

STATES OF JERSEY

OFFICIAL REPORT

THURSDAY, 28th MAY 2020

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[9:30]

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

PUBLIC BUSINESS – RESUMPTION

1. Draft COVID-19 (Safe Distancing) (Jersey) Regulations 202- (P.66/2020) - resumption

The Greffier of the States (in the Chair):

We resume this morning with finalising the business not concluded yesterday, in particular Draft COVID-19 (Safe Distancing) (Jersey) Regulations 202-. We are in the Second Reading, discussing the Regulations in detail. They have been moved by the Minister *en bloc*. We are in the middle of a speech by Deputy Tadier and after that I have Deputy Doublet and the Deputy of St. Mary. Obviously other Members can indicate their wish to speak.

Deputy R.J. Ward of St. Helier:

May I ask a procedural question?

The Greffier of the States (in the Chair):

Can I get to the end of my few announcements, Deputy, and then I will pick up on that? I was going to remind Members to keep their mics off when they are not speaking. We had a few mics on during the roll call, so it is best to keep them off unless you wish to speak. The other thing I wish to say was various Members have indicated that they wish to have votes on particular regulations. I am minded at this stage to say that there will be a vote on every one of the 5 Regulations individually at the end, just to clarify that from the beginning. So it is a general debate now and then a vote on each of the regulations, given the points that Members have made. Thank you, Deputy Ward. That is his question answered. I also have to speak after the Connétable of St. Mary, but first I see there is a request for advice from the Solicitor General, assuming it is him today, from the Constable of St. Ouen. Before Deputy Tadier is asked to resume his speech, Constable of St. Ouen, can you make your points to the Solicitor General?

Connétable R.A. Buchanan of St. Ouen:

My point is that I wonder if the Solicitor General would be kind enough to confirm that the principal reason for including the Amendment and making the COVID-19 breach offences to be able to be dealt with at the Parish Hall is that if they did not do that, those offences could not be dealt with at the Parish Hall and would have to be automatically charged and sent to the Magistrate's Court? Thank you.

The Greffier of the States (in the Chair):

Solicitor General, could you answer that point?

Mr. M. Jowitt., H.M. Solicitor General:

Yes. I am not sure I entirely agree with the Connétable. The point about the Amendment is that it gives the Centenier a power which he would not otherwise possess to impose a financial penalty on an offender. The reason that is so is this: ordinarily a matter can go to the Parish Hall but there is a limit to what the Centenier can do. For example, he may caution a person; he may offer words of advice; he may, with the person's agreement, direct that a victim is compensated or apologised to; he may defer dealing with the matter to give the person a chance to show that they can change their ways for the future. But he cannot issue a financial penalty unless there is a piece of legislation that empowers him to do so. For example, under the Road Traffic (Jersey) Law, a Centenier has a power to issue a summary fine in respect of certain minor motoring offences solely because the law gives him the power to do so. The purpose behind the Amendment is to similarly give him a power - him or her a power - to impose a fine for these offences, where he would not otherwise be able to do so.

I suppose the thinking behind it in terms of policy is to drive the message home that the law has teeth in this regard, even at the Parish Hall. I hope that is helpful.

The Connétable of St. Ouen:

Yes, thank you, very helpful.

The Greffier of the States (in the Chair):

Thank you very much. Deputy Tadier, do you wish to resume your speech from yesterday evening?

Deputy M. Tadier of St. Brelade:

Yes, I will resume. Good morning, Sir, and good morning, Assembly. I will just resume to say that I have nothing further to say on the Regulations, so that is the end of my speech.

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

I wanted to focus on Regulation 3. It might be worth me asking the S.G. (Solicitor General) before I speak what the effect on the legislation would be if Regulation 3 was not approved and the other regulations were, so could I ask that first, please?

The Greffier of the States (in the Chair):

S.G., is that a point you could take?

The Solicitor General:

Yes, I am happy to deal with that. The offence in Regulation 3 is aimed at adults who are responsible for children when all are gathered in a public place and the children - and that is children of any age, including below the age of criminal responsibility - are not maintaining safe distancing. It enables the police officer to direct the adult to, as it were, bring the children into line and the offence is committed if, without reasonable excuse, the adult wilfully fails to comply within a reasonable time. Now, if one removes that offence from the regulations, one is simply left with the offence under Regulation 2 and 2 things would follow from that. One is that there would be no option but to use Regulation 2 directly against a child of the age of criminal responsibility, where otherwise one might proceed against the parent of that child. The other effect would be that there would be no way of policing, even in the most gentle fashion, a failure to safe distance by children below the age of 10 by requiring their parents to take steps to ensure that they did. So it would leave law enforcers, where children are concerned who are of the age of criminal responsibility, with no option but to use the Regulation 2 offence directly against the child. That I take to be the effect of removing Regulation 3.

Deputy L.M.C. Doublet:

Once again I am in the position of having to make a decision on something without having the full information in front of me. I thank the S.G. for that advice and that was my understanding. I was wondering, if Members were likely to approve the legislation, whether they might consider voting against Regulation 3, because that, in my mind, is potentially a kind of middle ground because it would have the effect of exempting the under-10s, but the problem that the S.G. has just pointed out is that where there are issues with the children who are criminally liable - and is that not just an awful phrase to be saying - 10 year-olds and over who are criminally liable for doing something that human beings do naturally, in coming within 2 metres of each other, would be held responsible. So once again I am in a very difficult situation, without the medical advice, without the Child Rights Impact Assessment and I need to make a decision on what to do. I would ask that all Members who were sharing my concerns yesterday about the child rights issue perhaps mull this over and maybe contribute their thoughts on this because I could do with hearing other people's thinking on it, on balancing that out, whether if we do vote down Regulation 3, meaning effectively the under-10s, there would be no method of forcing the under-10s to physically distance, but it would mean that one

would not be able to pursue parents of the over-10s. Yes, I do not have much more to add than that, but I would like to hear Members' views on that to help me with that decision.

1.1.1 Deputy D. Johnson of St. Mary:

In my speech of yesterday, I mentioned what appeared to be the apparent contradiction between the introduction of offences in respect of safe distancing in the public domain and the complete absence of restrictions in private homes.

[9:45]

I did then ask if the Minister could comment in his summing up on whether there were any plans to have further legislation or some guidance as to the effect, and while he did in his summing up refer to the review provisions contained in Article 4, he did not mention then, I think, the question of guidelines. I believe he intends in those guidelines to make certain statements which might be called a health warning, if I dare use that phrase, as to the relaxation of certain measures. I would be grateful if he could expand on that in his final summing up.

1.1.2 Connétable J. Le Bailly of St. Mary:

This is very unusual for me, as I have done a total U-turn on this Proposition. I am of the opinion that we should be removing a lot of unnecessary legislation rather than creating it. However, Deputy Tadier had an unfortunate experience at a Parish Hall Inquiry which, as he explained yesterday, should not have happened and does not normally happen. The Deputy alluded to a Parish Hall Inquiry result being dependent on which Parish you are in or which Centenier is dealing with the case. The States Police and the Honorary Police operate to a strict protocol. There are mechanisms in place to ensure that everyone works the same and, for example, should a person be summoned to a Parish Hall Inquiry and feel that they have not been dealt with in an appropriate manner, there is a complaint procedure. The complainant does not have to make the complaint at the time of the Inquiry. This can be done with a written complaint to the Constable or Parish secretary. Every Parish Hall holds a Complaints Book, which is inspected annually. Every complaint is registered and also the Attorney General has to be informed of anyone who has been accused of inappropriate procedure. All States Police and Honorary Police are aware of this and their professionalism and integrity make this an extremely rare occurrence. Policing the social distancing is a very difficult procedure, which can result in lots of abuse to the officer advising. Any legislation which enables them to carry out their role efficiently without duress has to be welcomed in these troubled times. I shall therefore be supporting the Proposition.

The Greffier of the States (in the Chair):

Thank you. We have a question to the S.G. from Deputy Ward.

Deputy R.J. Ward:

I think this is the right means. The interpretation of Regulation 1(2): "Nothing in these regulations is to be read as limiting the power to make an order under Regulation 5 of COVID-19 (Screening, Assessment and Isolation) (Jersey) Regulations 2020." Can I ask the S.G. to give a brief explanation of what that means in practice? Because we often get these regulations that relate elsewhere and I do not think we see the knock-on effect of that. What does that mean in terms of "an order under Regulation 5"? Can I just have some confirmation on what that means?

The Solicitor General:

Yes, I am happy to help. Regulation 5 is a reference to the Covid 19 (Screening, Assessment and Isolation)(Jersey) Regulations 2020 and Regulation 5 of that document is the Regulation which gives the Minister of Health and Social Services power to order that people are prohibited from going to or remaining in public places, which is the regime we are all living under at the moment because an Order has been issued by the Minister for Health and Social Services to that effect. That Order is

going to fall away shortly, and if these Regulations are adopted, they will replace the effect of the order by imposing in its place the freedom to be out and about, subject to a requirement to maintain safe distancing. The saving provision in Regulation 1(2) is, it seems to me, for this reason: we are in the midst of a pandemic whose features are changing regularly. I imagine the thinking behind it is that if there should be an increase in infection or resurgence in the levels of disease, the Minister's ability under Regulation 5 to make a further Order prohibiting or restricting going to or remaining in public places, it remains unfettered, so it simply gives the Minister the freedom to react proactively to changes in the health climate. I hope that helps.

Deputy R.J. Ward:

Yes, that does. Could I just ask a further question on that, which is to say therefore the Minister has the power to re-enact Regulations that currently exist rapidly in perhaps a different form through that Regulation 1(2)?

The Solicitor General:

Yes. The Minister's power under Regulation 5 of the Screening Regulations to issue an order prohibiting going to or remaining in public places remains. It is not displaced by these Regulations, it is just that the order that has presently been made will lapse, but these new draft Regulations would not prevent the Minister making another Order should the circumstances require it.

1.1.3 The Connétable of St. Ouen:

If I just start by saying we have had a lot of discussion about children's rights and, yes, I completely understand the Senator and the Deputy's concerns about this, but I think a statement of the obvious also needs to be made, that the purpose of this Regulation is indeed to protect children from catching COVID-19. In that respect, that should be added into the equation of all the other things, that perhaps the 2 speakers who expressed great concern about children's rights should add that into their consideration. I just want to speak briefly about the Parish Hall Inquiry system. Comments were made yesterday about it perhaps being unfair or a system that is not perhaps fit for purpose anymore. If I can just start by saying that firstly the Parish Hall Inquiry system is governed by strict guidelines issued by the Attorney General, the most recent addition being Number 4 in 2019, and it encapsulates a lot of rights for the person attending a Parish Hall Inquiry.

The Greffier of the States (in the Chair):

I am sorry to interrupt, Constable, but Deputy Ward has asked for a point of clarification. Do you agree to give way?

The Connétable of St. Ouen:

Yes.

Deputy R.J. Ward:

The Assistant Minister has just said that the point of this Regulation is to stop children catching COVID-19. Where does it overtly say that?

The Greffier of the States (in the Chair):

I think, Deputy, that is really a debating point. It is not asking for clarification, it is trying to enter into a debate and you have not spoken, I do not believe, yet on the regs.

Deputy R.J. Ward:

No, but I am concerned that statements are being made regards ... specifically as we are talking about the Regulations that are not in the Regulations and they are not clarified. That is why I asked the question.

The Greffier of the States (in the Chair):

No, I do not think that is my understanding of what the Constable said. He gave a point of view as to what the purpose was of the legislation that is before the Assembly to give a different perspective on the legislation. The point is you have the opportunity to make these points in a debate contribution, not to interrupt the speaker to make that sort of point, so I am not allowing that at this stage.

Deputy R.J. Ward:

My apologies.

The Connétable of St. Ouen:

The first point I would make about Parish Hall Inquiries is that attendance is always voluntary and at any stage during the Inquiry before conviction is arrived at, the attendee can request that their case be heard before the Magistrate. In terms of protection for children, children of criminal age always have to be accompanied by their parents or an appropriate adult so that nothing can happen without the adult or their parent being there so that there is a safeguard there, which brings me to a point that Deputy Tadier made about always advising people he talks to to go for the option of going for a trial in the Magistrate's Court. To me that would not seem to be very sensible, because I think it is worth bearing in mind that a Parish Hall sanction does not appear as a criminal record as such, whereas if a person is charged and taken to the Magistrate's Court, that is indeed a criminal conviction and appears as such on their records. The guidelines quite clearly state that Parish Hall sanctions do not have to be declared on job applications or visa requests. So indeed, if he agrees to a conviction at the Parish Hall, that is not a criminal record as such, and ...

The Greffier of the States (in the Chair):

I am sorry to interrupt again, but Deputy Tadier is requesting to make a point of clarification. Do you wish to give way?

The Connétable of St. Ouen:

No, I do not. I will carry on. To my mind, it seems sensible to stick with the Parish Hall system and allow people to be processed through, with the proviso that if they feel uncomfortable or feel they are not being dealt with fairly, they always have the option of declining the judgment of the Centenier and be charged and taken to the Magistrate's Court. I think I will just conclude by saying that it does make a lot of sense to have a Parish Hall Inquiry system in these regulations because it allows people to be dealt with in ways that would not be able to be dealt with at the Magistrate's Court, deferred decisions and the other things that we have talked about. So it seems to me to be a reasonable way of dealing with people, such that although they are brought before an authority and reminded of their responsibilities, they do not necessarily get a criminal record. Just finally, I think the Parish Hall system has won a number of awards and has been found to be a fair and reasonable system and is believed to be, within the Island, the case, so I would urge Members to support that particular part of the Regulations.

The Greffier of the States (in the Chair):

Thank you. Deputy Tadier, you have a question for the S.G.

Deputy M. Tadier:

Could the S.G. confirm that when it comes to Parish Hall Inquiries, obviously they are voluntary, so the talk of being summonsed to the Parish Hall by the Constable of St. Mary cannot be correct? Secondly, would he confirm that it is up to the Centenier when you go to a Parish Hall Inquiry to produce evidence and so it is not up to somebody to say: "I want this to be dealt with at the Magistrate's Court" they simply need to say: "I do not accept the charge. I am not guilty" if they do go to the Parish Hall? But in which case it is up to the Centenier to decide whether there is sufficient evidence, presumably in correspondence with the Attorney General, as to whether the matter goes to court, because clearly somebody is not going to refer themselves to court if in fact the Centenier does

not produce the evidence. The last point is could the S.G. tell us how many occasions, what are the statistics of Centeniers throwing out a case because of lack of evidence at Parish Hall level and if those statistics are not available, why are they not available?

The Greffier of the States (in the Chair):

Before I ask the S.G. to come back, I think the first 2 points are requests for advice to the Assembly. The third one is a request for statistics. It is not really in order to do that at this stage. I am sure the Deputy can ask for that to be provided separately or could put down a written question on that. I would also like to say that we are debating the Safe Distancing Regulations. This is not a general debate about the Parish Hall Inquiry system. I have let these exchanges run a little bit because obviously the matter was raised last night, but once the S.G. has dealt with the 2 legal points which Deputy Tadier has raised, I would like the Assembly to get back to debating these regulations.

The Solicitor General:

Yes. The Parish Hall system is based on consent. A summons is a compulsory Order that someone attends court. Whether it is loose language or not I think perhaps matters not. A person who is asked to attend a Parish Hall Inquiry is free to do so or not to do so and if they do not do so, then it is a question of whether there is sufficient evidence to justify charging that person formally. Thereafter, if a person is charged, it is a matter for the Attorney General to decide whether the evidence is sufficient to provide a reasonable prospect of conviction and if it is, whether a prosecution is in the public interest. I hope that answers the question.

[10:00]

1.1.4 Deputy R.J. Ward:

I speak because I still have concerns. I would like to go through some of the concerns because I think it is important when we pass legislation like this we look at it in detail although it may be ... no, let us just move on. Regulation 1, as I asked a question of the S.G., it is important to understand that there is an opportunity to use orders that we have now, so the notion that we are not passing laws to impact inside people's homes because of the civil liberties issues has not been removed. The ability is still there and I think the problem there - and I will come to that problem again later - Regulation (2), the Regulation refers to somebody wilfully failing to comply and that is the offence. That has been spoken about a lot by those who are supporting this and that seems to be a theme that has come in order to convince people to vote for this piece of regulation, but so is breaching the Safe Distancing Regulations, which is Regulation (2)(a). That is: "A person commits an offence, and is liable to a fine of level 2 ... if the person - (a) breaches safe distancing" so it is not just a wilful failure to comply. That is the policing issue in terms of having to control the situation. In those (a), (b) and (c) there is no "and" between "breaching safe distancing" and "directed by a police officer." Also in 2(a) ... sorry, let me just get my regulations together. Part 2, in the exceptions, so when we look at the exceptions in this, and the very fact that I am able to go through these regulations now and find my place as I talk shows the complexity of how they are linked together. We have discussed these in such a short time-span that we are now having to go through, which I think is effectively another Scrutiny process of each of these Regulations in real time in the Assembly, which I think is very troubling for our processes. I am surprised that Members would allow this to happen, but as other Members like to say, we are where we are, so we have to do that. Regulation 2(a), the problem is the exceptions. There are exceptions to this which are the person's home or another person's home. Now, I recognise that it is politically expedient to remove this because of the notion of civil liberties and the way that has been applied in this case, but the other point about civil liberties and the rights of people is the implications of the actions that the Government take. It has already been mentioned by I think it was Deputy Perchard that the isolation of vulnerable residents will remain. Their situation is very unlikely to change, apart from the notion that when they go outside, because of the rule that you can be fined for not socially distancing, everyone will be kept apart, but the breaking of

socially distancing will not change as long as you wilfully comply and stop doing it. So I do not think it does what it says on the tin. The real trouble for me is that we are removing any problem between households and there is no rule on social distancing within a household. Now, I recognise that is a difficult issue for us to address, but what we are doing is we are relying totally on individuals to stick to those regulations and the vast majority have, but the vast majority have stuck to the social distancing outside as well. There is no change there, but there seems to be an argument that this law is required for the few individuals who have not done that, but those few individuals who have not done that now have the absolute right to not do that in very concentrated areas inside or in a garden where transmission of the virus is more likely. That is the medical evidence. When you are within a household in a confined space for more than 15 minutes, that is the most likely place to transmit the virus. We seem to be outsourcing the decision to individuals without Government guidance and that is a contradiction in guidance. You can go outside, but you must not go within 2 metres. However, if you step within your garden or in the garden of a friend, you can be as close as you want, as many people as you want. Now, I can see that creating real problems and when we go back to Regulation 1, there is the ability to be intelligent with an Order in order to address that, but I have got a point on that later as well. So therefore my concern, it just by the back door creates a risk to the Island in the current situation that we are in. A lot of arguments were made regards whether we should go for elimination and I was unsure about that, and the reason I was happy to vote against that was because we are at such a low level of infection and I thought that if we continue where we are and continue with some measures, then we could get to a point where we eliminate, but we are moving so quickly towards removing those measures at the moment, particularly with this piece of legislation and within the home. But we are, I think, putting the Island at risk and I think we need to address that and I think the Minister needs to reassure that he is certain that that will not happen. I think part (d) as well: “Any other exception provided for by Order by the Minister after consulting the Medical Officer”, does that mean that he can produce advice and distancing in homes? Part (d), it seems to me, of that regulation does enable the Minister to do that and we should have seen that advice and that information that was sent out that came with this Order, but we have not because of the speed of this Order. We should be preparing in advance and advising our population about what this means in terms of their behaviour. We have not set up bubbles, we have not set up any advice on that sort of one or 2 families that you link with, and we certainly do not have the track and tracing system in order that we would need to really regulate and understand what is going on regards the spread of this virus, yet ... it started, I recognise that, but I wonder whether this Regulation is simply too quick. In Regulation 3, and I go to Regulation 3, I have serious concerns over the actions regards children and I share those concerns and the notion that this overtly protects children because as they go outside, there will be regulations that they will not come in contact with strangers, because they will not know whether they have the virus. I am sorry, but this allows children to go to other households as much as possible and what it means is you will need to know whether people in those households have the virus. We have absolutely no way of knowing that either and so that does not address the issue of safety of children, as was suggested by the Constable, and I think that is exactly the type of argument that we have seen throughout this debate, a massive extrapolation from a certain idea to something that really is not real and does not exist. We have to be very careful in doing that because we get led along a line in regulations when we do that and we have done it so often recently that the outcome will not be what we think it will be. I think this Regulation 3 is also a slippery slope towards criminalising children when it talks about wilful failure to comply. I am a parent and I have been a teacher for 25 years and children can be quite wilful at times and you have to learn how to deal with that in an appropriate manner without criminalising them, otherwise our prisons would be absolutely jammed full with young people, because that is what they do, in the best possible way. We move on to Regulation 4. (2)(a) refers to an increase in risk. (2)(a) says: “The Medical Officer of Health must report to the Minister, at intervals ... (a) whether ... there is any change (by way of decrease, increase or otherwise) in the risk of the spread of COVID-19.” I would like to say that the virus acts as a virus regardless of what we do. Viruses act as viruses; they transmit in the way that

they do. It is called evolution. Our actions that we take, we should know in advance whether we believe they will change the risk of infection. It is only afterwards whether we see an increase in that infection that we can act, so what we have got here is effectively an ongoing experiment and a hope that that does not happen. I think that is very strangely worded and I would like the Minister to explain that, as to what that means, that statement; that is part (2)(a). (2)(c) says: “whether any such change or likelihood leads the Medical Officer of Health to recommend that the Minister should consider taking any action under paragraph (b).” I would like the Minister to explain how this will actually work in practice. Are recommendations on the use of this law or additional regulations solely from the Medical Officer of Health, i.e. entirely health-based? Because that is what this Regulation suggests. Now, I have no problem with that because we know where we are with that, but I would like the Minister to confirm that and explain the mechanism for that in terms of this Regulation, because we are talking precisely about this Regulation. Then we get on to Regulation 5(4): “The Minister may, by order, suspend the effect of Regulations 2(2) and 3(1).” Then this is just a point which I do not think I understand, why that would be only part 2(2) and 3(1) and I would expect the Minister to be able to explain that, because these are very detailed regulations that we are being asked to agree in very short order, so I think it is very important that the Minister has a very clear sight in terms of what we are doing here. I would like to make a really key point, which is that this regulation does not force physical distancing. It criminalises the refusal to follow instructions and it criminalises the failure to social distance. The social distancing must come from individuals and from our population through understanding, through persuasion, through communication from the Government and that, I am afraid, if we pass this Regulation where we are saying: “It is a criminal offence to do that outside but within your homes and within your gardens, looking over your garden wall to somebody who is on the pavement outside, who will have to social distance, but you will not” creates confusion. I see nothing in what has been said in this debate or what has come from the Minister or the Government at the moment as to how that confusion and that contradiction in message is going to be explained. It is that message that we have not done as well as we could have. I understand we are now going to get lots of platitudes about the hard work of officers and so on. We know that and we absolutely understand that and we see it, and in fact it is Backbenchers who have expressed the concerns over the workload and, for example, of our Scrutiny officers. We all understand that and we certainly understand the amount of hard work that has gone on, but it does not mean that we cannot talk about the importance of getting this message clear. The problem is this: unless the Government regulations and decisions that are being made are clear, it increases workload, it increases the difficulty of the communication and it increases the difficulty of getting that message across and eventually the population of the Island gets so confused that they do not know how to act. That is my concern over these Regulations. I realise I have raised a number of points, and to use that terrible phrase, I hope the Minister was taking note, but I hope he can answer these because at the moment I still oppose these sets of Regulations for a number of different and significant reasons.

The Greffier of the States (in the Chair):

Thank you. Deputy of St. Ouen, you have requested advice from the S.G. Do you want to ask him a question?

The Connétable of St. Ouen:

Yes, if I may. It relates to Deputy Ward’s speech, in which he spoke about Regulation 2(2)(a) and Deputy Ward was of the opinion that an offence would be committed if somebody simply breaches safe distancing because of the absence of the word “and” in 2(2)(a). I wonder if the S.G. would advise the Assembly on exactly where an offence is constituted. Thank you.

The Solicitor General:

The Regulation 2 offence, there is only one offence that is created by it; there are not 2. I think that there is some merit in the suggestion that it might have been put beyond doubt if after the words: “a

breach of safe distancing;” the draftsman had included the words: “and (b) is directed by a police officer” but the meaning on its face is tolerably clear, in my view. It is one offence. It requires 3 elements to be proved: first, that there has been an actual breach of safe distancing; second, that the person involved has been directed by a police officer to cease doing so; and third, the person wilfully fails to comply with that direction within a reasonable time.

[10:15]

In short, breaching safe distancing in and of itself is not an offence. Going back to what I said yesterday about the way judges approach understanding statutes, if there were any doubt in a judge’s mind that this was one offence, it might be appropriate in those circumstances for him to have regard, or her to have regard, to the Report to the Regulations for some additional assistance in trying to determine what the meaning of the statute was, which in my view is already tolerably clear. The judge would there read, paragraph 3, this: “The requirement to remain physically distant from others will be enforced by means of an offence of wilfully failing to comply with the direction of a police officer to cease to gather at less than 2 metres with someone who is from another household.” So, in my view, its construction is clear enough even without recourse to the Report and it does not contain 2 separate offences, but one, the essence of which is wilfully disobeying the order of a police officer to stop breaching safe distancing.

The Greffier of the States (in the Chair):

Thank you very much. Does any other Member wish to speak on the Regulations? If not, I will close the debate and I call the Minister to respond.

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

I thank Members for their contributions. First of all, I have acknowledged when we were debating the principles, and I acknowledge again, the dilemma in that this legislation is dealing with outdoor spaces, but we are no longer dealing with indoor spaces that are people’s homes, we are dealing with all other indoor places in other regulations but not homes. Yes, we know the virus can transmit in both of those places and the evidence may suggest that it can transmit to a greater extent indoors. But our messaging will remain the same, there is no contradiction in our guidance, and nor will there be, that there will always be dangers inherent in households gathering together. We will stress the importance of continuing to shield. We will ask people to exercise care over who they mix with. All of that will be reinforced in our guidance, the guidance has not changed, it is a question of what we do by legislation and whether legislation, what its proper role is, if it reaches into people’s homes and directs their conduct in their own homes. For the time being I have thought it appropriate not to continue that infringement on people’s civil liberties and direct people not to meet up in each other’s homes and not to receive people into their own homes. I would ask, and I would expect, Islanders still to observe guidance and we will do all that we can to make that guidance prominent and stress that risk. Of course it is possible to change that if it becomes necessary and proportionate to do so. So we will get to know if there are increasing numbers of test results coming back positive or, if we see greater numbers of people falling ill, it is very likely that we could trace that back to people’s mixing and if the mixing arises as a result of people not properly following the guidance in sufficient numbers then we can bring in measures. So, yes, Deputy Ward has picked up quite rightly on the precise meaning of Regulation 1(2), which means that we could go back to the regime that we are in at the moment and tell people to stay at home, not to enter other people’s homes, and limit time outside for exercise or necessary shopping. That is a rather draconian option but it is in the legislation because it is right in the middle of a pandemic that these options should be available; that public health should not be constrained because the powers are not there. But there are other things we could also do, so for example Regulation 2(3)(d) allows me to make other exceptions by Order, which would be placed before the Assembly in the usual way. Then Regulation 5, the review reporting, et cetera, would mean that the reports of the Medical Officer of Health are laid before the Assembly. If

she is making recommendations that something needs to change I need to respond to that and I would need to respond looking at Regulation 4(5) by making a further Order or bringing a proposition to the Assembly. There are also provisions in the Workplace Regulations that we passed at the last sitting, which enable us to dial down or dial up the controls in workplaces, which include shops and any place where people are at work and the public have access. So there are tools for controlling this situation but I hope Members will accept that our Islanders, having been brilliant in flattening the curve through the observance of the rules we have put in place, will continue to follow guidance. They have not observed those rules because we had a law about it; I think they observed those rules because they knew it was the right thing to do. We must still, all of us as States Members, have a role in putting out the message that it is not good to gather together, there are dangers, and only do it where it is essential, shield our vulnerable and take care about how we continue to live our life and observe that important rule about physical distancing. Deputy Ward has asked me to explain a bit more in detail particularly about how I would go about reporting, which is now in Regulation 5, previously 4, but with the amendment has become Regulation 5. The first part of that Regulation says that I must keep the operation of these regulations under review. So that is a constant action on my part; it is not just something that is going to happen every fortnight, and I am in very regular touch with the Medical Officer of Health and the S.T.A.C. (Scientific and Technical Advisory Cell) team. But at intervals of no more than 14 days the Medical Officer of Health must provide me with a formal report and she must say whether there has been any change in the risk of the spread of COVID-19 or whether she foresees any change. So it is looking back over the previous period since her last report, which will be no older than 14 days, and it is a look forward as well. Our team, for the reasons I have explained, are well-versed in considering the evidence before them and picking up any nuanced changes, which might indicate whether control is not as it was and whether we need to think about changes. The Medical Officer of Health would recommend to me if I should consider taking any action. That is laid before the Assembly so that the Assembly knows what advice is being given and I must then, if the Medical Officer of Health has recommended action, prepare a formal statement and lay that also before the Assembly. That leads me to make an Order, which again is laid before the Assembly, and can be debated if Members choose, or to bring a proposition to the Assembly to amend these regulations or repeal them in their entirety. An amendment might include introducing some controls over people's movements within private homes. That is a possibility, I would say very difficult to formulate, but if the risks become greater that work would need to be done and I would have no hesitation because my driver in this is to suppress the rate and the spread of infection. If we are beginning to lose control we will take measures to restore control. Deputy Ward asked: "Is the advice coming forward entirely health-based?" My experience of the way the Medical Officer of Health works and the members of S.T.A.C. on which she sits and draws on their expertise is that they take a very wide approach as to the health issues affecting the Island. It is not just narrowly focused on what the numbers come through of cases that might have tested positive or the like, not the daily statistics or changes in them, a much wider view. So, for example, the S.T.A.C. team is considering and advising the Minister for Education and the Education authorities on a return to school, and the implications for children of their period outside of school, benefits, and risks of a return to school. They have advised on the risks of isolation in the population, the mental health risks that others suffer. There is a very wide scenario and ambit that they take into account and you will see that, if these Regulations are passed, Members will see that in the at least fortnightly report that the Medical Officer of Health will file. We have had discussion about children and how they are affected by these regulations. Much of that part of the debate has been around a principled standpoint and I understand the argument made in principle as to how our justice system should work when children get caught up in it and no doubt there are improvements that can be made and that I would support on another day. But I do not think the context of these Regulations is the time to be having that principled debate because this type of regulation is not new, we passed it in effect at an early stage when we passed the Screening, Isolation and Assessment Regulations, children could become guilty of a criminal offence under those Regulations. These Regulations, and specifically Regulation

2 and 3, are a lighter touch because it introduces that aspect of a wilful refusal and in the case of parents they are required to take reasonably practicable steps, although us knowing and the police knowing that sometimes it is difficult to make a toddler understand what the toddler might need to do, and it is also difficult to control our teenagers sometimes. The police understand that; we all know that, parents are required to take reasonably practicable steps. Regulation 3 will assist enforcement of this Regulation and I believe enforcement will be carried out in the way it has been over the last 2 months with explanation, engagement, encouragement, and only as a last resort will there be a reversion to arrest and charge.

[10:30]

It would be very difficult for the police, I believe, to operate without Regulation 3. It is not a slippery slope, decriminalising children; it is perfectly reasonable and proportionate and is not an exceptional provision. With those comments in mind I think I have addressed the points raised and I ask that we proceed to a vote. I understand you wish to vote on each Regulation.

The Greffier of the States (in the Chair):

Thank you, Minister. Yes, I suggested at the start that we vote on each of the Regulations. It is probably the simplest thing to do and nobody has argued otherwise, so we will proceed with a vote on Regulation 1 and I ask the Greffier to publish the link in the chat box, which she has done, so voting is now open on Regulation 1. If Members could use the link and if they are struggling for some reason with the link if they could give their vote now in the chat and we will add that in later on. We have a sufficient number of Members who have voted so I will ask the Greffier to close the voting. When that is done she will post the results.

POUR: 39		CONTRE: 6		ABSTAIN: 0
Senator I.J. Gorst		Senator S.Y. Mézec		
Senator S.C. Ferguson		Deputy G.P. Southern (H)		
Senator J.A.N. Le Fondré		Deputy L.M.C. Doublet (S)		
Senator K.L. Moore		Deputy of St. John		
Senator S.W. Pallett		Deputy J.H. Perchard (S)		
Connétable of St. Helier		Deputy R.J. Ward (H)		
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				

Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy C.S. Alves (H)				
Deputy I. Gardiner (H)				

So the Members can see detailed results available there. We will now move on to Regulation 2 and in a moment the Greffier will publish a link to the vote on Regulation 2. It is there so all Members can now vote on Regulation 2. For those Members who say the link has failed, sometimes it just takes a little bit of time, but sometimes there are problems, so there are 3 or 4 or 5 Members who voted in the chat and if they continue to do so we will pick up on those votes. A sufficient number of Members have voted on Regulation 2 for the Greffier to close the voting. Once that is done she will put the results in the chat.

POUR: 36	CONTRE: 11	ABSTAIN: 0
Senator I.J. Gorst	Senator S.Y. Mézec	
Senator L.J. Farnham	Connétable of St. Lawrence	
Senator S.C. Ferguson	Deputy M. Tadier (B)	
Senator J.A.N. Le Fondré	Deputy M.R. Higgins (H)	
Senator K.L. Moore	Deputy L.M.C. Doublet (S)	
Senator S.W. Pallett	Deputy J.H. Young (B)	
Connétable of St. Helier	Deputy of St. John	
Connétable of St. Clement	Deputy J.H. Perchard (S)	
Connétable of St. Saviour	Deputy R.J. Ward (H)	
Connétable of St. Brelade	Deputy C.S. Alves (H)	
Connétable of Grouville	Deputy K.G. Pamplin (S)	
Connétable of St. John		
Connétable of Trinity		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Deputy J.A. Martin (H)		
Deputy of Grouville		
Deputy K.C. Lewis (S)		
Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy of St. Ouen		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy L.B.E. Ash (C)		
Deputy K.F. Morel (L)		
Deputy G.C.U. Guida (L)		
Deputy of St. Peter		
Deputy of Trinity		

Deputy M.R. Le Hegarat (H)			
Deputy S.M. Ahier (H)			
Deputy I. Gardiner (H)			

The Greffier of the States (in the Chair):

We now move to Regulation 3 and very shortly the Greffier will put the link to the vote in the chat for Regulation 3. So the link is there, if Members could now vote. Sufficient Members have now voted for us to be able to close the voting and we will publish the results in the chat very shortly.

Deputy G.P. Southern of St. Helier:

I have been unable to vote in the last vote and my vote was not recorded; it should be 12 against. My screen appears to be frozen now; I cannot vote at all.

The Greffier of the States (in the Chair):

Deputy Southern, you have to do so in the chat I am afraid. That is the thing to do.

POUR: 34	CONTRE: 12	ABSTAIN: 0
Senator I.J. Gorst	Senator K.L. Moore	
Senator L.J. Farnham	Senator S.Y. Mézec	
Senator S.C. Ferguson	Deputy M. Tadier (B)	
Senator J.A.N. Le Fondré	Deputy M.R. Higgins (H)	
Senator S.W. Pallett	Deputy J.M. Maçon (S)	
Connétable of St. Helier	Deputy L.M.C. Doublet (S)	
Connétable of St. Clement	Deputy of St. John	
Connétable of St. Lawrence	Deputy J.H. Perchard (S)	
Connétable of St. Saviour	Deputy R.J. Ward (H)	
Connétable of St. Brelade	Deputy C.S. Alves (H)	
Connétable of Grouville	Deputy K.G. Pamplin (S)	
Connétable of St. John	Deputy I. Gardiner (H)	
Connétable of Trinity		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Deputy J.A. Martin (H)		
Deputy of Grouville		
Deputy K.C. Lewis (S)		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy of St. Ouen		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy L.B.E. Ash (C)		
Deputy K.F. Morel (L)		
Deputy G.C.U. Guida (L)		
Deputy of St. Peter		
Deputy of Trinity		
Deputy M.R. Le Hegarat (H)		
Deputy S.M. Ahier (H)		

That brings us to Regulation 4, for which the link will be placed in the chat very shortly. The link is there so the vote is now open. Sufficient Members have voted for us to be able to close the voting and the Greffier will publish the results in the chat very shortly.

[The Greffier of the States (in the Chair) re ran the votes for Regulation 4 and the Voting Table can be found on p.19 below]

That brings us finally to Regulation 5, for which the Greffier will shortly put the link in the chat. The link is there and Members can now vote. Deputy Southern, what I will do with you is at the end of this voting process I will ask you to make a point of order and you can declare your position publicly on the various Articles because obviously you have had problems with voting, but if you can wait until the end of the votes. Sufficient Members have now voted for us to be able to close the voting. While the Greffier is publishing the results, Deputy Gardiner, we have been getting all of your messages so your votes will be recorded in the Minutes.

[The Greffier of the States (in the Chair) re ran the votes for Regulation 5 and the Voting Table can be found on p.20 below]

Before I call the Minister, Deputy Southern.

Deputy G.P. Southern:

Yes, the previous vote against everything but none of that has been able to be registered apart from the first vote on Article 1, which was against as well.

The Greffier of the States (in the Chair):

Thank you. It is clear that you wished to vote *contre*, you may not have got in for technical reasons, but it is clear and it will be recorded in Hansard that you wished to vote *contre* on everything.

Senator J.A.N. Le Fondré:

Can I ask a question? Apologies, because I was trying to keep track of where we all were on the voting, but you have stopped at Article 5 and the Amendment inserted a new Article 4 and renumbered accordingly, which by my reckoning means we should be ending at Article 6.

The Greffier of the States (in the Chair):

You are quite right; so we are not finished yet, we have an Article 6 to vote on.

Deputy M. Tadier:

Point of order; can we have the vote for 5 again because people may have voted on 5 thinking that it was not the right Regulation. Is that reasonable?

The Greffier of the States (in the Chair):

Yes, so the new Article 4 was the one in the Amendment, which is “Summary fine”, and therefore what we have just voted on is the “Review, report and amendment appeal” Article, and Members are quite right, there is Article 6 “Citation, duration and suspension”, the one at the very end of the original Proposition. I am in Members’ hands with this because that is potentially an oversight. Does anybody wish to rerun the last 2 votes in order to be clear where we are with those 2 matters? Deputy Tadier has asked for a rerun and I think that would be the fairest, so I am going to do that. There will be 3 more votes. We will rerun the last 2 and then do the third. So just to be clear, Members are saying things in the chat, I am going to rerun, so Members who are saying no need to stop, because it is going to happen anyway, the votes on the first 3 Regulations, 1, 2 and 3, stand, because there is no problem with any of those. The vote on Regulation 4 was and should have been on the regulation inserted by the amendment, which is called “Summary fine”, but because there is some lack of clarity as to what exactly we were voting on there I am going to go back to that one, so I will rerun the vote on Regulation 4. I will say to Senator Gorst, who has commented in the chat, it is not that there was

no error, there is some genuine confusion, which has been brought to light, as to what has been voted on. Given that this is extremely important legislation for the Island I think it is only fair that we go back and rerun those votes. Deputy Morel, you have asked for a point of clarification.

Deputy K.F. Morel of St. Lawrence:

Yes, it was just to clarify with regard to your understandable request to Deputy Southern that he say publicly so it is recorded on Hansard how he would have voted, I just wondered if, as President, you could clarify whether that would mean that his votes were added to the tally so to speak?

The Greffier of the States (in the Chair):

We have been quite clear about this that the voting has to take place during the time for voting, otherwise it sets a dangerous precedent to allow votes to be added in at later dates. There are all sorts of reasons why Members miss votes and we have to be quite strict about that. So we will add in those votes that are cast in the chat if they are cast at the right time. But, if not, and it is due to a technical error, I am very happy to acknowledge that and we have the occasional problems with the system, and some Members have particular problems, and what I have said is that Members can, and Deputy Southern in this case made his position clear, so it is on the record. Now I am going to go back to the rerun votes, let us get this over and done with, so to start with I will run the vote on Regulation 4, involved in the Amendment, this is the one called “Summary fine”, and I am going to ask the Greffier to publish the link. She has done so in the chat, therefore now is the time to vote on Regulation 4 “Summary fine”. Sufficient Members have voted in the link for us to be able to close the voting. Thank you, Deputy Southern, we have your vote in time. I will ask the Greffier to publish the results in the chat.

POUR: 36	CONTRE: 10	ABSTAIN: 0
Senator I.J. Gorst	Senator S.Y. Mézec	
Senator L.J. Farnham	Deputy G.P. Southern (H)	
Senator S.C. Ferguson	Deputy M. Tadier (B)	
Senator J.A.N. Le Fondré	Deputy M.R. Higgins (H)	
Senator K.L. Moore	Deputy L.M.C. Doublet (S)	
Senator S.W. Pallett	Deputy of St. John	
Connétable of St. Helier	Deputy J.H. Perchard (S)	
Connétable of St. Clement	Deputy R.J. Ward (H)	
Connétable of St. Lawrence	Deputy C.S. Alves (H)	
Connétable of St. Saviour	Deputy K.G. Pamplin (S)	
Connétable of St. Brelade		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Deputy of Grouville		
Deputy K.C. Lewis (S)		
Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy of St. Ouen		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		

Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy I. Gardiner (H)				

So we will now vote on what is now Regulation 5, which is the one called “Review, reporting, amendment, and repeal”. I will give the Greffier a little bit of time to catch up but in a moment we will be publishing the link to that vote.

[10:45]

The link is now available and Members can cast their votes using the link. Sufficient Members have cast their votes using the link for us to be able to close the voting and the Greffier will shortly publish the outcome in the chat.

POUR: 38		CONTRE: 9		ABSTAIN: 0
Senator I.J. Gorst		Senator S.Y. Mézec		
Senator L.J. Farnham		Deputy G.P. Southern (H)		
Senator S.C. Ferguson		Deputy M. Tadier (B)		
Senator J.A.N. Le Fondré		Deputy L.M.C. Doublet (S)		
Senator K.L. Moore		Deputy of St. John		
Senator S.W. Pallett		Deputy J.H. Perchard (S)		
Connétable of St. Helier		Deputy R.J. Ward (H)		
Connétable of St. Clement		Deputy C.S. Alves (H)		
Connétable of St. Lawrence		Deputy K.G. Pamplin (S)		
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				

Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy I. Gardiner (H)				

That brings us finally to what is now Regulation 6, I am just going to give the Greffier a second to set up the system. Regulation 6 is the one now called “Citation, duration, and suspension”. We have not published the link yet, Deputy Southern, but I am going to accept that vote because I think we know where we are. It does take a few seconds to set up these votes. If Members could close their mics, thank you very much, and the link is available now for the vote on Article 6 “Citation, duration, and suspension”. Sufficient Members have been able to cast their vote for us to be able to close the voting and the Greffier will publish the outcome very shortly.

POUR: 39		CONTRE: 8		ABSTAIN: 0
Senator I.J. Gorst		Senator S.Y. Mézec		
Senator L.J. Farnham		Deputy G.P. Southern (H)		
Senator S.C. Ferguson		Deputy L.M.C. Doublet (S)		
Senator J.A.N. Le Fondré		Deputy of St. John		
Senator S.W. Pallett		Deputy J.H. Perchard (S)		
Connétable of St. Helier		Deputy R.J. Ward (H)		
Connétable of St. Clement		Deputy C.S. Alves (H)		
Connétable of St. Lawrence		Deputy K.G. Pamplin (S)		
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy I. Gardiner (H)				

So I thank Members for their patience with that and we will now move to Third Reading. Minister.

1.2 The Deputy of St. Ouen:

May I thank Members for their support and their careful consideration of these Regulations. May I thank the officers in the public health team who have worked hard on these Regulations and given much careful thought. May I thank the Medical Officer of Health for her advice and the way she has engaged with States Members. She is always available to give advice and I know would be very willing to help States Members with queries that they have. So may I propose the Regulations in Third Reading?

The Greffier of the States (in the Chair):

Is Third Reading seconded? [**Seconded**] Does any Member wish to speak on Third Reading?

1.2.1 Deputy R.J. Ward:

I would like please to put on the record my concerns over the contradiction between social distancing outside and social distancing inside and the control of movement between households. The Minister has talked about guidelines and talked about advice. I would urge him to work very, very carefully to make sure those guidelines are extremely carefully put together and understood by the population, all sections of our population, I mean all languages, all backgrounds, all cultures, in our population, so that it is clear the risks that still exist, the increased risks of being inside, and so that we do not have to regret the vote that has just been taken in this Assembly later on as infection increases again. I believe those guidelines should have come to us beforehand, they should have been detailed so that they could be part of the Scrutiny process. I do not understand how we could have voted so clearly on this without even seeing those guidelines and it is slightly disappointing that we have not. So I ask the Minister please to make sure and make those recommendations to the population of the Island that we are still in a difficult place here and that we are not out of the woods yet and there is so much more and difficult decisions for us to be taking but we must act together on this if we are to go in to undertake really combating this virus completely.

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

I have not spoken in the debate so far mainly because other people have made the points I would have made but I do believe I should put on the record my serious misgivings about the policy that the Minister is bringing in. I have been fully supportive of the Council of Ministers up until this point. I believe that by allowing an unlimited number of people into a property and then penalising people who are outside if they get within 2 metres of someone is going to cause an increase in infections, which we will probably see in a short time. I have, as I say, serious misgivings about this because I think going from the relatively low numbers we have had we may see a sudden spike. For the Minister to just say: "We can bring in an Order later and do it", well that is closing the barn door after the horse has bolted. In other words, we are creating a situation where I do believe we can see a spike in infections. I hope I am wrong, but I have serious misgivings. What I will say is I voted on Regulations where I thought the Regulations were okay, but overall I cannot support this piece of legislation and I shall be voting against it.

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

I wish to speak on similar terms to Deputies Ward and Higgins. I voted against Regulation 2 for the same reasons that they have given. The Medical Officer of Health has stated in her report: "2 metres is considered to be a distance that protects from the projectile airborne droplets of a cough or sneeze." It seems to me that to state that and yet be prepared to support people gathering at a distance of less than 2 metres within a household is completely contradictory. I too am concerned about that this legislation will be agreed - it has been agreed - but it is completely contradictory and I am very worried that there will be a spike in cases because up to date we have not been good at making clear

to the public what their responsibilities are. I said in the debate yesterday that communication is key and in this case that applies more than ever. Communication is absolutely key. People will feel that they can go into the home of their parents, their friends, their children, and gather and congregate as they have done in the past. That is clearly not the case. They are able to and that is completely contradictory to requiring them to physically distance outside of a household. Communication is key, I repeat that, I am worried about this. Regrettably, in Third Reading, I will vote against this legislation, notwithstanding that it is a lighter touch but it puts us more at risk than the previous more-restrictive legislation that this is looking to supersede.

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

So far, as a Minister on the fringes and not a member of the decision-making bodies, I have been prepared to go along with the recommendations of my colleagues, despite not having had the opportunity to look at the detail, and prepared to back them. But I find that this process in the last 2 days has been appalling that we should be presented with emergency legislation, which has such draconian effect, within 4 days and all of us, I certainly have found it confusing to keep up with the arguments, and there should clearly have been more opportunity to thrash out the problems with this law because clearly the deficiencies are obvious for everybody to see. What I also dislike intensely is that we are presented effectively with a gun at the head, we are told you either approve this or the existing controls that we have had in place that have worked so well in our community, the majority of our community have gone along with and we have all seen the benefits and thank God that is the case, they are going to go. If we do not approve this we are going to have nothing. I find that an unacceptable situation to be put in. It is a real awful situation because I absolutely see that the Honorary Police, the police, need the powers to be able to deal with that small group of our community, which has not been prepared to obey the rules and go along with it, and they absolutely need this, it is an awful situation. But I am now asked to make a choice between going along with a law for powers that I believe they should have and should be there or at the same time increasing the risks for the majority of the community by abandoning the controls over social distancing and gatherings in people's homes and just switching those off so they no longer count. I was listening to Radio 4 this morning and the U.K. (United Kingdom) Minister for Health, none other than Mr. Matt Hancock, he emphasised 4 times in his primary interview this morning it is a fundamental principle of the Government approach and legislation that the risks of infection spreading are infinitely greater inside buildings than they are outside. That is a message, which, up until today, we have stuck to. Now we are asked to choose to abandon it. I want both; I want these measures to give our police the powers but I also would like to see our controls maintained. Of course I hear the Minister saying he will be prepared to consider an amendment to the provision in people's homes. Why have we not had that? It would have been easy to do and it should have been done and, if it had been there, I would not be forced to a situation where potentially I guess my colleagues in the Council of Ministers will say: "About time you were not a Minister", so if it costs me my seat so be it because that choice means to me the risks that we are likely to incur by passing these Regulations today is not a risk I am prepared to take and I personally shall be voting against. That will be a real first for me to vote against these Regulations. Now there is no disrespect in any of what I have said for our health advisers. Clearly when I have read and reread that excellent report from our Medical Officer of Health, but of course what I am not able to see is anything in there that talks about the risks by increased gathering, in removing those barriers entirely, and not even relax them slowly, in people's homes and in a residential community, there is nothing in there. Had we had a better process I would have liked to have seen that, that would have informed us, but there we are - sorry, I am using this phrase - we are where we are and I am forced with this choice, I think it is bad process, I have no choice, I am going to vote against the Regulations.

1.2.5 Deputy G.P. Southern:

As I said in the debate, this is a bad piece of legislation. It is a confusing message to give to the public. I can almost see the texts that are going around now saying: “Friday night party, Friday night drinkies.” It is like it was in the old days. I can see some people choosing that interpretation of what we are going to do today. I believe this runs the risk of seriously damaging and getting a second peak in a fortnight’s time as people realise too late what they are doing.

The Greffier of the States (in the Chair):

Is that the end of your speech, Deputy, or have we lost you?

[11:00]

Deputy G.P. Southern:

No, I am still here and that was the end of my speech.

The Greffier of the States (in the Chair):

It was an abrupt end.

1.2.6 Deputy L.M.C. Doublet:

Members will not be surprised to hear that I am voting against this based on the principles I outlined in my previous speeches and I am embarrassed for the reasons that Deputy Young outlined but I am also quite deeply ashamed that based on the medical advice, which I have heard, including the fact that closing the schools did not do anything to flatten the curve and that children are not super-spreaders that we are not doing anything to protect children from being criminalised and to protect them from developmental and psychological harm from continuing to force them to physically distance from their peers. I just want to reiterate to the Minister for Health and Social Services that I would still like to receive full medical advice specifically about children with regard to this law and going forward any other changes that we might make. I want to urge him to, if that medical advice points towards it being practical and reasonable, that we aim to lift the restrictions on children earlier than adults if we can possibly do so because of the disproportionate harm that these measures are doing to children. I would also like to see Child Rights Impact Assessments going forward. They are so important. We are supposed to be prioritising children, not treating them as an afterthought, and I reiterate my intention to consider voting against anything that will impact on children if I do not have the full information in the form of a Child Rights Impact Assessment. So those 2 pieces of information that I requested during the Reference Back, I would still like to receive those please from the Minister for Health and Social Services and I hope that he will be forthcoming even after the debate has finished with giving that information please.

1.2.7 Senator S.Y. Mézec:

There have just been some excellent contributions from Members who have just spoken on this in Third Reading and so Members will not be surprised that my position has not changed throughout this debate. I made my contribution yesterday focusing on the issue of children’s rights and it remains my view that these Regulations do not adequately consider children’s rights. I will happily be the first person to say that in a crisis balancing different rights is something that is really difficult to do and the Constable of St. Ouen, in an earlier contribution, made the point that children of course have the right to be healthy and the right to not catch coronavirus and of course that is absolutely true and in the forefront of our minds. But they have plenty of other rights as well and if you are going to seek a derogation from one right in favour of another right when those rights are in conflict with one another there has to be some sort of demonstration that the action taken is proportionate and necessary to achieve a legitimate outcome and we have not had that demonstrated to us in this debate. Deputy Doublet, on a couple of occasions, has requested a Children’s Rights Impact Assessment and this debate shows how important it is that we start getting used to the concept of a Children’s Rights Impact Assessment. They are not currently a legal obligation for us to do right now but it is on our

list of things to implement that it becomes compulsory, not voluntary or a recommended feature, a compulsory thing that when legislation and Government proposals are coming forward that they come with a Children's Rights Impact Assessment and I can only imagine what one would have looked like for this piece of legislation. But other points that have been made that I hope would persuade Members to vote against this, even if they were not persuaded on the children's rights angle on this, is the sheer inconsistencies that will exist with the situation as it will be if this is passed. Those situations where people, not just children, but all people will be able to interact and be close with other people in this situation but they will not be able to in that situation, or even those situations where legally they will not be able to be within 2 metres of other people, but who frankly will know that they will get away with it because they are out of view because they are in a garden or in various situations where they are just going to get away with it and of course the people who will not get away with it will be people who live in the urban areas, the people who do not have their own adequate space inside or in back gardens, et cetera, and so this will inevitably have a disproportionate impact on them. Communicating that is going to be extremely difficult; it is going to raise lots of questions and, frankly, probably some resentment as well. So I really regret the fact that I have to vote against this on those 2 bases. Deputy Southern phrased it really well yesterday when he described it as bad law written in haste but repented at leisure. That is not a good situation to be in and this Assembly should not be afraid to say: "Come on, guys, do better than this, come back with something that we can have confidence in and support." If that were to happen with this Regulation being rejected now I would be the first one to shout from the rooftops in support of it, so I ask Members to vote against.

1.2.8 Deputy R. Labey of St. Helier:

I have never been less proud of voting for a piece of legislation in my 6 years in this Assembly. The process has been inappropriate and the legislation itself is deeply flawed. But this is legislation in the time of corona and that is why I have gone for it. Because I think of our senior men and women, our residents, some with underlying conditions, who have for the last 12 weeks voluntarily become prisoners in their own homes. They are prepared to do that and content with that and it gives them some comfort when the rest of the Island is behaving themselves, in fact acting incredibly responsibly in the shops and when they are out. That is a real positive. What I think upsets those people, and I am looking at my next-door neighbour through that window just there, and I can see her and I know others, my army of senior lady friends that I have, what annoys them and upsets them and terrifies them the most is when they see reports in the media of people not obeying the restrictions, gathering when they should not, and being too close. In some ways this terrifying piece of legislation and the fact that the States is prepared to pass it does send out this message that we are not over the coronavirus yet; that there is still danger; that we do still have to be careful when we are out and about, and it is for that reason only that I have voted with this legislation and will continue to do so in Third Reading.

1.2.9 Senator S.C. Ferguson:

I am glad to see that the principle of an individual's home being his or her castle has been preserved. During the debate I have been appalled at the apparent ignorance about Parish Hall Inquiries, which has been exhibited. A Parish Hall Inquiry is a meeting to establish facts with the consent of ...

The Greffier of the States (in the Chair):

I am sorry but I have to interrupt you at this point. The Third Reading debate is in order to talk about the content of the legislation that the Assembly maybe is about to adopt and matters that are very closely connected to that. It is really not an opportunity to go back over the ground of Parish Hall Inquiries.

Senator S.C. Ferguson:

I am just getting around to that. One thing that this debate, the legislation still has overtones of imposing an insistence on dictating for the older generation. Give us credit for some sense and the ability to assess risk. We were taught to assess risk, sometimes by experience and sometimes by the heavy hand of a parent. In fact the whole setup of the legislation and the attitude to it is the fact that there is a tendency to ignore the ability of an individual's ability to assess risk. Is anyone of sense going to go to a large gathering at this point in time? Do not dictate to us what we can do in our own homes and the legislation observes this. I can assure you I shall not be having a party and most people of sense will assess the situation and take a view depending on the risk. I shall be supporting the legislation.

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

I have not spoken yet in the debate and I would just like to and it is really good to follow Senator Ferguson because whatever we have done in the last 10 weeks on legislation I have absolutely no doubt the result is down to our population, young, old and indifferent, whatever age. The top line still is keep your distance in your home. But what it does allow is for the over-65s, 75, 85, to, in their mind, legally go to their son, their great grandchildren's home, or vice versa, and see them, not on a screen, not through a window. They will still do that, like Senator Ferguson says, they can assess their own risk: "What is it in my life that I want more than anything?" and we are now allowing it. It really is the time now, we see what the population have done, we tell them absolutely, wherever you are, I will be doing it, I will go in my son's house, see my grandchildren, but I will keep my distance and so will they, but I do not need to see them over a park or somewhere in a distance. It just gives back to the people of all ages, the children, the middle, whatever age they are, but the older people, because they are the people we have said self-isolate, shield yourself, and some of them have no underlying conditions except age and that is all they have against them and they have been scared. But the main thing they were scared of, and it has been said to me: "I would like to go, I would keep my distance, I would go around my granddaughter's, I would do this, but I might be reported or they might be reported. We would not be cuddling; we would not be doing this that and the other." So, unlike the majority who are speaking against these Regulations, I absolutely have full and faith confident in our population of all ages to make sure we carry on, keep our curve flattened, but we give them back the rights to entertain in their home and see their family and see their friends because living on your own for 12 weeks is no cup of tea. So I absolutely say this is where we thank the population, we keep the headline, it is not confusing, keep your distance and wash your hands and make sure you keep everyone safe. It is really, really simple to me and I really urge people to vote for this and give people back some rules that they can follow in their own home when they want to with their family and friends.

1.2.11 Deputy J.H. Perchard of St. Saviour:

I just wanted to comment on the discussions around having confidence in people and sending confusing messages because this legislation is not about confidence in a population; this legislation and all the coronavirus legislation is about science and about medicine and about the spread of infectious disease and how disease is spread within a community. We are talking about epidemiology here; we are not talking about having confidence in people to do the right thing, which of course we do have that confidence, but that is not what should be driving our policy decisions at all. What should be driving our decision is the science and the medical advice and for me this particular piece of legislation is confused on those grounds.

[11:15]

If it is not safe for us to be close to one another then it is not safe, and if it is safe then it is safe. For me, having a piece of legislation where it is safe in certain circumstances or it is deemed acceptable in certain circumstances and not others is confusing. I appreciate that this has come from the point of view of not wanting to legislate inside people's homes, and I agree with that principle entirely, but

therefore my solution would not be to have legislation that has a carve-out to avoid that. My view would be that we approach it in a completely different way. I do not think that the idea that people will be less scared if they see other people mingling is true. I think that is a fallacy. I think it is not accurate. I think that people who have been isolating for 12 weeks as instructed by their doctor in a letter, for example, those people are not going to now feel better because everybody else in society has the capacity to visit one another. Those people will not be able to leave their homes. Those people will not be able to receive visitors. Those people who are vulnerable, who are having cancer treatments, chemotherapy, radiotherapy, who have had an organ transplant, who are diabetic, who are severely asthmatic, who have any severe respiratory illness, will remain prisoners in their own homes and their fear is more likely to rise than decrease in the knowledge that everybody else is mingling and mixing together. That for me is just obvious and common sense and logic and I am struggling to understand the views of others when they say that that will not be the case. There will be people who have to continue isolating, whose fear will go up because as we know from the study of medicine and infectious disease the more you interact with people the more cases you will have. Unless the virus is not here that will happen. That is the reason why we have built the Nightingale Hospital, because we know that. We know from science, we know from the spread of infectious disease, that as you open up, as the community mixes together, cases will go up. That is the approach that we have chosen to take. That is the approach that we are following and we have decided that, the Assembly put their weight behind that control and suppress approach, but that control approach means that we are expecting a certain number of cases and as we relax measures that is the time when those cases will rise. For me this legislation is not about whether or not I am going to have a party at my house or whether or not we have confidence in people to behave in what we deem to be a proper way. This is about the science. This is about the spread of infectious disease and this is about how we protect. For me now the priority is the most vulnerable people, because their well-being and their mental health is going to be the greatest risk going forward under the approach the Assembly have decided to take.

1.2.12 Deputy I. Gardiner of St. Helier:

I would like to ask the Minister when he will be summing up to state clearly if any changes or exemptions or guidance he is thinking to bring if this legislation will pass and if he is thinking to bring what are they and what is the timescale? Personally I have supported with my concerns that I expressed in the previous speech but for this last vote I would like to hear from the Minister if there are any changes to the guidance that will be brought forward and when and this will help me to make my decision on how to vote in the Third Reading.

1.2.13 Deputy K.G. Pamplin of St. Saviour:

Can I start by seeking a point of clarification from the Solicitor General?

The Greffier of the States (in the Chair):

You can ask for his advice, yes.

Deputy K.G. Pamplin:

Yes, thank you. I am sorry that I did not bring this up earlier, but I have been struggling with this toothache but at this particular moment the drugs are working. Can he confirm that a record from a Parish Hall Inquiry does not count as a court conviction but can be kept by the police and may be presented to a court or to certain employers in the future if it is deemed appropriate?

The Greffier of the States (in the Chair):

I am not sure that strictly relates to the Third Reading of this legislation, but as we have had numerous detailed points about this, I will allow the Solicitor General to answer.

The Solicitor General:

The Parish Hall is not a court of law. Only courts of law can convict a person of an offence. Only a conviction in a court of law can result in a criminal record. It is right that for certain results from Parish Halls a record is made of them and it is the case that if a person gets into trouble again such that they end up in the criminal court system their conduct, as dealt with in a Parish Hall, may be referred to in sentencing in that court but they do not count as convictions. My understanding has always been that there is no requirement on a person to disclose to a potential employer that they have been dealt with at the Parish Hall and the decisions of Centeniers at Parish Halls are not dealt with, for example, are not mentioned under the Rehabilitation of Offenders (Jersey) Law. I hope that is of help.

Deputy K.G. Pamplin:

Thank you, and I thank your indulgence and Members. I have struggled in the last couple of days with a severe tooth and headache and as we did pass a Regulation that was amended I thought it was relevant to the beginning of my speech because this is why, for one of many reasons, I cannot support this legislation. I think others have summed it up. I concur with the feelings of the Minister for Children and Housing and Deputy Perchard, who has spoken so eloquently, but I thought it was fair for my constituents and people who have not heard from me during this whole debate that I speak on why I cannot support it at this time. It is because this time, at this moment, where the Minister himself has said that the Island has responded on the whole, and we have to say “on the whole”, quite remarkably. We are all frustrated. Everybody is frustrated, because we are dealing with something that we have never dealt with in our lifetimes, an invisible threat, a virus, as Deputy Perchard mentioned, that we had no control over because we did not have the capabilities to shut down quickly enough and to test on a population of 110,000 and to put those measures in place. We have been building, working on those things side-by-side, by bringing in draconian measures to protect public health, which obviously was the right thing to do but as we have gone through this process, thanks to the extraordinary work of Dr. Muscat and his team and everybody in public health, combined with the fact that the Island has done its civic duty and responded, sometimes during confused messaging and that is not just a huge criticism of local things when there is news information 24 hours a day now. We hear more of national media because we are a small Island so we have limited ability to assess local information at times, the situation in the United Kingdom, the situation in Europe and America, and also side-by-side by colleagues in Guernsey. We have to pay tribute to them for the success that they have had in their approach. It is their approach that I think most people are really struggling with because they have taken a different tactic. I applaud that decision-making but they put the faith back into the hands of people who every step of the way, like our Island as a whole, have responded and done their civic duty. We all have frustrations and we all have concerns. We look forward to hearing from the Minister for Education today at a press conference about the phasing in of schools. That is going to have a huge impact in the next stage of this situation. People, quite rightly, are worried and concerned about their elderly neighbours and those with underlying health conditions. This time, at this moment, I felt was the time to just stand back and talk with the police and find a different way of dealing with this small minority. Let us be honest, and playing devil’s advocate for a little while, which may be a strange thing to say in this Assembly, the people who are gathering outside are young people. I know it is maybe for some of us hard to imagine what life was like in our younger years but they have been through challenging times. Some people do not know what their prospects are for their education in terms of university, of going away. People have lost holidays; people cannot see their friends and family. People do not know when they are going to go back to work and it is just a very strange environment we are all in. Hats off, I spoke to our Chef de Police before this debate and he and our St. Saviour Honorary team have been exemplary, like I know all other Honorary Police who give up their time are, let us never forget that, to do what they do to support our police service. They say yes, of course there have been some hotspots and there have been some problems and it is frustrating when people do not do that, and I can understand that, but they have also said on the whole the problem has been inside properties with people who live in

apartment blocks, pretty much like where I live here, and there have been instances in closed environments, and that has been a problem. Senator Gorst said something that I thought was really telling in one of his speeches, I lost track as he does speak a fair bit - and well, I may add - but he talked about the bubbles. I think that is where this has irked a lot of people. At this right time where we are just asking patience, when there is a lot of change happening at once, where we are reopening retail shops, where town is reopening slightly, schools may be reopening, there is a lot of change going on that we are asking them now to stand firm and just work with us a little bit longer. That bubble environment may have been a better approach, but we are where we are. I have said it. Finally, in my thinking the concern and the talk about fear and mental health again, it worries me that, yes, these are concerning times, but Dr. Muscat himself said this, and Deputy Perchard, that this is a virus that has an incubation period for a few days - 5 to 6 days, the scientific evidence suggests - and that is where the concern is because people do not know if they are shredding and passing it on. That is a concern and that will not go away if you are outdoors or indoors. That is a concern. But equally the community spread seems to be not there on this Island. I would imagine if suddenly the medical advisers had brought forward to the decision-makers, as I have said: "We are starting to see, through the increased testing problems, where we are seeing outbreaks, we need to get something alongside that to help mitigate that problem" but we are not seeing that. In fact, we are seeing very small cases and those cases are popping up in our healthcare facilities. So, yes, until we ramp up the testing so we can test everybody at a consistent level so we fully know what we are dealing with it just seems like the wrong time. I applaud the work of our police and our Honorary Police who, like all of us, have risen and gone above and beyond during these few weeks. The timing for me is just a little off. We could have just held our nerve but I just wanted to say that and that is the end of my speech.

1.2.14 Deputy M. Tadier:

It is good to know that despite the COVID pandemic that the dairy industry in Jersey is still alive and kicking and in fact what we have just passed today is another classic recipe of a Jersey fudge, that this Assembly is so good at doing. The reason I say that is because it does send out mixed messages and I think the penny has dropped. It has probably taken me the whole of the debate to analyse what has been going on here. It seems to me that this is not based at all on medical outcomes because it is neither fish nor fowl. If it was the right thing to do to say: "Well, the risk of spread is minimal" we could open up everything. We could say to people: "We are not going to give the police more powers to enforce something tangibly." Very quickly on that point, there has been a suggestion that we are moving away from a draconian law to a more light touch law, but in fact what we had in the past was a completely unworkable and unwieldy law and we heard it from certain Constables that the police were turning up trying to disperse crowds and they were saying: "What are you going to do about it?" and the police were saying: "We cannot do anything about it" so there was a stalemate. The first point is they should never have been put in the position of enforcing laws or non-existent laws or laws which they did not have the power to enforce, and the public are quite right to ask the question: "What are you going to do about it?" because the police should not be enforcing laws. Those civil libertarians out there who have been defending people's rights in their own homes should also have some concern about people's rights out in the public domain.

[11:30]

Also this idea about the sanctity of someone's home, as if the state should never intervene into somebody's home, you will not get anybody who is more suspicious of a police state than I am and that is not what I would want to create, but we have passed legislation which has dictated what people can and cannot do in their own homes, or rather it has dictated what other people cannot do in other people's homes, so we have not said to people: "You are not allowed in your home." We have said that you have to stay within your home, so we have been forcing people to stay at home longer and enjoy the privacy of their own homes. We have simply said that you are not allowed to have guests

around and if and when you do have guests around you have to stay 2 metres away. We have taken that advice away, so we have taken away the enforcement of that, so the advice may remain and so we are in this contradictory position where apparently the virus will not be transmitted in your home, and if it is transmitted we do not think it is serious enough to legislate for, even if it was just in law saying: "You should not do this and if we receive a complaint we can investigate it." Those who talk about the sanctity of one's home, it does not stack up. I do not think anyone would say that beating your partner and domestic violence is acceptable even behind closed doors. It used to be the case, if you go back 20 or 30 years. The police would turn up to a house, or they would not even do that, they would get a phone call and say: "Oh, we cannot deal with it. It is a domestic. It is private." We have moved on since then and we know that when it comes to health and safety it is right on certain occasions for the state to intervene, in the same way that the state has sought to intervene when it comes to smoking in cars with children, again a private space. The arguments simply do not stack up. What we are seeing here is essentially a strange mix of this Assembly where we have libertarians in half of their brain saying: "We do not want the state intervening in people's homes" but we have got the authoritarian conflict in the other half of the brain saying: "We want to give the police more powers to crack down on civil and public disorder." That is what we have seen. This is not about the spread of the disease, I do not think. This is about giving the police the ability and effective tools to go in and break up crowds. The concern that I have got is that it is not based on health; it is based on that latter point and we are going to see the demographics that end up getting prosecuted or that end up getting interfered with when they are trying to peaceably enjoy their time outside because they do not have the space. I reiterate the point that many people in Jersey might have big houses and outdoor space but for the less well-off and those in cramped accommodation the outdoors is their living room and they will all pack to the fringes of the coast. That is a real issue. You cannot always go on the beach of course. When we have high tides in Jersey people are restricted in their movement even more so. I am really concerned that this does not do what it says on the tin. I think I am going to leave my comments, that particular comment I was going to make I will not make, because it would take me down a rabbit hole where I do not want to go, but I would appeal to the likes of Deputy Labey who have said: "This is the worst piece of legislation or the most difficult vote. I feel really bad. Put the metaphorical peg on your nose and vote for it." We are not here as States Members, certainly those who are not part of the Government, but even Government Members who have spoken against this recognise they are not here to pass faulty legislation. When somebody puts a gun to your head you say no. You push the gun away and say: "I will not engage in this false dichotomy that you have given me." You had the chance to go away and you had the chance to give us time to amend this. We have seen that done in the past where amendments have been put forward and it has improved legislation, so I do not want anything to do with this piece of law that could have been so much better and we could have ironed out all the inconsistencies. I would say to any constituent of St. Brelade No. 2 District, so Les Quennevais and La Moye, if you think you have been treated unfairly as a result of us passing this law and you get interfered with in public do contact me and I will be happy to listen to you, and I can certainly refer you to a trusted lawyer if I think you need one for a free consultation. Similarly, it will be the ethnic minorities in St. Helier who will be disproportionately targeted, because they live there and I am not suggesting it is necessarily because of any institutional prejudice that exists in any of the authorities but simply the fact that that is how the demographics pan out. I ask all these Deputies and representatives of St. Helier and the urban areas in particular whether they are ready for that and to prepare themselves to deal with those cases because that is the reality. Those living in the leafy suburbs will be free to invite people into their gardens, to spread coronavirus among their friends, if indeed that is what is happening, we do not know, and those who do not have that ability will not be able to get within distance of each other. The strange thing is, and this is the last point, this is why it is bad law and this is why we should not rush law. It is not the not complying with an instruction of a police officer that gives you COVID-19. That is not what does it. It is being within the space of somebody who has it and who you can get it off or who can give it to yourself. That is what gives coronavirus to other people, and it would

have been much more sensible if we had said it is an offence to remain within that distance of somebody for a certain period of time or for an unreasonable amount of time. We have been told about the unreasonable test and that should have applied wherever. Policing is always an issue of course in private homes, but we have come up with this very strange scenario where there are several conditions that need to be met and the final one is not complying with the request of a police officer, which is a very strange state of affairs, which I think under normal circumstances one or 2 more people might have spoken up against. Unfortunately we have got a strange mix in this Assembly of half libertarians and half authoritarians but in the same people, cohabiting the same brain space, who have come up with this very bizarre law, which I want nothing to do with.

1.2.15 Senator K.L. Moore:

I will try not to go back over the somewhat unedifying and lengthy debate. It is unusual for us to have such a debate in the Third Reading, of course. It will be a difficult decision to vote for this in the Third Reading. The arguments have been rehearsed already but I would just remind those Members who are concerned about the rules and restrictions and the health and safety of Islanders that the alternative to voting for this Proposition today is a complete removal of any restrictions and that is a very difficult place that they are being put in. What I simply can say in the Third Reading is that having listened to this debate I would urge the Government to work very hard on creating some clear information and really developing some confidence from the public so that they can feel safe and also understand what their obligations are as members of our community to themselves and each other, so that we can all find a way of enjoying as much freedom as we can in the situation where we have almost achieved elimination of the virus but while also respecting the needs of those vulnerable members of our community. I will be voting for this with some dismay in the Third Reading and I really urge our Government colleagues to really work hard on their messaging so that we can move forward as a community.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on Third Reading? If not I close the debate and I call on the Minister to respond.

1.2.16 The Deputy of St. Ouen:

I thank Members who have spoken, but I think it is the case that those who have spoken in Third Reading have not introduced anything new; they have rather rehearsed the arguments that we have gone round and round with in the last 2 days. This fear about contradictions, I will repeat again that our guidelines will not be contradictory and I will do my utmost to make sure that they are clear. The message is clear that people should keep their physical distance in all circumstances and we do not support separate households gathering at less than 2 metres. The Connétable of St. Lawrence thought that that was a message we were putting out, that we support people gathering. We do not support that.

The Greffier of the States (in the Chair):

Sorry, Minister, I must interrupt because Deputy Ward wishes to raise a point of clarification. Do you wish to give way to him at this point?

The Deputy of St. Ouen:

No, Sir, I think I would like to conclude and then seek a vote. It is true that this legislation is part of a raft of emergency measures but I do not believe it can properly be called a gun at Members' heads. This is a lighter touch Regulation. It scales down what we already have but it remains proportionate for the circumstances we are in and it is brought forward with the advice of the Medical Officer of Health after consultation with all her colleagues at S.T.A.C. and throughout this emergency we have been seeking and have been grateful for the advice of the Medical Officer of Health and her colleagues and we continue to be. This legislation is supported by them. They have not

recommended that we retain the legal ban on preventing people from entering other homes or allowing people into our own homes. On the balance of risks we understand there is risk about transmission in indoor spaces but we must recognise we are going to have to live with COVID-19 for some time. We do not know when a vaccine might become available, if at all. Can we continue to live with an Order that prevents grandparents from seeing grandchildren, others from seeing siblings living apart? Can we live with preventing people who are isolated from visiting neighbours and friends if they choose to do so? We are not telling them to do so. It remains their choice and all the while the health advice that we seek to follow in this is that they must keep their physical distance. I do not believe it is necessary and proportionate to maintain that draconian measure any longer, and that is backed up by the advice that Government have received. To Deputy Doublet I say I will discuss further with the Medical Officer of Health whether there is any special distinction to be made for children but she has not drawn any distinction between adults and children as yet. To Deputy Perchard, I would say we absolutely want to protect those who need to shield themselves, the most vulnerable, and that message does not change. The support that we put in place around shielding will remain. I know the importance of that because I know and I am close to so many people in that situation but do we shut down the Island to protect the most vulnerable? Would they even want that? They have families too; they can see the harm being caused to their families and their wider communities. It is a question of addressing a balance of harm because if we introduce one measure it will impact in another area. We have to address that balance of harm with regard to the advice that we are receiving and the advice that we are receiving is that these Regulations are proportionate to address the balance of harm that we see in the Island at the moment. Deputy Gardiner asks me if I have any immediate plans to make changes and I do not because the medical advice is that these Regulations before us at this moment are the right way to proceed, but the Regulation that has been passed, that is, Regulation 5, says I must keep the operation of these Regulations under review, and I do that by taking advice.

[11:45]

The guidance will be clear on what is required. It will urge everybody and stress the importance of maintaining physical distance in all circumstances. It is right to move on now from the draconian measures that we have in place that limit the civil liberties of our population at a time when it is no longer necessary and proportionate to do so. We will be able to safeguard Islanders with these regulations. We have the means through Order making, through the use of other Regulations, to address any concerns that may arise and this is the correct way to proceed. Therefore, I ask for Members' support in this Third Reading.

The Greffier of the States (in the Chair):

Thank you very much. We now come to the vote on Third Reading and shortly the Greffier will publish the link in the chat box. There it is, so the voting is now open. Thank you, Deputy Southern for your vote. Sufficient Members have voted using the link for us to close the voting and the Greffier will publish the outcome in the chat very shortly.

POUR: 34		CONTRE: 13		ABSTAIN: 1
Senator I.J. Gorst		Senator T.A. Vallois		Connétable of St. Lawrence
Senator L.J. Farnham		Senator S.Y. Mézec		
Senator S.C. Ferguson		Deputy G.P. Southern (H)		
Senator J.A.N. Le Fondré		Deputy M. Tadier (B)		
Senator K.L. Moore		Deputy M.R. Higgins (H)		
Senator S.W. Pallett		Deputy J.M. Maçon (S)		
Connétable of St. Helier		Deputy L.M.C. Doublet (S)		
Connétable of St. Saviour		Deputy J.H. Young (B)		
Connétable of St. Brelade		Deputy of St. John		
Connétable of Grouville		Deputy J.H. Perchard (S)		

Connétable of St. John		Deputy R.J. Ward (H)		
Connétable of Trinity		Deputy C.S. Alves (H)		
Connétable of St. Peter		Deputy K.G. Pamplin (S)		
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy S.J. Pinel (C)				

The Regulations are adopted in Third Reading. Did somebody ask there for the contre?

The Deputy Greffier of the States:

Those voting contre are: Deputy Tadier and Young, Deputy Pamplin and Perchard, Deputy Alves, Senator Vallois, Deputy Ward, Deputy Ahier, Deputy Higgins, Senator Mézec, Deputy Doublet, the Deputy of St. John and Deputy Maçon and the Constable of St. Lawrence abstained, and Deputy Southern, sorry.

The Greffier of the States (in the Chair):

The Constable of St. Saviour, you wish to speak? Is it a point of order?

Connétable S.A. Le Sueur-Rennard of St. Saviour:

No, Sir, it is to say thank you very much to the S.G. for answering all the questions clearly and concisely, because I think this is the first time he has had to deal with us and I think he has done a brilliant job.

The Greffier of the States (in the Chair):

Thank you very much. I am sure feet are stamping around the Island to that particular remark. Deputy Labey, it is the time for the arrangement of Public Business for the next sitting, which is next week.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

2. Deputy R. Labey (Chair, Privileges and Procedures Committee):

The only change since our last sitting is that Deputy Tadier’s through-fares bus fares proposition, P.19, has been deferred to 16th June. That leaves 3 Propositions for next time, 2nd June, 2 Amendments to the Standing Orders from the Scrutiny Liaison Committee and Deputy Morel’s Proposition about putting Jersey businesses first. The Minister for Economic Development, Tourism, Sport and Culture wants to have an in-committee debate on the economy post-COVID-19. I am urging him to go for a scheduled States sitting but I think we can hear from him now on when he would like to take that and propose that.

2.1 Senator L.J. Farnham:

Thank you, and can I thank the chair of P.P.C. (Privileges and Procedures Committee) for inviting me to speak? I emailed Members last week inviting them...

The Greffier of the States (in the Chair):

I think there is a microphone on somewhere so I would be grateful if everyone bar Senator Farnham turned off their microphones. Thank you.

Senator L.J. Farnham:

Thank you, Sir. Inviting Members to consider the possibility of having an in-committee debate. When I wrote the email it was anticipated that we could perhaps do this after Public Business at the next sitting on 2nd June, however a number of Members have come back to me to suggest that a longer period of time might be needed than the half day I suggested in my email. Really it is in Members' hands. We have 2 choices. That is, to go in-committee after we finish the Public Business on 2nd June. We could always run over into the Wednesday if necessary. Alternatively, and this might be better for some Members, we could request a States sitting the following Tuesday, which is clear at the moment for 9th June and allocate the full day to the in-committee debate. I am in Members' hands, and I would appreciate some views.

Deputy R.J. Ward:

I wanted to speak before on something slightly different. Can I do that quickly?

The Greffier of the States (in the Chair):

Yes, it will give Members the opportunity to think about the question which Senator Farnham has asked them.

Deputy R.J. Ward:

I wanted to make a plea, as I did last time, that if we are going to stick to ending at 5.30 p.m. the Chair of P.P.C. mentions that as we come to lunchtime we make a decision as early as possible. I feel things got rushed yet again last night and it should not be an inconvenience for people to be coming back the next day. It is part of what we do, so I just hope that we can as a matter of course decide on that so that we have a better working system.

The Greffier of the States (in the Chair):

Thank you. I am sure that has been heard by Deputy Labey. Nobody has indicated a wish to speak or indeed said anything about an in-committee debate on the chat function. If Members do want to speak it is really helpful if they can say in chat, because otherwise it is very difficult to recognise voices.

2.1.1 Senator S.Y. Mézec:

Sir, it is Senator Mézec here. The chat is not working for me. I have sent a message but it just says it is sending and not going through. Thank you. Now it says it has failed to send, so I am getting a malfunction somehow. I do not know if it is asked to be seconded but I would second any motion to have this debate attached to the end of the next ordinary sitting of the Assembly. It is an extremely important topic to be discussed sooner rather than later in the format of an in-committee debate where obviously the rules are slightly different is an exercise we should do and I am of the view that in terms of the recovery for Jersey and how we get back on our feet some of those decisions that will eventually need to be made could do, I think, with being aired sooner rather than later. There are already discussions going on that it would be right for all Members of the Assembly to have an opportunity to speak about what issues they are concerned about, what aspirations they may have as part of that and so I think that attaching it to the end of the next sitting is the right thing to do and if we want to allocate more than half a day to it I am fine with that as well and think it would be a very good use of time. If we have to free up diaries on Wednesday or something like that to make that happen that is something I would be prepared to do and would hope other Members would as well.

The Greffier of the States (in the Chair):

Okay, for the benefit of Members who perhaps missed what Senator Farnham said, the issue is he was proposing an in-committee debate on the economic recovery post-COVID-19 and the question is whether to do it as part of the next scheduled sitting, in which case it may well run into Wednesday next week, 3rd June, or whether to set up a standalone special meeting purely for that debate, and his

proposal was Tuesday, 9th June and he just wanted to take the temperature of the Assembly on that point.

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

I would like to follow on from Senator Mézec. Looking at my diary, and I imagine most people are the same, next week I have put aside and as I say most people, the 2nd, 3rd and 4th are States sitting days and I think that week we can find time, because if we did it on Tuesday the following week, Wednesday we have an all day Council of Ministers. That would be great to hear and give us a week in between to hear and maybe people could add things. If they have not considered them at the time of next week, there is plenty of time to get into the Council of Ministers their views after they may have thought about it. For me I would go with Senator Mézec. We have 3 days put aside next week. I know it is not always ideal but they are in my diary so I imagine they are in most people's diaries and I would like to go for the debate next week for all of those reasons.

2.1.3 Deputy J.H. Young:

I can absolutely go with Members' wish to have this in-committee debate soon but I think it is really important that there is some kind of discussion document that we have got time to consider before we are faced with that debate. Clearly there are a lot of discussions going on behind the scenes that certainly a number of us are not party to and Members generally will not be. I think it is important that we have that paper, because not only will it give us thinking time and we are not bounced into making decisions immediately, but it gives us a structured chance to have a decent discussion and get the best that we can out of that debate. I would ask the Minister, if we go with the early date, please can we have that discussion paper setting out the issues as he sees them and the choices that we need and have it as soon as possible?

The Greffier of the States (in the Chair):

Before I call the Constable of St. Saviour, Senator Farnham, I was going to suggest that he look at the chat if he has not done so already. The Constable of St. Saviour next and then I will call Senator Farnham to respond to the debate so far.

2.1.4 The Connétable of St. Saviour:

I go along with Deputy Mézec because I think when I got this position as Connétable it was not a 9.00 a.m. to 5.00 p.m. job. It does not say anything when we are paid by the public and I think we owe it to the public to be here to represent and to talk about the problems that the Island has. Yes, I go along with Deputy Mézec and say that we should take it on to the next schedule.

2.1.5 Senator J.A.N. Le Fondré:

Just briefly, I take the point of firstly Deputy Young and others around getting a discussion document together and we will do as soon as possible. In fact, I believe one is being whipped up already.

The Greffier of the States (in the Chair):

I would like to bring this aspect of the debate to a conclusion because I think there has been a fair number of Members who have responded in one way or the other. Senator Farnham, do you want to say where your thinking is now?

2.1.6 Senator L.J. Farnham:

The mood of the Assembly I think is fairly clear. I want to reply to Deputy Young in echoing the Chief Minister's comments. It is the intention that I will lodge a report tomorrow, by close of business, prior to the in-committee debate, which will give Members, I hope, some very useful information to consider. Like I said, it is important to ascertain Members' views very early on in the process of rebuilding the economy so on what has been said and gauging the mood of the Assembly I would like to propose that the in-committee debate is a continuation of the next sitting. Thank you.

The Greffier of the States (in the Chair):

Thank you. I think I will take that as the business has been proposed, the Proposition as read out by Deputy Labey plus the addition of the in-committee debate. Does anybody wish to speak on that or shall we move to agree that and adjourn? I do not see any desire to speak, and therefore I will assume, unless I see any other comments, that that business is accepted for the next sitting.

[12:00]

Deputy Labey, before we finish, do you have anything further to say?

Deputy R. Labey:

No, I am pleased with that outcome. I think it is the right choice and of course the next sitting is a scheduled sitting, so most of the morning, if not all of it, will be taken up with questions now and the 2 items of business that are amendments to Standing Orders I do not anticipate taking very long at all. The bus proposition is not down for this, it is another one. We may go into Wednesday morning and Members should be prepared for that when I propose Public Business.

The Greffier of the States (in the Chair):

Okay, in that case I see no other Members wishing to speak. I do not think there is a need for the Assembly to vote on it at this stage since there appears to be unanimity. There will be an in-committee debate next week on the economic recovery and therefore I adjourn the Assembly until Tuesday at 9.30 a.m.

ADJOURNMENT

[12:01]