a landlord purchases and owns a buy-to-let property it is an investment, a deliberate choice made to generate income or capital growth. It is not their main growth, it is not a charitable act. It is a business decision and, like any investment, it carries both rewards and risks, including rising mortgage rates and costs and should not be expected that all cost increases will be carried by tenants. The issue is the tenants are increasingly being told that their rent must go up because the landlord's mortgage has increased, their X and Y costs have increased. However, if the market value of renting such a property is the same, the tenant does not receive nothing extra or enhance or needed refurbishment; that is fundamentally unfair. The tenant did not choose the property, the mortgage terms or the investment. They are not co-investors, they are simply paying for a place to live; often their only option for a roof over their head. Tenants already carry their fair share of responsibility. They pay rent, often upfront deposits, and they are expected to look after the home. If they damage something of course they should cover it. But general wear and tear, maintenance; that is the landlord's job and the cost of that should already be baked into the market rate of rent to start with. When interest rates drop or a landlord buys the property in cash, we do not see those landlords rushing to reduce rents, do we? Why should tenants be asked to carry the weight when rates go up? This is why it matters, to set the record straight, in competitive markets the going rent is set by supply and demand, not by an individual landlord's costs. A tenant does not pay because he spent money on insurance or renovations. They pay because they value the use of the home at the market price. That principle applies whether it is flats, cars, storage units or equipment hire. The owner takes the risk and bears the responsibility. The consumer pays for use, not ownership. Landlords benefit long term from property appreciation, from rental income, from tax advantages. The property is theirs. The mortgage is theirs. The profit is theirs. Those should be their responsibility. Rent should reflect the value of the home and the market, not the landlord's personal financial gamble. If you cannot afford to sustain your investment without passing unpredictable costs on to someone just trying to live, maybe it is not the right investment and maybe they should sell. It applies to any type of investment, as it applies to housing as investment. Guess what? If landlords do sell, those properties do not go into thin air and disappear. They either make some of the tenants homeowners or go to other landlords, so that part meant to scare and over-circulated, that all landlords will leave and there will be no more rental, no more housing and all rents have already increased because of it, it does not stand. I have been lately checking home selling and rental websites and related social media posts and, yes, housing in Jersey is expensive; for many unaffordable. Rents in Jersey are expensive but there are plenty available currently, both to buy or to rent. To summarise what I have found, I will quote one of the comments from a public member on a related thread and he says: "I moderate the largest rental forum in Jersey, over 23,000 membership and I know that rents are not going up but down. I also know there are more rentals on the market than there were only 2 years ago." Just remember when you post false information online to justify your point, there are people here who are fed information on this daily. I welcome the fact that the Minister has accepted an amendment to compromise linking rent increases to inflation instead of the 5 per cent limit. This is a balanced reasonable approach. It ensures predictability for tenants, while still allowing the landlords to maintain fairness in line with the wider economy. I want to highlight that more landlords should think like a landlady from my constituency who wrote to a St. Saviour Deputy this morning in support

of this proposal. Let me read some of her words directly: “I am emailing to ask you that to please vote for Mézec’s proposed housing laws today. I support a just and equitable society and these proposals are in alignment with this. I myself a landlady but still see the just in this proposal to support tenants. I also work in mental health and see how these proposals will increase protection and housing security, as such protecting the mental health of those perhaps already most vulnerable. In term of the economic argument, I believe supporting this proposal will support our local economy, as it is well known that those with lesser economic means tend to spend locally the most. His proposal seemed fair, just and reasonable. Please side with what is good and proper and as always, as I am, beyond self-interest, which all need to keep an eye of for strength of character.” That is the voice of a landlord, one who understands that fairness cuts both ways and that housing security is tied to community well-being and even mental health. I would also add to this email, and in response to Deputy Scott’s pitch, that economies only exist if there are people there to spend money. I honestly struggle to see why good landlords would have any real objections to these proposals, except for the scaremongering seen spreading misinformation about their impact. I am very lucky to have had the same great landlord for over 10 years and who already does all the right things set out in this legislation. For landlords like mine nothing will change but for tenants facing bad landlords this protection matters. Jersey Landlords Association say there is only anecdotal evidence of revenge evictions but I invite them to scroll through social media from the past few years, speak with charity organisations or ask us States Members, past or present, because many of us have been directly involved with or heard of at least one such case. I personally dealt with quite a few during my time in Jersey, both with community work and in this Assembly. I have also witnessed it happening to close friends, whom I supported step by step through the process. These cases occur far more often than landlords are willing to admit. Even if there were only a few cases, which is not true, the fact that we could prevent them means we should act to do so. That is why I found Deputy Bailhache’s speech remarks patronising when he said that the Minister had invented revenge evictions out there. I sincerely hope he or any close to him never have to face such a situation because these cases are very real, either expressed directed or indirectly to the tenant, and deeply distressing for the families and tenants who experience them. At the same time, nobody denies there are bad tenants as well. The data is just as anecdotal but we know that they exist more than is believed. Landlords rightly want those issues addressed and this law allows for exceptions to deal with them, giving also with this notice in such cases and there is the Petty Debts Court to deal with. But what too many landlords try to deny is that the other side also exists quite often. Bad landlords, unfair rent hikes and revenge evictions, those too must be addressed and that is what we are debating today. We should keep the roles clear, the tenant pays for a home, not the landlord’s financial gamble.

[16:30]

Fairness comes from competition, choice and accountability. This law proposal reflects the balance; it is fair, it is reasonable and it deserves Members’ support.

5.1.13 Deputy M.E. Millar of St. Mary, St. Ouen and St. Peter:

I did not speak in the debate in July because of the referral back. I do, however, find I still have my notes and I am going to use those notes, rather than redo. I am sorry if there is any duplication. In principle, it is very difficult to pose enhancements to tenants’ right. As a principle, tenants must be treated fairly. But in my manifesto in election I said that I would support legislation that was fair to tenants and landlords. I think we must be clear that we are not creating an unfairness towards landlords. Because despite Deputy Kovacs’s comments, we are still talking about property. Landlords have human rights too, they have the rights to their property and to use their property as they see fit, although they should do that in a fair and reasonable way. I know from experience that there are bad landlords out there because I have seen the properties. I also know that there are some very, very bad tenants because I have also seen the photographs and I have seen the state in which properties are occasionally left. I would say that I have probably been approached by more landlords

than tenants in respect of this. I think we do need to be careful about our terminology, as Deputy Bailhache says. Eviction is a court procedure, which is very difficult and there are some landlords out there who really, really struggle to get their property back because of the way our system works. Equally, there may be tenants who are given unreasonable and short notice and that does need to be addressed. There are a couple of things that I want to say. A few Members, I think both in July and today, have commented about the fact that tenants want and need security of tenure, so do landlords. Landlords want security of tenure. It is not unreasonable for a landlord to be able to assume that if a tenant signs up to a lease for an agreed period, the tenant will remain in that lease for that period or give the agreed notice. A lease is a contract like any other, it is a legal document. It is right that the term of lease and the provisions on which you can terminate and the provisions on which you can terminate early are clearly set out. But if that is the case and everybody knows the agreement they are going into, that is not unreasonable. I absolutely accept that if a tenant does want to finish a lease early, punitive terms are not acceptable, punitive penalty terms are generally not permitted in Jersey's contract law. But it is not unfair for the landlord to be able to recover any costs and inconvenience of an early termination. It is also not for a landlord to have to underwrite life trauma on the part of a tenant. A landlord makes a property available to the tenant, it is a fairly straightforward arrangement. I would say that what a landlord wants is a tenant who will treat the property well, who will pay the rent on time and who will not disturb the neighbours. The tenant, for having complied with those obligations, has a reasonable expectation that they will be left alone to enjoy the property and live in it peacefully without interference by the landlord. Neither of those things are unreasonable. There seems to be a view that landlords have just got to deal with situations. What I would say, the argument seems to be tenants want security of tenure but only for as long as it suits them and then they want to be able to get out of the lease if things change. To go back to the example that Deputy Mézec gave in his speech today, which he also talked about in July, a young woman who enters into a lease with her boyfriend, all is going well. They renew the lease and then the relationship breaks down and, as I think Deputy Mézec's words were, and she is left with a lease that she can no longer afford. The landlord, we are asked to believe that the landlord who says: "I want to recover my costs, I want to apply the terms of the lease to allow you to break this early" is painted as the villain of the piece. Clearly, we do not know the whole story. But the boyfriend who has gone off presumably and left her with this lease, he is being let off his obligations under that lease and the landlord is expected to underwrite the boyfriend or whatever. Here when relationships break down people have to deal with those in terms of contract. Had they entered into a purchase, if they had entered into a mortgage and bought a flat that would have had to be sorted out. You would not go to the bank and say: "My relationship is broken, can you let me off with the mortgage?" Deputy Andrews is asking us to bring forward binding presale contracts. What if that couple had entered into a binding contract to buy a property and then the lease had broken down, would we be criticising the seller for saying to the young woman: "You have got to go through with it" and let the partner off the hook. Everybody has obligations and parties to lease have joint obligations, and those joint obligations should be observed. It is not necessarily the landlord's role to deal with matters like relationship breakdown or to bear the cost arising from those. In the employer/employee relationship a long-serving employee has to give longer notice than someone who has been there for a short term. It does not seem to me unreasonable that a tenant who has lived in a property for a very long time should also give a longer period of notice to their landlord than someone who has been there for a short term. Again, that just seems to be simple fairness. I would also just like to comment very briefly on some things have been said today about lobbying. People are allowed to lobby; trade groups, representative associations, that is what they exist to do. They exist to lobby and it is not unreasonable for any group to lobby States Members asking for our support one way or the other. I do think we need to be very careful that we reject lobbying from one group and just let another carry on. I certainly received a number of emails, which I found quite astonishing, in July from members of Unite the Union who had asked their members to lobby. Why Unite the Union should be getting involved in something like this I am not quite sure. But they are a representative body and if they feel that it is something that is in their right,

they can ask their members to lobby or they can lobby on their behalf. But I think we need to be careful about being critical of people who lobby, unless those rules are applied across the board. The thing that I possibly do have the greatest concern about and the Minister has said he, I believe, is going to accept Deputy Renouf's amendment, which would remove the proposed 5 per cent cap, is the question of rent restrictions. Prior to our hearing in July I was challenged at some length by the Corporate Services Scrutiny Panel about inflation and what was Government doing about it? There is a real risk that any form of restriction will become inflationary. Any cap will very quickly become a floor and I mentioned this in another context in July. Just as a reminder, there was a consultation some years ago in the U.K. where the banking regulator or the revenue regulator was wanting to apply maximum interest rates. They were trying to say you cannot, as a lender, charge interest of more than this amount. The amount was going to be quite significant. The banks resisted that on the basis that there are unscrupulous lenders who will charge the maximum as a matter of course. You can see that that has happened in the universities in the U.K. You can only charge a maximum of £9,000, so they all charge the maximum, regardless of the standing of the university it seems to me. By making any limit, many landlords I have spoken to have said to me that: "We do not make annual increases. We may go for years without making increases. We may make small increases." As soon as you put a restriction it is kind of human nature that people will apply an increase to the maximum permitted. If R.P.I. is standing at 4 per cent, there may have been landlords who have very longstanding tenants, who they are really happy with, who they may have only charged 2 per cent increase. But because there is a restriction and the next year they may not be able to charge an increase or a smaller increase, they will charge the maximum increase. It may be best practice to apply R.P.I. in some quarters but there will be landlords who do not. But I think the prevalence of increase and the prevalence of R.P.I.-based increases will become very, very common that may be inflationary. I think that there may be a real risk that it will inflate rents, rather than control them. I think there is also a real risk that before the restriction comes in there will be landlords who will put rents up across the board because it is their last chance to do so before restrictions come into place. You may call that exploitative, there may be any kind of adverse word that you would apply to it. But landlords may say they are simply being cautious because if they cannot increase rents to reflect their costs or if they think they may have to go to the tribunal and justify rent increases, they may well increase rents on a precautionary basis before the law comes into play. I do think we need to be aware of that risk. I am sure that particular point we will discuss further at length in due course. That is probably one of my major concerns about the Articles; that we can discuss when it comes to the Articles.

5.1.14 Deputy S.M. Ahier of St. Helier North:

I am very pleased to follow the previous speaker. It will come as no surprise to Members to learn that I have concerns about this proposition. Although it is being brought by the Minister for Housing, it is almost certainly a Reform Jersey proposal and as such its intentions are twofold. Firstly, which is to manipulate the housing market by attempting to control rent increases through the repurposed Rent Tribunal. Secondly, it hopes to decrease the number of landlords by making it unviable to continue renting their properties, leading to a possible sell off of rented homes in the expectation that they will be purchased by first-time buyers. The use of the Rent Tribunal has failed once and will inevitably fail again. If rental increases are refused by the Rent Tribunal this will lead to an extenuation of the current subdued housing market whereby property values will become stagnant for a number of years before the realisation that the cause of this suffocation of the market is because of the Minister's manipulation of it. It leads to a loss of confidence in property as equity and could also lead to negative equity among those young people who have recently purchased their homes. There is a misconception held by some that all landlords make huge profits at the expense of their tenants. But if I was giving advice to anybody thinking of making an investment in anything, the one thing that I would advise against would be buying property in Jersey for the purpose of renting. Making a similar investment in stocks and shares, currency, gold, crypto currency, virtually any other

investment portfolio would almost certainly yield better returns. We have to accept that a great deal of landlords are people who have inherited a property from their parents or relatives and, because of the personal connection to it, they do not wish to sell it, but rather they will rent it out and keep it as a rainy-day fund for when a sale is necessary. Under this proposal, even the selling of one's own property will become a complicated affair. We are told that rents are rising at an unsustainable rate, and the availability of affordable rental properties has failed to keep up with demand. But how do we compare with other equivalent areas in London where property prices are similar to ours, average rent has risen from £1,660 to £2,100 over the last 6 years, far exceeding the levels that we see here? If this proposition is successful, where might Reform Jersey target their next market manipulation? We could face tribunals for all types of commercial activities, and we would be on a slippery slope to total state control of pricing, something which I strongly disagree with. It has become almost duergar(?) to bash the landlords, while at the same time trying to encourage people to invest in Jersey. We must be very careful about what message we send to the business community, and I advise against continuing down this road.

[16:45]

5.1.15 Deputy I.J. Gorst of St. Mary, St. Ouen and St. Peter:

At times during this debate, and I think it was the same when we debated in July, there has been use of quite emotional terminologies. We had suggested that those lobbying were lobbying because of vested interests. The inference being that a vested interest lobby or point of view was to be disregarded because it was or is self-interested. That is perfectly acceptable political dialogue. I think it was suggested then not to listen to my speech during the course of that debate, because there was no way in a month of Sundays - I am not sure that was exactly the terminology - that I was going to be supporting it. And Members might feel that today. But the reason I do not support it is quite simply, it does not and will not do what it is being sold to do. It does not work. What it says on the packet, i.e. that tenants will pay less, that their security will be enhanced, it does not work. And the reason we know it does not work is threefold. I will get to the third point, which is really what Deputy Scott was referring to earlier. The first reason we know it does not work is because in Jersey, price control has been tried before, and I look across to the Connétable of my former Parish, and a previous incumbent of his office used to entertain this Assembly with the experiences of price control in the housing market, and the unintended situations, which were ridiculous, that arose. The price of the house was controlled, the price of the contents was not. Therefore, people paid on the tin a price for the bricks and mortar. But what they did through separate contract was pay tens, fifties, hundreds of thousands of pounds for an article of furniture along with the contract to buy the house. But if you had asked anybody, either locally or externally, Jersey had house price control and that maintained house prices in our community. It did not work. So, we do have experience there that shows price control does not work. More than that, we have experience from other countries which show that price control in the rental sector does not work. It was said during the last debate, and it has been said in public, that this proposal for rent price control is so different from the one found elsewhere that it is going to work. The truth of the matter is that when I look at what is proposed here and what has been undertaken elsewhere, it may be that there are differences, but the fundamentals are the same. In Scotland, where they have had rent control, 50,000 rental homes have been lost. In Ireland, we have seen investment in housing reduce anywhere between billions or hundreds of millions. Elsewhere across Europe, we have seen the same where rent freezes have cut the number of rental properties available. And in the U.S. (United States) as well. So, is it the vested interest of landlords that are against this or is it the fundamental understanding that despite what is said, this will - it may in the short term, and maybe that is all we are after - it will not in the long term benefit tenants because the supply will be reduced. That is incredibly important, even though doubt has been cast upon the importance of supply in the rental sector, particularly in Jersey, where we have such a high level of need for private sector rental. Of course there is the political view that that is unnecessary. But while we continue to control immigration through both work and housing, we will have a need for a vibrant

private sector rental, and it is not as vibrant as it was 5 years ago, let alone 10 years ago. If you were making an investment decision into Jersey property ... and I will be careful, some former family members would be turning in their grave to understand what is happening in the property market now. It is not necessarily as lucrative as some others have suggested. If you compare investment in Jersey property with investment now in other parts of Europe, or investment in other investments, it is looking decidedly balanced. That is a bad thing for tenants. If we do not have supply, it is supply that leads to choice, that leads to the strengthening of the tenant's position. Because a landlord that is buying a house for investment needs a tenant in that property. The last thing they want is a vacant period because it undermines the investment even more. It means that they cannot reinvest and they cannot improve it for the benefit of tenants. We have to be very careful around what we are suggesting is offered, or the benefits that are offered to the public in this regard. The other thing which is interesting about Jersey's private rental sector is there are so many landlords that have either one or 2 properties, and that has built up over time, and they are what we would describe as average members of our community who, maybe through inheritance or maybe through wise saving, are trying to provide for their own family and for their own retirement. That is not the case in other rental markets. In other rental markets, it is highly corporatised and what we see in rent control and in a highly regulated market, is that we will see more corporate landlords will be moving away from those individual landlords. I should not be arguing against myself in this regard, but I am. Because why is that generally not a good thing for tenants? It is because the smaller landlord that has got an interest in their own family and got an interest in their own retirement is able to maintain rents, is able to extend tenancies, is able to be really very flexible and understanding in order to maintain their tenant. That is not always the case with corporate landlords. So, that again would be a bad thing. I know people will say: "Well, landlords do not have to increase their rents by R.P.I." The Minister has very wisely said that he will accept an amendment which removes the 5 per cent cap, and I think that is a wise thing to do. Landlords will not need to put their rents up every year. They will not need to put their rents up by R.P.I. But let us be clear about the forces that will encourage them to do that. Those forces are that in the future, let us say one has had a tenant for 5 years, one has for all sorts of reasons not increased the rent, and then there is a problem with drainage. Landlord then has to invest tens of thousands of pounds to sort that drainage problem out. If the landlord has not been increasing the rent by R.P.I. every year, as allowed to under this, it will not be possible for them to suddenly come along and say ... the Minister is shaking his head and saying that I am wrong. Of course in theory I am wrong. But we are not talking about theory, we are talking about real world economics. The landlord would have to go to the Rent Tribunal. The Rent Tribunal will make a decision outside of the control of the landlord, and it will be very difficult to argue the case because repairs and improvements are substantial investments. I think that is a reason why landlords will be pushed towards the R.P.I. becoming the floor and the norm every year, and that certainly is not the case now when we look at the trend in rents. I said there were threefold reasons. The thirdfold reason is economics. There is a cost to landlords in the changes to this legislation. Economic assessment was undertaken. I am not quite sure why that was not given to Members or Scrutiny. But we find ourselves in a situation where a better economic assessment, in my mind, would have been able to be undertaken had we gone out and consulted both landlords and tenants and gathered data about length of tenancies, about current rents, about trends in rents, and all of that information to be able to make informed choices. I think the economic assessment would tell us that there will be unintended economic consequences. But we are being asked to make a decision without fully understanding what they are. I would also say that a number of Members are probably going to support the principles today because the Scrutiny Report suggest principles should be supported, then we can consider the details of the Articles. But I would just caution those Members who think that is the approach that should be taken and not to be surprised if it is suggested as we get to those amendments that they do not work in practice in their interaction with other parts of the law. Members might be thinking they are going to be able to accept various amendments and they will be able to treat and get to a point in the legislation that they are satisfied with. I would just warn them that I am not sure

it is going to be that straightforward. I recognise that there are some benefits to this legislation, but I fundamentally do not think that rent control is going to work, and I fundamentally think that there are going to be other unintended economic consequences to this legislation. That is why I will be voting against the principles.

[17:00]

5.1.16 Deputy M. Tadier:

I will give you a very brief, but given it is a rare occasion I get to speak after my old friend, Deputy Gorst, I thought I would take the opportunity simply to say that I think the tone of this debate has been more welcome, and largely because of the interventions from Scrutiny. I think we had a very clear, of course, maintaining of the principles by the Minister, but we had a very good speech from Deputy Jeune speaking on behalf of her panel. I think they need to be congratulated for having done a sterling piece of work in fairly short order, which was referred to them during the First Reading. We have not got to the First Reading, of course, we are still doing it. But the first thing to say is that it would be very strange if this Assembly were to have referred something to Scrutiny and then reject the principles because they do not want to hear what Scrutiny has got to say, and to at least consider the amendments that they have put forward, most of which I understand are being accepted by the Minister, and certainly that seems to be where the real value will be added to the debate. I also agree with something Deputy Bailhache said, and it has been echoed that ultimately what this is about. This debate is about striking the right balance between tenants and landlords. Tenants and landlords are the most happy when they are in a relationship where they both have clarity about what the expectations are, where they presumably can hope for security of tenure and, where possible, have as long a tenure as possible because the landlord has a guarantee of income, and that family has a guarantee of its home as long as they want it. We know that it can never be complete parity in the power structures. Tenants ultimately have to decide when they want to move on if their situations change, and we also know that there are many legitimate reasons why a landlord would want to bring a certain tenure to an end. I think that is all captured, and these are the details that we should be looking forward to getting into when we debate the Second Reading of the legislation. Therefore, I hope that the media will not be proved correct when they say that there was a wrecking amendment to refer this to Scrutiny, because this Assembly should be saying: "No. We referred it to Scrutiny to get some extra value." There were debates about at which point it should have been referred, should it have been done in the First or Second Reading, but it has been done now and I think we all need to listen to that. We do hear the old chestnuts from my friend, Deputy Gorst; one of the key ones is that landlords will sell up and there will be a reduction in the rental housing stock. I have asked it before, perhaps the Minister can also comment on what his analysis has been, but presumably these properties in the doomsday scenario, they do not just evaporate, do they? What happens to a rental property for a landlord who no longer wishes to be a landlord? They must sell that property, presumably, because they are going to sit on an empty property. We have heard that it is not in anyone's interest to keep a property vacant. So you sell that property, do you not? You sell that home, as Deputy Ward would say, and you either sell it to somebody who is currently a tenant who wants to become a homeowner, and they buy that home and they live in it. You have got one less tenant and you have got one less home; it is a zero-sum gain. Or the outgoing landlord sends it to another landlord who wants to become a landlord, and therefore you have another rental property, and so there is no change there; it is a zero-sum gain. If I am wrong on that, I would like to hear from Members, but that seems to me the way it should work. There is this idea that there are also corporate landlords out there. There are entities like housing trusts and Andium. As somebody who has declared an interest ... my wife is a landlord, unintentional if you like, but it is somebody owns one property, who seeks to be as ethical as possible, who presumably seeks to keep that maybe until her retirement or beyond. Who knows? But there are lots of people in that situation, and she would not mind me saying, she does not have a problem with what is being proposed here. There are lots of landlords in Jersey who do not necessarily feel that the J.L.A. (Jersey Landlord Association) speaks

for them, and there will be lots of landlords who are members of the J.L.A. who have different points of view. There are lots of tenants who have had different experiences. This is not just one homogeneous debate where can pit one side against the other, and I really want to hear some of those nuanced arguments, those amendments that are being put forward in the Second Reading, so that we can get to a point. Because ultimately our housing is a recurring issue, it comes up at every election, and we would be doing ourselves a disservice only a few months away from the beginning of an election period where we know that we have been told that almost half of Islanders may be in a position where their tenants ... of course half of the Island are not landlords, I think that goes without saying, and we need to have that balanced debate about where the just legislation needs to come in, and that is what I am really interested in getting to. Let us, please, support the principles. If Members really want to see a different type of legislation, they will certainly consider voting for the amendments. I for one will be really looking forward to what is being put forward by the Scrutiny Panel, but certainly I think we can get to a point at the end of tomorrow, I hope, or before the end of tomorrow where we have something in front of us which is both workable, which is helpful for tenants and landlords, and which certainly gives those many thousands of families in Jersey who are in a position of renting to know that their position has been ameliorated, without necessarily having to do anything negative towards good landlords who are already operating following good and best practise.

5.1.17 The Connétable of St. Peter:

There is little doubt that there are a minority of both bad tenants and bad landlords, and I would fully support legislation that targets these 2 groups, particularly those landlords who discriminate against families with children. However, the vast majority of both tenants and landlords are considerate. The vast majority of landlords maintain properties in good order, do not impose undue financial demands on their tenants, and treat them with respect. Likewise, the majority of tenants respect their properties, which we must not forget are their homes, and have a good relationship with their landlords. I found it difficult to support this legislation, or the principles that apply a blanket approach to this issue, impose burdens on good landlords, in particular when only a minority exploit the current legislation and do not respect their tenants. I am, however, pleased that the Minister for Housing has accepted the amendment to remove the proposed 5 per cent rent cap, and landlords can now plan for expenses like mortgage payments, maintenance, and cost of living. A good landlord will always consider the impact on their tenants and consider them when an increase may be necessary to cover additional maintenance or improvements. Prior to the Minister accepting that change, I had looked at the impact of rent caps and rent controls in other jurisdictions, and therefore my speech is significantly shorter than I had intended. However, one thing that connected all the jurisdictions I looked at, the U.S., Germany, and Scotland, was that rent controls had resulted in landlords selling off stock and that tenants post these changes had in fact experienced higher rents. In 2017, Scotland brought fixed-term tenancies to an end, as proposed by this legislation. It did in fact result in significant numbers of landlords leaving the industry. Many were good landlords who, prior to the legislation, will have had a good relationship with their tenants. The result was less choice for tenants and an overall increase in the rental values being applied, which is detrimental to the tenants involved. My concern is that landlords who have tenants on fixed-term contracts, where both parties are happy with the arrangements, will walk away as they do not wish to be faced with the difficulty of regaining their property in an emergency. The amendments by Scrutiny, and I commend them for the important work they have done, goes some way to dealing with this, but a landlord who might be facing a life-changing event may not have 12 months to wait. Some of our landlords, particularly the majority who are single landlords in Jersey, are elderly and more likely to face these problems. These landlords need the income guarantee that comes with a fixed tenancy, and the tenants also have certainty that with a fixed tenancy. The landlord cannot serve a notice of eviction. We have been asked to provide evidence to back up the content of our speeches, but I have yet to see evidence to back up the claims in respect of revenge evictions. There do not appear to be significant numbers,

so how can that be used to justify some of the proposed changes? I will continue to listen to the debate and for the summing up by the Minister for Housing. One of my main concerns has been resolved and Scrutiny have made efforts to remove some of the downside of open-ended tenancies, but I would have preferred to see a shorter notice period than 12 months where a landlord finds themselves in difficulties. While the legislation is well-intentioned, there is little doubt that there are negative unintended consequences which will have an impact on both landlords and tenants. These include reduced housing supply and, as I say, that is backed up by the experience of other jurisdictions who have passed similar legislation. This proposal, if approved, is likely to see landlords continuing to sell stock. I spoke with an estate agent I have known for 50 years. He has landlords offering him properties and asking him to put them on the market. There are not other landlords coming into the market to take those up, unsurprisingly, and therefore it is likely that this will certainly see a fall in the number of properties available for rental in the short term. This in turn will deter new development at a time when Jersey construction industry is in crisis. In the current climate, I have significant concerns about the deterrent of future construction. In the last few years, 9 construction firms have ceased trading. I have little doubt that this legislation will be a further blow to that industry and the subcontractors and businesses who rely on it. What will happen to the families and children of these subcontractors and workers, and the associated businesses in which they work who rely on earning an income from that industry? We may well witness further closures as a result. I would welcome legislation, as I have said, that only target targets the minority of individuals and businesses that are bad landlords and tenants, but I have difficulty in supporting the proposals in their current form.

Deputy S.Y. Mézec:

Would the Constable give way for a point of clarification? I promise it is a sincere one, I am not trying to score a point. Thank you to the Constable. He referred to the proposal that is found in the Scrutiny Panel's amendment for the 12-month notice system, and he spoke about his concerns about landlords facing life-changing events where 12 months might be too much. In order to help me with my summing up, would the Constable mind just kind of elaborating on what kind of life-changing events he was thinking of when he said that?

The Connétable of St. Peter:

What I am hinting at, which was obviously something that I have gone through with my wife, is somebody who is aware that they have less than 12 months to live, and that is something that I would perhaps like to see covered.

The Deputy Bailiff:

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

5.1.18 Deputy S.Y. Mézec:

Thank you to all Members who have taken part in this debate. I set in my opening speech some challenges to those Members who were going to be critical of this law and seek to oppose it. Naturally, a large amount of my summing up is going to dwell on what I think the response to that was, and I have to start with that from Deputy Gorst, who served us up a banquet of red herrings in his speech on this. I make this point very seriously, that it was noticeable that when he spoke against this law and this proposition that in almost all of his speech he did not address any of the tangible proposals that are in this draft law, and when he finally got round to doing so towards the end, he got his facts wrong about what the law contains. He served us red herrings by talking about the rent control systems in Scotland and Ireland, and about the former house price control system in Jersey. All 3 of those things are nowhere to be found in this draft legislation, and I can tell Members that the Scottish example was one we specifically looked at as a model of what not to do and the model that

they have there and the model that they have in the Republic of Ireland are in their detail absolutely nothing like what we have proposed in Jersey.

[17:15]

It is very clear why those Members who cited those examples did not seek to get into the detail, because if they were to have done so it would have shown that the point they were making was either totally invalid or that they had not familiarised themselves with the detail of the rent stabilisation metric that is proposed in this draft law. So, let us be clear about that. In the Scottish system, rent increases are capped at either 3 per cent, or with permission from the state they can go up to 6 per cent if they think they have got a reason for it. The Irish system is not too different except the only ability to realign rents comes at the point of a new tenancy, and it is focused on rent pressure zones, which is obviously completely irrelevant to this law. What is proposed in this law is nothing like that. It is an entirely passive system where in almost all occasions nothing will happen as a result of it, it simply has a backstop position put in for if a particularly unjust circumstance arises. Under this law, ordinarily if a proposal is made by a landlord to increase their rent, it will be exactly the same system that it is now. They write to the tenant to say: "I have conducted the rent review and here is the result of that." The tenant, if it is beneath R.P.I., they have no choice whatsoever, that is the rent review and that is that. If it is above R.P.I. they would have the option to appeal it to an independent rent tribunal, and that tribunal will be independent and it will have the power that if that inflationary rent increase is proposed with no justification, that they would have the power to overturn it. But if it is justified because the landlord has not raised rent for several years and decides that now is the time for a catch up, or the landlord is investing in the property, and then that duly and reasonably means that more rent ought to be considered due as a result of that, the tribunal sides with the landlord. Knowing that in those instances, where if you have had it good for a few years without a rent increase, the Tribunal is not going to side with you if you attempt to appeal it to them. That regime is entirely passive. It requires nobody to ask for any permission for anything. It is absolutely unrecognisable compared to the 2 jurisdictions that have been cited on this. Deputy Ahier referred to the history of a tribunal. He said: "The tribunal failed before, and it will fail again." This is particularly amusing because it is possible through Statistics Jersey to go back and look at their rent index, and you can see that in the final years of the old Rent Tribunal rents were going up at around about inflation, and guess what, when that tribunal disappeared, they spiked at that point. Then when the 2011 Residential Tenancy Law came into force they spiked again and started going up by even more than inflation. I am not saying that is absolutely hard core definite evidence, but it is interesting that the last time we had a rent tribunal, rents were bubbling along at around about inflation. In my opening speech, I did attempt to set some traps for Members who may come forward to oppose this law. I was very deliberate in doing so and I did not anticipate just how quickly a Member would fall into every single one of those. I will try to be dispassionate when I go through the remarks that were made by the first speaker in this debate, Deputy Barbara Ward, because she did make some very clear mischaracterisations of the law and of the current situation. I had made a specific challenge to Members to point out if they wanted to claim that there was red tape or bureaucracy, they should be very specific about that rather than just use it as a convenient term to disparage the law, and Deputy Barbara Ward attempted to do so and got it completely wrong. She said that there would be bureaucracy involved because evidence would be needed if raising rents. That is not true, because in the first instance, a landlord proposes their rent increase through the form of their rent review to their tenant, and there is no requirement at all for them to produce any evidence at that point. The only point that they would be required to produce evidence is if a tenant looked at it, said: "This is clearly out of order and not compliant with the law. I do not think it is justified, so I am taking it to the Rent Tribunal." At that point, the landlord would have to come up with the evidence at that point. But if the landlord had that evidence, and a tenant indicated that they were likely to appeal it to a rent tribunal, the landlord would show it to the tenant and the tenant would realise that they have no case at that point and they are destined to lose when they go to the tribunal. So, that would end up avoiding

that entire circumstance entirely, and it would only come into it if people were being really persistent and refusing to budge when there was genuine doubts that they were compliant with the law at that point. Deputy Barbara Ward also referred to the economic percentage that rent counts as part of our economy. It was not 100 per cent clear what percentage she was talking about, but she cited the figure 11 per cent. If she is citing the one that I think she was, she will be interested to know that that figure is not all real rent, it is also deemed rent as to what the value from homeowners' ownership in a home would be. So, as a statistic, it is not indicating what the Deputy thought that it indicates. But most seriously, and I think Deputy Bailhache did this as well, is there has been a very clear attempt to undermine the dialogue on revenge evictions by making constant reference to the Petty Debts Court process, as if that has anything to do with it. It is really disappointing that some Members persist in doing that because that has been debunked on the floor of this Assembly multiple times. The Petty Debts Court will not have any records at all of revenge evictions for the simple fact that there is no requirement to register revenge evictions with the Petty Debts Court, because a revenge eviction is not a legal term, it is an informal term that is used to describe a situation where a landlord issues notice to their tenant in retaliation or revenge for the tenant attempting to do something that would otherwise be considered reasonable or to uphold their rights. It is not a description of the process of going through court. If a tenant receives notice given to them as retaliation or revenge, most of the time that tenant is not going to challenge it, they are just going to begrudgingly comply with it because they know that the Petty Debts Court will not side with them in seeking to have it overturned. That is the key flaw with our 2011 Residential Tenancy Law that I think other Members, Deputy Scott came across as ... and has done in some fair amendments as not understanding this point either, but the Petty Debts Court, it cannot overturn a notice that has been issued lawfully. The only thing it can do is grant a stay of eviction, but that stay of eviction is not granted on the basis that the notice was issued unjustly, it is issued on the basis of the harm that would be done to the tenant in enforcing an eviction in the short term. Remember, that if you are living under a stay of eviction, you technically meet the definition of homelessness, you have no housing security in that position, you do not know when that stay might be over, and there is no guarantee that it would be permanent. As I said, it is granted on the basis of the vulnerability of the tenant. So, you can be a tenant who is not particularly vulnerable, you have just been subjected to some really bad and unjustifiable behaviour, but if you have the capability to move elsewhere, tough luck, you are going to have to, even though you have done nothing wrong. That is the fundamental flaw of Article 6 of our current Residential Tenancy Law, that a power does exist, that if used, will end with a tenant losing their home, whether it is at the end of that notice or at the end of a stay of eviction, and they have no right to challenge it and have that notice overturned. The fact that they do not have that right obviously means that many do not bother challenging it, because the only thing that they would be able to buy through going through the Petty Debts Court would be some time, and it would mean having their name published in a record that future landlords may see it on and go: "This person is a troublemaker. I am not going anywhere near them." That is no good, right? That is not something that is going to help tenants to be able to secure themselves. That is why, when Deputy Bailhache says that part of the solution here is to make greater efforts to educate people on what their rights and obligations are, but his proposal is flawed because if we are to do such an exercise on an honest basis, it must involve telling tenants where the holes in their rights are, and where the limits of what they can do to protect themselves are, and to tell them the fact that even if they do something totally legitimate, like complain because the mould is not being dealt with properly, that at the end of the process that they undertake to defend themselves they will still lose their home, and the institutions of the state will force that to happen. That is to tell a tenant that their rights are not particularly strong and the obvious effect of that will be to affect their behaviour in not standing up for themselves when they otherwise ought to, because they are the ones in a righteous position there. But I would say it is already the case that there is lots of information out there about this. There is a government webpage that has rights for landlords, rights for tenants that is put out very clearly, and there are organisations in our society that can do very well to help people understand what those rights are, including Citizens

Advice, which is completely free of charge, and Citizens Advice have fed into this process, telling us that they get people coming through their doors telling them that they are subjected to these behaviours. We cannot just download a spreadsheet that has all the data for every revenge eviction because they are not registered, but we get feedback from those at the coalface telling us that this does happen, and they are not lying, they are telling the truth. These cases exist; they do happen. That is why in proposing this Amendment Law, a regime has been put together that is so light touch and passive that I think it does meet the aspiration that the Constable of St. Peter was talking about in his speech where he said he wanted to support legislation that only targets the bad landlords and tenants, and the phrase: “Sledgehammer to crack a nut”, was used by another Member as well. The impositions that this draft law put on landlords are, in many cases, non-existent. That is why I put that challenge out to Members to say if you are talking about red tape, if you are talking about bureaucracy, be specific about what it is, because it is the fact that this law proposes no new forms, no new fees, and no new permissions. In the first instance, everything carries on exactly as it is as long as, when you are drafting your contracts, you make sure that those contracts are in line with the laws of the Island of Jersey, and that is what most contracts I have seen anyway normally have a line in it that says that is their intention in there. Then you do not have any interference, you do not have extra costs, you do not have extra permissions to ask for. So, there is no disruption, there is no forcing people to engage in a compliance or behaviour that really is any kind of imposition against them. When it comes to the legitimate circumstances where landlords will want to safeguard their assets or want to manage their portfolios properly, I have not heard a single Member say why this law would get in the way of them doing that. Many have claimed that it makes it harder and more difficult, but when challenged on the detail - that was the specific challenge I made in my opening speech - none have been able to point to something that would get in the way. The biggest difference, if you want to call it that, that landlords might have when issuing notice to tenants to get their properties back, is that they might just want to put an extra sentence in that notice saying what their grounds are. I do not think in the law it is a requirement for them to do that, but they would be well advised to do it so the tenant knows in advance, and knows whether it is challengeable or objectionable. But if a landlord is selling a property, they would want to just put that in the notice to say: “I am hereby issuing you your 3 months or your 6 months, and here is the reason why. Let me know if you have got any questions or want to talk about it at all.”

[17:30]

That would be the first thing to do. But the framework proposed, with shorter notice periods for certain grounds, is of benefit to landlords. If a landlord is worried that their tenant is causing damage to the property or they are behaving in such a way that is really putting at risk that asset, they will be able to issue notice that comes with a much shorter period, which means if there is a problem and the tenant is not playing ball and refusing to leave, they can get to the Petty Debts Court quicker than they otherwise would have been able to. Can somebody tell me why that is not an advantageous thing for a landlord to have in those legitimate circumstances? That is something that they would not be allowed to use for illegitimate circumstances, quite rightly, but for those circumstances where few of us would disagree that it is right and necessary, they will have that ability that they do not currently have. That is why the law is balanced, why the only negative elements of it, those restrictions and prohibitions, are tightly targeted specifically on the behaviours that, I presume, none of us would justify. Nobody in this room, presumably, would justify a landlord wanting to issue notice because the tenant has complained one too many times about why they have not had their deposit protection certificate, or why they have not had somebody around to check that leak that is causing a problem. Nobody would justify that, and this law prevents that from happening. But equally, nobody would say a landlord should not have the ability to get back their property when the tenant is in the wrong. This law makes that easier. That is where the balance comes from there. Deputy Renouf used a phrase that I quite liked. He said that there were plenty of problems if you have your eyes open to see them. It sounds to me that many of those in opposition to this law are

very keen to disregard the real-life experiences that we have had explained to us, either in direct testimonies and those that I have shared, or in the survey results that Scrutiny had. They themselves did their exercise on this, and heard plenty from that. No, I cannot tell you whether it happens a dozen times a year, 50 times a year, 200 times a year. I cannot do that because, by design, we do not have requirements in place for any of that. But we can tell from the detail of the propositions in this law that if the measures in it are adopted, we can curtail much of that. That cancer patient I referred to, who has been told by her landlord that if she keeps complaining about the mould she will issue notice against her, rather than just do her legal duty now and fix it, she will be protected because that notice will be invalid. The Petty Debts Court, if it ever got there, would not uphold it because for the first time they would have the legal right not to uphold it. That case is resolved by this law, and many others with grave similarities to that as well are resolved by it. But that landlord, who has a troublesome tenant that is really causing them difficulties, has a quicker route now to getting back that property. That situation, like what the Constable of St. Peter talked about, I mean I specifically asked him about those life-changing events who might not have 12 months. Well, in any event they would have the 12-month notice. They do not have to justify that or provide grounds for it. So, that is something, and that is better than the original draft law there. But if they decide that there is something more urgent they need to do in the meantime, that they require quicker notice for, I would want to know what that is. Their life-changing circumstance, what is it they would want to do with that property? Is it that they would want to sell that? Because if they want to sell it, the law already covers that. They have got a notice period for that. If it is they want a carer to move into it because they live close to it and they want that carer to have quick access to their ill relative, that is covered in the law as well. That is allowed for that, and there is a shorter notice period than 12 months for that. So, these things are covered in that, and I genuinely struggle to think of ones that are not covered by it, and nobody in the Assembly who is opposing the law has attempted to do so either. I do not want to dwell too much on the comments from Deputy Scott. She did make a phrase that she admitted that she knew I would take exception to, which is that the law in some senses will turn private rentals into a form of social housing. I hope we can disregard that, because that is obviously nonsense and obviously not what will happen. But if I could take exception to a specific comment made by Deputy Wilson about my change in position to accept Deputy Renouf's amendment to scrap the 5 per cent part of the rent stabilisation cap, which she described as "lawmaking on the hoof". I am pleased to be able to evidence why that is not the case. Because when we started this journey in putting this law together and putting some kind of rent stabilisation metric together, I was openminded about what the cap would be. I had in my mind what I thought might end up being my preference, but we looked at the market, we took advice, we ranked different proposals on key indicators, and it just so happens that the R.P.I. plus 5 per cent cap was the one that ranked highest. It was not the one that I thought would rank highest at the start of the process, so I had my mind changed by that, but we did examine having just R.P.I., and that one ranked very highly as well. This was one that was on the table for a very significant period of this work. It is not on the hoof. It is not something that was not tested along with the original proposal. It was tested in that process. It ranked highly, and I am absolutely confident, and would have been confident if that had been my first choice anyway, that it is a far better system than what currently is in place where there is no ability for a tenant to appeal on anything at all. I was really pleased that Deputy Doublet referred to the *Life on the Rock* report from the Children's Commissioner. Is it not very telling that a survey of children, people who themselves are not directly responsible for managing the homes that they live in, because that is their parent or guardian's responsibility, those issues have permeated down into the consciousness of children in the Island, who themselves are telling us when they are asked how much of a serious issue this is for them and their families. This draft law, which has its Children's Rights Impact Assessment, and I would be interested to know how much attention has been paid to that, seeks to provide better security and stability for children who are not having to be moved about to different homes on the whims of landlords who have not provided decent justification for why they want to end their tenancies, and for their parents to not have to stress out about all of that all the time, because they

know they are in a home that is decent, safe, secure, and affordable, or have affordability predictable into the future because of it. That is something that the current law does not offer us. When you look at international comparators, what is proposed here is not radical in any shape or form. The system in the 2011 Residential Tenancy Law is very similar to that in the 1988 Housing Act in the U.K. That Act is about to be abolished and replaced with a new law very soon because they believe that experiment of having fixed-term traps and insecure periodic tenancies does not work. It is much better to have more flexible fixed terms and periodic tendencies with safeguards in them that is better for both landlords and tenants. That is the direction that they are going, and Jersey not following there will make Jersey a less attractive place to live, and it will, I believe, if the Assembly rejects this draft law, send a message out to people in Jersey, particularly young people in Jersey, people in perhaps their early 20s coming out of full-time education, but also to their families and their parents, that there just is not political interest in trying to make renting a bit more of a pleasant and predictable experience for those who do it, for them in their early working lives to then plan for their future, save up for a deposit or anything that goes with that, that we are happy for a free-for-all where that security is not built into it and where the offer that we give those people is substantially worse than that they would find elsewhere. It has already been the case for a very long time that home ownership offer in Jersey has been more unaffordable than other places, and to have that as part of the landscape, as well as an unaffordable and insecure rental offer is, I think, a recipe for disaster that will give more young people in Jersey a lack of confidence that they will have a prosperous future in Jersey. As Members can tell, I am running out of steam. It has been a long and good debate, and I hope Members will accept the principles of this law. There are still things to be done in the debates on the amendments, and I have taken positions on the Scrutiny amendments, which is generally in favour. Not in favour 100 per cent though, but even the ones that are not in favour of, if they are adopted, I certainly do not regard that as the end of the world, and still regard it as progress. There will not be any issues from me if the Assembly disagrees with me on those sides of the amendments. But, generally, what that is seeking to do is to improve a law, and I hope that the Assembly will get the opportunity to debate those. I call for the appel.

The Deputy Bailiff:

Appel has been called for. Members are invited to return to their seats. I invite the Greffier to open the voting. If all Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. I can announce that the principles have been adopted.

Pour: 29		Contre: 19		Abstained: 0
Connétable of St. Helier		Connétable of St. Brelade		
Connétable of St. Lawrence		Connétable of Trinity		
Connétable of St. Peter		Connétable of St. Clement		
Connétable of St. Martin		Connétable of Grouville		
Connétable of St. John		Connétable of St. Ouen		
Connétable of St. Mary		Deputy C.F. Labey		
Connétable of St. Saviour		Deputy S.G. Luce		
Deputy G.P. Southern		Deputy K.F. Morel		
Deputy M. Tadier		Deputy M.R. Le Hegarat		
Deputy L.M.C. Doublet		Deputy S.M. Ahier		
Deputy R.J. Ward		Deputy I.J. Gorst		
Deputy C.S. Alves		Deputy Sir P.M. Bailhache		
Deputy I. Gardiner		Deputy M.R. Scott		
Deputy L.J. Farnham		Deputy R.E. Binet		
Deputy K.L. Moore		Deputy A. Howell		
Deputy S.Y. Mézec		Deputy T.J.A. Binet		

Deputy T.A. Coles		Deputy M.R. Ferey		
Deputy B.B. de S.V.M. Porée		Deputy B. Ward		
Deputy D.J. Warr		Deputy K.M. Wilson		
Deputy H.M. Miles				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy L.K.F. Stephenson				
Deputy M.B. Andrews				

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

May I propose the adjournment?

The Deputy Bailiff:

Are Members content to adjourn? The Assembly is adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:43]