

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 2nd FEBRUARY 2011

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[9:30]

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

The Deputy Bailiff:

Chief Minister, you have an announcement, I understand.

PERSONAL STATEMENTS

1. Personal statement by the Chief Minister regarding the resignation of Deputy S. Power of St. Brelade as the Minister for Housing

1.1 Senator T.A. Le Sueur (The Chief Minister):

In accordance with Article 22(4) of the States of Jersey Law, I can advise that I have today received from Deputy Sean Power of St. Brelade a letter advising me of his resignation as Minister for Housing. In the months that Deputy Power has been Minister and previously in his term as Assistant Minister for Housing, he has been enthusiastic and dedicated in his task of developing initiatives for the best future of housing policy in the Island. He has earned the support of officers, staff and clients of the Housing Department in his dedication as well as championing the needs of those seeking affordable housing. In accordance with Article 23 of the States of Jersey Law 2005 I shall bring forward a nomination for a replacement as Minister for Housing at the next sitting which is within the prescribed period set out in Standing Order 113(3).

The Deputy Bailiff:

Thank you. Deputy Power, I understand you have a personal statement to make.

2. Personal Statement by Deputy S. Power regarding his resignation as the Minister for Housing

2.1 Deputy S. Power of St. Brelade:

Yes, Sir, I will be as brief as possible. At a meeting yesterday, the Council of Ministers expressed a view that I should resign as Minister for Housing and I have now done so. The background is this. On 5th August 2010 - it was about lunchtime - I visited the States building to pick up some files I had left in my locker. There were workmen in the area putting in the new lockers in the computer room. I noticed a printed email document sitting on its own, face-up on one of the printers nearest the wall. Because it was face-up, it had already been read. The front page appeared to be an email between 2 Members of the States dated 3rd August. The following pages appeared to be, at first glance, an email to one of the 2 Members from her former partner. I do not remember the date of the email. I do remember the detail. In view of the inflammatory nature of the email sent by the former partner, I was not sure what to do as there were workmen in and out of the building.

Deputy C.F. Labey of Grouville:

Sir, is this not breaching data protection, going into the contents of the emails?

Deputy S. Power:

Sir, I am not going into the contents.

The Deputy of Grouville:

Going into the nature. This statement breaches data protection as did Deputy Power's statement to the media that he forwarded to all States Members yesterday and his interview with CTV last night. He went into details about what was in the emails, which he has been found guilty of breaching the Data Protection Codes.

The Deputy Bailiff:

Deputy, Deputy Power has been permitted by the Bailiff to make a personal statement and he is able to do so.

Deputy J.A. Martin of St. Helier:

Yes, sorry, Sir, I was going to interrupt before Deputy Labey. I would like to say that he infers that ...

The Deputy Bailiff:

This is not the moment for other speeches. It is not a moment for other contributions, Deputy.

Deputy J.A. Martin:

Well, I would just like to put on record that the Deputy wants to be very careful what he misleads in this House. I am very sorry, Sir.

The Deputy Bailiff:

Please sit down. This is simply not a moment for other contributions. It is a personal statement which is being made by the Deputy.

Deputy J.A. Martin:

Well, then we will be allowed to give a personal statement too. Thank you, Sir.

Deputy S. Power:

In view of the inflammatory nature of the email sent by the former partner, I was not sure what to do as there were workmen in and out of the building. I quickly scanned the document and emailed it to myself. I put the email in my bag. My feelings in those minutes were at best confused. Why was this document lying around? Why was it printed and was it genuine? I took it back to my office and subsequently posted it that afternoon to the Data Protection Commissioner, that is 5th August, with a hand-written note on a compliments slip. That afternoon I then emailed the scanned document to one person and asked them their view of the document. I was then advised to delete the scanned document and did so. My mistake was this act of scanning and forwarding to a third party. I have been found to be in breach of a Regulation of the Data Protection Law 2005 by the Data Protection Commissioner. Consequently, and as a result of this, I am in breach of the Ministerial Code of Conduct. I accept that I made a mistake and that I breached a Regulation on this part of the Law and I also realise how easy it is to do so. I have left confidential documents - Housing documents in my case - on a printer in the same room in the past and I have had to rush back to retrieve them. I realised that I should simply have shredded this email there and then and indeed last weekend confidential documents relating to the Deputy of St. John in his role in the Chairmen's Committee were sent to me at my address and I took them to his house. However, the contents of the email referred to were, in my opinion, such that I did want the Data Protection Commissioner to see it and I did not want to leave the email where it was. I made no attempt to cover-up. My recipient assured me that they had deleted their copies of the offending document the next day and that no copy of the document was forwarded to any other person. The fact that it did end up on an internet site in August may have been due to the fact that another party may have picked it up between either 3rd, 4th or 5th August 2010 in the States computer room where it had been lying for over 24 hours. An overt threat against any serving States Member is unacceptable and while I have made a mistake in this case and regret my actions, I am glad that I did send the offending email to the Data Protection Commissioner and that it has been investigated and concluded. The threat of a vote of no confidence in this Council of Ministers is now averted and I hope that their fears are allayed. However, I would have reservations serving on a Council of Ministers that would roll-over at the slightest whiff of trouble and eat cordite. A lot of innovative and good work has been done within the Housing Department in the last 2 years, both with my predecessor, Senator Le Main - who it was a pleasure to work with - and it is now in good shape to carry on. The Housing Transformation Programme is now on full-ahead and the team at Housing

are a great bunch of men and women. I apologise to them for leaving them after just over 2 years of work. I also thank my Assistant Minister for his loyalty and hard work in the last 8 months. The worry related to this whole episode did affect my health throughout November and December and while I am now fully recovered, it is with a great deal of relief that I return to my duties in St. Brelade.

PUBLIC BUSINESS – resumption

3. Standing Orders: additional signatories on propositions (P.174/2010) - resumption

The Deputy Bailiff:

Well, we now return to the debate on P.174/2010 and I call on Deputy Shona Pitman to speak.

[9:45]

3.1 Deputy S. Pitman of St. Helier:

I just have a question for the proposer. There has been a lot of talk about how undemocratic this proposition will be if successful. I would like to know from him if he can answer this: how is this system that he is proposing more democratic than current practice, and I do not mean Minister time constraints or workloads. If he cannot figure that out, then he should withdraw this proposition.

3.1.1 Connétable P.F.M. Hanning of St. Saviour:

I am not sure I do wish to speak because yesterday I was very disappointed. The debate, I felt, did not show the House in a good light. I had thought I would support the proposition because I had hoped that having to discuss and persuade 7 other Members in order to endorse your proposition would have generally sorted out the hidden issues and raised the standards of the proposition. However, having heard some Members say that they would endorse a proposition automatically, possibly without even reading or examining it, I was appalled. This has nothing to do with democracy. Members are objecting because it will be harder to bring an instant knee-jerk proposition. Realistically, that is what their objection is. Endorsing automatically would make Members look irresponsible and lazy. Even more, I think, it is more important to say it would make this House look irresponsible and ridiculous. I do not always agree with Deputy Tadier but he was correct when he said he would not put his name to a proposition he had not examined. Neither would I. To do otherwise makes a mockery of our responsibilities and the trust placed in us by the electorate. How can we criticise Ministers and their projects if we do not even read what we endorse? We must do better than that. We have a duty to take our responsibilities seriously. I am afraid that I cannot rely on Members to be responsible and therefore I regret I cannot support this proposition.

3.1.2 Senator P.F.C. Ozouf:

I was going to say last night that I have little doubt that Senator Routier was responding to the fact that there have been too many propositions which are lodged and then tabled for the debate and get nowhere. We have to be honest and frank among ourselves and say that the standing by which this Assembly is held in the community outside is probably - I regret to say, for some of those reasons - at an all-time low. I do not think that we can rest with a continuation of the *status quo* in the way in which numerous debates have been lodged. I agree completely with the words of the Constable of St. Saviour in terms of the comments that he made about propositions and people not reading them. There are too many propositions which have been lodged and which this Assembly has debated and then there has been no beneficial result apart from people outside this Assembly thinking that individuals could be said to be grandstanding. Maybe this proposition probably is not going to succeed. I will support it because I think it is a responsible check in terms of at least propositions having a second reading. I think I agreed with Senator Breckon in what he said yesterday. I think that he was indicating that if this proposition does not go forward, maybe there is another

intermediate step that could be put in place: that a proposition is lodged but cannot be debated until there are a number of supporters which at least indicate that the debate has a possibility of moving ahead. There is a problem. We have to realise that there is a problem in the way that this Assembly, the Parliament of Jersey, is held, the standing in which it is held in the wider community. One of those issues is the fact that propositions are lodged and waste time when we should be debating the important issues in politics. I can see people on the other side of the Assembly snickering at my remarks. They will say no doubt that it is issues of tax and spending that are a problem. I think that this Assembly is held up with some degree of integrity in relation to responsible decisions that are taken. This is not an issue of Ministers versus Back-Benchers. I celebrate the fact that Back-Benchers - I have done it when I was a Back-Bencher - can bring forward propositions and make a difference, and that is a fantastic situation for our unique political system but unfortunately it is not working to the extent that it should. There is a problem and we need to, I think, accept that there is an issue and we need to reform our procedures accordingly. I will support it and if it is not supported, I think P.P.C. (Privileges and Procedures Committee) has a job of work to do in at least putting an intermediate step before issues are tabled for debate.

3.1.3 Deputy T.M. Pitman of St. Helier:

I am really pleased to follow the Minister for Treasury and Resources because he highlighted a lot of the problems in this government, albeit probably not in the way he intended. The real issue, I think, we are held in pretty low esteem and I have to say that what we have seen this morning really goes a long way to explaining why. As someone said, the Ministry of Sleaze... and that is sad that we are seen that way when we all know that this has gone on for months and the Council of Ministers have not acted because, as we know, they must have their way. Again, this is what this proposition is about. It has got nothing to do with enhancing democracy. I just pick up on what the Constable of St. Saviour said. I said I would sign anything that did not go against my principles of social democracy and social justice, so I would read everything and I have to laugh when I realise and think about the fact that only a couple of weeks ago we saw a proposal on Deputies pulled out at the last minute by the Member behind me on the BlackBerry instruction of the Minister for Treasury and Resources because it was seen to come... and this is the low standard of person who cannot even think for themselves. We say we do not want party politics but I am sorry, the Minister for Treasury and Resources is very good at what he does. He is the big whip-master. He gets it out and he gets things done and he is very effective, but the way this democracy has been eroded and the time wasted, as we have seen with a democratic decision taken to remove 2 Senators' posts, and we see all the desperate vested interests. We saw another one in the paper yesterday, another former Member, who I regularly used to see sitting out there with a cup of coffee when he should have been in here, and it is quite shocking. People do not want that any more. This is not just a club for the wealthy, I am afraid. It is a democracy. It is the Island's Government and what we really need is for democratic issues to be heard and to be brought forward. Really, Senator Routier, I think, sums up why some of my residents down at Albert Quay have had such problems because he seems to have so little to do that he could suggest that people wake up one morning and think: "I will put in a proposition today." What a crazy idea. Now, I know the term "barking" was used yesterday and nobody got pulled up so perhaps I can use it, because I normally do get pulled up, but what a barking idea that is. I bring issues if I think ... a serious minimum wage whatever, they are serious issues. They might not fit in with the Minister for Treasury and Resources' idea to turn Jersey into Corporation Jersey, do away with the public sector, survival of the fittest and the wealthiest. The poor can eat cake if they cannot afford bread. I am afraid this is about governments, about differing views. We have all got them and this constant drift towards suppressing democracy coming from the Council of Ministers or some to be fair, not all, is really bringing Jersey to a crisis point. I have voted since I was 18, I think, and I think I have heard every election and Senator Le Main will not mind me saying that but every time I think I have heard him stand, he has told the Island we are at crossroads. It is one of his catchphrases, I think and I think now we are at the crossroads. So if he is standing next time, he can say it. We have been brought

to these crossroads by the vested interests of an elite or people who think they are an elite. As was in that book I held up yesterday, saying about there is objection to the peasants being in power, well, I am sorry, but the peasants are as good as anyone else and the peasants have a right to a voice like everyone else. It is absolute nonsense. I could get 7 signatures for anything because I would not bring anything totally absurd, and if I did bring something it would be because I felt very strongly or my constituents had brought it up to my attention and I thought it needed debate. I am not going to bring something absolutely ludicrous and perhaps get 3 votes just for the sake of getting a good kicking, as Deputy Southern has had over the years. It is nonsense. Really I would ask Senator Routier to withdraw this because I am happy to sign up and say I will read things and if it does not conflict with my principles of social justice, I will support a Member to bring their issues further and their constituents' issues. So really that negates what this Senator is trying to do. This is all about control. It is all about this concentrating power in the hand and as a member of the public said to me the other day, they are quite appalled that it seems that democracy is an inconvenience for some of these Senators. They want to troll off to whatever they do, their day jobs. Well, that is fine. If people have got day jobs, go and do those day jobs. No one is asking them to be politicians. They are not forced. If democracy is a secondary interest to how much money they can make, fine. It is a fact. People are sick of it and now we have got this other nonsense coming up about length of speeches. I am not going to speak for 3 hours but completely fictitious arguments are put up that everyone does: "Everybody knows that he will speak for 3 hours." You are not going to sway anyone. In fact, you do not sway anyone here with most speeches because, sadly, half the people who have a righteous mentality, they have come in and they are going to do exactly as they are told. They are not even going to listen to the debate and we see it regularly when the Deputy of St. Mary gets up to speak, or Deputy Southern: people disappear and that is really bad and that is why I highlighted my respect for someone like the Constable of St. Lawrence a few weeks ago. I come into this House and I am willing to listen and I might not agree with the proposition but I am willing to listen and consider it. What is so wrong for Senator Routier and some of those Members? I have to say that the people who have got in touch with me: "Go back to your day job if you do not want to be a politician." Democracy, as I think Deputy Southern said, is a messy business because in this House time is taken up again because people are concerned about vested interests. They did not like a democratic decision about Senators. Well, I stuck to what I said at the election so I am not going to change my mind. The arguments, there was no new evidence as Senator Le Gresley said at the time, and that is what really takes up this House's time and the waffling answers, the evasive answers. I am sorry, but with due respect to the Minister for Treasury and Resources, at question time, I have never seen a man manage to avoid answering a question so many times. It is an absolute skill that he has honed to perfection and I do not think even Jeremy Paxman could draw it out of him.

The Deputy Bailiff:

Do you think you could return to the proposition, please?

Deputy T.M. Pitman:

It is all relevant, Sir, I think, with due respect.

The Deputy Bailiff:

The question - the proposition - is whether or not there should be additional signatories ...

Deputy T.M. Pitman:

Absolutely not, Sir, but I think Deputy Tadier is quite right. It will draw people properly together and if party is the way you want to go, again, Senator Routier really does not seem to know how it works in this Assembly. I talk to people about propositions. There are at least 12 of us who exchange emails. Luckily we only exchange our own emails but there we go. People do talk about issues. We are in a minority at the moment on this side of the House but people are getting so

disgusted with the way democracy has been dragged down and this 7 signature thing, it is just going to add to that. Again, it is really a wrecking motion. I am not going to go on about the way I approach propositions and I just wish some other people would have that mature approach. We have all got different views and they all should be allowed to be heard, and I would ask Senator Routier to withdraw this. I for one say that if this is going to go through - I am not going to support it - but if it does, there are only 16 of us left in Scrutiny. It is the final straw for me. I will be leaving Scrutiny and focusing on putting in propositions and perhaps the Deputy of St. Martin has been right all along. He works very well on his own. I thought people should work together but maybe he is right. This should be rejected. It is just a complete undermining of democracy, another step down the slippery slope.

3.1.4 Deputy P.V.F. Le Claire of St. Helier:

I am happy to follow that speech. I thought it was a very good speech, a very uncomfortable speech for some Members and Senator Shenton is laughing. No doubt Senator Shenton might think that it is a good idea if we have a certain number of voters behind our propositions before we bring those to give them some form of legitimacy. He recently criticised the fact that Members - and I am included in that group - who voted to reduce the number of Senators in the Assembly. I find that ironic. It was the same Senator who brought a proposition to do exactly the same thing in November 2006 which was debated on 1st and 2nd May, reduce the number of Senators by 4, a 4-year term, one single election day. This same Senator thinks that democracy is somehow achieved by the number of votes one receives. When I last stood in a Senatorial election, there was no expenses limit and that was one of the things that Senator Shenton did introduce in his proposition and people could literally buy their way into politics. That is what I would put to Members is what has happened on occasions; and influence, and is this not about influence?

[10:00]

Is bringing propositions and the number of signatures that one needs and the sorts of people that one needs on those papers not about influence? We have a proposal to require propositions to have 7 signatures. When I stood for Senator encouraged by the former Senator's father and nominated by the former Senator's father, it was on a work permit basis. I did not achieve 4 votes when it came to that Assembly voting on the issue but I was returned fourth by the electorate in the Senatorial elections and I am sure that you would recall that the vast majority of my aim at that time was about introducing work permits and the difficulties around the human rights implications that were considered at the time. The fact of the matter is that I was returned fourth from being a new Deputy in this Island as a Senator without spending a fortune on a one-ticket platform, work permits. I got to this Assembly and I got 4 votes. So how does it translate into democracy? How does 7 signatures on a proposition translate into it being better thought through, better understood when Members have said already that they are willing to sign anything? I have signed practically anything but not just anything. I have signed practically anything to ensure that they had the right to bring their debate. I would certainly cast my eye across it but I would sign practically anything also just to give people that legitimacy of bringing to this Assembly what they said they would do when they stood on the election platform, even if they only had 4 votes. I stood again on the Deputies' elections and said again I would bring work permits, and I did again and I did not receive much more than 4 or 5 votes on that occasion most recently also. I am afraid we are at the tipping point and I know that has upset Senator Shenton. I know that some of the speeches in the debate have upset people and I know that possibly Deputy Pitman's speech has upset people and it has been uncomfortable. My speech is probably upsetting some people so let us go a little bit further and see if we can upset some more. Senator Ozouf talks about the fact that the standing of States Members has gone down in the eyes of the public. Gone down? No. Driven down. Driven down at every election prior to the elections to ensure that businessmen have a foot in to get behind the Senator and his covert political party. He talks about the integrity of decisions when he himself is facing an issue in relation to the integrity of the decision he made on G.S.T. (Goods and Services

Tax). He says that P.P.C. has a job of work to do. Well, I would say P.P.C. has an enormous job of work to do to make sure that ordinary representatives of this community are protected from such antidemocratic propositions as this and the calls for the support of them by people like Senator Ozouf who has huge sway and influence in the media and in the business community in this Island. The vast majority of people in this Island do not work for the media. The vast majority of people in this Island do not work and do not live the lives of the privileged. They are finding life extremely tough. They have, for many years, been disenfranchised through disinterest, their votes not equating to action and results in this Assembly, but one thing is for certain, if this proposition, and I warned about it yesterday, goes through, then politicians such as myself and Deputy Pitman and others will have no other thing to do than knock on doors and unify people to represent them to ensure that the vast majority of people who are constantly ignored bring their vote and bring it into action in this Assembly. If that is the divide that this Council of Ministers wants, this control freak Council of Ministers, cut it down. I like the words Deputy Pitman used: this drift to suppressing democracy. We have seen in my time in only 10 years a considerable clampdown on the rights and the abilities of States Members to do what they want to do in the way they feel that they should do it and in the manner in which they are allowed to do it. We see this from Senator Routier and more to come. We do not have anything to do. This Assembly is a rubberstamping exercise. It is good for speeches, that is all. I have made this point in the last little while. We have been disenfranchised. We cannot deliver any change. All we can do is request. I will go the States and ask the Ministers. They can totally ignore me but that is all I can do. All I can do is ask the Ministers. Now I need 7 other Members to ask the Ministers because the Ministers think I should have 7 friends asking me to ask them: "Go away, Paul, and get 7 friends and come back and ask me and then I will tell you what I think." It cannot be done. No, I am sorry. I do not like to get in between the Members that have come from one part of this community and the other. I think that we should be pulling together as one bigger community, and I am going to be bringing a proposition to return this Assembly to small committees because I see this Ministerial system as the most divisive and destructive thing that this Island has had to put up with since the Second World War.

3.1.5 Deputy D.J.A. Wimberley of St. Mary:

I do not want to upset anybody. I want to make a few remarks. This proposition is brought in the name of States efficiency. How we debate matters would be one thing we could look at just to take a little example of the context of improving things. On the back page of the report to this proposition is a copy of procedures in Guernsey. I notice there something that I have long thought and sent to the working group on States efficiency, which is the format of a debate. There the proposer gets the right to sum up, just as they do here, but the main opposer, i.e. the Minister in the case of a Back-Bencher's proposition or the leading opponent of that proposition, also has the right to sum up before the final summing-up of the proposer. So the structure is A, B, then the debate, B, A. So you get the 2 summings-up of the opposing points of view. Now that sounds like one extra speech but, in fact, it would serve to shorten debates because it would make sure that the cases for and against were put at the beginning which sometimes they are not at the moment. Then the debate is all in context and then the 2 gladiators, if you like, sum up at the end. Then that would get away from the: "I will wait and try and be the last speaker before the summing up" syndrome, which I have noticed and people sort of playing games with when they speak. That is one little improvement. I am not saying we should do it. I am just saying that is the kind of thing that we should be looking at. The other is in committee debates. We have had 2 occasions recently where there have been multiple options in front of the Assembly and we do not do it well. We just plough through the amendments in order. All the amendments relate to each other and we get ourselves into quite a pickle whereas, in fact, we have the mechanism but we do not seem to use it of the in-committee debate where people can come back, tease-out the issues and then we proceed to the formal voting bit on the different options. Those are just 2 suggestions that I am saying are more realistic and more helpful and the kind of areas we should be looking at in the context of an overall

review. So what is this proposition supposed to be about? What should it be about? The quality of propositions and the number of propositions. That is what we are really looking at, is it not, one that some people have said there is a problem with the quality of propositions. Okay, so, let us address the quality of propositions. Why not have some kind of ... not format, not tick box A, B, C, D, you have got to write paragraphs on these, but at least your proposition must state what the problem is. It must state the background to that issue, alternative solutions to the problem and why they are not being proposed, the actual solution, research carried out, consultation and of course social, environmental and economic aspects and financial and manpower statements. If you have some kind of template, then a proposition would come with a report that had the necessary information in it. There should be a way of creating that filter on the quality of propositions and that would, in fact, serve to have an effect on the number of propositions. When we look at the number of propositions, why are there so many propositions? Well, people have referred time and again to the split in this Assembly and the fact that for a Back-Bencher there often is no other way than to bring a proposition if a department, or a Minister seems to be missing out on a certain area, or there is an over-arching concept that just is not being handled at all, then you have to bring a proposition. So that too, in the context of the way we operate, maybe we could reduce the number of propositions by improving the overall feel in this Assembly. So really, in summary, tinkering; this is tinkering. It is not taking an overall view of what the issues are and how we can improve the way we operate. We do need to improve the way we operate. The Minister for Treasury and Resources is quite right. There are too many propositions. We do talk for too long in here about this, that and the other and quite often reversing things that we have talked about before, but that requires an overall view of how we can make our processes better. This proposition does not address those issues and it ignores the all-important context, and I will just remind Members of what the P.P.C.'s own working group on States Business Reform said, and I have to remind Members of this before the proposer sums up. The sub-group, and this is their findings, and they looked at all the things that people said to the representations by States Members: "The sub-group does not consider that making small adjustments around the number of propositions that may be lodged, time limit on speeches, the number of questions, to mention a few items, will make any appreciable difference without looking more deeply at why the increases in questions and individual Members' propositions is occurring" and they go on to talk about the exclusivity of the Ministerial system of government. That is the conclusion of the working group that was set up by P.P.C. with a range of people on it, Deputy Fox, Deputy Higgins and chaired by the Deputy of St. Peter and that was their conclusion. Then they recommended that P.P.C. undertake an overall review - either a quickie or a bigger one - into all these processes to come up with some better solutions for the way we work and their final statement, and I have to remind Members of this, I said it yesterday, I do not apologise for saying it again. Remember this is, in my view, tinkering. It is not taking the overall view. What did they say: "If a review of the current recommendations is approved, the sub-group recommends that no piecemeal amendments to Standing Orders are made in advance of such a group reporting back." The Chairman of P.P.C. says so. Yesterday she said we should not be going down this road of a little bit here and a little bit there. It reminds you of trying to reform our electoral processes, does it not? We just pick at the scab and we pick at the scab and we do not get there. We do not make the genuine improvements that we need and that the public deserves. Other jurisdictions have procedures on propositions. Have we looked at them? Have we presented any coherent picture of that? No. So I do urge Members to reject this proposition because it just has not taken into account the context. It is not part of an overall plan. It is simply tinkering.

3.1.6 Deputy E.J. Noel of St. Lawrence:

Having already adopted Senator Routier's proposition in my proposition P.2, I have experienced first-hand the benefit of doing so and to date I am the only Member of this Assembly to have done that. Having gone through the process of finding 7 endorsers allowed me to discuss my proposition with others prior to debate and to refine my arguments and to test my ideas. I did not continue with

my proposition on that day only because I knew it was not going to receive the required 28 votes, and that was based on the mood of this Assembly with the previous debate of Senator Cohen. Deputy Trevor Pitman claims that he would not bring a proposition to this Assembly if he was only going to get 3 votes, his words, not mine, but if my memory serves correctly, one of his previous propositions only received 2 votes. I believe that having 7 endorsers is a healthy evolution of our Standing Orders.

Deputy T.M. Pitman:

I would just like to say that that is not true what I said. Sorry, I know you are not with us very often, Senator, because you are normally skiving off but ...

The Deputy Bailiff:

Can I just say to Deputy Trevor Pitman that Standing Order 104(2) says a Member of the States must not use offensive or insulting language about any Member of the States and really it is appropriate to try and raise the level of debate it seems to me in this Assembly. The Deputy of St. Martin.

[10:15]

3.1.7 Deputy F.J. Hill of St. Martin:

I was going to say I was pleased to follow the Deputy of St. Mary because what he is saying really makes a lot of sense. I wanted to speak earlier to follow Senator Ozouf because one of the problems we have in the House is that people are in and out. We do have to leave the Chamber, I accept that. I have to go out at times. But yesterday, I gave a breakdown of the 29 propositions that had been withdrawn and this proposition is all about the frustration about the numbers that were withdrawn and yet when one looks at how the 29 have been withdrawn, I think most of them have been withdrawn or pulled for good reasons, 11 by the Ministers themselves with P.P.C. P.P.C. pulled 2. One they brought forward the media or the Code of Practice. Now, personally, I thought that was a pretty poor proposition, in fact, so much so that I almost rewrote the thing. I met P.P.C. I discussed it with P.P.C. and as a result of my meeting with P.P.C., P.P.C. withdrew their own proposition who had the freedom of information, another P.P.C. one. That has been on the desk for how much work that has been done. That was pulled by P.P.C. and I respect their right to do so because they felt it was right. When one looks at some of the other propositions lodged by the Ministers, I accept the reasons for it. Likewise, some of the propositions have been put by the 'A-Team' by non-Ministers. They have been lodged for a reason and they have been pulled for a good reason. I can look around the Chamber and I know that I will get nodding heads from those in agreement with me saying: "Yes, when I brought my proposition, I thought it was a very good idea to do it" and sometimes by lodging that proposition, action follows through and, in fact, we have got a classic, I think. We have heard Senator Perchard talk about a line in the sand yesterday. I think his proposition about the fee increases in private schools really got some action going as a result of his proposition. It was pulled but rightly so because we had some action taken by the Minister for Education, Sport and Culture. There are sometimes very good reasons for bringing propositions forward and then withdrawing them, as indeed I think Deputy Le Claire said yesterday. Some of his have been withdrawn simply because action has followed and then has resulted in no debate to follow. In many ways, that is the merit of bringing forward propositions and it is just one of the opportunities for people like myself - those who are non-Ministers - to bring forward propositions with a hope of making change, and that is certainly one of the reasons why I was elected. But to come back to the Deputy of St. Mary because what he is saying, quite rightly, is that this is piecemeal. I met P.P.C. last week again because I was concerned that we have got propositions to the House here and there are going to be knock-on effects. I put a proposition to one of Senator Routier's and I do not really think that ... I have really thought it should have been a stand-alone... but having discussed with the Greffier, one puts it in as an amendment to Senator Routier's. But I would ask maybe Senator Routier not only withdraws this particular proposition

but also withdraws the other 2 that he has and then come back and discuss it with P.P.C. and we can look at the things in the round because there are other knock-on effects. If we agree to this one, we have really got to come back and say what is good for the goose is good for the gander. If we are going to expect individual Members to have 7 signatures, then it must follow throughout for everything. It should include amendments as well and if you are going to include amendments, how are you going to get 7 signatures in such a short time? As I say, I do not think the whole proposition has been thought out. The Deputy of St. Mary, I think, has reminded us about the good work undertaken by the Deputy of St. Peter and his group, and what we are doing is flying in the face of it. So I would ask maybe if Senator Routier, who has been in the House a long time, a senior States Member now, withdraw it; withdraw your other 2 as well. Go to P.P.C. and let us discuss this in the round in accordance with, was it R.58, I think it was, 59, and that is what we have asked P.P.C. to do. Withdraw this one and the other 2, and I would ask him to do so now, save us wasting more time.

3.1.8 Senator J.L. Perchard:

It is true that I did recently lodge a proposition requesting that the Minister for Education, Sport and Culture bring to the States his plans to amend the subsidy paid to fee-paying schools and, as a result of that proposition being lodged, the Minister conceded and subsequently the proposition was withdrawn. But I would have had no fear of asking 7 other Members to support that and I think probably I would have had no problem getting 7 Members to support that proposal because it was a sensible proposal. It is with regret that I have heard a couple of speeches this morning that do this House a discredit really. The tone of some of these speeches is unnecessarily provocative and aggressive and confront Members on an unequal basis, and I urge Members to just consider whether they are doing themselves, let alone this House, a service when they make some of these inflammatory speeches and remarks about other Members. One Member spoke this morning against the proposition. He said: "I would never bring a ludicrous proposition to the States. I would never bring an absurd proposition to the States." So that Member accepts that it is possible that there would be a ludicrous proposition brought to the States or an absurd proposition to the States but not by himself. That is really what this is all about. It is to stop that ludicrous or absurd proposition being brought to this House. It is important, and the Constable of St. Lawrence has said quite eloquently yesterday, when debating the amendment that the rights of the minority are protected and I am a champion for the minority and I am often, it seems, in this place in the minority these days but the majority have a right as well. In my opinion, the majority of the Members of this Assembly have rights as well. Currently, a single Member is able to abuse the power and trust that they have been given through Standing Orders of the States. They are able to bring, as has been admitted by Deputy Trevor Pitman, a ludicrous or absurd proposition. To me, that is an abuse. If they are the only person in this Assembly with that view, it is an abuse of the authority and power that they have been given by Standing Orders. If a proposition is not worthy to achieve the support of 7 Members to the principle of it, it is not worthy of coming to this Chamber. It is a waste of not only the proposer's time but that of the rest of us and yourself, Sir, and the Greffier and all the people that are involved in recording the ...

Deputy P.V.F. Le Claire:

Could I ask for a point of clarification? The Senator has made reference to speeches being confrontational. I do not wish to be confrontational in this intervention but surely to suggest that Members function within Standing Orders cannot be right, to accuse them of operating in an abusive fashion. Surely that cannot be right.

The Deputy Bailiff:

What is the ruling you are asking for, pursuant to what Standing Order?

Deputy P.V.F. Le Claire:

He is misinterpreting the motives of Members when they are bringing them, Sir, and I think that that is surely part of impugning the motives of Members when they bring propositions. He has impugned the motives of many Members in a broad brush there by saying that their bringing propositions on their own is somehow abusing the powers that they have been given under Standing Orders.

The Deputy Bailiff:

I understood the Senator's argument to be that Deputy Trevor Pitman had said he would not bring ludicrous propositions. That was therefore to accept that somebody else might bring a ludicrous proposition and therefore it was right to change Standing Orders to require 7 people to subscribe to any proposition in case other Members - not Deputy Trevor Pitman - brought a ludicrous proposition. That is what I understood the Senator to say and that seems to be the agreement.

Deputy P.V.F. Le Claire:

Could I just press you, Sir? That was not the point of order at all, Sir. I never made reference to Deputy Pitman. I said that in the speech that the Senator was ...

The Deputy Bailiff:

You were criticising Senator Perchard.

Deputy P.V.F. Le Claire:

Pardon, Sir?

The Deputy Bailiff:

You were criticising Senator Perchard to say he was out of order and I have explained why I think what he said was in order.

Deputy P.V.F. Le Claire:

But, Sir, that was not the point that I asked you to rule upon. **[Laughter]** **[Aside]**

The Deputy Bailiff:

Well, then you have to try again. I am sorry if I misunderstood you.

Deputy P.V.F. Le Claire:

I was not inferring that the comments made by Senator Perchard were in direct relation to Deputy Pitman's speech at all, Sir, but I was saying that by inferring that Members are somehow abusing their powers under Standing Orders is impugning the motives of all States Members that bring propositions that he is currently disagreeing with, Sir.

The Deputy Bailiff:

Well, if you are asking me to rule on whether all Members regularly speak entirely in accordance with Standing Orders, I have to say that my ruling would be that they do not. Senator.

Senator J.L. Perchard:

That sort of all went over my head a little bit, all that. I am not really sure what the point was and I regret that Deputy Le Claire thinks that I was impugning his motive, I was simply pointing out that it is possible for a Member to bring an absurd or ludicrous proposition that will only be supported by himself, and I seem to even remember a proposition being brought that was not even supported by the proposer who made it and that was quite recently. So we do have situations where the majority of Members, the vast majority - in fact, 52 Members - have to endure a ridiculous no-hope proposition that should never have made it to the floor of this Chamber. There needs to be a bar - a test - to ensure that a proposition reaches a certain level of credibility before it comes to this Chamber for debate. Senator Routier has brought a proposition which I think is quite reasonable.

As I said earlier, if a proposition cannot obtain 7 Members of support, it is just not worthy of being debated in this place.

Deputy T.M. Pitman:

Could I seek clarification from the speaker, Sir, please? The Senator talked about inflammatory nature of speeches. Is that something that he would include when you tell another Member to go and slash their wrists, because I think those are things that really upset people, not people putting things across forcibly and that did offend a lot of people. Is that something the Senator has learned?

The Deputy Bailiff:

Do you wish to respond, Senator? Does any other Member wish to speak?

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

It will be very brief because I had not realised the elections and the hustings had started so early. I would like to bring it back to the main points. Number one, the Deputy of St. Martin yesterday and today has demonstrated that there is absolutely no need for this particular proposition. Number 2, it is a complete nonsense because it will be overridden by the fact that Members will freely give their consent to people to bring propositions. I think it is time that we dispose of this one and move on with the rest of the business.

The Deputy Bailiff:

Does any other Member wish to speak? If not, I will call on Senator Routier to reply.

3.1.10 Senator P.F. Routier:

This debate has taken longer than I thought it would take. We have obviously had a number of amendments yesterday which lengthened the debate and they have extended the debate, but I really would like to start by saying that at no time - and I want to make this very, very clear - has it been my intention to stop any Member bringing forward a valid, well-researched proposition. That is every Member's right to be able to do that and that is what I would hope to do. This is not an Executive versus Back-Bencher proposition at all. This is there to help this whole Assembly to be able to debate things in an orderly and good fashion. The aim really for this proposition is to give Members a bit of breathing space and thinking time before they get this germ of an idea that they want to progress to something and bring it forward to this House. It gives them the opportunity to speak with other Members to see if there is some validity to their proposition and to see if they have got a level of support because we need to get a majority of the House to support any proposition we want to bring, so I believe that it is a mechanism which is appropriate. It was Senator Breckon who told us about the times he had brought a topic for debate on a number of occasions, on 3 occasions, and on the first occasion, he did not achieve very many votes, not even the 7 that I am suggesting.

[10:30]

The second time, he brought the same topic back and he gained a few more votes and on the third time, he was successful. This was over a number of years that he was trying to achieve something and he achieved it and full marks to him. He felt that the ability of getting something on record was vitally important. But I have to say that it may have been better for him and he might have achieved his aim a lot, lot sooner if he had been speaking to other Members in the earlier days, in the first time he wanted to bring something forward. He might have achieved his success a lot, lot earlier. Deputy Southern never fails to amaze me. Yesterday afternoon he was saying that we had spent an inordinate amount of time - 2 hours - debating this matter, that we should not be wasting our time and there have also been calls today from Members to withdraw this proposition. These comments are coming from Members who want to have Members' freedom to debate anything they want. I think it is amazing that that is something that Members are calling for. The time we spend debating things is in Members' hands obviously and it always should be. Several Members spoke

of their desire to have informal discussions with other Members about topics of interest prior to debates. There were, I have to say, some very thoughtful and considered contributions and I particularly focus on Deputy Tadier's comments who felt that there was a need for Members to pull together, to think about things and to discuss matters before coming to the House. I sense that there are a number of Members who have the same sort of feeling, that they want to discuss things before things come to the House. I would like to see teamwork. I would like to see teamwork and trying to achieve things, and Members on specific projects - whether it be social, environmental or fiscal - and then there is more likelihood of a proposition being successful. Even Deputy Duhamel expressed similar desires to have a sharing of ideas before a debate in the Assembly and this proposition will help that. It was Senator Le Gresley who said that when he first joined the Assembly he expected to have had a process to go through before a proposition was lodged, and that he would like a forum outside of this Chamber to discuss with other Members when they want to bring something forward. The Deputy of St. Mary, although he is not convinced about this proposition, I think was talking along the same sort of theme really: that there needs to be a mechanism - a forum - to discuss things before a proposition is brought here. He did say that we cannot carry on with this open access to bring propositions. His words were exactly that. He has mentioned the work - the review- that is being carried out on the States operation. I share those views. There is obviously an issue to be dealt with. Of course, the Deputy of St. John wants total democracy, as he calls it, with no restrictions at all. Of course, that is a privilege. That is a privilege we have and we all like to be able to do what we want to do. But I believe that we have a duty to accept our privileges but to be responsible. We need to be responsible of how we use our privileges. We need to be responsible of how we use our resources. We need to be responsible that we use the resources of, not only this Assembly, but also of the departments that we put pressure on for them to provide the services for our community. Both Ministers and Scrutiny members are under pressure to find time to carry out their duties outside of the Chamber. We all have a function outside of this Chamber and we need to be able to have that ability to do those duties. Scrutiny members do need to have time to scrutinise, to scrutinise the legislation which is coming forward, and any proposition that Ministers are bringing forward. They need to have that time. I am afraid to say the more time that we spend debating propositions which have little success at the outset of being successful, the less time we are able to spend in Scrutiny. It really is evident that the balance of the way we are working now has changed. I know there is a feeling that perhaps the old committee system was better and the Ministerial system is not proving to how they would like it to be, but I think this proposition does help to pull people together. It helps them to discuss things before things are brought to this House. It is not anti-democratic at all in any shape or form. As Members have seen, I have attached the Guernsey Rules of Procedure, who have a similar requirement for 7 signatures. Their rules are not anti-democratic; they do not stab in the heart of democracy. The Guernsey rules go a bit further than what I am suggesting here over a category, or the similar things that we have; an individual Member's proposition. It goes to the Policy Council before it gets to the Chamber. I am not suggesting that. I think that is a step too far. I think we need to still protect the right of Members to be able to bring propositions and this proposition does not stop that at all. All it does is put in a mechanism to enable Members to sense-check what they are bringing forward. I would like to address an issue which the Constable of St. Saviour raised this morning, and a number of other Members and Deputy Higgins raised, about if a proposition is brought forward and then any Member will go and sign it and it devalues the whole issue. What I would say to that is of course it is a Member's choice to sign it. If they are prepared to sign something without having read it or having taken note of it or really considered it, that is a matter for them. It will be up to us as Members to think about that when that comes forward. It will be up to the electorate to think about that when they see that Members have signed things which are absolutely a waste of time, if that is what it is. That will be for the electorate to decide. I did have a thought that it would be a bit like signing a J.D.A. (Jersey Democratic Alliance) petition. I was not going to say that but I have said it now. This is a very straightforward principle focused on ensuring that propositions are well thought through and have a measure of support before this

Assembly is asked to consider a matter. I would like to thank those Members who have spoken, some have spoken in support, and those who have endorsed and countersigned the proposition. When I did discuss this proposition with the other Members before I lodged it, it was a very, very useful thing to do. They advised me and enabled me to redraft the proposition and that was a very useful function. I have to say it was a good process and it was a simple process and I would recommend it to Members to think about when they are bringing forward a proposition to do that; to get some ideas. If Members support this proposition, which I hope they will, proposers and supporters of propositions should have all considered the principles before it is lodged. We will in future have debates that will be well informed and have some initial oversight and, importantly, a measure of support. I believe what I am proposing can help all Members to achieve successful propositions. There could be an oversight and a sense-check by other Members, rather than have propositions which have not been thought through sufficiently and eventually, and unfortunately, fail for one reason or another. There is an opportunity for us all to work together more to help each other and, I believe, to use our limited resources a great deal more effectively. I maintain the proposition and ask for the appel.

Deputy S. Pitman:

Before we go to vote, the Senator did not answer my question and I wonder if he can explain how he believes his proposition, if successful, is more democratic than the current system.

Senator P.F. Routier:

I have made my speech.

The Deputy Bailiff:

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

POUR: 10		CONTRE: 38		ABSTAIN: 0
Senator T.A. Le Sueur		Senator F.E. Cohen		
Senator P.F. Routier		Senator A. Breckon		
Senator P.F.C. Ozouf		Senator A.J.H. Maclean		
Senator B.E. Shenton		Senator B.I. Le Marquand		
Senator J.L. Perchard		Senator F. du H. Le Gresley		
Connétable of Grouville		Connétable of St. Helier		
Connétable of St. Clement		Connétable of Trinity		
Connétable of St. Peter		Connétable of St. Brelade		
Deputy J.B. Fox (H)		Connétable of St. Martin		
Deputy E.J. Noel (L)		Connétable of St. John		
		Connétable of St. Saviour		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy R.C. Duhamel (S)		
		Deputy of St. Martin		
		Deputy J.A. Martin (H)		
		Deputy G.P. Southern (H)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy P.V.F. Le Claire (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy S. Pitman (H)		

	Deputy K.C. Lewis (S)		
	Deputy I.J. Gorst (C)		
	Deputy of St. John		
	Deputy M. Tadier (B)		
	Deputy A.E. Jeune (B)		
	Deputy of St. Mary		
	Deputy T.M. Pitman (H)		
	Deputy T.A. Vallois (S)		
	Deputy M.R. Higgins (H)		
	Deputy A.K.F. Green (H)		
	Deputy D.J. De Sousa (H)		
	Deputy J.M. Maçon (S)		

4. Jersey Consumer Council: future mandate (P.182/2010)

The Deputy Bailiff:

Very well, we now come to P.182 - Jersey Consumer Council: future mandate - lodged in the name of the Minister for Economic Development and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion (a) to refer to their Act of the 25th April 1995 regarding the establishment of the Jersey Consumer Council and agree the following future mandate for the council; (i) to seek information, investigate, highlight and publicise anomalies and irregularities in consumer affairs and to encourage good trading practice by local business; (ii) to provide a consumer response to consultations, to advise on consumer priorities and concerns and identify anti-competitive practices in support of the statutory roles and responsibilities of the Jersey Competition Regulatory Authority, the Jersey Financial Services Commission, the Department of Economic Development, other relevant departments, and in future a financial ombudsman; (iii) to provide consumers with adequate, accurate and timely information so that they are able to make informed decisions and to know their rights in doing so, where this is not already adequately provided for by the activities of relevant statutory agencies of the Economic Development Department, to include the Jersey Competition Regulatory Authority, the Jersey Financial Services Commission, and any future financial ombudsman; (b) to request the Minister for Economic Development to take the necessary steps to provide for the council's effective operations by (i) preparing for the establishment of the council as a separate legal entity able to rent accommodation and enter into employment and research/consultancy contracts in its own right and to bring a proposition to the States for approval by July 2011; (ii) recommending to the States for approval the appointment of a Chairman who should not be limited to being a States Member, and should be appointed in accordance with the Jersey Appointment Commission's Code of Good Practice; (iii) appointing the members of the board of the council in accordance with the Jersey Appointment Commission's Code of Good Practice, which membership should be fully representative of consumer interests generally, with the opportunity to co-opt individuals with appropriate experience/expertise to assist in the undertaking of research or to form consumer focus groups; (iv) requiring the council to present to the States an annual report and accounts; (v) requiring the council to present an annual business plan to the Minister for Economic Development; (vi) seeking to obtain funding for the council through a States grant, to be supplemented by private donations and/or members' subscriptions so that it is able to carry out a proper programme of investigations/research in respect of those matters that fall within the remit of the council; (vii) ensuring that there is a clear and specific line of responsibility for consumer affairs to the Minister or Assistant Minister; (viii) requesting the Chief Minister to arrange for the States Statistics Unit to advise and agree with the Consumer Council on the best approach to collect prices, make price comparisons, and present price information to the general public; and (ix) requesting the Minister

for Treasury and Resources to arrange for the States insurance arrangements for indemnifying States employees to be extended to the board members and executive(s) of the council.

4.1 Senator A.J.H. Maclean (The Minister for Economic Development):

I would like to thank also the Deputy Greffier; I hope we have not exhausted her with that introduction. Perhaps we should have taken it as read. The Jersey Consumer Council was created by an Act of the States in May 1995. Since that time the council has had the same chairman, Senator Alan Breckon. I think Members will agree with me when I say that over the years the Senator and his board members have carried out some sterling work. **[Approbation]**

[10:45]

They have highlighted and investigated issues of great importance to Jersey consumers. Senator Breckon was kind enough to provide a summary of those issues, which can be found in Appendix 1 of the proposition. I think it is appropriate at this point if I give Members some background as to how we got to where we are today. The original proposition adopted by the States in 1995 laid out the detail of the constitution and functions of the council and also made provision for administration and expenses. Interestingly, the expenses were to be met by, and I quote: "Initially from the vote of credit granted by the States to the Policy and Resources Committee of 1995." In fact, the expenses incurred by the council in carrying out its functions were met by that committee until late 1999 when the transfer of functions saw political responsibility for the council move to the newly-created Industries Committee. To assist the new committee, and indeed the council, it was decided at the time to allocate an annual budget of expenses within which the council was expected to function. In 2003 the Industries Committee was replaced by the Economic Development Committee and during this time it was decided that there should be a more formal partnership agreement with the council. This was agreed and signed, so from 2003 the council received funding in the form of an annual grant giving more independence in deciding how functions would be carried out. In April 2006 the State Strategic Plan for the period 2006 to 2011 was published and one of the objectives falling within the scope of Economic Development was to seek to enhance the role of the Jersey Consumer Council. To meet this objective it was decided, in co-operation with the Consumer Council, to engage a U.K. (United Kingdom) expert in consumer affairs to review its constitution and functions and make appropriate recommendations for consideration. That report was published as an appendix P.10/2009 lodged in January 2009 which saw the reappointment of Senator Breckon as chairman until the end of 2011. Ongoing discussions have been held with the council over the recommendations contained within that report. Probably the most significant was a recommendation that the council should become a statutory body. However, questions were raised as to whether this fundamental change was appropriate for a small jurisdiction like Jersey. Eventually, it was decided to seek further advice on the recommendations with a more local aspect on all of the issues which evolved from the original report. Colin Powell was approached and agreed to assess the recommendations with what could be termed a local perspective and to report accordingly. Some Members may remember that Colin Powell had been instrumental in drafting the original constitution in 1995 when the council was originally set up. Mr. Powell's report can be found in Appendix 2 to my proposition and I hope Members have been able to find the time to read it. As you will see, it did not propose to establish the Consumer Council as a statutory body, after careful consideration. However, it does need to be given a legal entity status and I have sought advice from the Attorney General on how best this should be done. If this proposition is passed today, then, again, as Members will note, I am tasked with lodging a further proposition for debate by July of this year to ensure this Assembly approves the legal status to be given to the council. I do not propose to go through every point in my proposition but there are some more significant changes which I will seek to highlight briefly. The chair of the council will no longer have to be a Member of the States but any future appointment will be carried out in accordance with the Jersey Appointment Commission's Code of Good Practice, as indeed will the appointment of members of the council board. I shall specifically mention 2 other parts of my

proposition as they request other Ministers to take some action. The first is found in (b)(viii) in which I proposed that the Chief Minister arranges for the States Statistics Unit to advise and agree with the council on the best way to collect product prices and present that information to the public. The second is found in (b)(ix) and this seeks the Minister for Treasury and Resources to arrange for States indemnity insurance covering States employees to be extended to the board members and executives of the council. In summary then, I believe the proposition before Members will undoubtedly enhance the role of the Jersey Consumer Council. It has evolved slowly over the years, as I have described, and I hope Members will support these changes which will give the Consumer Council a more modern framework for its functions. The independence of the council is of vital importance, and I believe this is not just maintained but improved. Strong consumer representation undoubtedly contributes to the fight against inflation, to fair prices, and plays its part in building a strong and sustainable economy. Just one final point, I believe that Senator Breckon has indicated his intention not to seek reappointment as Consumer Council chairman when his current term of office ceases at the end of this year. I would like to take this opportunity of thanking the Senator for his incredible work, drive and energy [**Approbation**] over the last 15 years or so, and wish his successor, whoever that may be, the very best of luck. It will be an extremely hard act to follow. I maintain the proposition.

The Deputy Bailiff:

The proposition is made. Is it seconded? [**Seconded**] Does any Member wish to speak? Senator Le Gresley.

4.1.1 Senator F. du H. Le Gresley:

If Members will excuse my voice today; I am afraid it is not in a very good place. I would like to endorse the comments of the Minister and Mr. Powell in his report that the success of the Jersey Consumer Council to date has owed much to the contribution made by the present chairman, the Senator on my right and, in fact, to repeat the words of the Minister just now, the sterling work of the chairman and the council members. For the Senator to have fulfilled this role for the last 15 years along with his other States work is highly commendable. I believe, however, that there should be a maximum time limit of 9 years for the term of office of both the chairman and council members, as recommended in the *Pact Consulting Report*, even though the Jersey Appointment Commission's Code of Practice allows for flexibility in some circumstances. I note that the Minister is proposing that in future the appointment of a chairman should not be limited to being a States Member. I consider that this is important as the Jersey Consumer Council has to be seen by the public to be independent and, again, to quote the Minister's words: "Independence of the council is of vital importance, free of political influence." While the current chairman has, on the whole, been able to walk this fine dividing line, I would be concerned if his successor was to be a States Member who was less discerning. I am surprised that Mr. Powell differs from Pact Consulting on the subject of remuneration for the chairman. It seems to me that if we want to adopt this new mandate for the Jersey Consumer Council, we should be looking to attract the most able candidates. After all, if the Minister for Economic Development is happy to pay board members at Harbours and Airport, then he should equally be prepared to pay the chairman of the Jersey Consumer Council for his or her services. When the Minister sums up, I would be grateful if he could clarify the reason for the difference between the actual grant for 2010 for the Consumer Council stated in the financial and manpower implications to be £130,000 and the budget figure for 2010 of £171,500 referred to in Mr. Powell's report. I am assuming that the additional funding of £41,500 was refused. Perhaps the Minister could explain why. I will be supporting this proposition as it will ultimately help the council to become more effective and accountable for the public funding it receives. Thank you.

4.1.2 Senator A. Breckon:

If I may, I could just explain the difference between the funding requested and given was about £41,000 but the £171,000 was bid for in a business plan but obviously there are some funding issues and that was the problem. I would just like to address a number of issues contained in here, just to skim over it, as it were. Firstly, it is perhaps appropriate that this is my last term, especially when chairmen are being paid £650 a day now because ... I do not know if the Minister would like to go into it, but if that is the case I am probably owed a few bob in back money. But having said that, it has been a pleasure to do it. The reason I say that is I can recommend it to other Members to get involved because it is about real issues and it is about everyday things people are concerned about: gas crisis, ferries and all sorts of other stuff which are real things to them and they ask the question, quite rightly sometimes: "Who can do anything about it?" In general terms, the existing members, there is a great deal of loyalty there and input which the Minister has touched upon, but what they want to do is build on what has happened so far and get from A to B as smoothly as possible and build on the work that has been done. That is to say adequately financed offices, resourced premises, and with a structure to extend the membership with an annual business plan or report to the States, which sounds simple enough but when you do not have a dozen staff, that is not a simple thing to do if you have one person and people helping voluntarily. It does take some time and effort for any small organisation. But I believe that there are people out there who do not necessarily want to be paid for doing things: members of the public and organisations who will get involved. In the report a number of things are touched upon and the Minister has hinted at that. If we go back to 1994, 1995 when this was first touched upon, of course there was no Jersey Financial Services Commission, there was no Jersey Competition Regulatory Authority and there are other things that have evolved, and people's attitudes have certainly changed in that time. But within the report on page 17, paragraph 4.2, first bullet point, it says this: "The J.C.C.'s (Jersey Consumer Council) position would be strengthened if it operated within the framework of more extensive consumer legislation similar to that to be found in the United Kingdom and other E.U. (European Union) Member States. This was clearly in the mind of the Policy and Resources Committee when setting up the council when great emphasis was placed on the expected parallel enacted by the Fair Trading Law." I can share this with Members because sometimes we found ourselves between a rock and a hard place because when the Consumer Council was established there was States approval at that time in February 1993 for a Fair Trading Law. It was envisaged then that the role and the function of the council would be to support what was some fairly strong legislation as a last resort so that when all else failed, Jersey consumers could rely on this. But of course it never happened. This is where we found ourselves on many occasions, having to apologise to consumers for the lack of structure and rights by which they could get remedy. Sadly, there is still quite a bit of work to be done to bring Jersey's Law and Regulations up to acceptable modern standards. It was even more basic than that because really where we started from that the Minister has touched on, it was literally what was then the Chief Adviser of the States office - in Mr. Powell's office - and they provided the support. The Consumer Council did not have an office, it did not have a telephone, it did not have a fax, it did not have anything, and a lot of people have put a lot of time and effort in to get it, including I should say, Mr. Powell himself in the early days. For that point really it was good that he came back to review where we were.

[11:00]

The chosen adviser we would have had would have been Lady Wilcox because she advised Policy and Resources in the early 1990s about where we were and perhaps where we should get to. I remember the former President of Policy and Resources, Senator Reg Jeune said: "We need a minibus not an omnibus" and that is hopefully where we were heading but unfortunately that did not happen. But the council itself I believe found a niche in there and has received a great deal of community support which I think is important. Some of that has happened through the newsletter which takes up the bulk of the funds. It is very nearly half of what we spend annually to do that but having said that, people connect with that. The other thing that I think I would like to mention is working relationships. I think the council has developed a good working relationship with the

media and with the organisations: what was the Transport and General Workers Union, the Hospitality Association and Chamber of Commerce Legal... People have questioned having businesses on a consumer council. Well I can say that it was very important if you looked at issues like Sunday Trading and other things, people around there, as well as representing organisations, have their own experience of life and the membership brings that to the table. The other thing, members of the public can become members just as members of the public, and it is probably the first time some of that has happened, and I think that is good that that should continue. I think it is right that at this time I pay tribute to Advocate Anita Regal who has been a member of the council since it was first set up. Now, I know sometimes the legal profession take a bit of a hammering but I can say, she has given time and effort above and beyond the call of duty and has been involved in all sorts of issues. We heard about people being paid things, and in over 15 years she has not been paid a penny piece. We have meetings and, unlike some States things, we still allow refreshments because we tend to meet when people can attend. I am grateful for that because it is what some of this is all about. I went to the presentation of Jersey Finance the other day and something that they made a great deal of play about was how much *pro bono* time and effort was given. On a rough calculation in the time, I think the council have met on about 140 occasions now and it is something like 12,000 hours. Now, if you are clocking that up, certainly not at legal rates, but whatever else it is, that is a great deal of time and effort that members, volunteers have given in that time and I think that is very important. There has been, I can assure Members - there is a list there - lots and lots of issues in that time. I think members as well as that have given time and effort in studying the issues, whatever they have been, and there have been difficult ones. I will remind the Minister: Estate Agents' Legal Charges and Practices, Sunday Trading, Ferry Services, Financial Ombudsman, 10 Per Cent. So sometimes there have been difficult issues but members have not shied away from that and they have, I believe, made a difference. We are still proactive in consultations, in helping States departments, the Island Plan, long-term care, postal services, and if somebody does a consultation there is a response. I think that is important because you need to try and assess a public view and opinion - you cannot survey everybody all the time - and respond to that. There have been some issues that have been disappointing like eMoney, which is phone cards, things like that, and we were the only people - the only one organisation - to respond to that and that is big business: what do we do in Jersey? So, there has been some real big issues I think where the council have got on and done the thing in a practical way and have made a difference. Senator Le Gresley touched on - and obviously I declare an interest - whether the chairman of the council should be a Member of this House. It is a double-edged sword because what has happened is, of course, things have changed. We have now got Ministerial government where we did not before and with respect to both the Minister for Economic Development and the Minister for Treasury and Resources, their responsibilities and interests are different to the consumer interests and the view is not always the same and I think there will be some conflict. I think that is good and healthy if we think of perhaps ferries, airlines, the airport, postal, harbour, telecoms, J.C.R.A. (Jersey Competition Regulatory Authority), J.E.C. (Jersey Electric Company), there is some tension there between the role and responsibility of the Minister - for which this Minister has responsibility - and perhaps the consumer views. I can give Members an example of that. If you think of the Bank Depositors' Scheme that the previous Minister for Economic Development was not keen to introduce. Eventually it is in place but we did have the industry and Minister lining up against consumer interest. Eventually we did it but we did it because of some pressure from outside. But it was a long time coming and I think it is good and healthy sometimes if somebody has the ability, the chairman and the council has the ability, to raise these issues and even bring a proposition to this House. So there must be, I believe, a channel to do that because a Member of this House could certainly be a member of the council; they would not be excluded, I do not think, in my reading of it. But again there are issues where I would say - and I would say that - that it would be very effective to have that link because, with respect, the Minister's voice is not necessarily the consumer's voice. There are issues about funding and, as they say, we are where we are. But I think in general terms there has been value for money and I think the council in general terms has punched above its

weight. But then people have expectations. If utility prices have gone up by this, that and the other, then it should not be happening. Who is doing something? Well, who is doing something? That is a really serious question. The other thing that is in here is the provision to have focus groups. Again, this has come after a great deal of thought and it has come about because of the sheer volume of work. If we think of a subject, say like Communications and Media, it sounds fairly simple but if you think of the complexities of the mobile phone market, it is a difficult area for somebody to look at and compare packages. If you are going to go out and tell the public things, then it needs to be accurate, it is not just what you think it is. It is the same recently with digital TV: is it a success; what about the channels; what about the reception? I am not sure that has been proven. It is the same with other sub-groups or focus groups: eCommerce, Retail and Price Watch; Legal and Regulation. Travel and Transport is a very emotive issue. Ferries have been around for a long time but it is still very emotive and, again, airlines are very inventive in taking people's money in different ways: weighing their luggage, charging them for checking-in; there are taxes and all sorts. It is a complex area and the idea of having focus groups is that a number of people could look in more detail at some of these areas. What Senator Le Gresley touched on there, there have been bids for the last 2 years to finance these focus groups. What we are talking about is probably about £5,000 a year to put in some administration but I believe the benefits are well worth that. I believe that people will volunteer and I think that is good and healthy. I think that will happen. The structure I think will fit in place following, hopefully, the support of the House today. As I say, some organisations are there now that were not there in the past. I think I have covered most of the things I wanted to say. Just to touch on something else, I was recently in the Isle of Man for the British-Irish Parliamentary Assembly. I took the opportunity to go into their Office of Fair Trading and what they said there was: "We are the Cinderella organisation" but in fact, compared with here, they are the Rolls Royce because they have an ombudsman scheme and they give advice and they do all sorts of things. They do not have a Citizens Advice Bureau which is part of the organisation. They have something similar but it is perhaps not quite as robust and focussed in the community as the one we have here. But the reason I say that, in the U.K. of course you have an Office of Fair Trading, you have a Financial Services Authority, you have a Financial Ombudsman Scheme and you have Utility Regulators and you have consumer focus and we have none of that. The reason I say that is sometimes people have come to the Consumer Council and said: "Well what are you doing about this, that and the other?" It is all right to say when it is somebody else's territory but, with respect, the Jersey Financial Services Commission are not consumer-facing. The J.C.R.A. I believe are in a process of change and the Isle of Man has something that again we might look at. There are just a couple of other issues. Regarding the funding, we do receive a grant and there is some difficulty in raising sponsorship because if you upset your sponsor, then you do not get the sponsorship any more. So, if we were sponsored by garages or by estate agents or supermarkets and there was something in there that upset them, then the sponsorship could go. The other thing that could happen is there might be opportunities from the telephone companies, the postal operators, utilities of raising a fee from there, but I do not think you can go around collecting a subsidy off people, otherwise if people pay an annual subscription, they have an expectation of what they might get and I am not sure what that would be. I think I have covered everything. The thing I might have missed is just a final thank you to people in industry, retail and utilities and wherever else, because in general terms they have treated the issues, the fact that we do not have some regulation or whatever else, but they have come to the table and been helpful in some of the issues. There is still some way to go on that and I think the council itself has achieved that credibility by treating those with respect and not with some of the headlines and things that have appeared. There has been a mutual acceptance and respect for that. What we have before us - and the Deputy Greffier has done an excellent job of reading that out - is a modernisation process because time has moved on. The reason this had to come back to the States was to get the approval of the House to move from where we are to where we want to be. I am sure, as the Minister will acknowledge, there is still some work to be done to achieve that. Finally, just to anybody who has made the council part of the Jersey system, if you

like, and there is a tremendous public response, that has happened because of the issues. The issues have been very real, including, sadly, a Goods and Services Tax which is going to take £45 million off the consumers, so if the Consumer Council did not say something about that, then it would have been probably negligent not to do so. So we did and we are where we are with that. So with that, I will close. Thank you.

4.1.3 Deputy P.V.F. Le Claire:

I would like to congratulate Senator Breckon on the amount of work that he has done over the years and I think he has really worked hard for the ordinary Jersey residents in trying to highlight the differences in the costs of things. I think also credit where credit is due, the *J.E.P. (Jersey Evening Post)* has also done an incredible job through Mr. Carl Walker's initiatives on the Fair Play campaign and I think that the *J.E.P.* needs to be congratulated for that. The Minister has brought quite a comprehensive in-principle proposition here and one always wonders where things get their motivation from and I always try to look behind where things are motivated from. Setting aside the political motivation, there is obviously a desire here. It is outlined for this to move to a more formal setting. I do wonder though how it is going to fare when we have the harbours and airport board currently on £120,000 a year as an advisory body and all of their reports will be commissioned by the Minister for Economic Development. I do not suppose the reports and analysis that the Consumer Council if it is put on to a statutory basis will be commissioned through the Minister's budget, so I am wondering how they are going to manage. I know that we have been given in the report a parallel to the Jersey Childcare Trust.

[11:15]

But I know that they fight very hard. I do not know how he does it. Mr. Powell's ability to juggle several extremely difficult balls in the air at one time and still deliver is just incredible really, what he does, and the team there. But they face challenges and I wonder how those challenges will be met in the future by the council. I am a little bit concerned about (b)(viii) as it is specifically requesting the Chief Minister to arrange for the States Statistics Unit to advise and agree with the Consumer Council on the best approach to collect prices, make price comparisons and present price information to the general public and whether or not that will be seen as something that is not independent. Let us not forget, the States levy a lot of charges through its bodies on harbour rates, dues, *et cetera*, and levies from taxation, petrol, impôt duties, *et cetera*. There are all kinds of charging mechanisms that occur and if the Consumer Council are to show a like-for-like comparison with Guernsey and the Isle of Man and England, it may be politically preferable to err them on one side of the argument than the other if it is led by the Chief Minister, whose Council just introduced some draconian tax measures that will not go down well with the public. So, I am not going to support (b)(viii); I think that is not right. I think the expertise that exists within the Statistics Department is okay and I think that our Statistics Department is independent but the Chief Minister requesting that Statistics Department to then formulate its analysis into the Consumer Council is going to have a slight and subtle effect that may be of concern in the future. So, hopefully, when it comes back under law, if I do not encourage Members to strip that out at this stage, maybe we can bring an amendment at a later date. On page 21, 5.4, it is mentioned that the previous role of the Consumer Council has been running the risk of potential legal liability. It is a very difficult job to criticise a business in a way that is fair but nevertheless there can be, as it is pointed out, the reaction of a business to seek redress. It says in 5.4: "A major problem for the council members under the present arrangements is the lack of any protection of personal liability if, through proper research, advice or comments made affect or are considered to affect the business of a local trader who then seeks redress. However, even if structured in such a way that professional indemnity insurance could be obtained, it is to be questioned whether for the J.C.C. to obtain such insurance would be the most cost-effective way of achieving the protection required. More cost effective would be for the J.C.C. to be covered by the States insurance policy." That is obviously going to be borne out in the legislation, so I just wanted to ask the Minister how he

envisages that to work. Are they going to be underwritten by the States insurance policy and what are the implications for that? I do not think the financial manpower implications statement is adequate, and it has happened on a number of occasions from the Minister for Economic Development, I am sorry to say, that it seems to just: “Do not worry. It is not going to be much. It is going to be the same; nothing new” but obviously to bring this into play and to bring this through the legislative process there is going to be an impact. As I said at the beginning of my speech, if you take £130,000 which is their budget right now and you draw a comparison with the honorarium that is given to the board members of the harbours and airport board, that is only £10,000 left. So, I am really concerned that if it is funded by the States, especially if it was underwritten by the States, there may be issues there if it is not going to be supported by the businesses it is criticising. If it is going to be funded by the States, I am quite expecting it to go to £270,000, £350,000 within 18 months, their budgets, if they are going to commission work, if they are going to have a remunerated board and a chairman that is of any benefit for the job he is being asked to do. So I think there is a price tag to this that I do not think is borne out in the financial and manpower implications. I will be supporting the general thrust though.

4.1.4 Deputy M.R. Higgins:

Thank you. I must say, I agree with many of the comments made by Deputy Le Claire. There is one area that I would like the Minister to give a further explanation and that is in (b)(vii) of the proposition: “Ensuring that there is a clear and specific line of responsibility for consumer affairs to the Minister or Assistant Minister.” I would like to understand the mechanism for the role of the Minister vis-à-vis the Consumer Council. Thank you.

4.1.5 Senator T.A. Le Sueur:

Yes, I think I should perhaps stand and defend the States Statistics Unit, although I am sure they are capable of doing that for themselves, and to say quite clearly how I believe that they show absolute integrity and impartiality, and any suggestion that they might be influenced by anything that the Chief Minister or any Minister might want to say would be abhorrent to them. That said, I agree with the general principle of the proposition that the Statistics Unit should be advising and agreeing with the Consumer Council how to do this work. Someone has to instruct the States Statistics Unit and that responsibility falls to me. It is not a question of giving them any direction in doing this; it is simply asking them to help the Consumer Council.

4.1.6 Deputy M. Tadier of St. Brelade:

I would just like to ask the Minister to explain the logic behind (b)(ii) when it is saying that the chairman should not be limited to a States Member. Now clearly we have heard before that there are advantages for and against having a States Member on the board; I do not really need to go into those, I do not think at the moment, because they are probably well understood. But is this basically an evolutionary way of saying: “We prefer not to have a States Member on there because for best practice that is not the case” which is fair enough. Is that the role we are going down? If he could maybe highlight what his own preference would be and what his thoughts are about how to maintain the independence of the Consumer Council which is of course of utmost importance. I think it ties-in very much with what Deputy Higgins has asked about the line of responsibility, which is quite a concerning word, because I think you have to certainly be accountable but without wanting to be directly answerable or responsible for what you do because, as I have said, it is important that the council be independent.

The Deputy Bailiff:

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

4.1.7 Senator A.J.H. Maclean:

I would like to thank all Members for their contribution. I will attempt to answer the questions that have been raised. Senator Le Gresley raised a number of points. He started by talking about the

maximum period of 9 years; he thought that should be the maximum. We already know that Senator Breckon has put in a remarkable stint of 15 years. I do tend to agree with Senator Le Gresley that in any body or function there should be a limited period to ensure that those involved, however much they contribute, do not become stale. We all become stale if we stay in one place for too long. New ideas and change is never a bad position to take. The Senator was also asking about remuneration, in particular in relation to the chair of the Consumer Council. It is not a paid position at the moment and I think the Senator himself, Senator Breckon, referred to the fact he is probably owed some back pay for the efforts that he has put in. Nevertheless, there is no intention to make this a paid position. There is, however, provision to have an expectation of a requirement for a paid administrator or office manager. The future role and enhanced role of the Consumer Council, which I see as absolutely essential within the Island, will certainly need that sort of administrative support for it to progress in the future and I can certainly see that happening. There was also the link which was made by one or 2 Members about the harbours and airport shadow board and the costs associated with that, and if we are paying that amount of money for members of that particular board, why are we not paying the chair of the Consumer Council? To be fair, they are entirely different. An airport and a harbour are 2 substantial multi-million pound commercial businesses which require a certain level of specific expertise, and to achieve that one needs to pay for it. I think that is not unreasonable at all. Senator Le Gresley also asked about the grant and I think it was a point that, from a funding perspective, Senator Breckon also raised. Clearly, there are challenges with all grants and all funding and quite naturally a business plan is produced by the Consumer Council for their plans for the coming year. A request for a bid is put in to fund that particular business plan and in this particular instance it was £171,000. With further discussion, that was revised eventually downwards to a level that both agreed was going to be acceptable for the coming year. I certainly hope that the Senator feels, as I do, that the work the Consumer Council did within that budget was exceptional. I think they did a fantastic job of representing the consumer. As we move forward in the future and as the Consumer Council evolves, I think there is every likelihood that there will be continuing pressures and tensions with regard to funding, but we must ensure that we give an appropriate level of funding for this very important area. There was one element that was raised as part of the review with regard to funding which Colin Powell brought up and was raised previously, and that is with regard to additional funding through membership fees. I know Senator Breckon has raised this point, it does present some challenges, and I understand those, but nevertheless the view was that there was some flexibility and potential to generate some additional membership revenue for the Consumer Council. So that is certainly an option I think needs to be explored further as we move forward. Senator Breckon, when he stood to speak, gave some very interesting background on the history of the Consumer Council and indeed the challenges that he has faced. He has been a champion, if I can use that term, of consumer issues for a considerable period of time, not just specifically relating to the Consumer Council but in many other areas as well. He talked about the Fair Trading Law, that there was a draft law in 1993 and 1994 that was prepared which did not, for a number of reasons which I will not go into at this point, ever come to the States. I have, however, issued a Green Paper on a consumer protection legislation which closed at the end of January and I am pleased to say the Consumer Council made their comments to that. It is my intention to progress with a consumer protection law and I think that is something I certainly hope the Senator will welcome in due course, and consumers as well. Deputy Le Claire raised the point about the *Jersey Evening Post*. He congratulated the *Jersey Evening Post* on their Fair Play comment and I would endorse that. I think he is absolutely right. I think the only disappointment that I have is that we do not see the Fair Play column in the *Jersey Evening Post* any more and I think we really should. I have raised it a number of times and I really would like to see the *Jersey Evening Post* re-establish their Fair Play column. I think it is very much in the interest of Islanders and certainly in the interest of consumers. The Consumer Council does a newsletter which goes out and that in itself is very helpful in terms of raising these issues but a medium like the *Jersey Evening Post* or others is obviously very beneficial. Indeed, Deputy Le Claire asked the question about motivation behind

the improvements to the Consumer Council. It is important, I believe that we ensure proper consumer representation, that we ensure there is pressure brought on businesses to be fair and competitive in terms of pricing. It ensures that inflation is kept in check and it ensures that we have a strong economy. That is the basis and motivation behind ensuring that we improve the Consumer Council that we have at the moment and move it on with this new framework. I should just correct the Deputy, though, that there is not a proposal to put this on to a statutory basis. I thought I made in my opening remarks that that had been discounted with the review that Colin Powell had undertaken. Looking at the Jersey context, it is not going to be on a statutory basis but, however, it was recognised that indeed it should be a separate legal entity and that is a proposition that will come back to this Assembly for consideration in the next few months. Deputy Le Claire also raised his concerns about (b)(viii) and that is the Statistics Unit.

[11:30]

I fully endorse the Chief Minister's earlier comments. The Statistics Unit is entirely independent, it is highly qualified and highly professional. I think the point that was trying to be raised by this is quite simply it is an important tool that we would like to see the Consumer Council utilising in the future. It is not the exclusive area that they can get information and we should not force them to use just the Statistics Unit. However, there needs to be a further improvement in the interaction between the Statistics Unit and how they gather data which is of use to the Consumer Council, and that is what that was seeking to do. I would also say to the Deputy, he made some very minor criticism, I think it was, and I would like to take it as a minor criticism, about the manpower and financial implications element. I should just remind him that within the Economic Development budget there is an allocated sum for the Consumer Council and this issue so it is within budget. It is not a question of going outside a budget or indeed that the costs of this will rise. If the costs are going to rise in the future, that would be a matter for this Assembly when we come to the business planning process. I think I hopefully have answered the question with regards Deputy Tadier and the logic behind the chair not necessarily being a States Member. I think what we are referring to here is that we are opening it up; it is going to be a process of recruitment for both the chair and the members of the Consumer Council Panel that will be dealt with by the Appointments Commission. It will be an entirely open process and it is not limiting it just to a States Member; it could be anyone. I think the important thing - and I hope Members will share my view on this - is that we get the right people in place to chair and as a panel. I think we have been very lucky in the past but this process will just open the opportunities to ensure absolute and complete independence of this important body. I am aware that Deputy Higgins asked a question. I am afraid I did not quite catch it when he asked it. If he would like to re-address it, I think that is the only outstanding issue I have remaining to deal with.

Deputy M.R. Higgins:

It was in relation to the proposition itself. It was in (b)(vii) which states: "Ensuring that there is a clear and specific line of responsibility for consumer affairs to the Minister or Assistant Minister." I want to understand what the actual relationship is between the 2 of them, and as Deputy Tadier was also following up on, it is to do with the independence of the body. You want to make sure there is absolutely nothing in that relationship that is going to interfere with the independence of the body, so if you could kindly explain exactly the relationship.

Senator A.J.H. Maclean:

Yes, I thoroughly agree with the independence angle. It is absolutely essential that the Consumer Council is entirely independent. Having said that, they provide, or are provided with a grant, which is contained within the documentation here - the Deputy will be aware of that - from the department. They have to submit a business plan in order to support the payment of the grant. But outside of that they are entirely independent to carry out their functions as they see fit and there

would be no interference in that process. That would be entirely wrong. I hope I have answered all Members' questions; I maintain the proposition.

Deputy P.V.F. Le Claire:

May I ask clarification from the Minister? I did ask about the issue in relation to States insurance policy and will it be operating underneath that?

Senator A.J.H. Maclean:

I think the Deputy is referring to the fact that it was considered some risk that the council members could indeed be subject to some form of legal risk pursuing their functions. Indeed, the intention is to try and capture that and, yes, the intention is that it would be contained within the insurance policy as stated.

The Deputy Bailiff:

Do you call for the appel, Minister?

Senator A.J.H. Maclean:

Yes, please, Sir.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on P.182 and I ask the Greffier to ...

Deputy M. Tadier:

Sir, can I ask if they are being taken separately? I think someone mentioned it earlier that they would like (a) and (b) to be taken separately and I would agree.

The Deputy Bailiff:

Minister?

Senator A.J.H. Maclean:

I am afraid that (a) and (b) need to run together, so I propose to take it all in one.

The Deputy Bailiff:

The vote is on the whole of the proposition, paragraphs (a) and (b) and I ask the Greffier to open the voting.

POUR: 46		CONTRE: 1		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy M. Tadier (B)		
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				

Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

5. Draft Public Employees (Contributory Retirement Scheme) (Amendment No. 18) (Jersey) Regulations 201- (P.185/2010)

The Deputy Bailiff:

Very well, we now come to P.185/2010 - the Draft Public Employees (Contributory Retirement Scheme) (Amendment No. 18) (Jersey) Regulations 201- - lodged by the Chief Minister and I ask the Greffier to read the citation.

Deputy A.K.F. Green of St. Helier:

Before we do that, I think I ought to declare an interest on P.185 through to P.188. There is no need, I do not think, to leave but - not that I am counting - in 348 days I hope to be drawing one of these pensions.

Deputy I.J. Gorst of St. Clement:

I customly make the same declaration: that my wife is a member of the scheme.

The Deputy Bailiff:

I would like the Greffier to read the citation principles first and then we can deal with that afterwards. Greffier, thank you.

The Deputy Greffier of the States:

Draft Public Employees (Contributory Retirement Scheme) (Amendment No. 18) (Jersey) Regulations. The States, in pursuance of Article 2 of the Public Employees (Retirement) (Jersey) Law 1967, have made the following Regulations.

Senator B.I. Le Marquand:

I hope to be drawing my pension under the new members scheme even earlier than Deputy Green.

The Deputy Bailiff:

Declarations of interest have been made by Deputy Green, Deputy Gorst on behalf of his wife, Senator Le Marquand ...

Deputy A.E. Jeune of St. Brelade:

Deputy Jeune.

Deputy M.R. Higgins:

Deputy Higgins as well, please. Except I do draw on one of my C.R.S. (Contributory Retirement Scheme) pensions.

The Deputy Bailiff:

I am afraid I did not hear you, but I think that is a declaration of interest?

Deputy M.R. Higgins:

It is, yes, Sir.

The Deputy Bailiff:

Thank you. Deputy Higgins and also the Deputy of Trinity.

Deputy A.E. Pryke of Trinity:

I also receive it.

The Deputy Bailiff:

Deputy Jeune.

Connétable A.S. Crowcroft of St. Helier:

In respect of my wife, Sir.

The Deputy Bailiff:

In respect of the Connétable of St. Helier's wife.

Connétable J.M. Refault of St. Peter:

Constable of St. Peter.

The Deputy Bailiff:

The Connétable of St. Peter and also Senator Breckon.

Deputy R.C. Duhamel of St. Saviour:

My other half as well.

The Deputy Bailiff:

The wife of Deputy Duhamel. Well it is very good to know that so many Members are interested in this. [Laughter] Chief Minister.

5.1 Senator T.A. Le Sueur (The Chief Minister):

I think as I speak Members may find that the extent of their interest is not as great as they first thought. The background to this - there are 4 very similar propositions, and I propose to speak only once in respect of all of them at any great length - is to do with the requirement that our pension scheme should be compliant with what is called the Qualified Recognised Overseas Pension Scheme Arrangements of the U.K. Revenue and Customs as commonly known as Q.R.O.P.S. The principles of Q.R.O.P.S. have been in place for a couple of years now and we have complied with them effectively by raising the minimum retirement age for all new employees to that of 55 years-old. At one stage it was possible for certain employees to retire at the age of 50 and those employees who started in those regulations can continue to abide by those regulations. This amendment is very obscure in its operation and it relates to a very narrow group of people. It applies in fact to those people who at the time of the change in 2009 were between 50 and 55 and as a result they are in this in-between situation where if they were to receive a benefit before 55 under the old regulations, they could receive that benefit in respect of the Jersey pension element but not in respect of the U.K. pension element. This is therefore only relevant in respect of those people transferring from the U.K. to Jersey and I admit that a number of our employees, particularly in Health and Education, and in the uniformed services, do transfer from the U.K. to Jersey and *vice versa*. It only affects that very narrow group of people for a very short period of time. As I say, it allows them to draw that part of their pension which would relate to the Jersey contribution but not that part of the U.K. element until they reach the age of 55. As I say, that probably applies, at most, to half a dozen people, but for the sake of belt and braces and to ensure that our legislation is seen to be absolutely compliant with the Q.R.O.P.S. requirements, it is felt that these 4 amendments to these 4 regulations are all necessary. I propose the principles of the first of these which are the Public Employees (Contributory Retirement Scheme) (Amendment No. 18) Regulations.

The Deputy Bailiff:

Is the principle seconded? **[Seconded]** Does any Member wish to speak? All Members in favour, kindly then show. All Members against. The principles are adopted. Deputy Vallois representing the Corporate Services Scrutiny Panel, do you wish to call in these regulations?

Deputy T.A. Vallois of St. Saviour (Corporate Services Scrutiny Panel):

No, thank you, Sir.

The Deputy Bailiff:

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

Senator T.A. Le Sueur:

I do, yes, please. I have given the explanation to them. I cannot really elaborate on them in any sensible way. I think if Members have any doubts about the relevance of these, the best thing I can do is point them to page 4 of my report which shows an example of how this might have an effect. The explanation is probably clearer than what I have tried to do in the last few minutes and is there at least to be read a few times. It may take a couple of times to read it before it sinks in. I propose the regulations.

The Deputy Bailiff:

The regulations are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak? All Members in favour, kindly show. Those against. The regulations are adopted. Do you wish to propose the regulations in Third Reading, Chief Minister?

Senator T.A. Le Sueur:

Yes, please.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? All those Members in favour of adopting the regulations in Third Reading, kindly show. Those against. The regulations are adopted.

6. Draft Public Employees (Contributory Retirement Scheme) (Existing Members) (Amendment No. 11) (Jersey) Regulations 201- (P.186/2010)

The Deputy Bailiff:

We now come to the Draft Public Employees (Contributory Retirement Scheme) (Existing Members) (Amendment No. 11) (Jersey) Regulations 201- and I ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft Public Employees (Contributory Retirement Scheme) (Existing Members) (Amendment No. 11) (Jersey) Regulations. The States, in pursuance of Article 2 of the Public Employees (Retirement) (Jersey) Law 1967, have made the following Regulations.

6.1 Senator T.A. Le Sueur (The Chief Minister):

These regulations apply to an even smaller number of people who might have been employees under the old regulations prior to 1989. I propose the principles.

The Deputy Bailiff:

The principles are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak?

6.1.1 Senator B.E. Shenton:

Could I just make a note for the Chief Minister that Jersey's legislation in respect of Q.R.O.P.S. is falling behind the rest of the world and Jersey is losing business on the back of it and just for him to know that.

Deputy P.V.F. Le Claire:

I am just trying to be helpful. I take it that all of the declarations of interest from the preceding proposition apply to the following ones. We have noted that, have we?

The Deputy Bailiff:

As I understood it, the declarations of interest were made in relation to one or all of these 4 propositions that are coming. Does any other Member wish to speak? Chief Minister, do you wish to reply?

6.1.2 Senator T.A. Le Sueur:

Just to say I understand and share the concerns of Senator Shenton about the general principles of Q.R.O.P.S. in the wider community. This is a narrow situation in relation to the Public Employees Contributory Retirement Scheme for existing Members.

The Deputy Bailiff:

The principles are proposed. Are they seconded? **[Seconded]** All Members in favour, kindly show. Those against. The principles are adopted. Deputy Vallois, does your panel wish to call in these principles?

Deputy T.A. Vallois (Corporate Services Scrutiny Panel):

No, thank you, Sir.

The Deputy Bailiff:

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

Senator T.A. Le Sueur:

I propose the regulations *en bloc*, please, Sir.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the detail of the Regulations 1, 2, 3 and 4 of the regulations under P.186 and I ask the Greffier to open the voting.

POUR: 37		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

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

Senator T.A. Le Sueur:

I do, Sir.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? Those Members in favour of adopting the regulations in Third Reading, kindly show. Those against. The regulations are adopted in Third Reading.

7. Draft Public Employees (Contributory Retirement Scheme) (New Members) (Amendment No. 14) (Jersey) Regulations 201- (P.187/2010)

The Deputy Bailiff:

We now come to P.187 - the Draft Public Employees (Contributory Retirement Scheme) (New Members) (Amendment No. 14) (Jersey) Regulations 201- - lodged by the Chief Minister and I ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft Public Employees (Contributory Retirement Scheme) (New Members) (Amendment No. 14) (Jersey) Regulations. The States, in pursuance of Article 2 of the Public Employees (Retirement) (Jersey) Law 1967, have made the following Regulations.

7.1 Senator T.A. Le Sueur (The Chief Minister):

This is a corollary to the previous one where this now deals with people who are new members under the new arrangements post 1989. Again, I propose the principles.

[11:45]

The Deputy Bailiff:

The principles are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak?

7.1.1 Senator B.E. Shenton:

Just to give Members comfort that the Public Accounts Committee is looking at the pension legislation and we have looked at all these 4 propositions, so they have been examined by us.

The Deputy Bailiff:

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

7.1.2 Senator T.A. Le Sueur:

I have nothing to add.

The Deputy Bailiff:

Members are asked to adopt the principles. Those in favour, kindly show. Those against. The principles are adopted. Chief Minister, do you wish to propose the regulations *en bloc*?

Senator T.A. Le Sueur:

Yes, Sir.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? Those Members in favour of adopting the regulations *en bloc*, kindly show. Those against. The regulations are adopted. Do you wish to propose the regulations in Third Reading, Chief Minister?

Senator T.A. Le Sueur:

Yes, Sir.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the Draft Public Employees (Contributory Retirement Scheme) (New Members) (Amendment No. 14) (Jersey) Regulations 201- in Third Reading. I ask the Greffier to open the voting.

POUR: 37		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

8. Draft Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Amendment No. 5) (Jersey) Regulations 201- (P.188/2010)

The Deputy Bailiff:

We now come to P.188 - Draft Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Amendment No. 5) (Jersey) Regulations 201- - lodged in the name of the Chief Minister and I ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Amendment No. 5) (Jersey) Regulations. The States, in pursuance of Article 2 of the Public Employees (Retirement) (Jersey) Law 1967, have made the following Regulations.

8.1 Senator T.A. Le Sueur (The Chief Minister):

Just in case there are any members of the former Hospital Scheme who might considerably be caught under these regulations, this completes the set of the proposed changes to legislation. The same principles as before. I propose the principles.

The Deputy Bailiff:

The principles are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak? I ask Members to show if they adopt the principles. Those against. The principles are adopted. Chief Minister, do you propose these *en bloc*.

Senator T.A. Le Sueur:

Yes, Sir.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? Those Members in favour of adopting the regulations *en bloc*, kindly show. Those against. The regulations are adopted. Do you propose the regulations in Third Reading, Chief Minister?

Senator T.A. Le Sueur:

Yes, Sir.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? The appel is called for. I invite Members to return to their seats. The Greffier is just re-setting the system. I will ask the Greffier to open the voting.

POUR: 38		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				

Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				

9. Draft Terrorist Asset-Freezing (Jersey) Law 201- (P.191/2010) - as amended

The Deputy Bailiff:

We now come to P.191 - Draft Terrorist Asset-Freezing (Jersey) Law 201- - lodged by the Chief Minister and I ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft Terrorist Asset-Freezing (Jersey) Law. A law to provide for financial restrictions on persons suspected of involvement in terrorist activities; and for related purposes.

The Deputy Bailiff:

Chief Minister, there is also an amendment to this draft legislation in your own name. I take it you would like to propose the amendment with the principal proposition?

Senator T.A. Le Sueur:

Yes, please, Sir.

The Deputy Bailiff:

Members have no objection to the Chief Minister following that course?

Deputy P.J. Rondel of St. John:

I do not know if this is the right time to ask, I would like for this to be discussed in camera, and I will give the reasons. Given that things I may wish to say, and given what has been going on, shall we say with WikiLeaks and the like on terrorism where the founder of WikiLeaks has been ... I am trying to think of the correct word. The United States and other countries appear to be wishing to make things that are on his website illegal and I am concerned that things I may wish to say might make me a target that I will not be allowed to go to America in the future.

The Deputy Bailiff:

Chief Minister, you are not intending to ask the States to go into camera for your proposition?

Senator T.A. Le Sueur:

I certainly would not. I believe it would be a very retrograde step for any piece of primary legislation to be discussed in camera when it is a matter, I would have thought, essential to being publicly debated.

The Deputy Bailiff:

I will reach a view on the idea of going into camera at a later stage. Would you like to propose your proposition?

9.1 Senator T.A. Le Sueur (The Chief Minister):

Members may recall that last year I presented a proposition by which the U.K. Terrorist Asset-Freezing Temporary Provisions Act 2010 was extended to Jersey. This arose because a case held before the Supreme Court of England in January 2010 had concluded that the U.K. law on terrorist asset-freezing was deficient. So because the U.K. law was found to be deficient and that Jersey law was based on that, we felt that it was essential we follow the same route. Because it is vital that there is legislation in place, the U.K. quickly produced a temporary Act which will expire on 31st March 2011 - that is this year - pending the passing of more suitable permanent legislation. The U.K. Terrorist Asset-Freezing Bill has gone through the U.K. parliamentary process and it was approved on 23rd December last year after only minor changes. It is anticipated that the law in England will therefore be in place by or before 31st March 2011 at which time the U.K. Terrorist Asset-Freezing Temporary Provisions Act will no longer apply, and therefore by inference cannot be extended to Jersey. It is therefore vital that we have similar legislation in place by 31st March this year and so it is essential that we consider the matter today to let Members know the law, after being passed here, will go to Privy Council and get Royal Assent and get registration all before 31st March, and that is in the next 7 or 8 weeks. I hope I do not have to stress the importance of having suitable legislation in place to deal with the control of terrorist assets, wherever they are situated. This has been highlighted in various United Nations declarations over the years and is particularly important in an international finance centre like Jersey where we are often dealing with the significant movement of international funds. In terms of the International Monetary Fund, the first 3 recommendations of the Financial Action Task Force all deal with the prevention of terrorism and the need to have adequate measures in place to freeze potential terrorist funds. Finally, the law is also necessary to ensure that Jersey maintains its reputation as a mature and responsible financial centre and it complies with international obligations under the convention for the suppression of financing of terrorism, as well as being a reasonable stance for any law-abiding jurisdiction to adopt. In short, we should be seriously failing in our duties if we fail to produce and implement this legislation and to do that today. There is one technical issue over one small aspect of this legislation on which the Attorney General and I have offered to have further discussions with the Jersey Law Society and which I can elaborate on when we come to discuss the Articles of the law. If necessary, I would be prepared to bring an amendment to the law in due course but this need not, and, importantly, must not delay us in the implementation date of this important legislation. I therefore propose the principles of the legislation.

The Deputy Bailiff:

The principles are proposed. Are they seconded? **[Seconded]**

9.2 Draft Terrorist Asset-Freezing (Jersey) Law 201- Proposition of Deputy of St. John to take matter in camera

The Deputy Bailiff:

The Deputy of St. John, do you wish to make a proposition that the States go into camera to debate this?

The Deputy of St. John:

Yes, Sir. Do I have to speak on making a proposition?

The Deputy Bailiff:

You have to speak on making a proposition. Standing Order 81 says: "A Member of the States may propose without notice that the States conduct any debate or part of a debate upon a proposition or any other part of its business (apart from a vote) in camera for a specified purpose." If you wish to make a proposition then ...

9.2.1 The Deputy of St. John:

Yes, I do. In recent weeks- months now, I suppose - we have seen WikiLeaks, who is an Australian-owned business, the main owner, go from being an open portal on the internet, giving information that they have obtained, to become outcast with the Americans. The Americans and other governments have asked for warrants for the arrest of the owner. All of a sudden we are seeing the larger, big brother picture, taking control of what is freedom of speech. If people have been silly enough to, or allow things to, get into the public domain through not having a proper security system in place, that is for those countries concerned. But when they start asking for warrants for the arrests of people who will have contributed to the security of their country because of, as I said, they have allowed information to get into the public domain by not having a proper security system, that is, to me, a step too far. Given that the Americans seem to have a fetish for wanting to hold everything for themselves and get information from around the world, when it gets out into the public domain it gives me concern that if I want to pass comments about the contents of this report which will be transcribed and go on to the Internet, does that mean at some time in the future, as we have seen with U.K. politicians, they are black-listed from going on a holiday to America with their family or the likes because the American Government, or other States, are not happy with the way that elected Member speaks? I ask that Members give that some serious consideration. I am not going to go into details because I know at this time that this is all being transcribed and will go on the Internet. I therefore ask that Members give consideration to that and we do the debate in camera.

The Deputy Bailiff:

The proposition is made that we go into camera. Is it seconded? Well, it is not seconded, Deputy.

Deputy P.V.F. Le Claire:

I think it is appropriate for all Members to have the opportunity to have their proposition seconded but I would wonder if it is in order to amend that slightly.

The Deputy Bailiff:

The proposal is we go into camera and I think that cannot be amended. Either we are in camera or we are not.

Deputy P.V.F. Le Claire:

For the protection of the right of the Deputy of St. John I will second the proposition; I may not support it. **[Seconded]**

Deputy M. Tadier:

Are there another 6 Members who would wish to support that?

The Deputy Bailiff:

Does any Member wish to speak? Deputy Higgins.

9.2.2 Deputy M.R. Higgins:

I am just trying to give advance notice that I think it would be useful for the Attorney General or the Solicitor General to be in the Chamber, because I have questions relating to the U.K. Act to which this refers in terms of designated people and so on. So therefore it is just giving advance notice that if we do go into camera or not I would like someone here to give some advice.

The Deputy Bailiff:

I am sure, Deputy, the Attorney General will be back as soon as he can. Unfortunately, the Solicitor General had an accident the day before and he is in hospital having an operation on a tendon and so he is not available. The Attorney General is in the Royal Court moving an Oath of Office of new advocates but he will re-join the States as soon as he can. Deputy Gorst.

9.2.3 Deputy I.J. Gorst:

Very quickly, I am afraid I cannot support this. I believe the premise for going into camera is perhaps what would result from what a Member might wish to say. I believe that it is appropriate for all Members to consider the impact of what they are going to say and perhaps the results of comments made in this House and not to abuse parliamentary privilege. On those grounds alone I am afraid I cannot support the proposition and I would urge other Members not to support the proposition. This legislation is important, these areas are difficult, and they do have consequences to our international relations and it is only appropriate that we consider them in an open and transparent manner. I ask that that is what Members will decide. Thank you.

9.2.4 Deputy T.M. Pitman:

I believe everything should be out in the open wherever possible. I suppose for Members it comes down to whether they think that overrides the fact that the Deputy of St. John could otherwise be trapped in St. John for ever and never allowed to visit Disneyland. I think we have to go with the transparency, and I am sure the Deputy can get round it with some clever speaking. Thank you.

9.2.5 The Deputy of St. Mary:

Just very briefly, I have to say that if I was to visit my sister in America then I take the slings and arrows as they come.

[12:00]

If I say something in here that the C.I.A. (Central Intelligence Agency) ... it is highly unlikely, but if I were to say something and then I am stopped at the entrance outside the Statue of Liberty, then I would have to carry that. Also, I would say to the proposer, or I would ask from the Chair possibly, is it possible if in the unlikely event that we were to find ourselves constrained and need to go into camera later in the debate, is it possible to do that?

The Deputy Bailiff:

It can be proposed at a later stage to go into camera again if it should become particularly necessary at that stage for a special reason. Senator Breckon.

9.2.6 Senator A. Breckon:

Just briefly, my understanding of a debate in camera is if it is sensitive or confidential - and I do not think the Deputy of St. John has made that case - if he has something to say about a particular organisation or something like that that he feels he might get a black mark for, then perhaps he could say that at the time, but to date I do not think he has done that.

9.2.7 Deputy M. Tadier:

I am fascinated now, so first of all I would ask rhetorically to the Deputy of St. John if he really would want to go and visit a country which would prejudice him and not let him in simply because he was speaking his mind in a small jurisdiction right across the Atlantic. If that is the way that the Americans operate at their borders, then I suspect the Deputy may want to re-consider whether he wants to visit that country. Certainly, I have never been stopped from going to America, although the first time you do get held up a bit, and I am sure there are lots of things on record which are far worse than anything that the Deputy of St. John might wish to muster. Secondly, as I have said, I am so intrigued now that I think the public have a right to hear on the radio and later in the gallery and the media because I am really fascinated by what is going to be said. So let us just have it in open debate in a transparent fashion as is normal and I hope that the Deputy of St. John will provide us with something very interesting.

9.2.8 Connétable D.J. Murphy of Grouville:

I would say to the Deputy of St. John that perhaps the very fact he has brought this motion has already brought him to the attention of the authorities. [Laughter]

The Deputy Bailiff:

Does any other Member wish to speak? Then back to the Deputy of St. John to reply.

9.2.9 The Deputy of St. John:

It is apparent that Members think I want to stifle debate; that is not the case. But I will be stifled by not being able to speak from the heart in what I would wish to say within this but I will ask for the appel. Thank you.

The Deputy Bailiff:

The appel is called for and I ask Members to return to their seats. The vote is on whether or not to go into camera for the debate on P.191. I ask the Greffier to open the voting.

POUR: 2	CONTRE: 40	ABSTAIN: 1
Deputy P.V.F. Le Claire (H)	Senator T.A. Le Sueur	Connétable of St. Peter
Deputy of St. John	Senator P.F. Routier	
	Senator P.F.C. Ozouf	
	Senator B.E. Shenton	
	Senator F.E. Cohen	
	Senator J.L. Perchard	
	Senator A. Breckon	
	Senator A.J.H. Maclean	
	Senator B.I. Le Marquand	
	Connétable of Trinity	
	Connétable of Grouville	
	Connétable of St. Brelade	
	Connétable of St. Martin	
	Connétable of St. John	
	Connétable of St. Saviour	
	Connétable of St. Clement	
	Connétable of St. Lawrence	
	Connétable of St. Mary	
	Deputy R.C. Duhamel (S)	
	Deputy of St. Martin	
	Deputy J.B. Fox (H)	
	Deputy J.A. Martin (H)	
	Deputy of St. Ouen	
	Deputy of Grouville	
	Deputy of St. Peter	
	Deputy J.A. Hilton (H)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy S. Pitman (H)	
	Deputy K.C. Lewis (S)	
	Deputy I.J. Gorst (C)	
	Deputy M. Tadier (B)	
	Deputy A.E. Jeune (B)	
	Deputy T.M. Pitman (H)	
	Deputy E.J. Noel (L)	
	Deputy T.A. Vallois (S)	
	Deputy M.R. Higgins (H)	
	Deputy A.K.F. Green (H)	
	Deputy D.J. De Sousa (H)	
	Deputy J.M. Maçon (S)	

The Deputy of St. John:

Can I thank the thinking people?

9.3 Draft Terrorist Asset-Freezing (Jersey) Law 201- (P.191/2010) - as amended - resumption

The Deputy Bailiff:

The proposition has been made by the Chief Minister and seconded. Does any Member wish to speak? Deputy Le Claire.

9.3.1 Deputy P.V.F. Le Claire:

I would just like to say what a great country I think the United States is. **[Laughter]** Yes, damage limitation now. Seriously, though, the state of a nation. Article 31 highlights the fact that a report will be tabled in this legislation, and no doubt we can talk about it when we get to the article, and the Chief Minister will table what has occurred under this legislation to States Members. I am just wondering in what way will that be translated into us understanding it. Will it be redacted; will it be something that we can understand; will it be put on the internet? Overall though, the principle is that governments around the world are facing a continuing war against terrorism and we have seen not only in the United Kingdom some devastating attacks, also considerable devastating continual attacks upon the United States and other countries that we have had an historic connection with. Our moves forwards in relation to business in India and also in China and Russia where they were recently subjected to a terrorist attack that took the life of a Briton in the airport of Moscow, Domodedovo Airport, is a significant risk to the integrity of jurisdictions' emerging economies that we trade with. So if we do not have this sort of legislation in place we cannot go and do business with these countries. We cannot say that we are able to look after their financial investments if we are not capable of seizing assets and freezing them in a responsible fashion under the legal process to ensure that people who have committed atrocities, or are planning to commit atrocities in any country through terrorism, are thwarted at the earliest possible opportunity. I congratulate the Chief Minister for bringing this and also the Law Officers. I know that this work is not without some effort behind the scenes and I think we all need to get behind this because terrorism is not going to go away and we certainly need everything in our armoury to defend ourselves.

9.3.2 Deputy M. Tadier:

Yes, just out of courtesy to the Deputy of St. John because I think he missed his chance, so I am giving him another chance to speak. It is just a generic comment about the way we class terrorism. Now it may seem slightly simplistic but I have to say that I am not one of those people who subscribes necessarily to propaganda and I think rather than using the word "terrorism" if somebody has killed 50 people or 100 people, or tries to do that, then they are simply a mass murderer. We do not need to call things "terrorism" and I am slightly sceptical when we try and use these labels when they are indeed what other people term as legitimate governments who are using these kind of tactics against their own people. They are not necessarily called terrorists; they are saying these are legitimate governments. I think I have mentioned these kind of things before so I am not going to labour the point; it was just to bring that up. Again, I hope we can hear from the Deputy of St. John. I am really fascinated as to what he is going to say.

9.3.3 Deputy M.R. Higgins:

I do not think there is any Member of this House who would be against the bringing of legislation to restrict the activities of terrorists. Certainly, I think the concerns that I have are one specific when we come to the individual Articles. It is just in terms of designation of who is designated. We are told it is in the U.K. law on an E.U. list but who is on this list? It is not here. Secondly, in terms of the principle, I would like to be assured by the Chief Minister that there is absolutely

nothing in this legislation which can be abused by the authorities here in Jersey because in the U.K., for example, you even have councils who have been invoking the terrorism law to spy on individual residents in their community, which is absolutely obscene. No one wants terrorism but we do not want to see the abuse of the law and people using it where it is not appropriate. So I would like assurances from the Chief Minister there is nothing in this legislation that will be used by Jersey authorities against actual terrorists once we know what the designated people are. Thank you.

9.3.4 Deputy T.M. Pitman:

Very briefly, again, just to echo some of the previous speeches; the concern about what is a terrorist. I can remember George Bush saying there was no hiding place for any terrorists, yet if you look back at history you will find America has a shocking reputation on that with the blowing up, I think in 1997, of an aircraft with a Cuban, I think, Olympic team. Now, they would do nothing about that. They know the individual, they have hidden him there for years, let him go away when they did have him, so as previous Deputies have said, we have to be very careful in what we describe as a terrorist. It cannot be just when it suits the biggest power in the world.

The Deputy Bailiff:

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

9.3.5 Senator T.A. Le Sueur:

I will deal with Deputy Le Claire’s comments about Article 31 when we get to the articles. As far as Deputy Tadier is concerned, whether terrorism is the right word or the wrong word is a matter of individual taste but in the definitions, terrorism here has the same meaning as it does in the primary law, the Terrorism Law 2002, so it was there for consistency sake. As far as Deputy Higgins is concerned: can the law be used for improper purposes, I certainly hope not and as far as I can see the law is perfectly clear, so unless something specific was brought to my attention, I would say it cannot be used for improper purposes. It is used for a primary purpose which is for putting financial restrictions on persons suspected of involvement in terrorist activities. I propose the principles.

Deputy M.R. Higgins:

Can I just seek clarification? I think this is what the Deputy of St. John was coming to. Julian Assange of WikiLeaks has obviously caused great embarrassment to governments around the world with what he has leaked to the media which has been quite revealing in many areas. This is why I come back to the definition of him being classed as a terrorist because he has been releasing this information.

The Deputy Bailiff:

That is a matter which we will come to when we reach Article 2 presumably, Deputy, will we not? The principles are proposed. The appel is called for on the principles of the Draft Terrorist Asset-Freezing (Jersey) Law 201-. I ask Members to return to their seats and I will ask the Greffier to open the voting.

POUR: 43		CONTRE: 1		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy of St. John		
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				

Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				

The Deputy Bailiff:

Chief Minister, how do you wish to proceed?

Senator T.A. Le Sueur:

Firstly, I suppose I should ask the Scrutiny Panel if they wish to scrutinise it.

The Deputy Bailiff:

I am so sorry. Thank you very much. Deputy Vallois, does your panel wish to scrutinise this legislation?

Deputy T.A. Vallois (Corporate Services Scrutiny Panel):

No, thank you, Sir.

9.4 Senator T.A. Le Sueur:

Then I think having moved the amendment, I was going to move this in parts but I think probably if I speak to all the parts and then invite questions on each of those in turn. Part 1 deals with definitions and meanings of people like designated persons. Part 2 really is more specific about identifying potential people who might require designation. By way of explanation, I have on many occasions over the past 2 years in my role of Chief Minister made orders extending lists of people designated by other countries to Jersey in the unlikely event that some of their activities might conceivably apply to the Island. I have never in the past had to make an interim designation purely for a Jersey person and I do not anticipate that being particularly likely but the law nonetheless has to envisage that possibility. Part 3 puts restrictions on the activities of those people who have been designated. Incidentally, I should point out that between the interim designation and a final designation the person so designated has the right to make his views heard and known. So Part 3 does put restrictions on those key people and quite rightly so. Part 4 obliges this

information to be reported to the authorities by relevant individuals. Part 5 which also contains Schedule 1 is an important section which deals with safeguards. I mention this because one of the issues arising out of this legislation is in relation to Article 30, the rules for appeals and reviews, where it is important that an individual who is accused of being a person in this situation should have the right to a proper hearing and proper appeals and review processes in a just and fair manner. In order to do that, the rules are set out in Schedule 1 of this legislation and it also provides, in rare circumstances under section 5 of Schedule 1, for the appointment of a special counsel. That is in the event that a panel which would normally be comprised of 10 advocates to the Royal Court appointed by the Attorney General should all be regarded as unsuitable to appear.

[12:15]

Should that very unlikely case occur, then under sub-section (3) of that and sub-section (5) the Royal Court or Court of Appeal could appoint a special counsel. Part 6 deals with offences which could be committed under this law. Part 7 which contains Schedule 2 is a miscellaneous odds and ends provision. Those are the background and the general sections of the law and I would be happy to answer questions on any of the contents of those articles. I propose the articles.

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

Are those Articles seconded? **[Seconded]** Does any Member wish to speak on the Articles? Deputy Higgins.

9.4.1 Deputy M.R. Higgins:

I find it rather strange, in fact, I find it disconcerting the fact that we are going to pass a piece of legislation here and, no doubt we have done it before, where we are passing it without knowing what it is covering. If we look at Article 2 it says: "Article 2 defines a designated person to be one designated on either an interim basis or a final basis (a) under this law; or (b) under the Terrorist Asset-Freezing, *et cetera*, Act 2010 of the United Kingdom ..." So in other words we have a U.K. Act here where they designate people who are covered by the law and yet we have no detail in the report or anywhere else telling us who these designated people are. Obviously, I have no sympathy for terrorists and I believe that we should do what we can to stop it but I am concerned in that there have been cases of people - or I believe there have been cases of people - who may appear on these lists who are not necessarily terrorists as we tend to think of bombers and all the other people who are committing acts of terrorism, and killing and maiming people, but it may be people who are considered by a State as carrying out activities that may not be acceptable. Now I do wonder whether, for example, Julian Assange from WikiLeaks who has caused embarrassment to the British Government, to the U.S. (United States) Government and to many other governments could theoretically be designated under this law as a terrorist when many people might feel that he is acting in the public interest in revealing a lot of information which we should have known about in the first place. I know it is difficult for him, and I have tried to give him a bit of warning, but I would like to ask the Attorney General if he can try and give us some indication of whether the law covers people who are members of terrorist groups or who have committed acts of terrorism, or whether it could extend to others who would not fall within what most of us would call an act of terrorism: whistleblowers, for example. Also, again, I do not believe it is a good principle for this House to be passing legislation when we do not know what is contained in the U.K. law. That information should be contained in the report and I would ask that any future legislation of this nature that comes from the Chief Minister's office spells out clearly who these designated people are. Thank you.

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

Mr. Attorney, are you able to help now or would you like a little time?

Mr. T.J. Le Cocq Q.C., H.M. Attorney General:

I think if I could just take a few more minutes and I will come back as soon as I am able to do so.

9.4.2 Deputy T.M. Pitman:

I cannot buy the Attorney General many minutes, I am afraid, because I do not want to say very much. It just comes back to what I said before really about: what is a terrorist? The Deputy of St. John has raised an issue and there are probably many people who would say that Julian Assange, he did not leak any information, he should not be a terrorist, because he merely scanned some information and sent it to a third party. Now all sorts of people could be described as terrorists and is that a road we want to go down? I do not think it is. So I look forward to the clarification from the Attorney General.

9.4.3 Deputy M. Tadier:

I think it is right that these deliberations be brought up. I suspect that we all have to support this law because, as Deputy Higgins has said, it is right that nobody wants to see terrorism but of course we do not want to see civil rights trampled on either. It is an issue that we do not have a real control over the general law because if it is the U.K. dictating, probably also because they are linked to the U.S. as to who is considered a terrorist, then we do not really have much choice here as it is simply a rubberstamping exercise. Some Members will say it is completely ridiculous and unthinkable that the U.K. would turn around and say Julian Assange, for example, because he has been given as an example as a terrorist. But we have already had him described by the U.S. as a threat to national security. When you start going down that road, of course you think: "No. He is not a threat to national security. You are your own threat to national security because you are an incompetent government. You do not have the right security measures in place and you say silly things about other countries and diplomats" but that is the bottom line. It is like somebody who has been caught having an affair and then the person who has been caught turns around and says: "Oh, it is terrible that person who is discovered" and then spread the news he is a terrorist; he is the one to blame when it is the person who should be responsible for their own actions. Governments should be behaving properly in the first place. So that is certainly one consideration but let us look at the real terrorists in the world. It is not suicide bombers about whom you get mass hysteria. Society functions, and has always functioned, with extreme elements in society because by and large most people are normal and most people are peace-loving. But the real terrorists in society, we see them and they are the ones who occupy the top jobs. In the U.K. we see the likes of Cameron and Clegg. They are the real terrorists and they are waging a war of terrorism against their own people and there will be very real consequences for it. We have our own terrorists here who are sitting or not sitting across the Chamber and you also see them decimating their own ...

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

Deputy, I do not think you can start calling other Members of the Assembly terrorists. **[Laughter]**

Deputy M. Tadier:

I accept the direction of the Chair; it is clearly metaphorical. But what I am saying is that we will see there is a war going on and there is a war that has been going on for a long time and it is being waged by the rich against the poor; by the ones who have the resources and assets in the world against those who do not have them. Senator Perchard slaps his head because of course this is a complete anathema to him but this is the reality of it. Most people do not walk down the street and think: "Oh no, I am going to be hit by a suicide bomber today." But they do walk down the street and think: "I am not sure if I am going to be able to pay for my bread today. I am not sure if I am going to be able to pay for my bread today. I am not sure I am going to be able to put food on the table for my children. I do not know if I can buy nappies for my children because they have put G.S.T. on it" something which does not even happen in the U.K. at the moment, although I am sure that the condemned government will soon be changing that. So let us put this in perspective. Of course we do need to have terrorist legislation in place, as you do with other criminal law because terrorists are criminals; they should not necessarily be given any superior status to your ordinary, everyday criminal. But let us put this in perspective and say that we have bigger things to deal with

in Jersey and let us think about who the real ones are who are terrorising our society in a tangible and very real way, and I am sure at least 10,000 people in Jersey are aware of that fact.

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

Mr. Attorney, are you able to assist now?

The Attorney General:

Hopefully so, Madam, yes. As I understand the question, it is directed to what it means specifically with regard to the Terrorist Asset-Freezing Act in the United Kingdom for someone to be designated as a terrorist and therefore what we should expect to see by way of a designation applicable in Jersey. The Act of 2010 in the United Kingdom is very similar to the draft that Members have before them at the moment; essentially it contains the same provisions. The designation under the United Kingdom Act, as I understand it, occurs in 2 different circumstances: either there is a designation by the U.K. Treasury which is normally responsible for these kind of things or it is a designation flowing automatically from the same international standards and orders set out in paragraph 2(c) of our draft. The Treasury is limited in the circumstances in which it can make a designation. If I could sit down for the purposes of reading from the screen. It has the power to designate if they have reasonable grounds for suspecting: “that the person is or has been involved in terrorist activity, that the person is owned or controlled directly or indirectly by a person [who has been involved in terrorist activity] or that person is acting on behalf of or at the direction of a person [who has been involved in terrorist activity]” and they must also consider that it is necessary for purposes for protecting members of the public from terrorism that financial restrictions should be applied in connection with the person to be designated. They define “terrorist activity” as meaning: “... the commission, preparation or instigation of acts of terrorism, conduct which facilitates the commission, preparation or instigation of acts of terrorism or which is intended to do so, or conduct which gives support or assistance to persons who are known or believed by the person concerned to be involved in conduct falling within that category.” The definition of “terrorism” there is a cross-reference to another United Kingdom statute and I believe it is essentially the same as the cross-reference to the Terrorism (Jersey) Law 201- contained within our draft provisions. I could tell Members what that definition was but it is quite clearly primarily directed at dangers that might be experienced by members of the public. Another point that I should make I think which is of significance is of course, as contained within this draft, there are appeal provisions contained within the United Kingdom draft. So in the event that a person believed they have been improperly designated within the United Kingdom they would have recourse to the courts of the United Kingdom for the purposes of getting that designation varied or overturned in the same way that if the Chief Minister were to make a designation under our law, there would be a possible appeal to the court or an application for review to get that designation overturned.

Deputy T.M. Pitman:

Could I seek a little further clarification if the Attorney General can? It is probably too difficult to answer, to be fair. What possibly constitutes “reasonable grounds” because it is so wide and ambiguous? What are those reasonable grounds? Because if you look at since about 1948 the *J.E.P.* have been busy trying to misrepresent certain politicians, who decides that suddenly you are a terrorist?

The Attorney General:

Ultimately, reasonable grounds have to be grounds that are reasonable to the decision-maker in the first instance but the reasonableness of those grounds are then subject to review by the courts in the event that the person who is subject to the designation does not agree that there is a reasonable basis for that designation. So the answer is in common with all statutes in which reasonableness is

tested: ultimately the reasonableness of the decision is tested by the courts but I do not think I can help with that.

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

Is this a follow-up on your question?

Deputy M.R. Higgins:

It is following through, yes. Honestly, I am amazed that the Deputy of St. John is keeping quiet at the moment now that it is all out in the open. However, Julian Assange, whether you like him or not, has revealed an awful lot of information which hitherto has been kept behind closed doors and much of it has been very revealing about the process of government. It has shown in many cases how our government policies are flawed. I am concerned in the definition that you read about terrorism, people who are giving support to you or whatever. I know that there are many senior American politicians who have expressed views about WikiLeaks, the founder, and so on and his leaking of information. He has been accused of acts of, I think, terrorism. There are people who want him brought back to the United States to face capital punishment because they believe that some of the information that has been leaked could reveal names of agents or put other people in jeopardy, so we are entering into a minefield here ...

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

Your question to the Attorney is ...?

Deputy M.R. Higgins:

My question, I am coming to it, in a rambling way. First of all, from what he has read, and I appreciate he has only had a few moments to read the U.K. legislation and so on, the U.K. list, is it compiled from just the U.K.'s own list or, for example, I know that in many cases we accept U.N. (United Nations) lists and other lists. If the United States for example designated Julian Assange as a person who fell within their criteria, would he appear on the list and then have to fight it in a U.K. court or in a Jersey court?

The Attorney General:

I cannot be categorical about that for the reasons the Deputy has helpfully mentioned. But my understanding is, no, he would not. If he were a designated person within the meaning of the international treaties and statutes that are referred to in this, and similarly referred to in the 2010 United Kingdom Act then, yes, that would automatically flow through into the United Kingdom designation and indeed into Jersey's designation. However, a simple designation from the United States or any other country does not automatically, as I read it, give any form of designation in the United Kingdom. A separate exercise of discretion by H.M. Treasury would need to be undertaken before anyone was designated under the 2010 law.

9.4.4 Deputy P.V.F. Le Claire:

I trust the United Kingdom is not going to be looking at this transcript. Well let us hope not or Deputy Tadier may find it difficult to get into Southampton. There are different ways of defining terrorism, is there not? If you look back in time about how to change the world, Deputy Tadier makes the point - and it is a moral point - that perhaps there are different definitions of what people are doing in relation to how they are affecting others.

[12:30]

Mahatma Gandhi did change the world through a non-violent process but I believe at the time he was jailed because of his non-violence and his non-conformist views at the time. He changed a continent but I think he was imprisoned for more than the vast majority of his struggle because of his non-conformist and non-violent approach to things. I think what is important for us as a jurisdiction is that we keep in pace with the rest of the world in keeping our legislation up to speed.

I have mentioned this in the first part of the debate. If we are going to go into places like India where there is a real prevalence of terrorism emanating from the borders: we have seen in Mumbai and other places devastating acts of terrorism; we see it daily. The same can be said for Russia and into other Middle Eastern, European and Far East continents. We have to have this legislation in place. What I would like to get, and I did not really get it from the Chief Minister at the time because he said he would address this in my point, is that if we are going to identify in a report, perhaps redacted, maybe the names are going to be included; I do not know. If we are going to identify that these people are terrorists and we are going to identify that we have frozen their assets, what I would like to know is what activities were they involved in financially within Jersey that they have had their assets frozen in? Were they just depositing money in Jersey or where they involved in cell companies in Jersey, were they involved in complex schemes that need us to review our financial legislation? Because if there is a place for them to do business and if their assets are found in Jersey, then I would certainly hope that those reports identify the sorts of activities they were involved in and the types of financial mechanisms they were dealing with so that we can address those when it comes down to it, rather than just a report that lands on our desk and we ignore the subject until we next come to another debate. Because if there are avenues for terrorists to be utilising their funds and utilising Jersey's jurisdiction and the way that it allows business to occur, then we need to tackle that. I was watching a programme last night about the fact that Goldman Sachs could not fund within the law the raising of capital to take on the face book value that they did, so they went offshore and got the money. Now, it seems ridiculous to me that because the F.S.C. (Financial Services Commission) in the United States of America does not have the manpower to police their jurisdiction, that a company can go ahead at this time of financial crisis and go offshore to get money to raise capital to break their own law to go back to raise funds to conduct business in investments. If those activities have occurred through Jersey then I would agree, those sorts of activities need to be scrutinised, understood and we need to form a view on those and whether or not we ask the J.F.S.C. (Jersey Financial Services Commission) to close down those abilities for terrorists to transact in Jersey.

9.4.5 Deputy J.B. Fox of St. Helier:

This particular law and regulations, along with many other laws and regulations that are with us and with other countries in the world, are all essential. Not one thing provides the solution to anti-terrorism. As probably being one person probably closest to this House who has been involved in anti-terrorism, I can assure you that the safeguards are there not just for us here in Jersey but for our fellow man and woman throughout the world. We have to protect not only ourselves but we have to protect other people. If we are the weak link we become the target. We do not want to be the weak link. If we are the weak link in providing the safeguards then what will happen is that nobody will want to trade with us or do anything with us. So it is a combination of things. But as the Attorney General rightfully has already said, these regulations are not determined by one set of people, they are determined by a large group of people and the frontline is obviously the people that are working either at the frontiers or within our banks and other jurisdictions to ensure our safety. But the other frontline is the advocates and the lawyers and the legal beagles that are ensuring that there are also safeguards that are put in, and when there are any failures that these are brought to light and these are then challenged and they can end up as high as the highest court in the land of the particular country or to a larger organisation such as in Europe or elsewhere. This is essential and I shall be supporting it, thank you.

9.4.6 The Deputy of St. Martin:

I feel there would be very few people who would not support what we have got here today and, as Deputy Fox said, it as essential piece of legislation. We are now a world player and we obviously have got to look at terrorism in the round but also just bear in mind that the terrorism is the guy that probably wants to blow people up, that terrorism needs financing. He needs the money, he needs to get that money somewhere and that money is going to be placed somewhere and I think it is very

important if we are to be seen as a world player that we have legislation in part to give the people in the financial world the confidence to know that we have got legislation here in Jersey, which will safeguard against those would be terrorists who want to go and blow people up. So I think it is a very important piece of legislation here and I hear what Deputy Tadier has to say, he may be over the top a little bit, but at the same time I think we have got to be very careful, ensuring that we do not put obstacles in the way of people we do not like simply because we do not like them. It has now been defined what the terrorism was, because I was going to ask really what it was, and I am grateful to Deputy Higgins asking that question. But I would like to look at the Schedule 1, it makes reference to a number of laws, *et cetera*, but of course also reminding the Minister that on page 5 it has the usual Article 16 that this is human rights compliant. I think in many ways if we had have got possibly an explanation as to why it was human rights compliant and what particular articles made it human rights compliant it may well have saved a bit of time here asking questions this morning. I know the U.K. now give an explanation as to why something is human rights compliant and I think it is time that we started doing that in Jersey, particularly with these sort of laws which affect people outside in the world, if we are to be seen a world player. So maybe before I sit down I can ask the Chief Minister as to inform Members as why it is human rights compliant and also what articles are relevant to this particular piece of law.

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

Now, I did notice Deputy Higgins' light again but you have already spoken.

Deputy M.R. Higgins:

I was just raising my concerns from the questions for the Attorney General. I am just going to make one sort of comment, if I may, and that is ...

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

No, you cannot have a second speech.

Deputy M.R. Higgins:

Well is it a second speech or is it asking questions?

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

You had a speech and then at the end of that speech you had a question, you could have continued at that time.

Deputy M.R. Higgins:

Okay, I will come back on third reading.

9.4.7 The Deputy of St. Mary:

Now, I apologise that I was not in the Chamber to hear the Chief Minister introduce this because I had a doctor's appointment which I had to go to, but I am quite quick on my feet so I am back in time. There are a few questions I would like the Chief Minister to address in his summing up. I just want to refer to the part 4 information, pages 26 and 27 and there are 2 articles there which appear to me to show some kind of tension or contradiction, which I would like the Chief Minister to explain. It is the section on information because obviously that is the key to this whole thing. Article 22, section 5 says that: "The Chief Minister may require any person in or resident in Jersey to provide such information as he may reasonably require for the purpose of establishing for the purposes of this law the nature and amount or quantity of any funds or economic resources owned, held or controlled by or on behalf of a designated person." So the Chief Minister has the right to presumably ask his agents to circulate all registered persons probably in Jersey conducting financial services and say: "On behalf of this person X, do you have information that I need?" The second subparagraph is the nature and amount or quantity of any funds, economic resources made available directly or indirectly to this designated person. So it is a general request for all information about

the financial affairs of person X who is designated, that means they are on the U.N. list, or I think there is another definition as well. But they are suspected or they are on this terrorist list. So the Chief Minister can do this in respect of a person at any time. Now, if you go to the proceeding page, page 26 after 21, you see that in the first paragraph, paragraph 1, all relevant institutions must inform the Chief Minister as soon as practicable about the funds and the economic activities of any designated person. I am paraphrasing because I do not want to read it all out but that is what it is. If you suspect, as someone dealing in financial services, that your customer... if you have cause to suspect that the person is a designated person, in other words is anyone on the list then you have to inform the Chief Minister. So we have a contradiction here, we have the fact that all relevant financial services institutions must inform the Chief Minister of any designated person if they are coming into contact if they have assets here. Then we read in the following article that the Chief Minister can send around some kind of letter or communication saying: "Tell me about person X on the list". But surely if you must inform the Chief Minister then the Chief Minister does not have to go trawling for information about a specific person. So I just ask the Chief Minister to clarify that and clarify that inconsistency. So that is my first point and the second point is a separate point. How can this asset freezing and so on be enforced in practice, how can we ensure that we have the information necessary and then we can proceed to take the necessary measures? So my question is to the Chief Minister, what are the transparency arrangements with respect to all the different kinds of vehicles in Jersey? Because what I have just said shows that we have an article that covers the situation of a relevant institution not telling the Chief Minister, otherwise he would not need Article 22, Article 21 is enough. They all must tell the Chief Minister if a designated person comes into their ambit. But we have Article 22 as well which says: "Oh, by the way, if you did not tell the Chief Minister you have got to now." So my second question is what are the arrangements to ensure that we can find out whether any trust company cell foundation has dealings with any designated person? How can we be sure that we would be able to find out? Are we relying completely on voluntary compliance as in Article 21? If not, and we go to Article 22, what guarantees have we got that we will find out what we need to find out in the context of what the Deputy of St. Martin said of how important this is, and it is important for our reputation and for the wellbeing of all the citizens of the planet. So these are important matters and I hope the Chief Minister can clarify, thank you.

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

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

9.4.8 Senator T.A. Le Sueur:

I think it is important for Members to understand the balance here between the appeals process, which is contained in schedule 2, and the need to identify a potential person who could be a designated person. I do not think I can usefully add very much to what the Attorney General has said about the designation other than to the effect that having considered a designated suitable person there are 2 things to follow. Firstly under Article 8, subsection 2 the person has to be involved in terrorist activities. It is not a question of national security or anything or being an enemy of the people, it has to be an active terrorism or conduct that facilitates the commission of an act of terrorism or supports an act of terrorism. Even if that were in some Members' minds a subjective judgment, it is subject to an appeal to the Royal Court so even if the Chief Minister comes to one view the person concerned can challenge that in the courts because Article 10 of the law requires that if I do so designate then I have to give written notice of the designation to that person.

[12:45]

So designation in itself is one half of the picture but, as the Deputy of St. Martin has rightly said, the corollary of that is ensuring that there is a proper and open appeals process to ensure that the procedure is not misused. There is no indication, I would have thought, that this is misused, this is

a very narrow law in terms of pure acts of terrorism. I think that probably addresses some of the concerns from Deputy Higgins, Deputy Pitman and Deputy Tadier about what a definition of terrorism might be. Deputy Le Claire asks about Article 31 in my reporting to the States, well I think the article itself is quite clear. It just shows that where an action has been done it has to be reported at 3-monthly intervals so we are clearly kept informed at 3-monthly intervals. Naturally enough obviously the designated person is also aware of that and should they feel that they are unjustly accused of being a designated person then they can make the necessary appeal. I thank Deputy Fox and the Deputy of St. Martin for their views about sharing that support. The Deputy of St. Martin asked about the human rights compliance of this and I took particular interest in this one because of the serious nature of the potential effect of this legislation on the designated persons themselves. That is why this appeals procedure in schedule 2 is so important and why it was indeed scrutinised at some length before both I and the Law Officers were satisfied that the law was indeed human rights compliant. The Deputy of St. Mary has then raised an interesting point in relation to the interpretation of Article 21 and Article 22. I think he may be slightly confused here because Article 21 is the relatively narrow obligation relating only to the reporting obligations of relevant institutions, that is to say financial institutions. That is because financial institutions have a particular responsibility here and a particular part to play in respect of their obligations to know their client, know their client's activities and the complete background to a client's activities and sources of funds. Article 22 is a far more general piece of legislation, which enables me under subsection (5) to require any person resident in Jersey, whether they are a financial institution or not, to provide information which might be relevant. Now, ordinary individuals in the Island are not subject to the same stringent levels of compliance as financial institutions are. So while Article 21 enables this to be delivered by financial institutions, Article 22, if you like, is a catch-all provision in case that was not already covered. I hope that makes it clear for the Deputy and to other Members, I do not see any inconsistency there. He asked about the transparency arrangements and, as I have already said, the transparency arrangements are built into the know your client requirements of those financial institutions. That I think, as far as I can see, picks up all the questions that have been asked that have not been answered already by the Attorney General, so on that basis I maintain the Articles of Association.

The Deputy of St. Mary:

Could I ask a point of clarification on the second point that I raised, because the Chief Minister has said that the transparency arrangements are built into the know your client requirements. Well that may be so but part of my question was how do we ensure, how can we know that with all vehicles - some of which are less transparent than others - that it would be possible for the authorities to find out who owned what, who owned which asset, who controlled which vehicles.

Senator T.A. Le Sueur:

The information that I get can only be as good as the information provided to the client service providers, and that is why it is important that the Financial Services Commission has stringent rules about the activities of those financial service providers in order that we can be satisfied in our stead that there is reasonable likelihood of that information being provided. The quality of that reporting information has been reviewed by the I.M.F. (International Monetary Fund) in their recent review of the Island's activities and Jersey was found to have very high standards there, so I am very satisfied that we have done all we reasonably can in this respect, as in general financial services and a high standard that we seek to maintain.

Deputy P.V.F. Le Claire:

I did say in my speech to the Chief Minister, and it was quite comprehensive, I wanted to know when tabling his report under Article 31 whether or not he was going to include for us an understanding as to what activity the terrorists' assets were involved with. If he is going to submit a report to us every year to tell us how the function of this law is working, seizing assets of

terrorists, I think it would be beneficial - as I stated in my speech - for us to understand what the schemes were. I want to know if the Chief Minister took that on board and whether or not he is prepared to submit within his report or whether or not we have to bring a proposition.

Senator T.A. Le Sueur:

The purpose of this law is in respect of the freezing of funds, which might be held by terrorists, and I would be very wary about going into too much detail about what terrorist activities were taking place when that might not be relevant to this purpose of the law. The report only applies when I have had a case, which I have performed any function under this law, and it may well be that no such function will have been produced, but if that function was performed then my obligations relate to those matters relating to the asset freezing, whether there has been any appeal to that nature or when an appeal might still be pending. I think the law is perfectly clear on that respect, but if the Deputy has any concerns about it then he may wish to consult with myself or the Attorney General after this meeting.

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

Very well, the vote is on the articles as amended and Schedules 1 and 2 and I invite all Members to return.

The Deputy of St. John:

Can I ask for the appel, and also say in asking for the appel that is one of the reasons why we should have gone in camera.

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

I ask Members to return to their designated seats and I invite the Greffier to open the voting.

POUR: 39		CONTRE: 1		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy of St. John		
Senator P.F. Routier				
Senator J.L. Perchard				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Helier				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				

Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

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

Very well, do you propose the matter in Third Reading?

9.5 Senator T.A. Le Sueur:

Yes, Madam.

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

Is that seconded? [**Seconded**] Now, I do remind you that we are now addressing only what has been approved in the principles, you cannot raise a new matter at this moment.

9.5.1 Deputy M.R. Higgins:

I will not raise anything that I have not already raised, and that is quite simply it is not good enough for this Chamber to nod this type of legislation through, and certainly when we have definitions that are not even contained in the report or anything else and we have to refer to external legislation and have to get the advice of the Attorney General. So really what I am trying to say is that no one is going to oppose any legislation to do with terrorism but this House should do its job properly and certainly the Chief Minister, in bringing this legislation, should make sure that all the information is available to the States Members so they can look at it and, for example, allay any concerns they may have abuse or human rights considerations. Thank you.

9.5.2 The Deputy of St. John:

I am far from happy with the way that the Minister has brought this to the House with a shortage of information within the proposition. It should have been properly compiled, given he has a whole department in which to do this, it is not like a Back-Bencher who has to make do and do it all himself. He has a whole host of people that he could have pulled together a proper report. This is far from the way to do business, given that we have people around the world - and I just sent a note to the Attorney General - what is the difference between a freedom fighter, or definition of a freedom fighter and a terrorist? Well we know a freedom fighter is a person who is being supported by a group of people within a country and a terrorist is somebody who is being opposed. That said, there were a number of items I would have liked to have raised within an in camera debate which we were told - I believe apart from myself and the Connétable and Deputy Le Claire who voted in favour of an in camera debate - that this could have been a far more informative debate. As I said, I had things I would have liked to have said but it could not be said in an open debate and you could have opened the debate after I had spoken possibly, there were ways around it, but possibly I did not explain it sufficiently well enough, or the Chair did not, of what we were or not permitted to do within an in camera debate. That said, I will not be supporting this because the meat is not all on the bones for Members to make a proper decision on this type of legislation. We need to see the facts and all we are seeing, if you look at the books as in accountants terms, you

would see that it is facts and figures and all we are seeing is figures here, no facts. I cannot support something without the meat on the bones. Thank you.

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

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

9.5.3 Senator T.A. Le Sueur:

I believe that there has been adequate opportunity for Members to raise any concerns they may have about this draft law, which I remind Members is there to replace a law which has been in place for many years but was found on a technicality in the U.K. to have potential weakness in one area which caused this law to be taken back and reviewed. The general principles are ones which have been in place for many years now, and quite rightly so too, because we have an obligation to comply, as we have signed up, to the international obligation and the convention for the suppression of financing terrorism. So I take exception to the suggestion that we have not had time to discuss this, the law was lodged in December and if Members had any concerns they were entitled to raise them, as is the purpose of lodging and getting time for debate. We have done that, we have debated them, not nodded them through straight away, but we have an hour or more than hour's discussion on the legislation and I believe it has been properly and thoroughly and correctly aired, and we have come to the correct decision. I maintain the bill in Third Reading.

Deputy P.V.F. Le Claire:

Just a point of clarification, the Chief Minister said to prevent the financing of terrorism but I am sure he meant terrorism.

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

Very well, the vote is on Third Reading, the appel has been called for. I invite Members to return to their designated seats and I ask the Greffier to open the voting.

POUR: 38		CONTRE: 2		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy of St. John		
Senator P.F. Routier		Deputy T.M. Pitman (H)		
Senator J.L. Perchard				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Helier				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				

Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

LUNCHEON ADJOURNMENT PROPOSED

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

Thank you, the adjournment has been proposed. The States stand adjourned until 2.15 p.m.

[12:58]

LUNCHEON ADJOURNMENT

[14:15]

10. Jersey Police Authority: establishment (P.192/2010)

The Deputy Bailiff:

Very well, we now come on to P.192 - Jersey Police Authority: establishment - lodged by the Minister for Home Affairs. This is a rather long proposition, I hope Members will agree that we can take the proposition as read. Very well, Minister?

10.1 Senator B.I. Le Marquand (the Minister for Home Affairs):

This proposition represents an attempt to solve a number of difficult problems in order to achieve the right balance in the setting up of a police authority for Jersey. These problems include the following: firstly the need to balance the important principle of operational independence of the police against the ability of the Minister for Home Affairs to set overall policy, including key aims and objectives and management policies in appropriate areas. Secondly, the need to ensure that the new Police Authority is neither too strong nor too weak in its operation. If it is too strong then it will tend to clash with the Minister's key aims and objectives and in Jersey, unlike in the U.K. where they have police authorities, there is a big difference because in the U.K. the Home Secretary is sitting down in London whereas the Police Authority will be operating in Liverpool or Newcastle or whatever and understand local conditions. In Jersey the Minister for Home Affairs sits in an office in St. Helier and, therefore, is far more directly involved. So there are reasons why it must not be too strong in the sense I have defined it. But also it must not be too weak either because if it is too weak then it will be ineffective in role of oversight. There is a need to set up in fact a 3-way balance, a balance in the division of responsibility between the Minister, the Police Authority and the Chief Officer of Police and essentially the methodology which this proposes is one by which some of the functions of the Minister are devolved to the Police Authority. There is also the issue, which I will come on to shortly, as to whether the remit of a police authority should or should not include some oversight of the Honorary Police in accordance with proposition 49 of 1998. The Members will have seen that is not proposed and I will explain that in more detail. There are other issues and other problems which need to be addressed. Another one is the current high level of

politicisation of policing related matters, and particularly policing related matters at operational levels. Now, I am not naïve enough to believe that these proposals will completely solve that, and that is partly a by-product of the proximity of Members of this Assembly to their electorate. However, by inserting the Police Authority as a buffer between the Minister on the one hand and the Police Chief on the other, and by keeping the Minister responsible for policy matters while making the authority responsible for the oversight of the implementation of policy, this should reduce the politicisation of the way in which the police act in individual cases. The other problem which this seeks to address is a problem of resilience. These proposals create a much more resilient structure and I think that most Members, if not all, would probably agree that the current system places too much responsibility upon the Minister and depends too much upon the ability of individual Ministers. At the moment, by historical accident, the Minister happens to be a lawyer with a strong background in the public sector, criminal law and procedure. But even with this background and even with Deputy Hilton's stalwart and energetic help, I find it very difficult to get down to the level of detail that I would like to in terms of efficiency of running of the force. It is probably very unlikely that there will be another Minister with my sort of background for some time. But a police authority could have, as well as 2 States Members, it could have a chairman who happened to be a lawyer or members who are former policemen. Indeed it could have a high level of internal expertise of its own. So those, to open up as it were, are the problems which we have sought to solve by virtue of this proposition. Now, I delayed starting work on the detail of this deliberately in order to try to learn lessons from the past and, to a degree, to allow the dust to start to settle on certain controversial issues. Then I set up a consultative group to analyse and criticise my own ideas. I am very grateful to each of the 6 Members of that group, Deputy Hilton, the Connétable of St. Ouen who is not here today, Deputy Trevor Pitman, the Deputy of St. Martin, the Deputy of St. Peter and Deputy Fox. I am very grateful to them for their input because I believe we have produced something much improved. But I also had excellent input both from the previous Acting Chief Officer of Police and more recently in relation to a particularly difficult problem from the new Chief Officer of Police. So I start with what is missing, i.e. any reference in the proposals to the Honorary Police, and Members may wish to turn to page 9 if they want to see some detail in relation to that. I am not going to run through everything that is in page 9, it details the conversations which took place between the consultative group and the Chef de Police and the response from the Chef de Police, a correct response I personally believe, that to insert the Police Authority as having some role over them would cut right across the historical relationships and arrangements both with the Attorney General as titular head of the Honorary Police and also in relation to the role of the Connétable. However, there is no doubt that there must be appropriate oversight of the Honorary Police forces as police forces, i.e. not the role of the Centeniers as prosecutors where the Attorney General undoubtedly must always have oversight. I have already shared some ideas with both the Connétable and the Chef de Police in this area and am happy to continue to support them in trying to reach a more detailed approach in relation to this if they so wish. But this is not part of this proposition, for reasons I have given. I turn now to the detailed proposition and here the Members will need to have before them the proposition, I will be referring to paragraph numbers which are all numbers of subsection (a) and then making some comments on them. Firstly paragraph (1) preserves the Minister's existing overall responsibility for the States of Jersey Police and because part of the Minister's responsibilities are being devolved to the Police Authority it creates a responsibility on the part of the Minister to ensure that the authority does its job properly of exercising proper oversight over the force. Paragraph 2 allows the Minister, with the advice from the authority, to set the key aims and objectives. This is in addition to the Annual Business Plan, which is dealt with later on. Secondly, to set management policies for the force in areas which may impact on the reputational image of the force or the Island. Now, that latter subparagraph was the most difficult part of the whole thing and I finally came to this wording with the assistance of the new Chief Officer of Police. This was the most difficult area to get the balance right in. There have been instances in the past in relation to which the Minister should have been in a position to intervene. Examples of that are management at press conferences in

relation to Haut de la Garenne and the disbanding of the motorcycle unit. Paragraph (2) is carefully balanced by the provision which I will come to later in paragraph (6) in relation to the safeguarding of operational independence. So there is this very careful balancing of these 2 concepts in order to avoid on the one hand erosion of operation freedom and on the other hand to make provisions so that they can, in appropriate cases and areas, be an intervention at an appropriate level. Paragraph (3) merely carries forward what is the existing provision, so I am not going to comment particularly on those. Paragraph (4) sets out part of the role of the authority in terms of its duties to ensure that the force is an efficient and effective force and that it delivers the key aims and objectives and acts in accordance with any management policies set under the previous subparagraph. Paragraph (5) is the safeguard to the authority because otherwise it might be thought that the authority would have a duty to do things and would not have the resources so to do. This gives the authority the right to refer back to the Minister the need for additional resources because ultimately it is the Minister who will carry the responsibility for ensuring that there are appropriate resources for the police. This is unlike the pattern in the U.K. whereby the police authorities are directly in receipt of money and deal with their own accounting. That would not be appropriate to the Jersey system, it would not fit in with our financial management but this does. Paragraph (6) creates a statement of operational independence. Now, this has not been defined before, it is quite a difficult thing to define in precise forms of wording, but operational independence means the ability of the police to decide what action to take in terms of investigating or not investigating a particular matter and the extent to which it should be investigated. It is a very important constitutional safeguard and its ultimate purpose is to preserve the integrity of the investigation without political or other interference. However, it should be distinguished because sometimes another area is spoken of in terms of operational independence, and it is really not operational independence in the strict sense in which I have defined it. It should be distinguished from the freedom normally enjoyed by any Chief Officer to manage his own department without micromanagement by his Minister. Now that is something which applies not only to the police force here but - in my view - to every police force. Politicians should not be getting involved in micromanagement of their departments; they should be setting policy and allowing officers to carry on. But that is a different sort of operational freedom to the one which the law is referring. On the other hand, operational independence does not and should not prevent the Minister or the authority from making inquiries as to the manner in which any operation is being conducted with a view to accountability. This would relate essentially to management issues and classic examples in relation to that would be something such as the handling of financial management in relation to the Haut de le Garenne investigation. There is again a balance here being achieved between the 2 principles of operational independence and the appropriate right of the Minister or the authority to intervene. Paragraph (7) gives additional powers to the Minister to require the authority to enquire into and provide a report to the Minister on any matter to direct the authority to submit the force to outside inspection, and if a report or inspection identifies an area of improvement training need or inadequacy in the force, the power for the Minister to direct the authority to ensure that the force takes remedial action. Paragraph (8) sets out the existing role of the Chief Officer. The intention is not to change the role of the Chief Officer, as I said before, but to carve out part of the responsibilities of the Minister and to send those to the authority. The past arrangements by which the Chief Officer of Home Affairs has had responsibility as accounting officer for a department over which he had no control operationally has now ended. It is quite clear that the Chief Officer of Police should be the accounting officer for the States of Jersey Police leading, in fact, to the Minister for Home Affairs having not just 2 Chief Officers but also 2 accounting officers, but that is something which does not create any real problem. Paragraph (9) I will not go through in great detail because it is the flipside of some of the other provisions at paragraphs (2) and (13).

[14:30]

Paragraph (10) deals with the accountability of the Chief Officer to the Minister and to the authority. In relation to the authority, the Chief Officer is accountable for the general

administration, governance and business of course, the discipline and organisation of officers and their appropriate training to ensure effective succession planning. Now, the wording contained in that second part, the appropriate training to ensure effective succession planning, is there in order to make it clear that it will always be a duty and a responsibility of the Chief Officer to ensure effective succession planning. That unfortunately has created difficulties in the past for a variety of different reasons, which I do not want to go into, but it is intended that will be clearly written into the statute as one of his duties or her duties for the future. Paragraph (11) creates a duty of the Chief Officer to advise or provide a report on any policing matters, and there are subsections I do not need to go into. Paragraph (12) deals with the preparation of the draft annual policing plan. At the moment what happens is the police produce a draft annual policing plan and they send it to me for approval. In fact I and my Assistant Minister looked at it only a matter of working days ago and made some slight amendments and have now approved it and will shortly be lodging it with the States. This changes that slightly so that effectively the draft of the annual policing plan, which really says where the priorities are going to be for the police for the next year, is produced by the authority but with the advice of the Chief Officer. Paragraph (13) deals with then how it is finalised, the Minister then has the right to make amendments to the annual policing plan and then presents it as part of the R system with the States. Paragraph (14) sets out the make up of the authority. Now, this is the issue of trying to balance it not being too strong and not being too weak, and the idea which we have come up with is basically firstly that a chairman would be appointed by the Minister after an appropriate selection process. So there would be that degree of independence of selection process with the final decision with the Minister. Two members would be appointed by the States and that adds weight to the authority. But I must emphasise, for this to work properly the members who will be appointed by the States will have to understand that the role of the authority if it is to work properly should be non-political. I mean non-political in the sense of left and right and so on, the job is to ensure that the police are operating efficiently and indeed that has been a key principle in relation to the operation of police authorities in the U.K., that general acceptance. Then there would be 4 other members appointed by the Minister and the chairman, again following an appropriate selection process. However, some people will be excluded from the authority, the Minister, the Assistant Minister and also the Connétables. The Connétables simply because of their own role in relation to oversight of their own Parish forces, which is a separate role which they need to exercise and it is not appropriate for them to be on both bodies. That then is the detail of it, very rapidly presented. Paragraph (b) is a request to the Minister - myself - to put this into effect. Now, I need to explain to Members that this will form part of a new Police Force Law. There already exists a Draft Police Force Law, which contains other things which are not particularly controversial. I am working very actively on that now, in fact, I have a meeting within the next week with the Chief Officer of Police and the Acting Deputy Chief Officer of Police to iron out those things, so that hopefully following approval of these principles today by this Assembly we will then be in a position rapidly to produce draft instructions. The timescale is going to be tight but I still remain reasonably confident of being able to achieve completion of the drafting stages in order to bring the matter back in time for debate in July of this year. That is almost the final date because there is only one sitting in September after the Business Plan and that is tight. But I do recommend this to the Members of this Assembly, it is the product of many years of thinking. I think that I can fairly say that the last attempted draft was thought to be fair too weak in certain areas. It is not just my own ideas and thinking, I am very grateful to others who contributed very positively and I believe we have come up with a very good and, I might even think elegant, solution to some very difficult problems. So I propose the proposition.

The Deputy Bailiff:

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

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

I am sure every Member of the House today will be supporting this and welcoming the fact that at long last the establishment of a Jersey Police Authority has reached the House. I would just like to briefly speak to the comments that the Minister made about the scrutiny involvement with this going back to at least 2008, and that was when I chaired the Education and Home Affairs Scrutiny Panel, and we did indeed spend some time questioning the then Chief Officer of Police and the Minister for Home Affairs. We were particularly concerned that the authority as proposed at that time would not be as robust and able to deliver what was expected of it. But I am pleased to say that the changes that this Minister is proposing I am sure would have been welcomed by the then Scrutiny Panel and surely must be welcomed by it now. I note that Deputy Trevor Pitman of St. Helier has sat on the consultative group and I am sure he has been reporting back to his Scrutiny Panel on the review that has been undertaken, although I note there are no comments from the panel in support of this. We were concerned at the proposals to introduce the model from Gibraltar and another of our concerns, as the Minister has alluded to, was the exact division of responsibility; who would the authority report to and be accountable to? I see that those points have been addressed in here, they were our concerns, I hope that the Minister feels that the contribution that Scrutiny made at that time, albeit some 3 years ago, has contributed to the delivery of the proposal today for the authority. I will sit then by saying obviously I am extremely supportive of this and look forward to the Minister bringing the draft legislation forward.

10.1.2 Deputy P.V.F. Le Claire:

I would just like to rise to congratulate the Minister on bringing the proposition today and also in the manner in which he has conducted his consultation in the broad church and the genuine broad church. We hear about this broad church of consultation and involvement among the States Members and it is never that at all, it is not evidenced, but this is certainly a broad church of people that have come together and they have worked with the Minister to bring this. I was particularly interested in his speech, as the Minister pointed out the way the Police Authority will have a right to make an amendment to the annual policing plan and how the 2 members on the Police Authority will need to be apolitical. It is interesting because it is going to be submitted as an R, as I understand, and it does make me wonder sometimes, what do I know about policing, nothing really, but I do know that certain elements of the community want to see, for example, a regular police presence and more of a community policing approach to policing. It is unfortunate, I cannot see how I can amend any of the annual proposals on policing in Jersey and I do not know how to do that really apart from approaching the department where I am told that there is no money and there are no resources. So my first appeal to the Minister in looking at these things, how do Members feed back in a political sense because police are the result of a political motivation? People were motivated politically to pay for Peelers in the beginning of policing to bring law and order into London, and we have been politically driven to introduce that system across the globe and it has evolved. I am still politically keen to see the translation of public funds in policing translating into the old fashioned "bobby on the beat", and I certainly think that there is a number of issues the community feels that is where they want to see their police officers. I appreciate we spend a lot of money and policing time policing the various laws that we have to, including the financial laws, but I am wondering how it is I can feed in as a politician to this process. But just to congratulate him and he will get my support for certain.

10.1.3 The Deputy of St. Martin:

As Members will know from listening to the Minister, I was part of the consultative group and I think we worked quite well, I think probably the Minister appreciated that all the knowledge and wisdom was just not confined to the Executive bench. There is a certain amount of experience and wisdom this side, and I think that is quite evident from the way we worked. It was quite a healthy working party and we got through a lot of work in a very short time. But I have always supported the principle of a police authority and I know that part of this particular proposition is an amendment of mine, I think, which I put through about 1997/1998 but it is important and I always

believed that the shadow, what we were doing, the shadow was a non starter. I do not think it had any heart. This here is going to be the proper thing and the Minister used the word “buffer”, which is an appropriate word. I think it is a buffer because what it will be will be that buffer between the States Police, the Police Authority and the Minister, that is very important. It may well be of interest to know that police authorities are moving on, like our casino, we were thinking about having a casino and when we wanted to have it, it was too late. We are having now a police authority, it is not too late, it is right we have one but eventually I think we will find it will be bigger, it will incorporate an authority which may well involve the ambulance and the fire in future because that is the way they are moving, seeing the emergency bodies under one umbrella. But, nevertheless, I think it is important what we have got. My one little disappointment is, because it was initially intended the Honorary Police would be part and parcel of it... In fact when we go back to the late 90s they very much wanted to be part of it. But, as we see in the report, the present set-up does not feel they want it at present. I hope that they will see the value of some form of oversight and I look across to the Connétables and if the Honorary Police might not want to be part of the present Police Authority, they may well feel over the course time there will be some value, if only because I think as important as it is that the Parish police themselves, very, very important. But we are finding more and more occasions when Parish police are being asked to involve themselves in a wider field and I think they may well find in time that there might be some value in it. But I respect the decision, there is no way I think it would be right for anyone, or certainly me, to come and put a proposition saying: “Look, amend it to include them.” I think the time will come and it may well be that I dare say they might even have a police authority in their own Parish, who knows. But I think it is important that there is oversight and this police authority will be an oversight, so I welcome it. There are a lot of, I think, teething problems to go through because this is something completely new to Jersey, but again I congratulate the Minister on taking us forward. It is a start, it is a step in the right direction, let us hope we can get the law drafting done in good time and the sooner we can get this up and running, the better. I would hope that Members will be unanimous in their support. Thank you.

10.1.4 The Deputy of St. John:

I cannot go back quite to the beginning, 1952 when the States Police were set up, but I can go back to the late 60s when I was invited to join the Honorary Police within St. Helier, moving on from there to the Honorary Police in St. John after a number of years. Having worked on the honorary system and alongside the States Police, or as it was known in my early days the ‘Paid Police’, having been seconded in fact for several years on to C.I.D. (Criminal Investigation Department) with the States Police in the early 70s, and having been around as a Centenier when we put in the 1976 Honorary Police Bill, which put something in black and white within the makeup of the Honorary Police and took it out of, shall we say, hearsay to fact and we had it in black and white instead of in the verbal sense.

[14:45]

Then it has moved on and it gives me great pleasure to support the Minister in this because moving on from the 70s as a Centenier and in the 80s as a Centenier there were things that needed to be put in place, and right back in 1976 I remember fellow colleagues in the Honorary Police discussing the way forward, and if we wanted to keep our Honorary Police we would need to move forward. We would need to move forward. Then I have joined the States in the 90s and, as a member of the Home Affairs Committees towards the turn of the century, then we were discussing yet again on Home Affairs a police authority and it had been discussed in this House on a number of occasions and it never came to fruition. So I am so pleased that we have got something. I am surprised that we cannot get the Committee of Chefs to sign up to it at this time but solely because they were keen to sign up to P.A.C.E. (Police and Criminal Evidence) when I was on Home Affairs and I thought: “Well really we need one police authority for all 13 police forces.” I am talking wearing my hat over 40 plus years in various capacities and I am somewhat disappointed that the Committee of

Connétables with the Committee of Chefs have not been able to at this time sign up to this particular bill. But at the same time it takes time to move forward, we want to get it right and I am so pleased that we can move forward with this and hopefully Members will support this and make it happen, and hopefully some time in the future we will see the Committee of Chefs and the Connétables Committee recommend to the Home Affairs Ministry that they add the Honorary Police to within the framework. But this is the first step on this particular road, and I am sure there will be many more in the future and it must be applauded that the Minister ... without his leadership on this one I do not think we would see this happen at this time. So with those few words I am going to sit down and just thank him for bringing it forward.

10.1.5 Deputy T.M. Pitman:

I am still scribbling there. I would like to say that I think this really is the type of proposition that we should spend our time debating, talking about in the Chamber rather than some of the - was it Senator Perchard who said ludicrous or frivolous proposals that do seem to arise from the far Senator's bench over there on occasion. I was involved in this quite a lot at the start before our bereavements, and I have been quite involved in a lot of police matters generally, and I have spoken to the Minister at length over the last 2 years about a variety of issues, as he would confirm. Obviously I have had some sharp disagreements with him on certain matters but I give him a lot of credit for ploughing his way through this one and getting where we are today. I think credit should always be given in this House where it is due and he does deserve that. I think it is quite commonsense what has been arrived at, as far as the Minister and Assistant Minister and the Connétables being excluded from certain roles. I mean, that has got to be the way it is to make it work. I think what this flags-up for us is what a shame it is that this was not in place 10 years ago, and I am sure the Minister would agree with that. We probably could have avoided a lot of the problems and the dissatisfactions that many of us have felt in a lot of different areas. So it is not going to be the answer to everything, and I think the Deputy of St. Martin has made some very good points there. But it is a big step forward and, as I say, congratulations to the Minister. Maybe he will start talking to me again. That was a joke.

10.1.6 Connétable J.L.S. Gallichan of Trinity:

Could I just say, I think the Connétables support this also, this projet, and I know there are some concerns about the Connétables and the Chefs, could I just say that we had a very productive meeting with the Minister about 2 months ago. It is not the easiest thing to go forward as an authority for the Honorary Police but we did have a meeting with the Chefs and the Connétables at Trinity Parish Hall, and the Minister came and talked to both parties and I think there was agreement between both parties that there is a way forward. I would just maybe like to add, our way is supportive of this but there are other minor problems or major problems because of the Connétable being the head of the Honorary Police, we are working towards it and with the help of the Minister I am sure in due course there will be an authority or some authority over the Honorary Police as well which I think is needed, personally. I think the Connétables agree with that as well. But it is just a matter of finding a way forward, fortunately with a Minister who has also a grasp on the law maybe we can find our way forward to this.

10.1.7 The Deputy of St. Mary:

We do not need to disagree on how important this is. I just want to make a few points and hope that the Minister can respond in his summing up to the ones that he needs to respond to. The first thing is the very first line, to refer to their Act dated 19th May 1998. I note that the Deputy of St. John said it takes time to move forward. Twelve years since this Assembly said that they approved the establishment of a police authority. I think Members should take just a few seconds to think about that and the implications of that. This is not ... I put it in the framework of thinking this is not a bread and butter issue, it is not how many wards we have at the hospital, it is not how many teachers we have, it is just process, it is just about how we arrange things so that they run better. It

is a big mistake to have left this on the backburner for so long. I see people shaking their heads, now I do not know whether it was left on the backburner or whether it was worked at but the fact is it has taken 12 years. We have heard ... in previous debates on matters of governance, I have heard people say, when we are looking at how things work, it is navel gazing. We should not be looking at how things work; we should just be getting on running things. That was, I think, in the context of one the inquiries into health. That is a big mistake and we do have to be very careful when we say that these matters of how we set things up - and in this case how we arrange the governance of our police force - that somehow it does not matter as much as the other things and we must get on. I hardly need to remind Members that it is likely that some of the costs of Haut de la Garenne could have been avoided had we had a police authority acting under the terms of this proposition with a buffer not being politicised but nevertheless able and having the say so to go to places where possibly Ministers could not go or did not feel they could go or there were difficulties or whatever. So that is my first point. The second is that I think this proposition does strike the right balance between the supervision of the police, the necessary and - I have put down in my notes - tough challenging supervision of the police, and being supportive. Under supportive I put paragraph (5) and I am very glad that paragraph is in. The Police Authority shall have a duty to refer back to the Minister any need for additional resources. Without that it could become a critic's chamber, it could become almost adversarial but because they also have the duty to represent the police to the Minister in a sense, they also have under paragraph 2 the duty to ... or I do not know whether it is the duty but the mechanism set out here is that the Police Authority with its more detailed knowledge perhaps than the Minister, gives the Minister advice when he sets the key aims and objectives of the States of Jersey Police. So the Police Authority has 2 roles that are not, if you like, delving and critiquing and saying: "Where has the money gone, Mr." they also have these 2 roles of advocating for more resources if necessary and having an input into the key aims and objectives which obviously is the nub of the matter. So they do have a balance of roles there. I will come back to the makeup of the Police Authority in a moment because I think that too is important in the light of that balance they have to strike. My third comment, or fourth comment, is a request to the Minister to comment on paragraph (a)(2)(ii) where it says that the Minister may set management policies of the States of Jersey Police Force in areas which may impact on the reputation or image of the States of Jersey Police Force or the Island of Jersey. I do have a little tremor inside when I read the word "reputation". I am just concerned and I want the Minister to explain exactly what he means by that paragraph because I do think that the administration of justice and the pursuit by the police of whoever they think is doing wrong or is damaging the Island - damaging the Island, not the reputation of the Island, damaging the Island or Islanders - should be clearly above the reputation of the Island and the image of the Island. So I am concerned about that and I do not quite see how management policies can impact on the reputational image of the police force or the Island. So if the Minister could clarify exactly what he means by that area because it does ring alarm bells. The fourth point was on resources. I have commented on the Police Authority having duty to refer to the back to the Minister any need for additional resources and I am glad the Minister clarified in his opening remarks that means additional resources for the police force, and he is nodding. There is also however here, a question of resources for the authority itself. I note, I think it is only in the report, it is not in the proposition, that the initial budget will be £100,000. If that is enough, then that is enough, but if it is not, I hope that the Minister will be receptive to firm requests for ... if that turns out not to be enough. I am reminded of the Gambling Commission where there is a very small amount set aside for remedial work when people are damaged by gambling and you just think: "Well, is that enough." The same applies here and it would be a shame ... well, it would be more than a shame, it would be a disaster if the Police Authority found that its hands were tied in doing its work - and it does have some research work to do I can see - by lack of resources, that it found it just could not fulfil its remit properly but felt that it could not really shout for more resources. I think I would like the Minister to assure the House that, in this very important matter - and I have mentioned the cost of the failure in this matter - the resources that they properly need will be available in this important buffer situation. I think my last

comment is on the make-up of the Police Authority. I suppose I start by saying: “What are the ideal criteria? What would one like to see in these 7 Members, what do you want from the Police Authority?” The first thing I wrote down is a range of views. You do not want 7 people who have set out to criticise the police, nor do you want 7 people who think that they are all wonderful and everything they do is unchallengeable. You want a balanced range of people. I do not see that that is written into this. It may arise and it may not but I do not see that that requirement for balance, so that it is not a cosy club and so it is not a critics club, I do not see that balance written into this. I am reminded of the sometimes very public disagreements that the Metropolitan Police Authority has, and I think I am comparing like with like, I stand to be corrected if not, but I am aware that occasionally there are quite loud public bust-ups with the Metropolitan Police Authority because they are arguing and discussing among themselves about what is the right thing to do about how to approach the policing of mass demonstrations, or whatever it might be that is really controversial, and there are strongly held views, differing views within the Police Authority. I think that is to the good and healthy and we should not go down the route of trying to sanitise this police authority. Okay, you do not want brickbats at dawn every day of the week but on the other hand you do want robust challenge and you want robust support of the police as well. So I would like the Minister to say how, in this proposition, he can guarantee that there will be a good range of balance on that police authority. Thank you.

[15:00]

10.1.8 The Connétable of St. Peter:

I have a question coming from my old P.A.C. (Public Accounts Committee) hat and also now my new role as Assistant Minister for Treasury and Resources, it really refers to the funding. One of the problems we have currently with Home Affairs is the Chief Officer for Home Affairs is the accounting officer but the Chief Police Officer is not accountable to him for financial matters but is accountable to the Minister. But the Minister equally is not the accounting officer. I do not see any way with a proposition for the Police Authority where there is any definition of who should be the accounting officer to fill that sort of duplicity about who is having the financial controls for the department. If the Minister for Home Affairs could help me with that I would be most appreciative.

10.1.9 Senator P.F. Routier:

I am going to be very brief. I want to congratulate the Minister twice. Firstly on bringing forward this proposition because it is something we have been waiting for for a very long time, but the other congratulations I want to give is that Deputy Le Claire made a point about wanting to influence the work of the police and to see more bobbies on the beat. I have to say over the last 2 months, the bobbies on the beat have been very, very visible and I would like to congratulate the new police chief who has been seen out as well walking the streets of St. Helier, and I hope it continues because it is having an effect. There are less people cycling on the precincts, there are less children messing around playing football in the streets and creating a nuisance, and I do believe that their presence is having a tremendous effect on the town of St. Helier.

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

Just briefly, I rise to support my Minister in this proposition. There is nothing more that I believe that I can usefully add to what he has already said and what the Members have also said. But the one thing I would like to mention is that in the past I sense that there may have been a little bit of criticism in the length of time sometimes it has taken the Minister for Home Affairs to do certain things and he has always come back to Members and said he has had his list of priorities. The Jersey Police Authority was one of those priorities. The point I wanted to make was that this Minister has taken this issue, with the help of the consultative group and brought this proposition back to the House within a year of it being agreed. So just for Members to bear that in mind when maybe they are going to the Minister with their little projects that they would like him to progress.

His workload is very heavy and I think that this proposition proves that he has come into the States, he has come into this Ministry, he has taken it and he has produced the goods. Thank you.

10.1.11 Deputy M.R. Higgins:

I would like to say first of all that I support the proposition. I believe it is well drafted and I think it is long overdue. I would like to state that while I support the police and the work they do, and have a number of friends in the police force, I also have some serious concerns about the conduct and actions of certain police officers. I am not going to go into one of them because it is *sub judice*, there is a case in the United Kingdom but it relates to a major drugs trial that took place in this Island. I must admit I had concerns reading some of the press reports about some of the things that happened there and we will have to wait and see what happens in the Appeal Court. I also have concern about police officers entering premises without a warrant or without lawful cause and for targeting certain people, and I think unlawfully. So I think that this police authority is long overdue and I hope that when it comes in it will address these concerns so we will have a police force we can all be proud of.

10.1.12 Deputy M. Tadier:

It is good hear the Assistant Minister speaking and reminding us that the Minister, as we know on the Education and Home Affairs Panel, is very busy. He must have lots of people coming to see him and I am sure he is bored of visitors by now. We will be talking to him about the board of visitors with him later on. I just have a couple of questions. The first one is to do with the number of politicians that are allowed to sit on the board or that have been selected, so why was 2 seen as the optimum amount? Is the Minister satisfied that politicians should be sitting on the Police Authority at all and, if so, what were the feelings of other Members on that panel? Also as to the decision as to why the Constables should not be allowed to be on the Police Authority. That seems to flag up certain issues because clearly in the Minister's mind there is a conflict there, or certainly in the panel's mind there was a consensus that there was a conflict and that the Constables, presumably because they oversee the policing in the Parish - or do they - this is a moot point. So I would like to know whether or not in fact it is fair to say that the Constables are not allowed to be on the Police Authority because after all they are States Members. Surely the broader question should be, should they be in the States and if it is accepted that we are allowed to have policemen in the States. As we know the Attorney General in the past has said that the Constables are police officers, albeit in name, and that is the issue, not whether they should be allowed to serve on the Police Authority. So if the Minister could address those 2 issues. But of course I would echo the comments that have already been made to congratulate not only the Minister but the panel. I think in these times where we tend to hear a lot of negativity about the States being divided it is really good to see a prime example, I think, of how States Members from all the different areas, with expertise in different areas, can come together in order to use those expertise to come forward with what is a very good piece of legislation and a very necessary piece of legislation to bring the Island forward.

The Deputy Bailiff:

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

10.1.13 Senator B.I. Marquand:

I thank all the Members who have contributed, particularly because they have been so nice to me this afternoon. The Connétable of St. Lawrence mentioned the previous scrutiny reports, I did not look at this in detail but, of course, by having Members on the advice group who had been around much longer than I had they had the corporate knowledge in relation to that which they were able to bring. Deputy Le Claire asked a question in relation to how Members had feedback in relation to their concerns. But of course once there is a police authority there will be more people to talk to than there have been in the past. Obviously at the moment you can talk to the Minister and the

Assistant Minister and you can talk to the Police Chief, who is very approachable, but it will increase that. Deputy Le Claire also referred to the issue of police presence and I thank Senator Routier for confirming my own observations that suddenly we have a lot of police officers very visible on the streets. Of course it has been helped by the fact that we have just got a new batch of trainees who have just gone through their passing-out parade and they are available, but nevertheless I know that is a very high priority to the new Chief Officer of Police. He gets out on the streets himself and he is now sending a lot of his senior officers out on the streets, and he is very keen to be engaging with the public and I am sure that is a very good thing indeed. The Deputy of St. Martin, I thank him particularly for his involvement on the group and he was very supportive. The Deputy of St. John was very supportive and also raised the longstanding experience in relation to the Honorary Police. I think if I said a little bit more about that, it is not covered here but my own view is that the role of the Connétables in relation to their Parish Police forces, not in relation to the Centeniers operating as junior prosecutors but in relation to other matters, should mirror the existing role of the Minister for Home Affairs as against the States of Jersey Police. That I believe is the way forward in relation to that. In addition to that, of course there may in due time also be a need for the Connétables as a group to set up a subgroup of them to have a particular overseeing role. But that is a matter, I believe, for them. I do believe there are ways forward, separate from this particular proposition. The Deputy of St. Mary has asked some interesting questions. Firstly, the balancing together of paragraph (2)(ii), the issue of reputational image. What we were attempting to do here was to define the areas in relation to which there is legitimate political concern in relation to policing matters, apart from efficiency and so on. This seemed to me to encapsulate that as accurately as I could do. These are surely the legitimate political areas, the reputation of the force, the image of the force, issues like the disbanding of the motorcycle group in the past, was an image issue as well as anything else; the image and reputation of the Island. But the counterbalance against that, the safeguard against that is paragraph (6). The statement, clear statement, in relation to always respecting operational independence of the States of Jersey Police, and of course I have defined that in relation to the decision as to when or when not to investigate and the degree of investigation and all the other matters which impinge upon the integrity of the investigation. So there is a balancing act. It is impossible to define these down to the *n*th degree. What we have sought to do is to make 2 positive statements which lie alongside each other and in the midst of which the balance has to be found. I can see no other way of doing that. The issue of resourcing, the £100,000 is an estimation. This is resourcing for the authority itself, providing a secretariat to back up its meetings, *et cetera*. But of course the Police Authority is not going to work on its own, it is going to work in conjunction with the Minister on the one hand and in conjunction with the States of Jersey Police on the other hand. Many of the matters for which resourcing might be required would be matters which might be covered by resourcing within the police budget in any eventuality. That is the appropriate thing. In England the markets for resourcing these things are massive but then it has a completely different role because it has a complete managerial role, including all the financial management and personnel and so on. Those services will continue to be provided both by the Home Affairs Department and by the States of Jersey Police themselves. In relation to the choice of Members, I absolutely agree that they should not be monochrome. We do not want to have them all “hanging and flogging is too good for them” on the one hand or namby-pamby on the other hand. As I often say, we need a balance. My own experience working with the Youth Panel that was chosen was that, in fact, once we chose people of calibre we found that they had all sorts of different views. I think that certainly one does not want to monochrome view, but one wants a view that will represent the wider community view. I am going out of order now, the Connétable of St. Peter, I sympathise with him for having missed the cunningly placed wording at the end of paragraph (8) about the accounting officer. Because when I went now to try and find it myself to respond to his question, I could not find it. I had to go back to my notes to find it. Deputy Tadier, the issue of the number of States Members, this was a consensus thing, I think, within the group of 7, that we needed to have States Members on board, not too many and not too few. I reinforce the importance of the issue of the depoliticisation of

things. In relation to the role of Connétable, I think having now explained what I view as being the proper role of the Connétable in relation to the Honorary Police as far as operational and management matters are concerned, it then follows that if they follow this particular route they are playing a parallel role of oversight of their own individual forces. Therefore, although they should be close links between the Connétable playing that role and the Police Authority, nevertheless it is a distinct role and if they find themselves trying to play 2 roles it is going to create difficulties. Again, that was a consensus view of the group, which in fact also included a Connétable. So I think I have dealt with all the points, I maintain the proposition and call for the appel.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the proposition set out in P.192 and I ask the Greffier to open the voting.

[15:15]

POUR: 48		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				

Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

11. Draft Employment (Minimum Wage) (Amendment No. 7) (Jersey) Regulations 201-(P.193/2010)

The Deputy Bailiff:

We now come to the Draft Employment (Minimum Wage) (Amendment No. 7) (Jersey) Regulations 201-, lodged by the Minister for Social Security - P.193. I ask the Greffier to read the citation.

The Greffier of the States:

Draft Employment (Minimum Wage) (Amendment No. 7) (Jersey) Regulations. The States, in pursuance of Articles 17 and 104 of the Employment (Jersey) Law 2003, have made the following Regulations.

11.1 Deputy I.J. Gorst (The Minister for Social Security):

This proposition amends the minimum wage regulation from 1st April this year firstly where an employer provides accommodation or accommodation and food to employees as part of their employment package the regulations set a maximum value that may be attributed to those benefits for the purpose of establishing whether the minimum wage has been paid. These maximum values will be increased by 2 per cent. Secondly, this amendment provides that service charges, tips, gratuities and cover charges paid to a worker through the employee's payroll will no longer count towards payment of the minimum wage. I should say on this particular change, I have been approached, or was approached, by Deputy Tadier to see whether that could be extended to all - in his words - basic wage. Unfortunately this is a regulation. If he wished or the States wished in future to make that change it would require a change to primary law and that is why I am going ahead with regulation change and not changing the primary law. If this proposition is adopted I will make an order applying the same 2 per cent increase to the minimum wage and the trainee rate. These proposals are based on the recommendation of the employment forum following extensive public consultation. Members will have found the forum's recommendation attached to the proposition. I accepted the recommendations because on all of the evidence received during consultation I believe this provides an appropriate balance and I share the forum's concern about protecting jobs and guarding against further redundancies at this time. I propose the regulations.

The Deputy Bailiff:

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

11.1.1 The Deputy of St. John:

Will the Minister inform the House whether or not this applies to Jersey companies and companies who do business in the Island where, in fact, they would be employing people to work off-Island, i.e. if you were the crew on a ship and you had been employed on Island your wages in fact would be made up on some of these companies by ... say if you were a waiter on a ship, the tips would be taken as part and parcel of your wages. Does this cover the entire companies and people who come to this Island, interview people to take up positions off-Island but they have been employed from

within Jersey, does it cover those people or companies registered on-Island, or is it just solely for the people working here? Because if we have companies who are registered here, they should be abiding by the same principles as we have for our employers on-Island.

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

It is traditional almost that I stand up here normally to suggest that we change the minimum wage and raise it. However, I am not doing that this year. It seems to me fairly clear that having changed the mechanism by which we decide or the authorities decide the level of a minimum wage so that if economic circumstances allow that we move from 40 per cent to 45 per cent of the average wage it seems to me that that criterion has been applied this year and it seems to me clearly that we are still in the depth of a recession, no signs of recovery yet and it is entirely appropriate that we are careful with the raising of the minimum wage, hence the 2 per cent. I am not amending or attempting to raise it any further because we are still in the recession, it is yet more evidence that we are, in fact, still in recession and I will, while I am on my feet, welcome the move on tips which has been long overdue, I think, and has come to our notice in the past 18 months and it is a welcome move.

11.1.3 Senator A. Breckon:

Just a couple of points. Again, it is gradually creeping up on you and what it is, I think it is welcome because in the main it is for people who cannot negotiate wages for themselves, they are not represented and they are somewhat diversified. The other thing with the tips, there was an issue and I did make representation, again this was with my Consumer Council hat on, because there was the practice of charging 10 per cent in some restaurants and there was some confusion and I did get some advice off the Law Officers about where it was chargeable and how it should be displayed and some were using it as part of the payment, so the change that the Minister has made is welcome because generally if people do give a tip it should be at their discretion and it should be for the service received rather than minimum and hopefully this practice is being phased-out. I think if people want to tip, whether it is in a restaurant, a taxi driver, a hairdresser, whatever it is, then it should be at their discretion and it should not be written into anything. So hopefully this change will help to phase that 10 per cent out. Thank you.

11.1.4 Deputy T.M. Pitman:

Deputy Southern said he will not be trying to raise the minimum wage but what he did not tell is I am going to. No, not really. I, too, would just like to say credit is always due and it should be given and well done to the Minister. I do not always see eye to eye with him but this is creeping up slowly, it is difficult times, I think I am in the same position as Deputy Southern with what I assess it as being so, again, credit to the Minister and I hope I can agree with him on more things but I will not hedge my bets.

11.1.5 Senator J.L. Perchard:

Just a question for the Minister when he sums up. As Deputy Trevor Pitman says, the minimum wage is creeping up slowly and, of course, so is the rate of youth unemployment. I wonder if the Minister would address if, in his opinion, there is any correlation between those 2 facts.

The Deputy Bailiff:

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

11.1.6 Deputy I.J. Gorst:

I am grateful for those Members who have spoken in favour of this proposition, albeit we do not always see eye to eye, but I do believe that the forum have made an appropriate and carefully considered recommendation and I, as always and as Members would expect, have challenged them on their recommendation and been convinced and therefore am bringing it forward for States approval. They have recognised the difficult economic climate in which employers are currently

operating and they have recommended this, what I consider to be an appropriate rise. They are aware of the decision, as Members will see from their consultation document, of this Assembly and it is their intention as well as the current Ministers that over time the minimum wage will increase and they will consider political aspiration as part of their consideration. But as I said during that debate, I do not believe that should bind their hands and they should consider all aspects of what is happening in the economy. If I come then to the Deputy of St. John, he is right to raise that issue because mariners, as he suggested, are not covered by the Employment Law, Articles 36 to 44 of the Employment Law. It excludes special classes of persons and as the Deputy correctly outlines they are mariners employed wholly outside of the Island or not ordinarily resident within the Island and other types of fisherman, charities, voluntary organisations, and there is obviously an exception as well for certain prisoners. So I hope that answers his question. I do not believe that there were any other ... yes, there was, Senator Perchard asked a question, he asked whether I believed there was a correlation between minimum wage and the number unemployed that we see in youth in employment. While I understand that one might, on the surface, believe there is a correlation, if one looks at the submissions to the employment forum, they will see there quite clearly that those industries that are generally paying at the minimum wage rate they would suggest that, no, maybe there is not ... that what the minimum wage is doing is being paid mostly perhaps to immigrant labour rather than to local labour and therefore it is difficult to make exactly that correlation. I am not certain, either, that if one looks at the I.D.S. (Income Distribution Study) figures one could see that that correlation is in place. Of course it might be a point for political discussion. If Members were to feel that were the case then I am only too willing to listen and I have been one of those Members who have asked the forum I think now on both times that they have consulted to consider whether a youth rate might be appropriate. Although I have to say that both times in their consultation document they have come back and they have found that they felt it was inappropriate. We have debated that a number of times in this Assembly - well, Deputy Southern says it is once, I know he has brought a proposition, I know I have tried to overturn his proposition so perhaps maybe that is more than once - but there does not appear to any evidence at this moment in time but I will ask the forum to continue to monitor that particular area of the minimum wage and whether it might be appropriate in these more difficult economic uncertain times, when we know that people are struggling with employment, whether they should not reconsider it again. I maintain the regulation.

The Deputy Bailiff:

Do you have a point of clarification, Deputy?

Deputy M.R. Higgins:

No, Sir, the Minister did not answer my question. I asked a question in relation to Jersey-registered companies who could be employing people or firing, but because they are a Jersey-registered company they obviously would have a duty of care.

Deputy I.J. Gorst:

Sorry, yes, I just picked up on his initial point about mariners. I suspect the Deputy is well known for only ever asking a question when he knows the answer to it and I suspect he does know that those who are not ordinarily working in Jersey are not covered by these employment regulations.

The Deputy Bailiff:

So the principles are proposed. Are you asking for the appel, Minister?

Deputy I.J. Gorst:

I might as well do, Sir, thank you.

The Deputy Bailiff:

I invite Members to return to their seats and ask the Greffier to open the voting. If all Members have had the opportunity of voting, I ask the Greffier to close the voting.

POUR: 43	CONTRE: 1	ABSTAIN: 0
Senator T.A. Le Sueur	Deputy S. Pitman (H)	
Senator P.F. Routier		
Senator T.J. Le Main		
Senator B.E. Shenton		
Senator F.E. Cohen		
Senator J.L. Perchard		
Senator A. Breckon		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of Grouville		
Connétable of St. Brelade		
Connétable of St. John		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Mary		
Deputy R.C. Duhamel (S)		
Deputy of St. Martin		
Deputy J.B. Fox (H)		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy of St. Peter		
Deputy J.A. Hilton (H)		
Deputy P.V.F. Le Claire (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy I.J. Gorst (C)		
Deputy of St. John		
Deputy A.E. Jeune (B)		
Deputy of St. Mary		
Deputy T.M. Pitman (H)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		
Deputy D.J. De Sousa (H)		
Deputy J.M. Maçon (S)		

The Deputy Bailiff:

Deputy Southern, does your panel wish to scrutinise these regulations?

Deputy G.P. Southern (Chairman, Health, Social Security & Housing Panel):

No, thank you, Sir.

The Deputy Bailiff:

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

Deputy I.J. Gorst:

Yes, thank you.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? All Members in favour of adopting the regulations, kindly show? Those against? Those are adopted. Do you wish to propose the regulations in Third Reading?

Deputy I.J. Gorst:

Indeed, I do, Sir, and I just wish to put on record once again my thanks to the employment forum for all their hard work that they put in on behalf of this Assembly. **[Approbation]** It is a particularly difficult task when we are, as we all know, in economically difficult times but I thank them for their work and for their recommendation.

The Deputy Bailiff:

Would all Members in favour of adopting the regulations in Third Reading, kindly show? Those against? The regulations are adopted in Third Reading.

[15:30]

12. Standing Orders: minimum lodging periods – revision (P.194/2010)

The Deputy Bailiff:

We now come to P.194: Standing Orders: minimum lodging periods - revision, lodged by Senator Routier and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion (a) to agree that the current 2-week minimum lodging period for the following categories of propositions should be increased to a minimum lodging period of 4 weeks: (i) a proposition for the appointment of any person to any tribunal or to any public body or office; (ii) a draft legislative Act or draft standing orders; (iii) any proposition lodged by a member of the States in his or her own right and to which a 6-week lodging period does not already apply; (b) to request the Privileges and Procedures Committee to bring forward for approval the necessary amendments to Standing Orders to give effect to the proposal.

12.1 Senator P.F. Routier:

I believe we can have a fairly quick debate on this, hopefully. **[Laughter]** This proposition aims to assist all Members of the Assembly, and probably Back-Benchers more than most. The current 2 week lodging period gives very little time for all Members to prepare for a debate, to carefully consider the proposed aim of a proposition, and particularly if they want to lodge amendments, to get those in on time. There is also the matter of providing sufficient time for departments and Ministers to prepare comments on propositions in plenty of time for all Members to receive those back before a debate. There is an amendment which seeks to put some structure to the timescales of the comments being presented which, I have to say, does have some merit but I will listen to that debate and the P.P.C. have made some comments on that so that debate will come. My proposition is, of course, trying to extend the lodging period up to 4 weeks for certain propositions to bring forward but, of course, there are some safeguards for urgent matters. Members will be aware obviously that Standing Order 26(7) states that the States may reduce a minimum lodging period if they are of the opinion that a proposition relates to a matter of urgency and importance, that it

would be prejudicial to Jersey to delay its debate. Of course, it is really important to maintain that. It is also important to retain the 2-week lodging period for matters covered under Standing Order 26(3)(b) which is a dismissal of a Minister, votes of no confidence, censure and suspensions, because those matters really have to be dealt as a matter of priority and so that should remain the same. So I am not suggesting that that should be altered in any way. Also I suggest to Members that this proposition will give the opportunity for all Members to have a reasonable amount of time to prepare for debates and also it will give people who want to make comments and to make amendments a better amount of time to prepare for a debate effectively. I make the proposition.

The Deputy Bailiff:

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

12.2 Standing Orders: minimum lodging periods – revision (P.194/2010) – amendment (P.194/2010 Amd.)

The Deputy Bailiff:

We have an amendment lodged by the Deputy of St. Martin and I ask the Greffier to read the amendment.

The Greffier of the States:

Page 2, after paragraph (a) insert new paragraph (b) as follows: “(b) to agree that any comments that are to be presented to the States under Standing Order 37 in relation to a proposition that is subject to a 4 or 6 week minimum lodging period should be submitted to the Greffier of the States for distribution no later than noon on Friday in the week preceding the week in which the proposition is listed for debate;” and renumber paragraph (b) as paragraph (c).

The Deputy Bailiff:

I call upon the Deputy of St. Martin to propose the amendment.

12.2.1 The Deputy of St. Martin:

I will try to keep just to my amendment. Members will see that it is asking really for, I think, something which is quite sensible and should have no problem whatsoever in States Members approving it because this should be in the line of efficiency. We should not really have to wait until the morning of a debate before getting comments, whether it is a 2-week, 4-week or 6-week lodging period, and really as a Member who has quite often brought propositions to the House, it is nice to know, at least by Friday, whether the Ministers or whoever is going to support or oppose what one is proposing because it gives so much more time to prepare your speech at the end. There is nothing more infuriating than having to wait even to know whether it is going to be supported. I would rather know it was not going to be supported; at least you can get on with it. But even if I did not have the comments until later, just getting that idea of where we are. So really I thought it is a fairly commonsense approach, and in fact I am rather disappointed with Senator Routier because he makes reference to it, quite rightly, in his report but unfortunately he did not do anything to address it, and I wish he had. But we now have the opportunity with my amendment to address it, because he quite rightly says, you know, it creates difficulties for the Minister to get their comments. To be fair, I do not think ... a Minister or the Ministers should have ample time, and if they cannot get it done by Friday noon, when are they going to do it? Are they going to have a meeting Saturday and Sunday, or are they waiting until Monday? We are now living in an electronic age, and I did speak to P.P.C. about this amendment and others, and I did mention this morning as I came back to what the Deputy of St. Mary was saying about a piecemeal approach. What I would hope is that ... I just asked this morning that maybe Senator Routier would have pulled everything and let us have one big debate when we have got it all together. But we are where we are. What I have here is what I think is a commonsense approach. P.P.C., again I am rather disappointed because here we go along; we say that you know they agree with the principle,

quite right, however: “We cannot support the amendment.” I just do not understand the logic. Then it goes on: “Well maybe we can have some sort of a memorandum of understanding.” Ministers must know they have got to be in by Friday; if not they may be identified of being tardy. I would have thought most Ministers, and the Council of Ministers for that matter, do not need to be reminded. They ought to know they should be there, and what I would rather that it was part of Standing Orders, and if there is something unforeseen comes along, quite right, they can send an email and say: “Look, we are sorry. We cannot meet until Monday morning.” At least you know where you are. But at the moment we do not know where we are. We know they are going to come and that is it. What I am asking for with my amendment is a common sense one. Indeed, if the proposition is defeated, of course I will be quite happy to come back with a stand-alone, because this is an issue I did discuss with the Greffier before I started, whether it should be a stand-alone, whether it is going to be 2, 4 or 6. But as it is, it is an amendment to Senator Routier’s and what it is asking for is that when they are lodged at any time from 4 to 6 weeks that the comments should be with the Greffier by noon on the Friday and then it has got time for the Greffier to get them printed and circulated as a hard copy by Saturday, or at least Monday morning. So be it; if not, they can then be emailed and we can have a hard copy certainly before the Tuesday of the debate. What I would ask Members is to give it their support and I will listen to any comments Members have to make. I move the amendment.

The Deputy Bailiff:

Is it seconded? [**Seconded**]

12.2.2 Senator B.E. Shenton:

I stand to support this amendment by the Deputy of St. Martin. I have noticed over the years, and perhaps the previous Chief Minister was slightly worse than the current one, that when you lodge a proposition the comments did tend to end up on your desk on the day of the debate, even though you have the suspicion that they were ready some days before, because even if you gave a 6-week lodging period they would still end up on your desk on the day of debate. What I ended up doing was on the day of debate moving the proposition for the following sitting so I could sit down and have a look at the comments, because it was the only way you could get the comments out of the Council of Ministers before the debate so you could analyse them. So I fully agree with this. It is a tactic that the Council of Ministers has been using for 5 years and I think it is time it stopped.

12.2.3 The Deputy of St. Mary:

Well, follow that. The Council of Ministers use tactics to stop us looking at things and trying to get the answer right. When this first came on my door mat and I read it I thought: “Well, this is a simple matter of good order.” I am not sure about the original proposition at all, but as this apparently has to be presented as an amendment, fine, and it is a no brainer. That was my first reaction. Then I got the comments of P.P.C. and read them and I thought: “Ah, there is a grain of truth in that. Do we require the Council of Ministers to do this, so they have to do it, and then if they miss the deadline they just will not do it? Or do we expect them?” It says in their comments that as a general principle they should be expected to forward their comments in good time, and they should be expected to include a note explaining the reason for the delay if they fail to send them out by the Friday. Why not write that into the Standing Orders as follows? They should be expected to get their comments to the Greffier by midday on Friday, and that of course means we would all have electronic copies by that afternoon, and then the hard copy hopefully on Saturday, but not always in St. Mary. Oh, no, no; the email one would come an hour later, but not the hard copy. But anyway, that is by the by. Then to have the requirement that if they are late there is a note explaining the delay. That would be a requirement because it is bad order to have these comments coming in late. It just obstructs the debate and is not to be recommended at all. I thought those 2 things, that it should be expected that they arrive at the Greffe on Friday, and that it should be required that there is an explanation if they fail to do that. Then I thought: “Well, why

did I not amend this? I will just check the date on the P.P.C. comments”, and they are 31st January. So that explains why I did not suggest this as an amendment to the amendment. But I do think that if this goes through and if the original proposition goes through, maybe P.P.C. can just take that comment on board and possibly use a bit of flexibility here. I do not know, in discussion with the Deputy of St. Martin, as to whether that might not be a better way forward.

12.2.4 Deputy G.P. Southern:

Unlike the Deputy of St. Mary I see no particular flaws in this amendment, and I see absolutely no reason why it should not be supported by every Member of this House. Having said that, I wait to hear from a Minister to say that it is absolutely impossible for my department to get a set of comments out for that sort of timescale. Failing that, I think every Member of this House should be supporting this amendment.

12.2.5 Connétable J. Gallichan of St. Mary:

I have to say that I myself am disappointed that the Deputy of St. Martin did not appreciate the reasoning behind P.P.C.’s comment, because there is one thing that I have to say about the Deputy of St. Martin: I do not think there is any Member that I hear talk in the States who could appreciate more the value of being able to look up things in the past, see the reason why things were done in the past and bring that back into current debate. The amount of times I have heard the good Deputy say: “Oh, this is something that I did in 2006” or: “I mentioned this in a report in 2007” or whatever. The whole point behind P.P.C.’s comment is that if the Deputy’s amendment is accepted, and for some reason - and there are very good reasons sometimes where comments do come late, for example ... I know it is not just Ministers of course who make comments; other organisations and other bodies do as well - if you are waiting perhaps for some advice, if you are waiting perhaps to hear back from someone else, perhaps you cannot get your members of your committee to agree the comments, not because they are disagreeing with it but because they are simply out of contact - they may be busy in their own meetings or whatever. If that happens and you cannot meet the deadline, then the comment does not make it to record. It does not become part of official record. Sending things by email does not get them recorded with a number and circulated to Members. Information may come to Members and for that debate it may be fresh in their minds; but how many Members would keep their emails or be able to access any particular email from 8 or 9 years ago? With the electronic records we have got in the Greffe Department, once a comment is lodged or anything is lodged, it stays on record for future use. I think the Deputy of St. Martin is an excellent example of how fishing back over time and saying when things have been used before is incredibly important. What P.P.C. says is: “If you put this hard and fast rule in, then you will lose that.” What we do say is that we agree wholeheartedly with the principle, and that it should be on the Minister or the committee or whatever to justify, to give a sound reason why that comment is late, and that comment should not be late repeatedly. I think that that is a thing this House keeps an eye on. If a Minister or a committee president or chairman is continually tardy, is continually at the wire with these amendments, then we will know to take some political action about that. But to fetter it in Standing Orders when there could be legitimate reasons on occasion, then that I think is a mistake, and that is why the P.P.C. comment reads as it is.

[15:45]

12.2.6 Senator T.A. Sueur:

I think there is a lot of merit in this amendment, but like the Deputy of St. Mary I do have slight concerns about the odd occasions when there will inevitably be a delay. I think Members need to be quite clear with the distinction between comments presented by a Minister and comments presented by a Council of Ministers, and I think for comments presented by a Minister that is much more straightforward when it is the views of one person. When it is the views of a Council of Ministers then that requires discussion at a Council of Ministers meeting and those meetings

traditionally tend to be held on Thursdays because States often sits on Tuesdays and Wednesdays, and Thursdays give a chance to present and consider information in advance of a States sitting the following Tuesday. Now, normally and certainly the objective which I have had as Chief Minister is to ensure that comments discussed at the Council of Ministers on Thursday are printed and presented to the Greffe by the Friday morning in order that they can go out over the weekend. But there will be occasions when Council of Ministers have differing views. Despite what some Members may think, Ministers do not always absolutely agree on every single matter, and where there are differences of opinion it may well be that draft comments have to be amended. When those amendments are made it is only fair to Ministers that there is some means of ratifying that the final version meets the consensus requirement of that group. While the norm will be to achieve these by Friday lunchtime, there will be occasions when sadly that does not get met. Therefore I would be happy with the Deputy of St. Mary's suggestion that where there are exceptions, that exception is explained to Members so that there is a bit of politeness to the Members as to why it is arriving so late. Because I agree it is unfortunate when comments arrive late on one's desk. But equally, we do live in an age of electronic communications and where ... and I think the overriding objective from my point of view is to make sure that Members get information as quickly as possible, whether that be the Friday before the meeting, which may be a better date than the Monday before the meeting, and Monday before the meeting is still better than the Tuesday of the meeting itself; but either way, the longer they have those comments the better. But where it is not possible to achieve that by the Friday lunchtime it strikes me as detrimental to Members if they then say: "Well, if it has not been received by the Friday lunchtime, there is no point in doing it at all." That simply leads to uncertainty, and when we come to the States sitting on the Tuesday and a Minister or the Council of Ministers get up and make their comments, someone will say: "Why did you not say that before the sitting" and we will say: "Well, we would have done but we missed the Friday deadline so tough." There is no point. I think one has to be realistic here. I accept as the Deputy of St. Martin says this is for 4-week and 6-week propositions, and in the normal course of events that should be sufficient. The amendment is not clear in respect of any amendments to those propositions, because very often you will get an amendment to a private Member's proposition which improves it or changes the nature of it, and Ministers quite rightly will want to consider the implications of that amendment. Now, the Deputy of St. Martin is silent on the time required to lodge any amendment if we were going to have a 4 or 6-week period. But normally with a 2-week private Member's proposition you can lodge amendments up to a week beforehand, so that in this case even with a 6-week or 4-week period you could still lodge amendments right up until the week before the debate. Because of that the Council of Ministers realistically could not consider it earlier than that Thursday. This is a matter of pure practicality. I agree that the objective should be to get them out as early as possible, but when one fails to meet that objective, surely it is better to have a way of getting the information out to Members by one means or another at the earliest possible time, even after that Friday lunchtime. So, so much good in this amendment but it could have been just a little bit better.

The Deputy Bailiff:

There is a point of clarification from the previous speaker. Could the Chief Minister just say whether he agrees that the explanation of any delay beyond the Friday requested deadline should a requirement within Standing Orders? The explanation of a delay; should that be a requirement?

Senator T.A. Le Sueur:

That would be for the House to decide, but I would see no reason why that should not be a requirement.

12.2.7 Deputy M. Tadier:

I think to understand the amendment one has to look at the substantive proposition, in the sense that I think the issue that has not been addressed or if it has I missed it, was to do with any amendments.

Amendments you can bring a week before; presumably that will still be the case here. So if you have a 4-week which was a 2-week lodging period before it goes to 4-week, it is not the actual proposition, which is holding up the comments as far as I know. It is the fact that until all the amendments have been in you do not know what you are dealing with as the whole proposition with its potential amendments. I can understand and have a certain sympathy for the Council of Ministers because the 4-week period does not do anyone any favours and it does not help with the comments, because until the amendments are in there which are a week before, it is quite reasonable that the Council of Ministers or anyone, even though they are the Council of Ministers, still need time to put something together. So I think the issue here is that ... I do sympathise completely with the Deputy of St. Martin because it is completely unsatisfactory to get the comments appearing on your desk on the day or the day before, and I think it is absolutely right that we need to have it in Standing Orders that you have them ... I would go one step further: I would say the comments should be in a week before; amendments should be in 2 weeks before, and then the propositions should be lodged 4 weeks beforehand if we are going to go down that road. That is entirely sensible. But I think again we are looking at something here in a piecemeal fashion and I think we are simply amending something which is not satisfactory, but it has not taken into account where amendments come in; and until we do that I think we are going to be making a piecemeal and a bad job of it all. I think we need to send these both back; we need to look at this holistically and look at the period of lodging for amendments as well, and then once that has been done there will be a lot less time pressure on the Council of Ministers and you could have the comments, I would say, sitting on your desk a week before, but certainly on the Friday before the Tuesday. I would say that solves all the issues. It does not really matter whether one supports the Deputy of St. Martin in the amendment; I think we have to reject the substantive proposition. I know I have erred into the other one, so I probably will not make a second speech.

12.2.8 Deputy P.V.F. Le Claire:

We are meant to be involving ourselves in a more open and transparent government and information that comes from the Council of Ministers ... I know I upset Senator Shenton earlier today so I hope that I can make up for it by saying that his speech today was spot on, this afternoon. This is a political strategy that has been occurring for many years in the Assembly. Just take a couple of examples. Here is the Strategic Plan Progress against Priorities lodged as R.7 we have just received. Where are all the little arrows showing on target, behind target, ahead of target? Where have they gone? Disappeared: "Information withheld." Where is the information about the progress on the United Nations Convention on the Rights of the Child? Where is the information about the progress about openness and transparency? Where is the information? Where is the information? We have got a Communications Department. Where is the information? I wish I had got the information that the press gets at the same time the press get it. I was thinking about bringing an amendment to this Assembly that all States Members ... because we have paid for this Communications Department which goes into these Ministries and briefs everybody ... having been involved with the newspaper in this Island I see what goes out to the media - I have seen what goes out to the media, and it is comprehensive and it is very, very carefully and strategically put together. Ministers bring to the Assembly many, many debates and with them we are starting to see Council of Ministers' briefing notes: the Ministers on proposition X, Y, Z. The Council of Ministers walk their way through the propositions and say we have got briefing notes on how they should go. If they are not familiar with the territory they have got it written down. They can stand up with a blazing speech on it. What we have here is a denial of access to information and it has been going on for a long time. I think Senator Breckon had a proposition in for 18 months once that he was waiting for a report on. But he is not here I do not think at the moment. But I am certain it was his proposition that was held up and it rolled over into the next States Assembly and it went on and on and on. It was in there for something like 2 years, waiting for a report; and he kept springing up to his feet once in a while and saying: "Where are the comments? Where are the comments? Where are the comments?" and we used to see in the old committee system the way

that comments and other entities, we do see it a little bit here with the Council of Ministers. The Council of Ministers will make a comment on the Minister for Treasury and Resources' comment, on the Minister's comment, on the Member's comment, on the Back-Bench Member's proposition that they do not support. It is about not supporting Senator Routier. It is about supporting the Deputy of St. Martin and it is about getting on with realising they have got the information. Their officers have the information; they can put it together. It is about when and how much of it they give it to us, when they give it to us and how much of it that they give to us. That is all that there is. It is about how much information they give us and when they give it to us. All the Deputy of St. Martin is trying to do is make the best of a bad bunch of propositions that have been coming forwards from more people that want to see more of a closedown on access to information. That is what it is about, and we will be here all day.

12.2.9 The Connétable of St. Saviour:

A couple of things. The Chief Minister has mentioned that it is not satisfactory to have comments too late. We have got a problem with timing of amendments and with comments, but the main proposition asks P.P.C. to amend Standing Orders. P.P.C. can address this and at the same time it can also address the problem of lodging amendments and comments. That is, if the main proposition is adopted.

The Deputy Bailiff:

Does any other Member wish to speak? If not then I call on the Deputy of St. Martin to reply.

12.2.10 The Deputy of St. Martin:

I thank the Members for speaking. I appreciate the comments from Senator Shenton. He said what I thought I should have said but I did not say, and I am glad he said it. There are times when one feels that the comments could have been in a lot earlier, but it seems a bit upsetting when they get them in the morning, but I am sure they just delay because they have got lost in the post. **[Laughter]** But I think Senator Shenton is one of those Members like myself who has brought a number of propositions and there are sometimes you think: "Well, you know, they could have been a bit earlier but there is probably a reason why they have been delayed." But I will not have evil thoughts. The Deputy of St. Mary does raise the point: we are back again to the business about piecemeal really: "Are we ... has this been thought out?" But again, I think the general tone is there is agreement for the principle because I think we do not ... comments should be in on time. Deputy Southern, another Member who has had a number of propositions; again, I thank him for his support. The chairman of P.P.C., I can understand her concerns, but I would ask Members to look at what the amendment is saying. It is not they must be: they should be there. Nowhere in the amendment does it say someone is in trouble if they are not. What I am asking for is that they should be there, and if they are not, well, at least give a reason on the Friday. Say: "Look, we have not got them in because ..." But at least we know where we are. It is quite a loose amendment. It is a common sense one. They should be there, and there is nothing in the amendment that says that well, if they are not there then they cannot be submitted. If they are going to be late at least put a requirement on the Minister or the Council of Ministers, or whoever it is, saying: "Oh, look." They should be there. Let us make sure that a message has gone to the proposer that they will be on the way. But they should be there. That is basically what P.P.C. is saying. They are saying that there should be an understanding that you do not have a Standing Orders one; they should be there in good time. I would ask again that the amendment is that they should be there, and there is nothing in the amendment that says if they are late they cannot be presented. I think that is very important. But what I would ask for is that at least we have some semblance of order, and again I do believe there should be no real problem; 99 times out of every 100 they should be there on time.

[16:00]

But if they are not, well, there will always be an exception to the rule. I would ask that maybe to remind the Chief Minister about that. Generally speaking they are ready to go out, and all I would ask is to make sure they should be there by the Friday, and if they are not going to be there at least give some explanation. But it does not deny a Minister or the Council of Ministers or anyone from bringing them in late. All we are looking for is good order. Deputy Tadier mentions about the ... again generally in support, but again considering are we agreeing today in principle but we may not agree with the actual proposition itself. But what we are debating here today is basically, do we accept the amendment that they should be there as a matter of good practice, good order, but they are there by the Friday. If they are not there, well, of course they can come later, because there is nothing in the amendment that says that they cannot be late. But I am asking for good practice that they should be there. The chairman of P.P.C. would like to ask a question, I think.

The Connétable of St. Mary:

If I might just seek clarification. The amendment, as far as I see it quite clearly, says they should be there “no later than”. That in my mind, and certainly in the way P.P.C. addressed the comment, meant that if they were there at a time after that cut-off time they would not be circulated; they would not be entered into the normal procedure. Could I have some clarification on that, because obviously the Deputy of St. Martin intended something different?

The Deputy Bailiff:

The amendment from the Deputy of St. Martin is an amendment to the main proposition which has as paragraph (b) a request to the Privileges and Procedures Committee to bring forward for approval the necessary amendments to Standing Orders to effect the proposal. So it is open to P.P.C. to give consideration as to how best they give effect to paragraph (b), the Deputy of St. Martin’s proposition, if it is adopted by the States.

The Connétable of St. Mary:

I appreciate that but it does say, I am just checking, this is not contradicting you in any way but it does insert a new paragraph ... oh, okay, I understand, I believe. Thank you.

The Deputy Bailiff:

I would say as a lawyer the language “should” is not easy language, but no doubt that will be considered by P.P.C. with advice from the Attorney General in due course.

The Deputy of St. Martin:

Just finally really is to say that the Chief Minister himself said: “In good practice they should be there.” Again, we have got the Chief Minister almost trying to disagree with it but at the same time agreeing to the principle it should be there. So my amendment asks that it should be there. I just make one comment again about the P.P.C.’s comments. It is interesting to see that it makes a comment about my amendment where it says it agrees in principle; yet if one looks at his comments about the main proposition it says ultimately it is a matter for Members to determine whether ... I just wonder where is the consistency if P.P.C. can say well they agree in principle with the concept brought, yet it says in the main proposition: “We are not going to make a decision. We will leave it to Members.” I leave it to Members. I hope that Members will give support to what I am proposing, and I move the amendment.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on the amendment brought by the Deputy of St. Martin to P.194 and I ask the Greffier to open the voting.

POUR: 34		CONTRE: 12		ABSTAIN: 1
Senator T.A. Le Sueur		Senator F.E. Cohen		Connétable of St. Mary
Senator P.F. Routier		Senator B.I. Le Marquand		

Senator T.J. Le Main		Connétable of St. Brelade		
Senator B.E. Shenton		Connétable of St. John		
Senator J.L. Perchard		Connétable of St. Saviour		
Senator A. Breckon		Deputy J.B. Fox (H)		
Senator A.J.H. Maclean		Deputy of St. Ouen		
Senator F. du H. Le Gresley		Deputy of Trinity		
Connétable of St. Helier		Deputy S.S.P.A. Power (B)		
Connétable of Trinity		Deputy K.C. Lewis (S)		
Connétable of Grouville		Deputy I.J. Gorst (C)		
Connétable of St. Martin		Deputy J.M. Maçon (S)		
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy S. Pitman (H)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				

12.3 Standing Orders: minimum lodging periods – revision (P.194/2010) - as amended

The Deputy Bailiff:

Very well. We now return to the main proposition. Does anyone wish to speak?

12.3.1 The Deputy of St. John:

In the main proposition on the (a)(1), the proposition of the appointment of any person to any tribunal or to any public body or office; will the proposer of the proposition be able to tell Members - and I do not know if he checked this with his Chief Minister before doing it - if this will be applying to Assistant Ministers? Because that is an appointment. If it is, I wonder how they are going to manage without their Assistant Ministers for that period of time, given what we have seen at different times. I think that is the way I am reading it and I need to know if it does cover Assistant Ministers.

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

I would like to emphasise the point that was alluded to earlier on whereby it is essential that the amendment issue of 26(5) in the Standing Orders be addressed by the Privileges and Procedures Committee in item (b) because without that the whole thing is, once again, rather ineffective. It is my experience that it is the amendments that cause more problems than the propositions themselves.

12.3.3 The Deputy of St. Mary:

I do not want to prolong the agony unnecessarily. I hope this goes to the same place as the previous one but there are just a couple of remarks I want to make. The proposer suggests that because we will move from 2 to 4 weeks suddenly comments will stop arriving just before debate and sometimes on the day of debate, as he says in his report, and we have just had an amendment brought to sort this problem because it was not in this proposition. In fact, there was nothing addressing that issue in this proposition, which is a more important issue: the fact that the comments were arriving late. So it just concerns me, again, that this is a little bit here and a little bit there and not quite worked out. The other point I want to make, perhaps more important, is this one on Standing Order 26(7), which has concerned me for quite a while: "The States may reduce a minimum lodging period if they are of the opinion that the proposition relates to a matter of urgency and importance that it would be prejudicial to Jersey to delay its debate." Now, we have used that Standing Order several times in my time in the States not in line with what it says because we have taken a pragmatic view that something needed debating within the lodging period - once to suit a Minister because it was 5 weeks and not 6 weeks - for the sake of good order and for the sake of making sure that something happened in a timely fashion, but it was not life and death for the Island. It was not prejudicial to Jersey to delay the debate. I think we have been fairly pragmatic about that Standing Order but we are going to have to be more pragmatic about it if we go with this 2 weeks to 4 weeks. I just feel that this is not quite worked out and I hope that the proposer will be brief.

12.3.4 Deputy M.R. Higgins:

I am going to be very brief as well. Throughout all these debates we have been having it is typical of the States, everything is done piecemeal. We are not looking at the thing in the whole. We just had the Constable of St. Brelade mention about the other things that need to be looked at if P.P.C. are looking at this particular thing, and the same goes for a whole lot of this area. Now, the States should be aware that there is already a working party looking at Codes of Practice and Standing Orders, which Deputy Tracey Vallois is chairing. So really there is no reason why they cannot be making comments to that working party, which is going to be reporting to P.P.C. anyway, and we can look at the whole thing in the round rather than deal with these things one at a time. I wish the Senator would withdraw it but I think we should dispose of this one as well and get on and do a comprehensive review rather than this bit of one.

12.3.5 The Connétable of St. Mary:

Firstly, I would like to say something as chairman and then something in my own right. Several Members have made reference to R.59, the Business Organisation Sub-Group, and work that they undertook and recommendations that came from that, but seem to have omitted to consider that much of the follow-on work from that group's recommendations was already done and did form part and parcel of the work that went into support of Senator Breckon's proposition on the review of machinery of government, because "machinery of government" was a key phrase in that recommendation. So it is not inappropriate for other things that have not been dealt with by that because, of course, effectively the proposition was not adopted, so that work has sort of slipped down again. But it is quite appropriate to deal with this matter now. It is not piecemeal. It is a very important thing. From my own personal point of view, as a Back-Bencher in my own right, I find it incredibly difficult because of the workload that I have, because of the responsibilities that I have assumed in this Assembly, to give due consideration to all the propositions that come with only 2 weeks lodging. Now, some people have alluded to frivolous or vexatious propositions. Some of the propositions that have come with a 2-week lodging period have been extremely useful, extremely good, and I have not necessarily been able to give those propositions the consideration that they deserve because, among a work programme where I may have had 6 weeks' notice of something that is really huge and I am having to concentrate my efforts on that, somebody slips in something with a 2-week lodging period that is really good and I would like to have a contribution

to that debate, but I have not been able to do it as a Back-Bencher because there has not been enough time. Now, it is all very well; there are Members of this Assembly who have not got a wide-ranging official responsibility but who work extremely hard in other areas and we all work for our constituents in other areas. But in some respects those Members might be more fortunate in being able to do their own time-management. They know what they are concentrating on. They know what of their own work they can shelve for a week while they look at something. Other Members who have got to run a Scrutiny Panel, who are doing other reports, really sometimes are so busy with that panel's report that they cannot spare the time. I think it is really fundamental that, if we are going to look at Back-Benchers' responsibilities and their rights to bring propositions and to maintain that, we ensure that everybody in this Assembly has got the opportunity to back those people up where necessary, to make comments. We have heard in the previous debate how quite often it is an amendment to a proposition that really makes that key difference. It seems to me that to enable every Member to have the time to give those propositions the consideration that they require strengthens them, increases their value and hopefully will lead to a better quality of debate. That probably, in my feeling, is one of the best ways to improve organisation and efficiency: by making sure that we are all adequately prepared and adequately knowledgeable about what comes. We had propositions recently, P.2 lodged with 2 weeks' notice, looking at carving up the whole of the Deputies' constituencies. Who really had the time? I think we had 3 or maybe 4 amendments to that. Who had the time to give each of those the consideration and the valued judgment that they deserved? I did not support that proposition. I would not have supported it for lots of reasons and I would have perhaps liked to get some of those reasons out there, but it was important that that proposition got the right kind of consideration and with a 4-week lodging period as minimum we have got a much better chance of doing that. I would urge Members not to throw this out of hand as piecemeal reform, not say it is an affront on democracy, but to see it for what it really is: allowing us to look at those propositions, to give them the credence they need and to perhaps take this Assembly forward in a much more stable and a much more constructive way, without in any way limiting the rights of any private Member of this Assembly to bring forward what they really believe in to represent their constituents. I am going to support this and I urge Members to really think about it.

12.3.6 Deputy M. Tadier:

I apologise, I said I probably was not going to speak and at that time I was not going to. But as the Minister for Treasury and Resources said, circumstances have changed in this very short period. It was not categorical either; I did make sure I had that ... But, seriously, though, I share many of the concerns that have just been raised by the Deputy of St. Mary in her capacity as Chair. **[Aside]** Sorry, what did I say? **[Aside]** Sorry about that. It is because I hold both of them in equal esteem and so I get them confused now and again, having worked very closely with both of them in different capacities. **[Members: Oh!]** So the Chairman of P.P.C. is quite correct. I mean, the workload is very heavy; it is arduous and I think we have forgotten about the very good work that the Greffier's Department does in all this because, clearly, in a 2-week period ... **[Approbation]** You also have the amendments that we have talked about, which are one week. That is what I will be focusing on again in a minute because this does not deal with the amendments issue. It is quite right, and I was one of those Members who did have the time, along with Deputy Jeune, to put an amendment in to P.2 but I think that was only because it was lodged over the Christmas period.

[16:15]

So I think we probably had a bit more than 2 weeks, if I recall, but certainly I remember scrambling around trying to find enough time to amend this. But the point is what we have seen here does not resolve the issue and it is for several reasons. First of all, if this was coming from the Council of Ministers I would be immediately asking for a reference back because I think it is deficient, and that is no disrespect to Senator Routier, because it does not deal with the amendment issue. It is simply not the 4-week period which is the problem. At the moment you get amendments that can

come in a week before and which you do not have time to ... you cannot even amend an amendment, and that is an issue in itself which cannot be resolved. But at the moment are we saying simply we are going to go for this in blind faith, not knowing what kind of animal we are going to be producing here, and then we are going to leave P.P.C. to go off and decide on what to do with amendments? That needs to be a decision that is taken by the House because we could have a scenario where you have a 4-week lodging period but a 3-week lodging period for amendments; so you still have a week. The sensible option is probably to have a 2-week period for amendments or you could keep it as one week, but we need to know exactly what we are getting into. Now, we also know that there has been an efficiency review of the States of Jersey and I know that at least one of those recommendations is to move to a 3-week cycle. Now, I do not know whether that will be adopted or not. That may be debated in this Assembly and we need to know if we are working on a 3-week period, which I think is eminently sensible because that gives us more time as well to deal with constituency work, scrutiny work and States work. That seems entirely sensible. Is it appropriate to be going for 4-week lodging periods when we are on a 3-week cycle? It may be better, if we take a bit of reflection, to move to a 3-week cycle and to have 2 weeks for amendments. So I think while Senator Routier's proposition is commendable, I do not buy into the idea that this is some kind of wrecking motion to stop Back-Benchers putting propositions in. That is not true at all. If we look at how other jurisdictions work, we know that we have got it very good in Jersey in terms of the access that Back-Benchers have to making legislation off their own bat, so to speak. But it needs to be done in the round and I think this certainly is not what we have today. So I do echo the comments of the Constable of St. Mary - let us get it right - and Senator Routier but let us take a step back. There is no rush to do this. Let us do things properly and let us see what the findings are for any other efficiencies that are coming to the States.

12.3.7 Deputy G.P. Southern:

I will try not to hold people too long but, nonetheless, unlike the previous speaker, I do regard this as a second prong of a 3-pronged attack on the rights of Back-Benchers and their ability to lodge propositions. I am also very critical of the paucity of the argument that is presented by Senator Routier. He appears to be missing the fact that he never was called up to serve in the armed forces because the only thing he says is: "All I am looking for is order and discipline. We are looking at debating workload in a more orderly manner." Sounds like a sergeant major from the army or something. But he does not go into specific reasons as to why these 3 categories of very different propositions should be subject to a longer lodging period apart from dealing with things in a more orderly manner, whatever that may mean. I wonder if the first 2 are not on there just to camouflage the real target, which is (iii) on there: "A proposition lodged by a Member of the States in his or her own right and to which a 6-week lodging period does not already apply." There have been times when it has been important to get something lodged quickly and my thoughts turn to the Woolworths workers, in my own experience, who were left high and dry and there appeared to be no way of covering them following their redundancy. We had no redundancy law because it had been sitting on a shelf for 10 years. We needed some way to get some sort of assistance to them while we sorted out some sort of payments in the longer term. It seems to me there was an occasion where I think I used Standing Order 26(7) and said this was prejudicial to the reputation of the Island - it was certainly prejudicial to Jersey at the time - and got away with it. It was allowed but it was a case when we needed to act urgently. Now, the Deputy of St. Mary has pointed out that we are using those words. Those words are very strong and it should very rarely happen; outbreak of war would do it but precious little else. We are already mistreating that particular Standing Order - not literally - and playing, I think, fast and loose with it. That is a precedent that we must not necessarily encourage and this will make it worse. Finally, I must address the words of the Constable of St. Mary, the chairman of P.P.C. She seemed to be arguing that every Back-Bencher proposition comes with 2 weeks lodging. It does not. I have not looked at the figures but it is 4 weeks, 6 weeks, 8 weeks; most of the time they are not urgent and Back-Benchers, quite sensibly, recognise them as not urgent and do not demand a 2-week notice. Therefore, people do,

in general, have time to examine them, work out the consequences and, if necessary, amend them as appropriate. The fact is this disorder that Senator Routier is aiming at, if you sit down and think about it, is not really there. So the excuse that we must do this, we must follow this extension from 2 to 4 weeks, I think, is a false argument. What it does mean is that it will be very difficult, if not impossible, to bring anything at short notice and whether it is a Parish issue, something is happening you want brought to attention or you want something done about, or whether it is a major issue like Woolworths workers, there are occasions when we do need to use that 2 weeks if we possibly can, sometimes if not shorter. Summing up, I do believe that (a)(iii), in particular, must be thrown out. I am unsure about (a)(i) and (ii) because the argument has not been given as to why those particular things should be extended from 2 to 4 weeks, and I wait to hear Senator Routier to see if he has any detailed arguments as to why we should pursue those even. I am tempted, at this stage, to vote this proposition out.

12.3.8 Deputy P.V.F. Le Claire:

I listened quite intently to the Constable of St. Mary and I considered what she was saying, and I thought that there was a lot of reason and rationale behind her view. However, I get back to the opening speech of the proposer of this and I do not know; I am just unsettled by the fact that: "This is a proposition that I am bringing along with some other propositions after all these years that I have been in the States to help Back-Bench Members." I have not seen other propositions coming before me from Senator Routier in previous years. I have not seen comments coming from Senator Routier or votes of support in general on most things that I bring or take against the Council of Ministers. So I am a little bit wary of this ... not a stranger, but he seems to be a stranger in the way that he is acting recently, in the way that he is bearing gifts. There is a saying about: "Beware strangers that bear gifts." Senator Routier certainly is acting strange in the way that he is managing to sell these things to me today. I really did like Deputy Tadier's speech about the Greffiers: "Let us not forget the Greffiers in all of this." I reflected on the fact that the Constable of St. Mary hearkened back to the fact that we have all got constituency work to do and I thought to myself: "I wonder if the Bailiff or the Deputy Bailiff ever wonders about our constituency work and how heavy it must be and what it is sometimes and what it is not at other times." Then I thought: "The Greffiers, their constituents are us." If that was the case normally across the board, if we had constituents like the Greffiers we would all be out of politics probably within a week. We certainly would be. The work that they have to go through with my stuff alone, I mean let us be honest. **[Laughter]** Let us be honest, let alone the other things such as this one today. How long a proposition is meant to be lodged for does not have any bearing, of course, as to when it is debated. We have to request that and it can be that it is turned down, and it can be that it is turned down on the second occasion, and it can be that it is turned down on the third occasion and then only then, after it has been turned down 3 times, is that right of a Back-Bench Member to bring back propositions when they have had 3 strikes written into our rules and regulations. Thank goodness the earlier helpful proposition of Senator Routier that we needed 7 signatures, unfortunately, was not supported because then we probably would not have that either. I sometimes question whether or not Members have read their own propositions, let alone other people's proposition. I certainly have questioned that recently but some of the comments that have come - I think once from the Minister for Treasury and Resources - I could not believe it. I was like: "You cannot have read this. You honestly cannot have read this." Obviously we all have different pressures. I confess there are some things I do not get a chance to read. But certainly it is not going to make us all read the propositions. So I am sorry to the Constable of St. Mary; it does not hold water and if she is that busy then she needs to give up the Planning Applications Panel and get on with doing the stuff on the Privileges and Procedures Committee and the other roles of being a Constable. Let us try and spread out the workload. What is going on? If she has not got the time to do all of this and she needs to have more time, we have got the safeguards. We have got checks and balances. I am sorry to say, the cheque is in the post on this one for me.

12.3.9 The Deputy of St. Martin:

I note that this particular proposition has not been endorsed by 7 Members and probably I know why; probably because Senator Routier could not find 7 people to endorse it. I do not know. The one thing that I did find in it was the lack of detail, and I think that is something Deputy Southern said, because basically this proposition is based on: "Because I have received a number of comments from Members regarding the need." That is basically the reason for this particular proposition. But I was concerned about the proposition and I did have a meeting with P.P.C. What I was concerned about was if this proposition was extended we ought to look at Standing Order 26(7) because I believe that the threshold is too high. That has already been alluded to today. That is the one where you can only bring forward a proposition if it is deemed to be of great importance or: "of such urgency and importance that it should be prejudicial to Jersey." The concern I have here is if we open the door and say it must be 4 weeks or it must be 6 weeks, you are tying-up people's hands for the odd occasion where you need something within 2 weeks. I know that one Member supported my amendment but I was not in support of this particular proposition, as indeed I was not of the 7 signatures, and I am not supportive, again, of Deputy Router's one on the timing of speeches. Again, if we support this proposition I believe there ought to be an amendment to 26(7). That was the purpose of me meeting P.P.C. last week, and I also mentioned 2 or 3 other issues that are a knock-on, which we discussed at P.P.C. The issue about piecemeal approach, I think, has been mentioned 2 or 3 times now. Again, I am sorry to say, this is another piecemeal and as much as I am pleased that Members have supported my comments amendment, I do believe that this, again, should go back to P.P.C. and look at it in the round. We have R.59. Those issues should be brought forward as a whole and not piecemeal today. So, as much as I am pleased about the comments being accepted, I will not support the proposition.

12.3.10 The Connétable of St. Saviour:

Deputy Southern and the Deputy of St. Martin have both spoken of the problems if something is urgent and serious enough for Standing Orders to allow the time to be shortened. That is available as an option if it is serious enough that it affects the Island. So we are not saying that that cannot happen. Amendments will be dealt with by P.P.C. when they come through and the same applies with the comments because the whole things ties together to get a working package. But I would remind Members that if P.P.C. do this and bring this forward, if the proposition is accepted, there will be the option for Members to amend whatever P.P.C. bring forward. So it is not as if it is coming forward cast in stone. There will be the option to amend it and, hopefully, if it is all looked at as a total package, we can get something that is more workable than the system we are working at the moment.

[16:30]

The Deputy of St. Martin:

Sir, could I just ask a comment from the last speaker? Was the Constable of St. Saviour speaking on behalf of P.P.C. or as the Constable of St. Saviour? P.P.C. are not supporting it. They are leaving it ultimately to decision. I got the impression from the last speaker that P.P.C. was supporting this proposition. In actual fact they are not supporting it. They are leaving it to Members.

The Connétable of St. Saviour:

Can I just say, as a member of P.P.C., that the decision was made that Members would make this decision; they were not supporting or opposing it. But the fact remains the proposition says that if the proposition is adopted P.P.C. will bring forward for approval the necessary amendments. In other words, if the House accepts it, P.P.C. will have to deal with it and whatever they bring forward Members can amend if they need to.

12.3.11 Deputy T.M. Pitman:

My points are pretty much in line with the Deputy of St. Martin. Firstly, I would say that I do not think Deputy Le Claire needs to worry about the impact he is having on the Greffier with his propositions because I know for a fact that receiving a Deputy Le Claire proposition always brightens the office's day; at least that is what they tell me. The P.P.C. chairman raised the issue of Deputy Noel's P.2 as an example of a proposition that probably needed more time. Well, like Deputy Tadier, I was one Member who amended that proposition. It took me 10 minutes to amend it, which is probably 9 minutes more than it took Deputy Noel to come up with it by the content. But my issue is not so much the 4 weeks instead of the 2. It is the fact that, as has been highlighted I think by Deputy Higgins - the issue of amendments - to me this really has not been considered enough and it does, I am afraid, smack of a piecemeal approach which other Members have talked about. The Code of Practice Group that will report to P.P.C., which I am now very proud to be a part of - I do not know how long that will last or how long I will be a part - surely needs to look at this in the round; the very words that I think the Deputy of St. Martin said. It does seem unnecessary to do this now and, I am sorry, but, if I can pinch Senator Routier's words from earlier today, this really does smack of one of those propositions that perhaps a Senator who did not have much to do, woke up one morning and thought: "Ah, I will put in a proposition." That is what it is. It is piecemeal. I do not think the justification has been made by the Senator, unless he comes up with something in his summing up. I do not think the argument has been made for the differences that have been highlighted already by Deputy Southern. I think this should go back to P.P.C. and let them look at it in the full circle, and if changes need to be made then let us make them appropriately. I think I will leave it at that, thank you.

The Deputy Bailiff:

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

12.3.12 Senator P.F. Routier:

I will try and be brief. The debate started with the Deputy of St. John asking a question about if (a)(i) dealt with the issue with regard to Assistant Ministers. I am sorry the Deputy is not here to hear the response but (a)(i) is a replication of what already exists in Standing Orders. So it does not affect Assistant Ministers *per se*. As I say, it is just a replication of what is in the current Standing Order. I do not look to try and deal with that. A number of Members have spoken about the issue of amendments. I deliberately did not deal with amendments, and that was a conscious decision not to try and alter Members' ability to bring forward amendments, even at a later stage. The timescale would still be the same. The purpose of the substantive proposition is it will enable people to have a 4-week lodging period so the rest of us, whenever anybody brings forward a proposition ... this 4-week lodging period will be for the benefit of all the other Members who will then have the opportunity to spend some time to really look and to reflect on what is being proposed. The Deputy of St. John can put his glasses on off the top of his head and read these things. But certainly that is the whole purpose of this: it is to enable Members to look at the propositions very carefully and put forward amendments. That is why I have not touched amendments. I just have not done that because I want people to have that ability. The Deputy of St. Mary and the Deputy of St. Martin and others have spoken about 26(7) and Deputy Southern as well, unfortunately not here to hear my response either. The 26(7) is there for a very, very good reason and it works. It works because even Deputy Southern said he was able to use that in the case of the Woolworths thing because it was considered to be detrimental to the Island. So it is clearly evidence that 26(7) works and that is, I believe, very, very important. The Chairman of P.P.C., I think, really hit the nail on the head. She explained that what we are trying to resolve is the very, very tight timescales that people have to deal with propositions, which are asked for in 2 weeks. I know some people have said about: "We do not have to ask for 2 weeks and sometimes we do not", but there are some that are lodged and Members do want to debate them in 2 weeks. For other Members that can be an issue to deal with it properly and have the opportunity to put in amendments. I think it is vitally important that Members have time to consider that. Deputy Southern claimed that this was another attack on the

rights of Members. It is far, far, far from the truth. It is really there to help us all to use our time effectively and to think about things in a lot better way than we currently do because we are all time constrained and we all have our responsibility in whatever we are doing, whether it be in Scrutiny, the Executive or meeting our constituents. The issue about piecemeal, some Members have spoken about this as a piecemeal approach. The review which was carried out did not touch this subject. As the chairman of P.P.C. mentioned, it is probably appropriate that I have brought it because the review did not cover it. So I think it is something I hope that Members will accept that bringing this forward is a useful thing to be doing. I just would like to reiterate this is a proposition which is here, I believe, to help us all and to help us to do our work a lot, lot better than we are currently doing. I ask Members to support it and, obviously, if it is supported, P.P.C. will have the opportunity to bring forward legislation which is appropriate to meet the problems that I see and other Members have identified to me. They will bring forward the changes to Standing Orders and hopefully they will also address the issue which the Deputy of St. Martin has identified of the issue of comments because his amendment was the right thing. It is an issue that needs to be dealt with and, hopefully, if Members support my proposition and P.P.C. bring forward the amendment to the Standing Orders, together with covering off the issue of comments; I believe we can have a far better system than we currently have. I ask Members to support the proposition and I ask for the appeal.

Deputy M.R. Higgins:

A point of clarification for the last speaker. The review that he was referring to, which I think was the P.P.C. efficiency of the States review; he said it was not looked at or brought up by them. The point is States Members were asked to come to that review and give their views on the efficiency of the States and the Deputy did not even raise it with the Efficiency Review Panel.

The Deputy Bailiff:

Deputy, that is not a point of clarification; that is a second speech.

Deputy M.R. Higgins:

Sorry, I would just like to know if it was that particular panel he was referring to.

The Deputy Bailiff:

Do you wish to answer that?

Senator P.F. Routier:

Sorry, I missed the question.

The Deputy Bailiff:

Well, I did too.

Deputy M.R. Higgins:

Were you referring to the P.P.C. Efficiency of the States Review?

Senator P.F. Routier:

Well the document that came out with all the details in of the review, certainly, that is what I was referring to, yes.

The Deputy of St. Mary:

Can I ask a point of clarification? About (a), paragraphs (i) and (ii), I think I heard the proposer say that he was proposing no changes. Did I hear that right with subsections (i) and (ii)?

Senator P.F. Routier:

Yes, certainly, that is exactly what is in the current Standing Orders.

The Deputy of St. Mary:

Well, that is very surprising because it is 4 weeks and 4 weeks is a totally new number, so I do not quite understand how it can be no change.

The Deputy Bailiff:

Very well, the appel is called for and I invite Members to return to their seats. The vote is on whether or not to adopt P.194 as amended and I ask the Greffier to open the voting.

POUR: 31		CONTRE: 16		ABSTAIN: 0
Senator T.A. Le Sueur		Senator A. Breckon		
Senator P.F. Routier		Deputy of St. Martin		
Senator T.J. Le Main		Deputy J.A. Martin (H)		
Senator B.E. Shenton		Deputy G.P. Southern (H)		
Senator F.E. Cohen		Deputy of St. Ouen		
Senator J.L. Perchard		Deputy P.V.F. Le Claire (H)		
Senator A.J.H. Maclean		Deputy J.A.N. Le Fondré (L)		
Senator B.I. Le Marquand		Deputy S. Pitman (H)		
Senator F. du H. Le Gresley		Deputy of St. John		
Connétable of Trinity		Deputy M. Tadier (B)		
Connétable of Grouville		Deputy of St. Mary		
Connétable of St. Brelade		Deputy T.M. Pitman (H)		
Connétable of St. Martin		Deputy T.A. Vallois (S)		
Connétable of St. John		Deputy M.R. Higgins (H)		
Connétable of St. Saviour		Deputy D.J. De Sousa (H)		
Connétable of St. Clement		Deputy J.M. Maçon (S)		
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy J.B. Fox (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				

The Deputy Bailiff:

I can take this opportunity of announcing to Members that there has now been lodged au Greffe, P.19 - Historical Child Abuse: request to Council of Ministers - lodged in the name of Senator Le Gresley.

13. Assistant Ministers: Notification of Appointments and Dismissals (P.5/2011)**The Deputy Bailiff:**

P.3 has been deferred so we now come to P.5 - Assistant Ministers: Notification of Appointments and Dismissals - lodged by Deputy Le Claire and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to request the Chief Minister, and all other Ministers, to notify the Assembly of any appointment or dismissal of an Assistant Minister by a Minister through a Statement on a Matter of Official Responsibility made in the Assembly by the Minister concerned at the earliest possible opportunity.

13.1 Deputy P.V.F. Le Claire:

Before I begin I would like to say that I have received confirmation from the Chief Minister that this has been accepted. So this has been accepted, and I would just like to make that point that it has been accepted. The second point I would like to make in my speech, because this really is a proposition to help Back-Bench Members, a genuine attempt in my view. It covers the fact that we have recently seen an appointment of an Assistant Minister to a considerable position without reference to the States Assembly where Members expressed certain degrees of concern, anxiety and a willingness to engage but were not afforded the opportunity. Now, leaving aside any comments about that actual Ministry, I think it is just quite clear for all Members to see what I am suggesting is, as a protocol, the Ministers, when they appoint their Assistant Ministers, will make a statement to the Assembly and then that will give us 10 minutes to question them as to why they are appointing them. It does not interfere, in any way, as to the choice of the representative that they choose, and I hope Members are able to see this as something that has been accepted. Thank you.

The Deputy Bailiff:

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

13.1.1 Senator T.A. Le Sueur:

Just for the sake of clarification, I confirm what Deputy Le Claire has said, and what I said to all Members in an email I sent last week, that I am quite happy to accept this proposition and will advise Ministers accordingly in any future appointments or dismissals.

The Deputy Bailiff:

Does any other Member wish to speak? If not, Deputy Le Claire, do you wish to reply?

13.1.2 Deputy P.V.F. Le Claire:

I thank the Chief Minister and ask for the appel please.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on whether or not to adopt P.5 lodged by Deputy Le Claire and I ask the Greffier to open the voting.

POUR: 46		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				

Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

That brings that part of public business to an end. Chairman, do you wish to propose the arrangements for public business for the following debates.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

14. The Connétable of St. Mary (Chairman, Privileges and Procedures Committee):

I would like to refer Members to the Consolidated Order Paper, the Order Paper formerly known as Lavender, which I have had to keep track of all week so I did not lose it. The business will be as stated on that Order Paper with the following exceptions. On the 15th February sitting we will add P.177 - Pomme d'Or Farm - which was moved from the current sitting; that is in the name of Deputy Green. Also we would move from that sitting Projet 6 - Assistant Ministers: appointment by the States - in the name of the Deputy of St. John, which moves to the 29th March sitting. On the 1st March sitting we have the addition of P.3 - Composition of the States: implementation of remaining Clothier reforms - lodged by Deputy S. Pitman, which was moved from today's sitting. Also add Projet 18 - Standing Orders: oral questions without notice - in the name of Deputy Le Claire and Projet 19 - Historical Child Abuse: a request to the Council of Ministers - in the name of Senator Le Gresley. Then on the sitting of the 29th, as I have already said, we will add Projet 6, which was moved from the 15th February sitting. Apart from that, those are the only changes and I would hope that, on that basis, the business could be concluded in 2 days. I would hope so.

14.1 Deputy G.P. Southern:

Is P.16 in there? I cannot find in my papers where P.16 is. The proposition including the dismissal of the Minister of Treasury and Resources is there, sorry. I was in conversation with the States Greffe, I was assured that it would be treated as if it were a motion of no confidence, it will be first up. We do not want the Minister for Treasury and Resources worrying about his future for too long. **[Laughter]**

The Connétable of St. Mary:

I have not had any notification of that but certainly it is not a motion of no confidence because it is only requesting the Chief Minister to consider a proposition, so I am in the Assembly's hands.

The Deputy Bailiff:

Are you making a proposition, Deputy?

Deputy G.P. Southern:

Yes, if I may, can I make the proposition P.16 is taken as first item?

The Deputy Bailiff:

Is that seconded? **[Seconded]**

Senator J.L. Perchard:

Yes, I would like to second that and have it disposed of as quickly as possible.

Deputy M. Tadier:

You see one should not refer to the Minister of Treasury and Resources as it, it is a Senator.

The Deputy Bailiff:

I take it Members do not wish to debate this issue unless it is essential. Then will all Members in favour of that proposition of moving P.16 to the top of the agenda for 15th February kindly show. Those against. So that goes to the top of the agenda, Chairman. Are there any other question?

14.2 Senator T.A. Le Sueur:

On 15th February Projet 148 - the Draft Loi (No. 7) (201-) concernant la charge de Juge d'Instruction - is down for debate but I would ask for that to be deferred until, at this stage I would say, will probably be 15th March, possibly 29th March; say 15th March.

The Deputy Bailiff:

Are there any other matters to raise with the Chairman of Privileges and Procedures? Then the agenda seems to be settled for forthcoming business and the States now stand adjourned until 9.30 a.m. on 15th February.

ADJOURNMENT

[16:29]