

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 2nd DECEMBER 2009

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

PUBLIC BUSINESS – resumption

1. Draft Gambling Commission (Jersey) Law 200- (P.139/2009) - Article 1

The Bailiff:

We return then to Projet 139, the Draft Gambling Commission (Jersey) Law. The principles had been adopted. Scrutiny had indicated they do not wish to have it referred to them, and therefore we move on to the individual Articles. So, Minister, may I suggest that you move Article 1 as there is an amendment to Article 2.

Deputy P.J. Rondel of St. John:

I think there may be a point of order. I am not sure if Members are aware that there is a second sound system now in place within the Chamber and it is on from prior to the debate and through to the end of the debate at the end of the day, so if Members are in the Chamber earlier and having a private conversation with Members people could pick up, or the microphones could pick up, what is being said. Likewise at lunchtimes. So, will there be some way that the system can be turned off until the House sits and when it rises at 12.45 p.m. and comes on at 2.15 p.m. because quite often Members in here do speak on confidential matters one to one and we would not necessarily require that to be recorded, Sir. Thank you.

The Bailiff:

Very well. Yes, I am sorry, I am not familiar with the position that there had been any changes. I do not know whether the Greffier can assist. I am advised that it is wiped at the end of every day. It is just used as a backup if the microphones are not working, but perhaps you can take the point that you made up with the Greffier just to satisfy yourself, Deputy. Very well, Minister, Article 1.

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

Article 1 is just containing interpretive provisions including a definition of gambling services. I propose Article 1.

The Bailiff:

Article 1 seconded? **[Seconded]** Does any Member wish to speak on Article 1? All those in favour of adopting Article 1 kindly show. Those against? Article 1 is adopted. Now, in relation to Article 2 that incorporates Schedule 1 to which there are a number of amendments and I think the schedule and Article 2 must be taken together so I invite you, Minister, to propose Article 2 and Schedule 1 together.

1.2 Draft Gambling Commission (Jersey) Law 200- (P.139/2009) - Article 2

1.2.1 Senator A.J.H. Maclean:

Article 2 establishes the Commission as an independent body corporate, composed of 2 to 5 commissioners, including a chairman. I would like to propose Article 2 and Schedule 1 together, Sir, if I may.

1.3 Draft Gambling Commission (Jersey) Law 200- (P.139/2009) - amendment of the Deputy of St. Martin to Schedule 1 (P.139/2009 (Amd.))

The Bailiff:

Seconded? **[Seconded]** Very well. There are a number of amendments proposed to Schedule 1 by the Deputy of St. Martin and I will ask the Greffier to read the amendment.

The Greffier of the States:

This is amendment 5, page 29, Schedule 1: (a) delete paragraph 2(3) and renumber the remaining sub-paragraphs accordingly; (b) in paragraph 4(2)(b)(i) for the words “6 consecutive months” substitute the words “2 consecutive months”; (c) delete paragraph 4(3)(f); (d) delete paragraph 5(3) and renumber the remaining sub-paragraphs, and alter internal cross-references, accordingly; (e) for paragraph 6(3)(c) substitute the following sub-paragraph “(c) if a vote is tied, it is to be taken to have been lost.”

The Bailiff:

Deputy, would it be of assistance if I were to seek from the Minister confirmation for all as to which, if any, he will be accepting?

Deputy F.J. Hill of St. Martin:

I think it will be. I think Members may well find it difficult to follow as well, but I would be grateful.

The Bailiff:

Minister, would you be willing to do that? I think it would help Members if they knew exactly which of these amendments, if any, you are prepared to accept.

Senator A.J.H. Maclean:

Yes, Sir, indeed. I can say that in general, not just in relation to this particular schedule, that the Deputy of St. Martin has been extremely helpful in the whole process and Members will note that I accept a great deal of his proposed amendments as we go through. But with regard to these specifically I am prepared to accept (b) and (c). I am afraid I do oppose (a), (d) and (e) with regard to this particular schedule.

The Bailiff:

(a), (d) and (e)? Correct?

Senator A.J.H. Maclean:

Yes, (a), (d) and (e). They are on page 29, Schedule 1.

The Bailiff:

If I can assist Members, if one looks at the amendments of the Deputy of St. Martin it is paragraph 5 of his amendments. It is headed page 29, Schedule 1 and you will see there are 5 sub-paragraphs there: (a) to (e). What the Minister has said is that he will be accepting (b) and accepting (c), but he will not be accepting (a), (d) and (e). So, I invite you then, Deputy, to propose your amendments.

1.3.1 The Deputy of St. Martin:

I may well have to ask your assistance as well to get where we are with these because unfortunately the way in which the Law is laid out they just do not follow and one has to go from one page to the next and I think it is helpful that so many have been accepted by the Minister. The substance really is ensuring there is greater consultation and that will be within the Law, rather than within the spirit.

The Bailiff:

I am sorry to interrupt. We are only doing Schedule 1 at the moment, which has nothing about consultation, as I recall. I think that is on your other amendments.

The Deputy of St. Martin:

Yes, I understood that the first amendment would be Article 3 which ...

The Bailiff:

No, this is Article 2 and Schedule 1. So, it is in fact the last of your amendments. It is paragraph 5.

The Deputy of St. Martin:

This is to do with the appointment of the Commissioner?

The Bailiff:

Well, it is to do with Schedule 1 and so, for example, your first one relates to paragraph 2(3) which is about appointing the chairman in camera.

The Deputy of St. Martin:

That is it, yes. This is where I believe that there are a certain number of appointments which are in camera and there are a certain number of appointments which are not in camera and I think generally the spirit of it is that if someone is in an honorary post it would normally be in camera, but if someone was being paid for it it could well be that it would not be in camera and I believe personally that there should be greater openness anyway. I think the spirit should only be a presumption of openness with exceptions and what I am asking here is that there is this presumption of openness rather than having an exception, which is part of what the Minister is asking for, and I believe here that it is important that we are going to appoint a chairman, that the chairman is going to be paid, and in this particular occasion here I think it is important to know what the add-ons are as part of that job because as indeed the present chairman we know does not live in the Island. At the moment we are told that his salary is £48,000 for 10 days work a month but we are not aware of what the additional costs are for bringing the gentleman over, and I do believe that States Members should be party to that information. The purpose of this amendment is to ensure that when the chairman is appointed he is not appointed in camera but in the open. I make the amendment.

The Bailiff:

This is paragraph (a). It probably will be simpler for Members if we take each one separately. So, you propose paragraph (a). Is paragraph (a) seconded? **[Seconded]** Does any Member wish to speak on paragraph (a)?

1.3.2 Senator A.J.H. Maclean:

The Deputy of St. Martin proposes that the appointment of the chairman should not be in camera, but in open session. I do not believe that is correct in this instance. My major concern here is the ability to attract suitable candidates and there is a concern that, of course, candidates may be put off putting their name forward, should their credentials be discussed in open session. It is a matter that I think is important if we want to ensure that we get the best possible quality of candidates. It has been traditional historically and I think to oppose this amendment of part (a) is appropriate in this particular instance. The Deputy of St. Martin has also mentioned, and seemed to be conflating issues about costs and so on, but whether or not we have a debate of the merits of a future chairman in camera or not, Members of course have the ability to vote so these matters are not of particular relevance, I do not think.

1.3.3 Senator A. Breckon:

Just a couple of points, while I am not necessarily a fan of debating things in camera unless it is necessary I think a point I raised about 6 or 7 weeks ago was if, what are in fact, members of the general public are putting their names forward then it is difficult when it comes to this House if they get maligned in some way and it is not doing a great deal, I do not think, to encourage people to put their names forward. We do have a process where the chairman would be nominated in a public arena. The background to that appointment would be available to Members, how they were been arrived at, along with their C.V. (curriculum vitae), but we have had instances in the past, I think it was an issue with a Committee of Inquiry into a planning matter where somebody had a particular problem with one of the members and it is difficult if someone wants to go into that

detail in a public arena because we have certain privileges within this House which must not be abused. I am not saying that will be the case here, but in this instance I think we have a safeguard which allows us to look at who is being appointed, why, what their credentials are, and we could vote at the end of it. If Members are not happy with it at the end of that then they can do that. So, I will not be supporting this amendment because generally I am not in favour of much being discussed in camera, but in instances where individuals who are members of the public, or people who are putting themselves forward, I do not think it does our case any good if we are trying to recruit people and encourage them if within this Chamber we have the opportunity to give them what could be a good slagging, which perhaps they have walked into because somebody may have got something wrong, or maybe not quite right. So, in this instance I will not be supporting this amendment.

1.3.3 The Deputy of St. John:

I can well understand where the Minister is coming from, given we use a similar procedure when we put in position a new Police Chief. Given that the type of regulatory authority that we are putting in place, I believe that the Minister is absolutely right in wanting to do that in camera.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon the Deputy to reply.

1.3.4 The Deputy of St. Martin:

I do not think there is much more to add. I think it is just a matter of opinion. I believe in openness. I do not believe there will be people put off the job. If they want the job then we go as part of the task but there should be this openness. I maintain the proposition, and ask the appel.

The Bailiff:

Very well. The appel is called for then in relation to paragraph (a) of the amendment of the Deputy of Martin, paragraph 5, and that is concerned with whether the appointment of the chairman of this Commission should take place in camera or not. If you think it should be in camera you oppose it. If you think it should be open you vote for it. So, I invite the Greffier to **[Interruption]** ... Did I misstate it? If you wish the appointment to be in camera you should oppose this amendment.

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

Can I ask for a point of clarification, Sir? The text as it is now says: “must take place in camera.” Can you clarify that if we vote against this so that the default position is that it is open, not in camera, we are still at liberty, faced with a particular appointment, somebody may say: “I have matters to bring up” and so on.

The Bailiff:

Deputy, you have had your chance, I am sorry.

The Deputy of St. Mary:

No, Sir, I am just asking whether we are ...

The Bailiff:

Well, you should have asked it during the debate. We cannot have Members popping up after the end of a debate to raise some point they wish they had thought of earlier. Very well, I am sorry if I misspoke earlier. I hope Members are clear which way they should vote. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 12		CONTRE: 29		ABSTAIN: 0
Connétable of St. Lawrence		Senator T.A. Le Sueur		
Deputy of St. Martin		Senator P.F. Routier		
Deputy R.G. Le Hérisier (S)		Senator T.J. Le Main		

Deputy of Grouville		Senator J.L. Perchard		
Deputy S. Pitman (H)		Senator A. Breckon		
Deputy I.J. Gorst (C)		Senator S.C. Ferguson		
Deputy A.E. Jeune (B)		Senator A.J.D. Maclean		
Deputy of St. Mary		Senator B.I. Le Marquand		
Deputy T.M. Pitman (H)		Connétable of St. Ouen		
Deputy A.T. Dupré (C)		Connétable of St. Helier		
Deputy M.R. Higgins (H)		Connétable of Trinity		
Deputy J.M. Maçon (S)		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. John		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Mary		
		Deputy R.C. Duhamel (S)		
		Deputy J.B. Fox (H)		
		Deputy J.A. Martin (H)		
		Deputy of St. Ouen		
		Deputy of St. Peter		
		Deputy P.V.F. Le Claire (H)		
		Deputy K.C. Lewis (S)		
		Deputy of St. John		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy A.K.F. Green (H)		
		Deputy D. De Sousa (H)		

The Bailiff:

Do you wish to move on to paragraph (b), Deputy? This is one which the Minister is accepting, but perhaps you could propose it briefly.

1.4 The Deputy of St. Martin:

This is when a Commissioner ceases to want to carry on working. He has to give 6 months. I am saying all we really need is 2 months. So, as I said, I am surprised a Commissioner, who may be in receipt of public money, may be absent from a meeting for as long as 6 months without having to inform the Commissioner and it did seem rather strange of that length of time and I believe the time should be 2 months and I think that has been accepted by the Minister. I make the proposition.

The Bailiff:

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

1.4.1 Senator A.J.H. Maclean:

Just very quickly. No reason to oppose this. It seems perfectly sensible. The only point I would make is just for Members to be aware that if somebody is absent then during the period of absence at 2 months, as we have just agreed hopefully, then they would not get paid.

The Bailiff:

Does any other Member wish to speak? Do you wish to reply, Deputy? Very well, all those in favour of adopting paragraph (b) of the Deputy's amendments kindly show. Those against? Paragraph (b) is adopted.

The Bailiff:

Then do you move paragraph (c), Deputy?

1.5 The Deputy of St. Martin:

Yes, again, I was rather surprised at this one here. It is just about ageism. I do not believe that one at 73 is past anything and **[Laughter]** for that reason I believe that it should be open, and again I am grateful to the Minister. The Minister and I are in agreement with this, so I will ask that Members approve this and I make the proposal.

The Bailiff:

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

1.5.1 Senator A.J.H. Maclean:

Just very briefly, Sir. Yes, happy to accept this. I think Members will agree that the nearer we all get to that age the more supportive we are of this particular proposition. **[Laughter]**

1.5.2 The Deputy of St. John:

I would oppose this because if we look at our police, our judiciary, *et cetera*, they all have to retire at 72 and the police much earlier, and we are talking about basically a policing role in some respects in this particular position and therefore I will ask for the appel when the time comes because I will be voting against accepting this particular one.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon the Deputy to reply.

1.5.3 The Deputy of St. Martin:

I will be interested to hear from the Deputy of St. John as to what age he does consider to be past it, whatever "it" is, but I do not think we need to dwell too much on this one. I am grateful again for the Minister's support. The appel is called for and I make the proposition again.

The Bailiff:

Very well, the appel is called for in relation to amendment (c), which is to delete paragraph 4(3)(f), which contains the age limit. The appel is called for.

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

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

The Bailiff:

Very well. Deputy, amendment (d) raises the same issue about in camera, although this time it is termination. Do you want to proceed with that in the view of the previous debate?

The Deputy of St. Martin:

I will not pursue it, Sir.

The Bailiff:

Very well. So, you withdraw that amendment?

The Deputy of St. Martin:

I withdraw it, yes, Sir.

The Bailiff:

So, then we come finally to paragraph (e). So, would you like to propose that?

1.6 The Deputy of St. Martin:

Yes, thank you, Sir. It is purely coincidental, had we had the debate before the one on the States Employment Board no doubt we would have had a ‘suck-it-and-see’ by this particular amendment, but Members may well recall a couple of weeks ago that I had a proposition to ask Members about the tied vote of the States Employment Board. There was a tied vote there and there was quite a debate there. What I believe again is openness and I believe again that if people are having a vote they should only have the one vote. Again, it is unlikely... I agree, that if you only have a commissioner and 2 assistants there is every possibility they will have agreement, but there will be times when there may only well be 2, and again I am not of the belief that anyone should have a second casting vote and again I would remind Members that when we had the debate on the States Employment Board the States voted that there should not be a second casting vote and they also said when they had the Appointments Commission there should not be a second casting vote, so I am saying here there should not be a second casting vote for my proposition, and I make the proposition.

The Bailiff:

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

1.6.1 Senator A.J.H. Maclean:

Of course if the vote is tied then it is taken to have been lost. I do oppose this. With a board of only 3 this would effectively take the chair's casting vote and give it to the opposing member. In my view this is not good business practice and something that I would encourage Members to reject. Thank you.

1.6.2 Deputy R.G. Le Hérisier of St. Saviour:

The obvious point which the Deputy was alluding to is the disproportionate power given to the chairman. The second thing I would point out in reference to the last debate, Deputy Duhamel is totally committed to recycling. What about the recycling of former States Members and other members of the community?

The Bailiff:

Does any other Member wish to follow that?

1.6.3 Deputy C.F. Labey of Grouville:

Just a quick question for the Minister. Could he confirm - and it is probably written here but I do not have it to hand at the moment - what the quorum is for meetings?

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

Could the Deputy, when he is summing up, just indicate what precedent there is for his proposal?

Senator A.J.H. Maclean:

Just from a clarity point of view I would be happy to answer the Deputy's question there. It is 2.

The Bailiff:

Very well. No other Members wish to speak, I call upon the Deputy of St. Martin to reply.

1.6.5 The Deputy of St. Martin:

Again, there is not really much more to add. I know the Constable of St. Brelade asked what the precedent was. I think the precedent was set when we had the last debate 2 weeks ago. I think the House on both occasions of the 2 votes were that there should not be a second casting vote and if the States are going to be consistent one would assume they would be consistent again, that no one should have a casting vote. We have heard the Minister say the quorum is 2. There are only 3 members anyway. Again, these things are not a rare ... well, they could be rare, but they happen, and all I am asking is if we believe in openness and we believe in only one vote we should support what I am proposing. So, the precedent was set 2 weeks ago on 2 occasions and I am asking on this occasion that we make it 3 in a row and I make the proposition and ask for the appel.

Senator A.J.H. Maclean:

Sir, if I may just before that, I answered a question for the Deputy of Grouville a moment ago and I gave the answer as 2. Of course that is correct when there are 3 commissioners. Of course the law does allow provision for up to 5, so in the future if there were 5 commissioners it would be a majority. It is in fact a majority which was what I was alluding to with 2.

The Bailiff:

Very well, the appel is called for then in relation to paragraph (e) of the Deputy's amendments. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 20		CONTRE: 19		ABSTAIN:
Connétable of St. Lawrence		Senator T.A. Le Sueur		
Connétable of St. Mary		Senator P.F. Routier		
Deputy R.C. Duhamel (S)		Senator T.J. Le Main		
Deputy of St. Martin		Senator J.L. Perchard		
Deputy R.G. Le Hérisier (S)		Senator A. Breckon		

Deputy J.B. Fox (H)		Senator S.C. Ferguson		
Deputy J.A. Martin (H)		Senator A.J.D. Maclean		
Deputy of Grouville		Senator B.I. Le Marquand		
Deputy S. Pitman (H)		Connétable of St. Ouen		
Deputy I.J. Gorst (C)		Connétable of St. Helier		
Deputy of St. John		Connétable of Trinity		
Deputy A.E. Jeune (B)		Connétable of Grouville		
Deputy of St. Mary		Connétable of St. Brelade		
Deputy T.M. Pitman (H)		Connétable of St. John		
Deputy A.T. Dupré (C)		Connétable of St. Clement		
Deputy E.J. Noel (L)		Deputy of St. Ouen		
Deputy T.A. Vallois (S)		Deputy of St. Peter		
Deputy M.R. Higgins (H)		Deputy K.C. Lewis (S)		
Deputy D. De Sousa (H)		Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)				

The Greffier of the States:

Very well, so then we return to Article 2 and Schedule 1. Does any Member wish to speak on Article 2 and Schedule 1 as amended? Very well, all those in favour of adopting Article 2 and Schedule 1 kindly show. Those against? They are adopted.

1.7 Draft Gambling Commission (Jersey) Law 200- (P.139/2009) - Article 3

The Bailiff:

Now, do you propose Article 3, Minister?

1.7.1 Senator A.J.H. Maclean:

Yes, I would, Sir, thank you. Article 3 gives the Commission the general function of supervising gambling, along with other functions conferred on, or transferred to it by any enactment. Schedule 2 transfers various functions under existing gambling legislation. The Article also ensures the Commission can do anything reasonably necessary or expedient for an incident with regard to any of the functions such as the supervision of gambling services, issuing of licenses and permits, the Judicial Greffier and the Treasury role and the Gambling Licensing Authority role. I maintain the proposition.

The Bailiff:

Is Article 3 seconded? [**Seconded**]

1.8 Draft Gambling Commission (Jersey) Law 200- (P.139/2009) - amendment of the Deputy of St. Martin to Article 3 (P.139/2009 (Amd.))

The Bailiff:

There is an amendment to Article 3 lodged by the Deputy of St. Martin and I will ask the Greffier to read the amendment.

The Greffier of the States:

Amendment 1, Page 15, Article 3: After paragraph (4) add the following paragraph: “(5) The Commission must ensure that it carries out its functions in a way that does not give rise to, or maintain, unnecessary burdens.”

The Bailiff:

Again, Minister, perhaps I can ask you to indicate in advance whether this is a matter you will be accepting?

Senator A.J.H. Maclean:

Yes, Sir, I can confirm that I will be accepting this.

1.8.1 The Deputy of St. Martin:

Again, I am grateful to the Minister. Again, I stress this is all about accountability and consultation. What this will be, it will be enshrined in law and I do not think there is much more to add and I make the amendment.

The Bailiff:

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

1.8.2 Senator A.J.H. Maclean:

Just briefly, Sir. As I have already said, I have to accept it. It is in line with the policy that has been published with regard to this and I would encourage Members to also accept the amendment. Thank you.

The Bailiff:

Does any other Member wish to speak? Very well, all those in favour of adopting the amendment kindly show. Those against? The amendment is adopted. Does any Member then wish to speak on Article 3 as amended? Very well, all those in favour of adopting Article 3 kindly show. Those against? Article 3 is adopted.

1.9 Draft Gambling Commission (Jersey) Law 200- (P.139/2009) - Articles 4 and 5

The Bailiff:

Do you propose Article 4, Minister?

1.9.1 Senator A.J.H. Maclean:

Yes, Sir. Article 4 sets out the guiding principles to which the Commission must have regard in carrying out its functions. They include the need for safeguards for vulnerable people to avoid crime and to be fair to consumers. Sir, I propose Article 4.

The Bailiff:

Is the proposal seconded? **[Seconded]** Does any Member wish to speak on Article 4? All those in favour of adopting Article 4 kindly show. Those against? Article 4 is adopted. Then we come to Article 5 where there is also an amendment. So, do you propose Article 5, Minister?

1.10 Senator A.J.H. Maclean:

Yes, Sir. Article 5 allows the Minister to give guidance and general directions to be followed by the Commission. The Minister may not give guidance or directions in relation to any particular person such as an investigation into or license application from an individual or as to how or when any social responsibility levy, as contained in Article 11, is to be applied by the Commission. The Minister must also avoid unduly affecting the Commission's independence. Sir, I maintain Article 5.

The Bailiff:

Is Article 5 seconded? **[Seconded]** Very well.

1.11 Draft Gambling Commission (Jersey) Law 200- (P.139/2009) - amendment of the Deputy of St. Martin to Article 5 (P.139/2009 (Amd.))

The Bailiff:

Now, there is an amendment to Article 5 and so I ask the Greffier to read that amendment.

The Greffier of the States:

Amendment 2, page 15, Article 5: (a) after paragraph (1) insert the following paragraph: “(2) The Minister may give to the Commission, in writing, specific directions as to the determination under Article 11(4)(c) of the manner in which gross win is to be calculated” and renumber the remaining paragraphs accordingly; (b) in paragraph (2) (renumbered as (3)), after “under paragraph (1)” insert “and any specific directions given under paragraph (2).”

The Bailiff:

Again, Minister, can you assist us on whether you will be accepting this one?

Senator A.J.H. Maclean:

Yes, Sir, I am accepting this one.

The Bailiff:

Very well, do you propose your amendment then, Deputy?

1.11.1 The Deputy of St. Martin:

Yes, sir. The Minister mentioned about the policy statement for regulation of gambling in Jersey which was presented to the States on 16th November - R.126. In actual fact it was lodged after my amendments and I think what has happened now is that I would possibly think that the Minister, having read my amendments, then incorporated part of his policy. I do not think there is much more to add. The Minister is accepting my amendment and I make the proposition, Sir.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the amendment? Very well, all those in favour of adopting the amendment kindly show. Those against? The amendment is adopted. Does any Member wish to speak on Article 5 as amended? Very well, all those in favour of adopting Article 5 kindly show. Those against? Article 5 is adopted.

1.12 Draft Gambling Commission (Jersey) Law 200- (P.139/2009) - Article 6

The Bailiff:

We come then to Article 6 where there are also amendments. Do you propose Article 6, Minister?

1.12.1 Senator A.J.H. Maclean:

Thank you, Sir. Article 6 requires the Commission to promote good practice and observance of the law on gambling and enables the Commission to issue, or approve, codes of practice including technical standards. A breach of a code is not an offence in itself. There may be evidence in proceedings to, for example, revoke a license.

The Bailiff:

Is that seconded? **[Seconded]** Very well.

1.13 Draft Gambling Commission (Jersey) Law 200- (P.139/2009) - amendment of the Deputy of St. Martin to Article 6 (P.139/2009 (Amd.))

The Bailiff:

Now, there is an amendment to Article 6 and therefore I will ask the Greffier to read that amendment.

The Greffier of the States:

Amendment 3, page 17, Article 6: (a) for paragraph (12) substitute the following paragraph: “(12) The Minister (a) must by Order require the Commission to consult in a specified manner before it approves a code; and (b) may by Order (i) prescribe any aspect of the manner in which an approved

code must be published, and (ii) impose any other requirement on the Commission in relation to approval of codes”; (b) after paragraph (13) add the following paragraph: “(14) The Commission must (a) in exercising its powers under this Article and performing its duty under Article 3(5) in relation to those powers, particularly take account of any burden that may be caused by any unnecessary inconsistency between a provision of an approved code and any similar provision in any other jurisdiction in which providers of gambling services also operate; (b) keep under review its exercise of its powers under this Article, and in particular keep under review the provisions of any approved code or of any technical standards referred to in such a code; and (c) specify, in its report on its operations prepared under Article 18(1)(b), the results of action taken under sub-paragraphs (a) and (b).”

The Bailiff:

Minister, are you able to assist on whether you will be accepting all or part of this amendment?

Senator A.J.H. Maclean:

Yes, Sir. I will certainly be accepting all bar (c).

The Bailiff:

You will be accepting paragraph (a) of the amendment?

Senator A.J.H. Maclean:

Paragraph (a), yes, Sir.

The Bailiff:

That changes paragraph 12, so you are going to be accepting that.

Senator A.J.H. Maclean:

Yes.

The Bailiff:

In relation to paragraph (b) you accept 14(a) and (b), but not 14(c), is that right?

Senator A.J.H. Maclean:

That is correct, Sir.

The Bailiff:

Very well. What I suggest then is that the Deputy proposes and votes on paragraph (a) first of all... Deputy, because that seems to be agreed. In relation to (b) I suggest you propose it all as one and then if Members wish they can vote separately on paragraph (c). So, Deputy, would you like to propose sub-paragraph (a) of your amendment? That is the one that puts in a new paragraph 12.

1.13.1 The Deputy of St. Martin:

Again, the spirit of openness, the spirit of consultation, that is what it is. It has now been enshrined within R.126. The Minister accepts it. I will not speak on the other piece until we get there, but I make the proposition, Sir.

The Bailiff:

Very well. Is the proposition seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting paragraph (a) of the amendment kindly show. Those against? Paragraph (a) is adopted. Do you wish to propose paragraph (b) Deputy?

1.14 The Deputy of St. Martin:

Yes, Sir. This is an additional paragraph and again the rationale was yet again that if we are going to have this Regulation it should be enshrined in law and not only that, when it comes out in a report, if Members will have a look at it, it is overleaf on the top of page 4. I am saying that when the annual report is produced it should also be included in the report. It seems a bit inconsistent. We heard yesterday how important this particular law was and yet here we have the Minister saying today: "Well, that was yesterday, today is another day and we do not really need to be that concerned." But all I am asking for is consistency. We want consultation. We want it enshrined in law and I am asking that it now be enshrined in law under an additional paragraph as sub-paragraph 14. I make the proposition.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on paragraph (b) of the amendment?

1.14.1 Senator A.J.H. Maclean:

I do not accept this, or rather I feel it is unnecessary, but I am not going to oppose it. I understand the principles of what the Deputy is saying, so I am very happy with that. I will speak separately on (c) when we come to that.

The Bailiff:

I am sorry, what is being proposed at the moment is paragraph (b) of the amendment. That is a new paragraph 14 which has within it an (a), (b) and (c), so that is what is being proposed at the moment. So, if you oppose part of it, namely (c), you should speak on it now.

Senator A.J.H. Maclean:

Is that the one relating to ...

The Bailiff:

"Specify in its report on its operations prepared under Article 18(1)(b)." Now, as I understand it you are accepting the first 2 sub-paragraphs; (a) and (b) you are happy with.

Senator A.J.H. Maclean:

I am indeed, Sir, but not (c).

The Bailiff:

But you do not want (c), so I think you must speak to that.

Senator A.J.H. Maclean:

Very briefly then, Sir. It is to do with the annual report. It talks about how codes were considered and will be reviewed over the past year, but what happens of course when the Commission has perhaps 20 or 30 codes in the future the Annual Report would be in a position where it could be the size of a Bible or 2 Bibles. It becomes a very cumbersome document and in that respect we do not think it is particularly necessary for such a document to be of that size.

The Bailiff:

Does any other Member wish to speak on the amendment?

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

I am somewhat concerned by (a) of the proposed Article 14: "In exercising its powers under this Article and performing its duty under Article 3(5) in relation to those powers, particularly take account of any burden that may be caused by any unnecessary inconsistency between a provision of an approved code and any similar provision in any other jurisdiction in which providers of gambling services also operate." It strikes me that in gambling, as in many other activities, many

jurisdictions have perhaps lower standards than we might particularly want to have and it strikes me that you get a race to the bottom. We see it in financial services; one centre is played off against another and in many areas of operation we are always looking to the lowest common denominator. I can imagine in gambling international groups can cite many examples of what we would consider very poor standards and say that we should be adopting that type of thing. I think this is totally unnecessary and I oppose this particular provision.

The Bailiff:

Does any other Member wish to speak?

1.14.3 The Deputy of St. Mary:

I was somewhat surprised. The Minister was clearly hesitant when he said he was accepting this and came around to it in a way and I would fully endorse what Deputy Higgins has just said. This gives *carte blanche* to a race to the bottom. What it implies is that Jersey could be in a position where because another jurisdiction has certain provisions, or certain lack of provisions, then the Commission is in a very difficult position to say: "No, we are not going there. Jersey is going to be different in this regard" and I think we are talking about the right of Jersey to have possibly different standards, possibly higher standards than elsewhere and I regard this amendment as quite dangerous and I do question exactly to what extent the Minister agreed with it and his hesitancy and I do urge Members to think very deeply about this one.

The Bailiff:

Does any other Member wish to speak?

1.14.4 Senator S.C. Ferguson:

If you look at the operation of paragraph (c) what it refers to is the keeping of proper accounts and proper records - no problem - and include a report on its operations during the year. Well, I would expect, if they have closed down an operation, if they have taken an operation to court, I would expect it to be mentioned in the report at the year end. So, I am not quite sure why the Minister has problems with that one, but perhaps the proposer could explain exactly what he had in mind when he drafted this amendment.

The Bailiff:

Does any other Member wish to speak? Very well. I call upon the Deputy of St. Martin to reply.

1.14.5 The Deputy of St. Martin:

I will start off with the 2 gentlemen who were on the Scrutiny Panel, who would have had the opportunity of scrutinising it. When we look about the lower standards, I think what we have here is that we have heard yesterday that we have a gentleman of the highest integrity that is being appointed to be the chairman. A man who is well-versed in it and what we are looking for here is to ensure that no doubt if there are inconsistencies they will be addressed and we will be looking at the highest standard. That is what the whole purpose of having this particular law is. What we are saying here is: "Let us enshrine it in law." I believe the Minister accepts this because it is logical and I would have thought really Deputy Higgins and the Deputy of St. Mary would also have considered it to be logical. So, I do not see a problem with it and I hope Members will support it. Now, if Members look at page 26 of their report, at the top of the page under (b) this is where Senator Ferguson was mentioning that what I am asking for, and again it is very complicated because we also must look at page 4 of my amendment. At the top of the page it says: "(c) specify, in its report on its operations prepared under Article 18(1)(b), the results of action taken under subparagraphs (a) and (b)." In other words, what I am saying is that if indeed the report is produced it should show what action is taken. I disagree with the Minister; I do not think it is going to take pages and pages. It may be just a few lines saying: "We have checked this out and we are happy with it" and that is basically all I am asking for. This is what this particular amendment

is about. So, just for clarity, the Minister is accepting parts (a) and (b) back on page 3 of my amendment, but does not accept, although I think he could be lukewarm about it, the Article (c) which again says: “when the report is produced it will specify what action is taken.” I do not know if there is much more to add. I would ask that Members support what I am asking in full; (a), (b) and (c) and I ask for the appel.

The Bailiff:

Now, in relation to the vote; Minister, are you asking for a separate vote on the separate divisions, or as a whole?

Senator A.J.H. Maclean:

Separate on (c) please, Sir. Sorry, separate.

The Bailiff:

Very well. So, the first vote then is on paragraphs (a) and (b) of the new paragraph 14 which the Deputy wishes to put in. Are Members clear about that? (a) and (b). So, all Members in favour of adopting paragraphs (a) and (b)? The appel is called for then in relation to subparagraphs (a) and (b). I would like Members to return to their seats and the Greffier will open the voting.

POUR: 32		CONTRE: 9		ABSTAIN: 0
Senator T.A. Le Sueur		Connétable of St. Helier		
Senator P.F. Routier		Connétable of St. Brelade		
Senator P.F.C. Ozouf		Connétable of St. Mary		
Senator T.J. Le Main		Deputy of St. Ouen		
Senator F.E. Cohen		Deputy of St. John		
Senator J.L. Perchard		Deputy of St. Mary		
Senator A. Breckon		Deputy M.R. Higgins (H)		
Senator S.C. Ferguson		Deputy A.K.F. Green (H)		
Senator A.J.D. Maclean		Deputy J.M. Maçon (S)		
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy D. De Sousa (H)				

The Bailiff:

Very well. So, then the Greffier will reset the voting. Is the appel called for in relation to paragraph (c)? So, now the matter before the Assembly is subparagraph (c) of the proposed new paragraph 14. The Greffier will open the voting.

POUR: 22		CONTRE: 19		ABSTAIN: 0
Senator A. Breckon		Senator T.A. Le Sueur		
Senator S.C. Ferguson		Senator P.F. Routier		
Connétable of Trinity		Senator P.F.C. Ozouf		
Connétable of St. John		Senator T.J. Le Main		
Connétable of St. Saviour		Senator F.E. Cohen		
Connétable of St. Lawrence		Senator J.L. Perchard		
Deputy R.C. Duhamel (S)		Senator A.J.D. Maclean		
Deputy of St. Martin		Senator B.I. Le Marquand		
Deputy R.G. Le Hérisssier (S)		Connétable of St. Ouen		
Deputy of Grouville		Connétable of St. Helier		
Deputy of St. Peter		Connétable of Grouville		
Deputy S. Pitman (H)		Connétable of St. Brelade		
Deputy K.C. Lewis (S)		Connétable of St. Clement		
Deputy I.J. Gorst (C)		Connétable of St. Mary		
Deputy A.E. Jeune (B)		Deputy J.B. Fox (H)		
Deputy T.M. Pitman (H)		Deputy of St. Ouen		
Deputy A.T. Dupré (C)		Deputy of St. John		
Deputy E.J. Noel (L)		Deputy of St. Mary		
Deputy T.A. Vallois (S)		Deputy A.K.F. Green (H)		
Deputy M.R. Higgins (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

Does any Member then wish to speak on Article 6 as amended? All those in favour of adopting Article 6 as amended kindly show. Those against? Article 6 is adopted.

1.15 Draft Gambling Commission (Jersey) Law 200- (P.139/2009) - Articles 7-10

The Bailiff:

Now, Minister, there are no amendments until Article 11, so do you wish to propose Article 7 to 10 inclusive?

1.15.1 Senator A.J.H. Maclean:

Yes, if I could, Sir, thank you. Article 7 requires the Commission to publicise information and advice and to give advice to the Minister. It also requires the Minister to consult the Commission in respect of changes to legislation relating to gambling. Article 8 enables the Commission to co-operate with overseas authorities that perform similar functions, or investigate offences relating to gambling. It enables the Commission to co-operate with overseas activities by either an article of this law or approval from the Attorney General, even though low legislation is being contravened in Jersey and even though there will be no direct benefit to the Commission's own functions. The Commission and the Attorney General in relation to approval can take account of whether the assistance is likely to be reciprocated and must be satisfied that the request is for legitimate purposes. Article 9 imposes a social responsibility function on the Commission to avoid problems from gambling, particularly for children and other vulnerable people and to assist those with problems. The Commission can exercise the function directly or by funding others. Article 10 requires the Commission to establish a social responsibility fund accounted for separately from its other funds and be used solely for its social responsibility function. Sir, I propose Articles 7 to 10.

The Bailiff:

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on Articles 7 to 10?

1.15.2 Deputy R.G. Le Hérissier:

I have had some exchanges with the Minister on this because in a way this is the toughest part of the Law, but by the same token it is one of the means I suppose by which the more reluctant among us are being persuaded, or may be persuaded. All I would say is that I hope this will be reported on because, as the Minister himself graciously accepted, the evidence on how people get into addiction, whether people who get into addiction or whether people who become serious gamblers, are doing so as part of a multi-problem approach, so to speak, or whether there is a way of isolating the gambling. These are all major issues which have never really by research been fully wrestled to the ground and I hope the Minister will agree that he has to report fully on this because in a way this is a balance to the Law, and it is frightfully important and we have to go beyond general statements of trying to help people and trying to deal with the inevitable social problems. I am sceptical of the figure of 0.06 which strikes me as being a very, very tight definition of what a problem gambler is. I am very sceptical of that because I think the problem does exceed that. But that said, I do think using the word "responsibility"... this is a responsible approach but I do not think we ought to run away with the facts, that having inserted this into the Law, having heard some very well-meaning comments from the Minister, that this is going to be the solution. This is going to be an ongoing issue and it is one that has to be monitored carefully. As they say in terms of research and where this is going, the jury is probably still out.

1.15.3 The Deputy of St. John:

Under Article 10 the establishment of a social responsibility fund, I sincerely hope that this fund will be of a considerable figure because if we do have social responsibility it has to be there to be able to fund the necessary problems that may arise, and let us hope we do not have problems, but in the law of averages it will be there somewhere along the way and I would hate to think that the funding that we put aside, shall we say, for S.S.I.s (Sites of Special Interest) and the like, which are just a token funding, and it will not be of that nature. It will be something that will be a percentage of, I would say, a gaming tax that should be given serious consideration by the Minister for Treasury and Resources and a percentage of that, shall we say, maybe 10 per cent, put aside annually to look after anything that may arise in this particular area. I would expect a social fund to be running probably in millions, not in hundreds of thousands, once it has been established and be held at that figure and topped-up annually, depending on any course that may occur.

1.15.4 The Deputy of St. Martin:

I am glad I am speaking after the Deputy of St. John rather than before, and probably I can help the Minister out on this one as well, because quite clearly the Deputy of St. John has not read paragraph 11 and all that goes on with it because there are a number of amendments which will show there. But I think everyone welcomes a social responsibility fund. The industry welcomes it and indeed there are amendments to it which I think again are being accepted by the Minister because again it should be compatible with what the problem is in Jersey, and I heard about the figures yesterday saying that we probably could have 400 on the balance of what you may have in the U.K. but bear in mind in the U.K. you have casinos and commercial bingos. In Jersey we do not and I did take the trouble of checking out with the Samaritans. I also checked out with the Salvation Army. I also checked out the Citizens Advice Bureau and in fact Senator Le Main will concur with me that there are certainly ... he may not concur with me about the Samaritans and Salvation Army, but as far as those 2 bodies are concerned, they are not aware of any major problems. There will always be people who will gamble more and people who drink more, but generally speaking in Jersey we are very, very fortunate. There are the odd people who will get it. As far as the Citizens Advice Bureau, again, they said that they were not aware of anyone falling foul of it, except the fact - and I have to go on this with what Senator Le Main says - that there were

concerns about credit card gambling, but that was because that was through e-gaming and, bearing in mind, as we heard yesterday, it is very much a cash business. So, people go in with their cash and they come out, hopefully with their cash, or they do not. So, we do not have a major problem, but what we are going to have in place is a social responsibility fund which later on we will be told about the sort of figures that are required. The one thing I think should be borne in mind is that it is quite interesting that the industry is going to pay for a social responsibility fund and yet possibly the greatest responsibility we should be having are those people who drink alcohol, and yet there is no social responsibility fund there and when one looks, indeed we will come to it when we debate on P.141, but when one looks at the fees that are for licensing like large supermarkets, when one pays £114 for their permit, and yet there is no social responsibility fund there. So, this is one up again to the gaming industry, Members should support it. I know they are going to and we will look at Article 11 where we have some amendments to it, but certainly I would hope Members will support it.

1.15.5 Deputy J.M. Maçon of St. Saviour:

Yes, I am supportive, but as along the lines of Deputy Le Hèrissier, I am sceptical of the numbers as I know in Jersey there are people, for whatever reason, we have slightly more addictive personalities over here and so I do think that figure will perhaps be slightly larger than whatever average it has been taken from, but I think Members should just bear that in mind.

1.15.6 Deputy T.A. Vallois of St. Saviour:

I would just like the Minister to elaborate on Article 9(2)(b) where it says that: “The action that may be taken would be by way of research, education, information, prevention, treatment, counselling or other measures” whether he could give examples of how that would be approached. Also whether this would mean that there would be more advertising and such of gambling because we have seen, as in Europe, they have removed advertising for such things as alcohol which in turn has reduced, but if we were to advertise - not meaning that we were doing it on purpose, but just for more information - but it gave the message out there to go and do it, it would not really be that “social responsibility”. So, if the Minister could just elaborate on exactly how those measures would be taken in.

1.15.7 The Deputy of St. Mary:

Yes, just to clarify on the figures to begin with. Deputy Le Hèrissier queried the 0.6 per cent. Now, yesterday I said that 350,000, according to this magazine I was reading, were ensnared by gambling, whatever that meant, and the Minister queried that and produced ostensibly his own figures of 0.6 per cent. In fact they are the same figure and the source given in my magazine was government research. So, I think we are talking about the same issue; 0.6 per cent in the U.K. (United Kingdom) is 350,000 and it corresponds to 450 in Jersey. Now we hear from the Deputy of St. Martin that he has been to various sources of information - the Salvation Army and so on - and said there is no major problem in Jersey and what we must do is we must be compatible with the problem. But that is the very issue, is it not? The Deputy of St. Martin is claiming that there is a very small problem in Jersey and yet the statistics show that the likelihood is that there are 450 people out there, give or take, who are affected by gambling. So, we then come to Article 7(2) and: “The Commission must give advice to the Minister about (a) the incidents of gambling and (c) the effects of gambling.” Well, amen to that, but my question to the Minister is can you give an absolute commitment - and someone else has mentioned this in terms of the money involved - that the funding will be adequate to do the research because I do not think this research is very easy. To get at the incidents and to get at the effects may not be easy and the Commission cannot do what it must do without the funds to do it. So, I just want to hear that commitment from the Minister that the funding will be adequate. Because what I do not want to do is be in the position in this House of hearing about the problems after they have happened and hearing about some disaster or disasters in people’s family lives and find that they have been wrecked because we did not pick it

up because the research had not been done. So, I do want to hear that commitment from the Minister. Compatible with the problem; well, we do not know what the problem is. So, please, the funding must be adequate and I want the Minister to say that.

Deputy R.G. Le Hérissier:

Sorry, Sir, just a point of clarification and the Minister may confirm it; it is 0.06?

1.15.8 Senator P.F.C. Ozouf:

Just very briefly, I do not know how the Deputy of St. Martin comes to the conclusion that he does not think that there is necessarily a problem in Jersey. I think that we have to be honest and say that we do not know the extent of addictive behaviour and gambling problems in Jersey and I suspect that there is probably more than we would think. Now, I was very struck by a visit that I made to Stopford Road to the Drug and Alcohol Service, and I saw a number of individuals there who were being cared for and looked after and assisted by the service. I would encourage all Members who have not been to see them to understand the work that they do to meet them and to understand. We do not have the research on the incidents of gambling addiction. I have had experience of knowing somebody who had a parent that was addicted to gambling. It was hidden; it was certainly stigmatised if it was hidden. The gentleman concerned had an individual collecting the amount of money that he owed for the betting shop for his addictive gambling on horse races for a number of years. This was a problem to the family, but it was something that it should have been hidden; it was stigmatised. I think that we should not. I think we have to accept that there are going to be some people who are going to be affected by gambling, and they should be given every single assistance to do so and they should not be stigmatised. We should be accepting that there is probably a bigger problem and it is a hidden problem than we know about. Just from a taxation point of view, I heard the comment of the Deputy of St. John about reviewing tax. As far as I am concerned, while the levy is an issue for levy to dealing with social responsibility, from a taxation point of view I fully intend to review all of the gambling activities in Jersey as part of the fiscal strategy review and where there is inappropriate or low levels of taxation in gambling activity I will have no hesitation in having that reviewed and bringing proposals forward as part of the fiscal strategy review.

The Bailiff:

Yes, can I just remind Members this is beginning to sound like a debate on the principles, but we are simply debating Article 7 and the other Articles about whether the Commission should give advice to the Minister on these matters.

1.15.9 Deputy A.E. Jeune of St. Brelade:

Just briefly, my interpretation of what is in front of us here is that this Law does not exacerbate any problem of addiction, but what we are looking at here does give some address to any of those issues and I think we should welcome it. Having attended some of the presentations I think it is very evident that the Commissioners do take this social responsibility very, very seriously.

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

From my experience of life when discussions such as this and new laws and new regulations, *et cetera*, come to light usually one - through either a person with a problem or through relatives or through some other means - brings it to the attention of politicians or people who deal with such concerns. We have heard from the Deputy of St. Martin that he has already been and done some checks. I have heard nothing untoward at this moment in time. That does not mean to say there will not be people out there, and there will always be a small percentage that slip through any net, and it does not mean to say that we must not be concerned and we should be endeavouring to do something about it. However I was very heartened at one of the pre-meetings at the intentions and what I believe to be a very capable Commission chairman who clearly has a tremendous amount of knowledge in this field and we should be very lucky to have such a person on board. I have no

doubt that this piece of legislation and the subsequent work that will be done by the Commission will ensure that at least Jersey has every opportunity of ensuring that these people come within the net. If there is a question of financial shortage in dealing with it, it does not stop any Member of this House from returning to the House and bringing this to the attention of the House and for the House to make a decision to make any improvements that might be necessary.

The Bailiff:

Does any other Member wish to speak on Articles 7 to 10? Very well, I call upon the Minister to reply.

1.15.11 Senator A.J.H. Maclean:

I thank all Members for their comments. I will try and address some of the queries that have been raised. Deputy Le Hèrissier asked about a number of issues. I know he has a concern about addiction and rightly so; I think every Member in the Assembly has a concern in that area. He was interested to know the level of information available and showed some scepticism to, I believe, the U.K. prevalent study that was carried out. Just to confirm that the incidents from that study as far as problem gamblers are concerned is 0.06 per cent. That is the identified level of problem gambling from that U.K. prevalent study. If you extrapolate that to Jersey it shows potentially the level of problem gamblers in the Island is running into a couple of hundred; something of that order. But nevertheless if it is one person with a problem they have to be looked after and we have to make certain, and I am confident that the introduction of this Gambling Commission will improve significantly the position for local people who have addictions to gambling. Whereas there was nothing in place before, there is now. I would also say that, as I mentioned yesterday, I attended an international summit laid on by the U.K. Government and it was clear from representation there that governments around the world are taking very seriously the issue of social responsibility with regard to gambling. It is very high on the agenda and that is absolutely right that it should be. The Deputy of St. John - a similar subject about social responsibility - quite rightly just to extend that he was asking about the size of the fund. The answer to the question is that it will be proportionate to the needs. I have already mentioned, I think I referred yesterday to TAC Aid(?) who have been to the Island; they have been to Highlands. They are an educational charity and they would certainly be keen to set up appropriate courses locally. Of course that needs funding and the funding would come from this particular fund. The Gordon Moody Association: we have a website already as an opening point and the intention is to extend that and eventually - and we are working with Health and Social Services in the Island - to allow trained local individuals to be able to dispense appropriate advice to those who have addiction problems with gambling. I would make one comment about one point the Deputy of St. Martin made which was he referred to the Citizens Advice Bureau. We of course have also spoken to Citizens Advice and other agencies to assess ongoing monitoring perspective, the problem gambling issue. They did point out that they did not seem to have a great deal of understanding that there was very much debt that they could identify. It does not mean it is not happening; it is just we are not identifying it. But the Deputy did talk about credit cards in relation to the Citizens Advice Bureau. I think their comments, if I am correct, are related to general debt which is a problem with credit cards, but not specific to gambling or indeed for that matter to e-gaming. It is a general debt issue. I have more or less covered, I think, Deputy Vallois' point. She was asking about research. Yes, ongoing research will be undertaken by academics to look at Jersey specifically and will be funded and co-ordinated from the Commission. The other issues with regard to that are education, schools; the Commission will be arranging for schools, better information for students and so on and, as I have already said, working with Health and Social Services. The Deputy did raise a good point about advertising. Advertising is not currently allowed. The new gambling laws will be brought back to the Assembly next year and the issue of gambling will be addressed within those, so that will be another matter to be addressed. It is a sensitive subject. The U.K. is now more liberal than they were; we certainly are not, at this stage. With regard to advertising within licensed betting offices -

and this is an important point and this is where the Commission has done some very good work - they have ensured that the licensed betting offices are publicised with appropriate advertisements, help lines and so on for gamblers so that they can get assistance, if they need, on machines and other areas and that is important. I think I have covered just about all the points. Deputy Jeune was right, this is a positive step; it is going to help people. The Deputy of St. Mary wants some reassurance. I think I have hopefully given that, that the funding for the Social Responsibility Fund will be proportionate to allow us to discharge and ensure that individuals who have problems with gambling are appropriately looked after, so I can give him that assurance. It is central to everything that we are trying to do with the introduction of this new Commission. So, I maintain the Articles.

The Bailiff:

Very well, all those in favour of adopting Articles 7 to 10 inclusive, kindly show? Those against? Those Articles are adopted.

1.16 Draft Gambling Commission (Jersey) Law 200- (P.139/2009) - Article 11

The Bailiff:

Now, there are amendments to Article 11 and therefore, Minister, I invite you to propose Article 11.

1.16.1 Senator A.J.H. Maclean:

Article 11 allows the Commission to fund its social responsibility function by raising in any year in which it is appropriate a social responsibility levy which must be paid into the Social Responsibility Fund and gambling service providers holding specified licences from gambling service providers. The Commission must publicise any levy and persons who hold or should hold specified licences will then have to declare their gambling turnover to which a percentage rate is applied to produce the levy. The rate may be not more than 2 per cent unless the States sets a higher percentage by regulations.” So, I propose Article 11.

The Bailiff:

Is it seconded? **[Seconded]**

1.17 Draft Gambling Commission (Jersey) Law 200- (P.139/2009) - amendment of the Deputy of St. Martin to Article 11 (P.139/2009 (Amd.))

Now, there is an amendment to Article 11 by the Deputy of St. Martin and I will ask the Greffier to read the amendment.

The Greffier of the States:

Amendment 4, page 24, Article 11: (a) in paragraph (1) after the word “may” insert the words “after complying with an order under paragraph 14”; (b) in paragraphs 4(c), 4(d)(i), 8(a) and (b), 9(a) and (b) and 10 for the word “turnover” wherever it occurs, substitute the words “gross win”; (c) in paragraph 4(d)(iii) for the words “2 per cent” substitute the words “1 per cent”; (d) after paragraph 13 add the following paragraph: “14. The Minister must by order require the Commission before it makes a determination under paragraph (1), (a) to consult in a specified manner with those from whom the Commission proposes to raise the levy and (b) to give an opportunity in a specified manner for donations to be made to the Social Responsibility Fund to such an extent as to render the proposed levy unnecessary.”

The Bailiff:

Minister, could you indicate which, if any, of these you are accepting?

Senator A.J.H. Maclean:

Yes, Sir, I am accepting (b) and (c).

The Bailiff:

Well, (a) is consequential, so not (d) in other words?

Senator A.J.H. Maclean:

Correct, Sir.

The Bailiff:

Very well then, Deputy, (a) and (d) go together because (a) is consequential on (d), so is the best thing for you to propose (b) and (c)?

The Deputy of St. Martin:

Yes, Sir.

The Bailiff:

Which are accepted and then propose (a) and (d) separately?

1.17.1 The Deputy of St. Martin:

Yes, Sir. Again, I am grateful for the Minister accepting, but I think in his comments it says that this will correct an error in drafting instructions and substitute the “turnover” for “gross win” and what we will have now will be “gross win” rather than “turnover”. It was, as I said, an error in the draft in the print. Likewise, after discussion - the Deputy of St. Martin and the commercial operators - it says: “An amendment to the maximum levy of 1 per cent gross win is also acceptable.” So, really I do not think there is much more to add on that. Shall we leave it at that, Sir, and I make the proposition.

The Bailiff:

Are paragraphs (b) and (c) seconded? [**Seconded**] Does any Member wish to speak on paragraphs (b) and (c)?

1.17.2 Senator A.J.H. Maclean:

Just very briefly, Sir, yes, just to thank the Deputy of St. Martin. It has been helpful, these amendments, and as I have said we accept them.

The Bailiff:

Does any other Member wish to speak?

1.17.3 The Deputy of St. Mary:

Sorry to be a bore, but I do feel very strongly about this and I am just very surprised. We had the original saying it must not be more than 2 per cent, the rate of the levy must not be more than 2 per cent and this is already the levy after the failure of the voluntary levy. This is if we move to the statutory levy and where the original proposal was not more than 2 per cent, and now we are dropping it to not more than 1 per cent in the original legislation. So, we are saying that we know now already that we do not need more than 1 per cent and I would like to know the basis - any research basis - of what the level of money would be when it comes in at 1 per cent and whether that is adequate to do the research which the Minister has just promised us will happen, the mitigation which will happen, the harm reduction, the education which will all be funded. We have been told it will be funded and now we suddenly limit and go down from 2 per cent to 1 per cent and I would just like to have some figures as to whether this is viable and what other jurisdictions and I would just like some justification for this reduction.

The Bailiff:

Does any other Member wish to speak on paragraphs (b) and (c)?

1.17.4 Deputy J.G. Reed of St. Ouen:

I would just like the proposer in his summing up to give a clear explanation of why there is a difference between “gross win” and “turnover” and if there is any difference and whether that difference relates to financial matters.

1.17.5 Senator B.I. Le Marquand:

Yes, just picking up a point of the Deputy of St. Mary, I think we need to have some figures here because 1 per cent or 2 per cent are quite meaningless unless we know what the calculations are. So, I would ask the proposer of the amendment if he is able to tell us how much 1 per cent is or how much 2 per cent is, then we can, I think, make an informed decision.

1.17.6 The Deputy of St. John:

I come from the same corner as the Deputy of St. Mary basically and also Senator Le Marquand because without the actual figures - the previous figure - I noted the comments of the proposer of the amendment saying that I had not read this, but I had read it and came up with different things in my mind which are obviously different to what the proposer is saying. Possibly if he had spent some time on Scrutiny in the last year he might have been able to take this into a Scrutiny Panel and had it scrutinised, but it is all well and good for him to criticise other people, but can he give us what the difference is between one and 2 per cent in actual pounds and pence.

1.17.7 Senator S.C. Ferguson:

Just a quick one to follow the Deputy of St. Ouen; if the Deputy of St. Martin would explain if we are looking at a set of accounts for the betting concern is the “gross win” a lower figure than “turnover” and if so how do you get from “turnover” to “gross win” or *vice versa*.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon the Deputy of St. Martin to reply.

1.17.8 The Deputy of St. Martin:

I think it is very important for Members to understand at the moment we are starting from zero. It is not me starting from zero, but this fund. People do not know - this is the whole thing about it - but it is very important to remember that what is happening is that this money is going to be “ring fenced”. It is part of a collection, a gathering of funds which will go into a pot and then from that pot one will have to find out what the concerns are at the moment because again we do not know. I have said that I have done a bit of homework and I have no reason to believe it, but I think this could be said there are a lot of secret gamblers that people are not aware of, like the secret drinkers people do not know about, and secret drugs. We do not know... and I am speaking here now - indeed it probably should come from the Minister - but the figures, I do not know what the figures are because people do not know. This is the whole thing about it, but again what is the point of taking a lot of money out of people before you know you need it. There has been that bit of consultation which was done some months ago before this was all put together where I gather from the conversations - because I was not party to it - that it was agreed that a set fee would be probably... I think the Minister wants to help me out on this one. I think it was a set fee, but I will let the Minister interject, if I could.

Senator A.J.H. Maclean:

If it is helpful to Members, we do not know the amounts because we do not have access to the bookmakers’ books, but what we can do, we can estimate from G.S.T. (Goods and Services Tax) returns to give us a rough estimate of the turnover in the industry as a whole and I think I indicated yesterday that we believe that is something in the region of about £10 million. In consultation with the Shadow Commission the belief is that 1 per cent is a very reasonable starting point for this

particular levy. I should add that we can increase that if necessary by Regulations in due course if it does not prove to be appropriate.

The Deputy of St. Mary:

On a point of clarification, the amendment is going to bring in “gross win” which the Minister has accepted rather than “turnover”, so what is the difference?

Senator A.J.H. Maclean:

“Gross win” amounts roughly to profit whereas “turnover” is exactly as it states. The point that I am making with regard to the 1 per cent levy is that the 1 per cent levy is appropriate, we believe, as we see it at the moment.

The Deputy of St. Martin:

I can tell you again one of the difficulties that the Minister had, and indeed I did when we had to look at these figures, was we were looking at the unknown. One does not know, it has never been done in Jersey before and we have got to start from somewhere and it was considered that this was a way to start. We have said before the money will be “ring fenced”; it is there. Those Members who may have got their copy of the licensed betting shop industry, remember I circulated these by email on Monday night and it makes it clear here the industry contributes about £2.8 million to the Jersey economy and these are their figures. I do not know whether they are right or wrong. I have no reason to disbelieve them any more than what the Minister would, but again this is very much a starting point and I think we said earlier that there was an error in drafting. It was intended to be as it is now and not as it is drafted and my amendment now will clarify the situation. This is “gross win” rather than gross “turnover”. If one thinks about it, obviously that is the profit they make - the gross win - rather than the turnover. So, I do not know if there are many other questions I can answer, other than just repeating myself.

Deputy I.J. Gorst of St. Clement:

Sorry, I wonder if the Deputy would give way and perhaps I am at fault here for not listening closely, but I wonder if he could just confirm what the Minister said that the “gross win” is the profit of the undertaker of the gambling business - it just seems, I am probably getting confused - and not the “gross win” as in the payout win, but I wonder if some clarification could be given.

The Deputy of St. Martin:

Yes, I would have thought really it was the “gross win” is what you make. Sorry, the Attorney General is going to make it...

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

I hesitate to stand, but this is not really a matter of legal advice, but as I have the opportunity of a computer I have researched “gross win” [Laughter] and to assist, the definition is: “In a gambling business this is the amount the company has won and its customers have lost over a given period.”

Deputy I.J. Gorst:

Sir, perhaps I should have used my BlackBerry; sorry. [Laughter]

The Bailiff:

Very well, so then the matter before the Assembly is paragraphs (b) and (c) of the amendment of the Deputy of St. Martin.

The Deputy of St. Martin:

The appel please, Sir.

The Bailiff:

The appel is called for in relation to those 2 subparagraphs. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 21		CONTRE: 15		ABSTAIN: 0
Senator P.F. Routier		Senator B.I. Le Marquand		
Senator P.F.C. Ozouf		Connétable of St. Ouen		
Senator T.J. Le Main		Connétable of Trinity		
Senator F.E. Cohen		Connétable of St. Peter		
Senator J.L. Perchard		Connétable of St. Mary		
Senator A. Breckon		Deputy R.G. Le Hérisssier (S)		
Senator S.C. Ferguson		Deputy J.A. Martin (H)		
Senator A.J.D. Maclean		Deputy of St. Ouen		
Connétable of St. Helier		Deputy S. Pitman (H)		
Connétable of St. Saviour		Deputy of St. John		
Connétable of St. Clement		Deputy of St. Mary		
Connétable of St. Lawrence		Deputy T.M. Pitman (H)		
Deputy R.C. Duhamel (S)		Deputy T.A. Vallois (S)		
Deputy of St. Martin		Deputy D. De Sousa (H)		
Deputy of Grouville		Deputy J.M. Maçon (S)		
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				

The Bailiff:

Very well, then, now, Deputy, do you propose subparagraphs (a) and (d)? It is really (d); (a) is simply consequential upon it.

1.18 The Deputy of St. Martin:

This really is a new paragraph and again in the comments the Minister thinks they are not necessary. We did discuss it yesterday and we also discussed it with the Attorney General and I will maintain that this is a necessary part of it. The Minister is of the view that Article 14 is already encompassed within Article 10(2)(c). If Members would like to look at page 21 of P.139 it talks about: “Any donation or grant that it believes was intended wholly or primary to assist in the discharge of the Social Responsibility Fund.” There is no mention whatsoever of consultation and what I am asking for is when anything is going to be considered there should be consultation. Again I am back again to where I started - the spirit of openness and consultation - and Article 14 says that in future there will be this consultation, and again we have accepted the principle that there should be this consultation and that is what I am asking for. There may well be the need to seek clarification from the Attorney General, but I maintain that it is a very important part if we want to be consistent, we want the Law to say what it is, it is going to be open and it is going to be transparent, but you need that consultation. I make the proposition.

The Bailiff:

Is the amendment seconded? [**Seconded**] Does any Member wish to speak on paragraphs (a) and (d)?

1.18.1 Senator A.J.H. Maclean:

On (d), the need for a fund stems from the requirement that the industry needs to meet its social debt as we have discussed. Although the overwhelming majority of people gamble responsibly, there are a small, but nevertheless, important minority who get into difficulties. The amendment

would require the Minister to specify the manner in which the Commission would consult on the matter of raising a levy and also provide first for a voluntary route for donation. This is already provided for in Article 10(2)(c). Ensuring that the Minister makes an Order to do what the Commission would have it do in any event seems unnecessary and the draft Law does make provision for donations. To that extent I believe that this part of the amendment is not required as I have already stated.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon the Deputy to reply.

1.18.2 The Deputy of St. Martin:

I am disappointed that the Minister has not accepted this. Again I will just read out to Members what it says. I am asking that in future the Commission: “to have the opportunity in a specified manner for donations to be made.” This is going to affect the industry. They should be entitled to be consulted about it. You cannot have an Order just made on people and say the whole spirit of this we have accepted. There should be a spirit of consultation and this just endorses where we are. The Minister has not accepted it in the first place and Members have supported my proposition or my amendment to it. I would ask they again support my amendment. This is all about consultation. I make the amendment and call for the appel.

The Bailiff:

Very well, the appel is called for in relation to paragraphs (a) and (d) of the amendment. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 12	CONTRE: 24	ABSTAIN: 0
Senator A. Breckon	Senator P.F. Routier	
Connétable of St. Helier	Senator P.F.C. Ozouf	
Connétable of St. Lawrence	Senator T.J. Le Main	
Deputy R.C. Duhamel (S)	Senator F.E. Cohen	
Deputy of St. Martin	Senator J.L. Perchard	
Deputy R.G. Le Hérisssier (S)	Senator S.C. Ferguson	
Deputy S. Pitman (H)	Senator A.J.D. Maclean	
Deputy of St. Mary	Senator B.I. Le Marquand	
Deputy T.M. Pitman (H)	Connétable of St. Ouen	
Deputy A.K.F. Green (H)	Connétable of Trinity	
Deputy D. De Sousa (H)	Connétable of St. Saviour	
Deputy J.M. Maçon (S)	Connétable of St. Clement	
	Connétable of St. Peter	
	Connétable of St. Mary	
	Deputy J.A. Martin (H)	
	Deputy of St. Ouen	
	Deputy of Grouville	
	Deputy K.C. Lewis (S)	
	Deputy I.J. Gorst (C)	
	Deputy of St. John	
	Deputy A.E. Jeune (B)	
	Deputy A.T. Dupré (C)	
	Deputy E.J. Noel (L)	
	Deputy T.A. Vallois (S)	

The Bailiff:

Very well, then we return to the debate upon Article 11 as amended. Does any Member wish to speak on Article 11? All those in favour of adopting Article 11, kindly show? Those against? Article 11 is adopted.

1.19 Draft Gambling Commission (Jersey) Law 200- (P.139/2009) - Articles 12 to 23 and Schedule 2

The Bailiff:

Now, I think there are no further amendments, Minister, so if you are happy would you wish to propose the remaining Articles together at one time?

1.19.1 Senator A.J.H. Maclean:

Indeed, Articles 12 and 13. This gives the right of appeal against the levy and gives a power to the Commission to enforce the payment of the levy, so I maintain those Articles 12 and 13.

The Bailiff:

Well, I was inviting you to propose all the remaining Articles and the schedule and then Members can ask and obviously if Members want a separate vote on any Article they can.

Senator A.J.H. Maclean:

That is fine, Sir; I am happy to do that. Article 14 provides a power for the States to set by Regulations a supplementary payment that will be collected on behalf of the States by the Commission and paid to the Treasurer. It can be collected when a person submits specified applications or documents to the Commission such as gambling licence renewal or take some other specified action. No supplementary payment can be imposed during the first 5 years of operation of the Commission in the same way that the J.F.S.C. (Jersey Financial Services Commission) applies supplementary charges for the States. Article 15 allows the Commission to charge for providing services and materials and to accept donations and grants if its independence can be maintained. It also enables the Commission to borrow money, but allows the Minister by an Order to prescribe a limit on borrowing and a procedure for approval to borrow. Article 16 enables the Commission to accumulate and invest a reserve under guidelines set by the Minister for Treasury and Resources. Article 17 exempts the Commission from the requirement to pay income tax, if you refer to Article 7. Article 18 requires the Commission to keep appropriate financial records and accounts. The accounts are to be audited by a person appointed by the Minister and must be laid before the States by the Minister and must separately account for the Social Responsibility Fund. The Minister may by Order impose additional accounting requirements. Article 19 allows the States to make certain amendments by regulation. Article 20 amends provisions on declaration of spent convictions to reflect the new Law for commissioners, staffing and persons applying to positions requiring certification and licensing. Article 21 is transitional and schedule 2 contains transitional provisions. Article 22 makes general provision in relation to Regulations and Orders. Article 23 sets out the title to this Law and provides that it comes into force 28 days after it is registered. I propose Articles 12 to 23.

The Bailiff:

It is now seconded. **[Seconded]** Does any Member wish to speak on any of Articles 12 to 23?

1.19.2 Deputy R.G. Le Hèrissier:

Just 14 and 15 which our 'one man Scrutiny Panel' appears to have overlooked despite his formidable work. I would just like to ask, are there any limitations to the collection of these supplementary payments and to these fees; are there any limitations? It strikes me that it is giving enormous power to the Commission to make all sorts of charges and despite the way the amendments have tried to control the kind of charges the Commission can make, this could well be fairly heavy open-ended charging via the back door and I would just like the Minister's assurance

that there is some kind of control or there is some kind of balance on how the powers in 14 and 15 are exercised.

1.19.3 Deputy A.E. Jeune:

I just have a question for the Minister on this one. In what event would the Commission need to borrow? What do they foresee as being the reason for putting borrowing into this?

The Deputy of St. Martin:

I do not think I have got anything to add now.

The Bailiff:

Does any other Member wish to speak on any of those Articles? Very well, I call upon the Minister to reply.

1.19.4 Senator A.J.H. Maclean:

Limitations on fees: the States would set any supplementary fee of requirement. So, yes, there would be a suitable check and balance in that respect. The other question was Deputy Jeune with regard to borrowing. It would only be, I would understand, a short-term borrowing facility with regard to the financing requirements should there be a delay in collecting levies and so on, but it would purely be from an accounting perspective to allow them to collect levies from a cash flow perspective and that would be the only reason under which circumstances would allow that to happen. It is just a general provision basically.

Deputy R.G. Le Hèrissier:

Just clarification; the Minister referred to fees under 15, but 14 - supplementary payments - what precisely is that? Is that so when the States require, for example, a document or whatever that they will therefore charge a gambling operation to pay for its provision? I cannot quite work it out.

Senator A.J.H. Maclean:

That is my understanding, yes, that there is the ability to charge if necessary from a supplementary perspective.

Deputy A.E. Jeune:

Could I just ask who would the Commission borrow from?

Senator A.J.H. Maclean:

Most likely from the department, I would imagine.

The Bailiff:

Very well, all those in favour of adopting Articles 12 to 23 and schedule 2, kindly show? Those against? They are adopted.

1.20 Draft Gambling Commission (Jersey) Law 200- (P.139/2009) - Third Reading

The Bailiff:

Do you propose the Bill in Third Reading then, Minister? Is the Third Reading seconded? **[Seconded]** Does any Member wish to speak in Third Reading?

1.20.1 The Deputy of St. John:

Can I say how I am pleased to see these new Regulations in with the exception that I am very disappointed that the levy has been reduced from 2 per cent to 1 per cent, therefore I am speaking so that I can ask for the appel when the time comes. I am going to vote against the whole proposition - although I have been very supportive of it - because I thought the Minister had it right

in bringing 2 per cent, because I thought that was the kind of money hopefully that will never be needed, but that should be put aside.

1.20.2 Deputy R.G. Le Hèrissier:

Two things; just to congratulate Deputy Hill who can be a pain in the proverbial - and has been - and I think he needs to be congratulated for the excellent amount of work, and the Minister who responded very adroitly and quickly to the concerns of Members and I think has put up a very formidable case, and has been very sensitive to the requirements of Members. I think both need full congratulations. **[Approbation]**

1.20.3 The Deputy of St. Martin:

Just to add, I am grateful to Deputy Le Hèrissier, but we have got 2 more propositions yet; 2 more amendments so there is more pain to come. But I would like to bring Members back to yesterday when we were discussing about the actual formation - the preamble - and I think it is rather unfortunate that remarks were made about the integrity and the way in which the local betting shops are operating and I think really they were somewhat restrained a bit more in the summing up by the Minister yesterday. But I think it would be fair that it goes on record that the allegations that were made have never been substantiated and in fact they were just "loose talk", so to speak - and we had again yesterday - because there have been no prosecutions against the betting offices. So, any smirching or the smirching of their name and their integrity I think was uncalled for. The industry has been well regulated. They are welcoming what is being proposed. They realise there is a Law; the Social Responsibility Fund, they have acting in a good way and no doubt it will continue. It will now have the enforcement of the Law. It will have a Commission in place. This is a good Law now. I think what we have got to do now is move forward with it and let us get going, see what the problems are; there could be some areas. We do not know what the problems are, but these things will be found. So, what we will have I would hope that the Deputy of St. John might be persuaded to go back in favour of it because if we did not have it where would we be? So, it is a good Law. I commend it to the States and again I commend the good working relationship I have had with E.D.D. (Economic Development Department) because we would not have got this far without it and I think we have got a good Law now and I would commend Members to vote for it.

1.20.4 Connétable L. Norman of St. Clement:

Just very briefly, to address the comments of the Deputy of St. John and say that I hope he will not vote against as the Deputy of St. Martin called it, this very good, very appropriate and very necessary Law, simply because he does not like the 1 per cent figure rather than the 2 per cent figure because, as was said during the debate on that particular Article, that percentage can be amended by Regulation very, very easily if it is necessary. I can assure the Deputy that the Minister will not hesitate to bring forward an amendment to that figure if it proved necessary. The problem is we do not know what the problem is and therefore it is almost picking a figure out of the air at the moment. If it needs to be amended it will be amended, but please do not vote against, as I said, this excellent Law, this necessary Law, a Law which is going to increase Jersey's reputation for that minor purpose.

1.20.5 The Deputy of St. Mary:

I would just like to respond to that last comment and support what the Deputy of St. John said. We are talking about a maximum figure. It is not a figure that would be drawn. It is saying what the upper limit might be. What we have done by dropping to 1 per cent is going down to £100,000 as if £100,000 is enough to do everything the Minister absolutely promised that would happen and yet we took down the funding; we agreed to take down the sealing on the funding to £100,000. It is a ceiling - it is not even a figure - and we said £100,000 give or take because it is "gross win" - we have changed that as well - without quite knowing what that takes it down to is probably below

£100,000 instead of keeping the ceiling of 2 per cent which would be £200,000 under the “turnover” rule and we do not know what under the “gross win” rule. So, I am very, very unhappy that the Assembly once again has said: “We will do this and by the way we are not committed to funding it.” So, I am afraid I have to go with the Deputy of St. John and I do urge people again to just take into their conscience what is being done here. We have been told this will happen, the research will be adequate, the mitigation will be there, the training in the schools will happen and then we take down the ceiling to something below £100,000.

The Connètable of St. Clement:

Just a point of clarification, if we vote the Law down of course there would be no Social Responsibility Fund whatsoever.

1.20.6 Deputy I.J. Gorst:

Very briefly I must just respond to that. I think it is well known that I have not always had a happy relationship with Economic Development over the gambling portfolio that it is seeing its way to modernising, and have at points felt that this particular Law was perhaps on the heavy-handed side for the provision that we have in the Island now. However I did support the Deputy of St. Martin’s amendment, although as the Connètable of St. Clement has said we cannot be certain of what the current problem is, but we suspect that this will probably go a reasonable way to dealing with what the current problem is as the Minister, I think, has given the undertaking. Should we as a House decide to approve e-gaming at a later date then I have no doubt that we will need to increase that number. But this is appropriate and I believe we have now got an appropriate Law for the gambling that we have taking place in the Island now, and therefore I will be supporting this again in the Third Reading and I would urge other Members to do so because it is important that we have an appropriate Commission for the gambling that we currently have. We must deal with the other issues on another day.

The Bailiff:

Does any other Member wish to speak in Third Reading? Very well, I call upon the Minister to reply.

1.20.7 Senator A.J.H. Maclean:

I would like to, if I may, thank a number of people in relation to what I consider to be a major step forward for the Island with the introduction of a Statutory Gambling Commission. It is absolutely right for the reputation of the Island and it is absolutely right to ensure proper protection of residents and particularly those who have issues and problems with addiction and gambling. So, I would like to offer my thanks particularly to the team at Economic Development. A considerable amount of work has gone into this. I would specifically like to single out - not wishing to save his blushes - both my Assistant Ministers, but in particular the Constable of St. Clement who has done a considerable amount of work on this and also with the Deputy of St. Martin, he has worked closely with him and I would like to thank him for his support and hard work, together with all the officers. The Deputy of St. Martin has been what one might describe as a ‘one man scrutiny machine’ and I would like to thank him for his input. It has been valuable and certainly he has picked up some items where there have been opportunities to improve the Law that we have brought forward and Members have supported today. That, I think, is a very positive thing, so my thanks to him. Most of all I would like to thank all Members for their forbearance through this process. I appreciate there has been a considerable amount of literature fired at them over the last 2 weeks since the reference back. It is in many respects quite unprecedented to bring some legislation back as quickly as this. I do accept that, but I do thank Members for recognising the importance of this Gambling Law. It is the right decision and I am really very thankful to them for supporting it. The only other point that I would like to raise is a point that the Deputy of St. Martin made in relation to comments that have been made, particularly yesterday, about licensed betting

offices and the suggestion that he made that perhaps their reputation or integrity had been called into question. I would say that that is not the case at all. The comments that were made - that I made - in relation to that debate talked about the fact that there were some shortcomings in procedures in some licensed betting offices, but the operators themselves have worked in co-operation with the Shadow Gambling Commission as it was and officers from the department have worked to improve their procedures and take on board the modernisation requirements that are coming forward in this Law. I think that is positive. I thank the industry for their co-operation. I think both the industry and the Island are going to be very much stronger for this Law.

The Bailiff:

Very well, all those in favour of adopting the Bill in Third Reading, kindly show? Those against? The Bill is adopted in Third Reading.

The Deputy of St. John:

When I spoke, I did, Sir, I asked for the appel.

The Bailiff:

Very well, you had asked for it. Then the appel is called for in relation to the Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 30		CONTRE: 1		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy of St. John		
Senator P.F. Routier				
Senator T.J. Le Main				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

2. Draft Gambling (Gaming and Lotteries) (Amendment No. 15) (Jersey) Regulations 200-(P.140/2009)

The Bailiff:

We move next to the Draft Gambling (Gaming and Lotteries) (Amendment No. 15) (Jersey) Regulations - P.140 - lodged by the Minister for Economic Development and I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Gambling (Gaming and Lotteries) (Amendment No. 15) (Jersey) Regulations 200-. The States, in pursuance of Article 3 of the Gambling (Jersey) Law 1964, have made the following Regulations.

The Bailiff:

Very well, I invite the Minister to propose the principles.

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

Gaming machines - or to some, fruit machines - have operated only in licensed betting offices in Jersey since 2002. Since then both licence fees and conditions governing these machines, including stakes, prizes and manner of play have remained exactly the same. The current legislation is out of date. It prescribes a set of definitions which were fit for purpose several years ago with the first introduction of machines, but that is no longer the case. Now, as technology continues to develop, this legislation has become restrictive and creates a negative commercial impact on the industry. While machines play as an established offering in betting offices in other jurisdictions, technology advances and Jersey's restricted legislation mean that sadly we now only have old and outdated machines that are virtually obsolete. The Regulations are not technologically neutral; far from it. They create specific requirements in law relating to specific machine playing and were clearly borrowed from the old Gaming Act 1968, so much so that they have aged badly, especially following the speed of advances in technology. They are now unresponsive and restrictive in terms of measures. Both our bookmakers and the Island-based machine suppliers have stated that these machines are now effectively obsolete. For example, the type of machine is prescribed, its stake, the prize, method of play and operation and this only applies to a range of devices that are no longer being manufactured. We must not forget the machines offered for play in Jersey are manufactured in the U.K. and are designed to reflect what is permitted in the U.K. Accordingly cabinets are designed to carry statements of U.K. stakes and prizes. Manufacturers do not produce bespoke cabinets especially for Jersey. This proposition introduces a broader definition which takes into account technical changes in machines and removes those mechanical provisions that anchor the gaming machine to what is swiftly becoming a redundant device. The purpose of this proposition is to introduce a broader definition that takes into account technical changes in machines and removes the outdated mechanical provisions. The definition permits machines which differ from current models and of the new generation are purely software driven terminals. Users may bet on a variety of events, the outcome of which is driven by a random number generator which may be operated by an independent third party and it may be located remotely. The terminal accepts a customer's bet and displays the event and result on the screen in a format that varies in accordance with the type of event chosen. Now, an important point to consider is that server-based gaming is already offered in licensed betting offices in Jersey in the form of virtual racing events. These are computer generated races which can be seen on screens as opposed to the machines proposed in this amendment. Bets for virtual racing are transacted over the counter and the event is open to all wishing to gamble on the outcome. The result is still based on a result generated remotely. I also think it is important for Members to know that the terminals we are proposing in this amendment operated in Jersey back in 2004. They operated without any negative impact on the gaming public, but were removed because the manner of play was not compatible with that prescribed format set under the Machine Regulations. The amendment mandates the Minister to produce written controls in the form of guidance, codes of practice and technical standards. Compliance will be a licensed condition with cancellation of the licence, the swift and effective

penalty for failure to comply. The Codes of Practice will detail a limitation on the number of machines, stakes and prizes and among other requirements set to pay out percentages, play cycles and play processes. However the broader definition does not mean and should not be understood to imply any lessening of control. If anything the proposition increases regulatory controls by introducing stringent compliance to Code of Practice and to licence conditions. Operators and suppliers will be subject to approvals and the latter subject to independent certification by accredited testing houses. What will these Codes of Practice contain? Well, among other technical requirements, the code will ensure the operation is in a manner that will not bring Jersey or indeed the industry into disrepute. The code will maintain strict security controls over all pertinent hardware and software to ensure the number generation is entirely random and that no third party, including the bookmaker, has access to it. Operators must ensure and prove that all betting office staff are adequately trained in the operation, maintenance and control of machines as is appropriate. All employees of suppliers must be made aware of fair and responsible gaming requirements and all regulatory responsibilities in respect of these machines. While the amendment strictly limits supply to licensed bookmakers, Codes of Practice will ensure and guarantee through third party certification that all games are fit to be offered by the machines. Any terminal or machine offered to play by an operator must be connected to a monitoring system capable of recording, retaining and replaying information regarding all game play on that machine. This will include all interaction as well as events such as power failures and so on. This monitoring system will be fully open and accessible to the Minister and designated officials and the Minister shall have the right to determine the type of monitoring system that operators must install and use. While this may sound expensive for the industry and an onerous regulatory imposition, on the whole I do not believe that this is the case. The majority of operators in Jersey, the brands with overseas operations which own over two-thirds of the industry, already have installed monitoring systems and are happy to provide the Minister unlimited access to this data. There will also be a requirement for random number communication to be independently audited by a third party. All gaming betting products offered by the gaming machine must be certified by an approved independent software testing house and the Minister will approve testing houses, laboratories for this purpose and publish technical standards. Suppliers of these products must be registered with and approved by the Minister. Licensed betting offices cannot offer these products from a supplier who is not registered. Indeed suppliers must enter into an undertaking to guarantee compliance with Codes of Practice, technical standards and further guidance. It will be a licensed condition that a licensed betting office cannot offer events or games from an unregistered supplier and equally a registered supplier who breaches the terms of the undertaking and regulatory requirements must cease supply. In line with the statement of key licensing principles operators will adhere to a responsible gambling code and ensure information must be present on all machines including contact information for help providers. The code will insist warnings of excessive gambling that must also be displayed. The machine should also provide help pages accessed by use of icon or button. These pages must be accessible at all times. Responsible gambling and literature from approved help providers must be prominently displayed adjacent to these machines. Promotional material for these terminals may only be internally displayed and the content should be in no way there to encourage excessive play. The majority of licensed betting offices have adopted a “think 21” approach which requires their staff to seek proof of age from any customer who appears to them to be under 21. In collaboration with the Shadow Gambling Commission a Code of Practice has been introduced to provide a facility for individuals to self-exclude from identified licensed betting offices for a period of no less than 6 months and up to 5 years. Customers who wish to resume business at the end of their chosen self-exclusion period are required to complete a further 24-hour cooling-off period before they will be permitted to resume use of any gambling facilities. It is an agreement that the licensed betting office employees receive training, giving them an overall awareness of the industry’s commitment to social responsibility. Members will note that the proposed fee for gaming machines under this amendment is £4,000 per terminal. While substantially higher than the current amusement with prizes machine fee, £4,000 is, I believe, proportionate for ensuring that the

regulatory standards to be applied to the operation of these machines are of the highest quality. It is also now broadly in line with other jurisdictions. This amendment, however, does not force the industry to adopt these new machines although it is very clear from meetings with the bookmakers that these machines are both necessary and wanted. The amendment creates a transitional option for those bookmakers wishing to continue with the current machines and some may wish to do so primarily on the grounds that they have renewed their machine licences within the last 6 months. To conclude, there are a few facts to keep in mind when considering this amendment. Firstly, the Law already allows regulated machines in a controlled environment. Secondly, the Law is outdated and working against the industry and against the player. Thirdly, a broader category of machines were once operated in Jersey for a period of approximately 18 months, around 2004, without any known or reported adverse impact. They were removed solely on the basis that they did not concur with the description of play in the Regulations. While this amendment creates flexibility to meet changes in technology it also places a far stricter regulatory regime on to the industry. It also requires operators not only to offer gambling that is visibly fair and free from criminal activity but which is increasingly subject to responsible gambling requirements. I propose the principles.

The Bailiff:

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

2.1.1 Senator B.I. Le Marquand:

I had not intended to speak quite so quickly so I am not quite as well prepared as I normally am before speaking on these matters. I must confess I am not at all enthusiastic about these machines particularly because I think it is a knowledge that the new generations of machines are potentially more addictive than the previous generation of machines. But I recognise that machines of this nature of the earlier generation have been with us for some time and it is not unreasonable that, as we have been told, that parts cannot be obtained any more for the maintenance of these and so on, that there be some provision for replacement. My concerns are in relation to issues like the numbers of machines and the size of stakes and prizes, and things of that nature. My background in relation to the gambling issues of course, and my concerns, comes out of my professional background because both as a young advocate, and also when I was the Judicial Greffier and also when I was Magistrate, I came across cases of people who got in very serious trouble with the law in terms of dishonesty cases, very often stealing from their employers or moneys out of trust funds or things of that nature to pay for their addiction. Those were very serious issues for the individuals involved and for the employers and so on. I acknowledge that standards have now improved in the finance industry in terms of checking and numbers of pairs of eyes and so on. But nevertheless my concerns remain. Here we are dealing with machines which will be in betting shops locally and, frankly, I would want to have the highest levels of guarantees and controls in order to be sure that this will not be allowed to extend by a process of gradual increase or gradual liberalisation. The difficulty I suppose that we have here is that having set up the Gambling Commission, the decisions on the ground and much of the work in relation to this will fall to them, although of course the Minister has the ability to give directions and so on. My big concern here is this. That I know that we are going to be facing financial shortfalls. I know that there are going to be increasing pressures for user pays types of things for self-financing and there is clearly a pressure in this particular area. It is going to be terribly tempting in terms of self-financing to give a few more licences, particularly when they are paying back at £4,000 a machine per year. We do have a policy statement which has been put out by the Minister, which is helpful, but I note that that policy statement indicates the maximum of 2 machines per licensed betting office. My understanding is currently that very few have 2 machines. I believe the generality have one but I would ask the Minister in dealing with the principles of this matter to clarify how many machines there are at present and what would be the effect of there being 2 machines per office, which I believe would be 58 in fact, although Honest Nev probably will not want one; so that is probably 56, in reality. But there are other matters also dealt out in here. There are issues of payout percentage, the maximum stakes and prizes and other

details of this sort of nature, which are extremely important because the amount of money that people are putting in per go, as it were, which is we are told under this policy statement will be a maximum of £15 per bet, but if it is a multiple horsey-type of thing there could be up to £100 per virtual event and prize money up to £500. My concern is this, in very simple terms. I wish that the safeguards which are represented by this policy statement were in the Regulations because frankly if we pass this in its present form, only upon the basis of the policy statement, there are all sorts of dangers for the future. What if, in the future, a future Minister has a much more liberal approach to the whole issue than the present Minister? What if the Commission drifts towards being pro-expansion of gambling generally as a nice earner for tax or whatever? Where are the safeguards going to be? My hope was that the Minister would give an undertaking to the House which would satisfy my concerns in this, and in particular I want to see an undertaking which was not just binding on the present Minister but also upon his successive Ministers, and of course a Minister is a corporation sole and therefore can give such an undertaking, which will be binding into the future. But, in my view, such an undertaking would need to cover the issue of maximum numbers of machines. As I say, I am concerned that this is already going up to 2, whereas I understand most only have one at the moment. It would need to cover payout percentages, it would need to cover stakes and prizes and possibly some of the other things. My personal stance is that unless ... because I would have liked to have had the safeguards with me into the Regulations. My personal stance is that unless the Minister is able to satisfy me by means of an undertaking binding not just upon him but on his successors that we are not going to see a stealth growth, as it were, over a period of years, then I would have to vote against. If I do so, I do so with regret because I never like voting against my colleagues unless I feel very strongly on the matter, as I clearly do on this matter, but my purpose in so doing would be to force the Minister to go back and to write the safeguards into the Regulations for the future. So I wait to hear with bated breath from the Minister as to what undertakings binding not only on himself but on his successors he feels able to give.

2.1.2 The Deputy of St. Mary:

Just a short point about the financial and manpower implications statement that we are given in these Regulations. The Minister says there are no manpower implications but if we look at page 4: “It will be a requirement for random number communication to be independently audited by a third party, all gaming/betting products offered by the gaming machine must be certificated by an approved independent software testing house, the Minister will approve testing houses/laboratories for this purpose and publish technical standards” and there are other things here as well about publishing codes of practice and technical standards. There is no doubt that there is a manpower implication and I am somewhat surprised that the Minister has said that there are not any. Financially the effect of introducing these Regulations he says will increase revenue to the States by approximately £124,000 but I was under the impression that the purpose of raising the fees was cost recovery effectively and that the increased fees - and we will obviously get to that under the amendments - the purpose of them is to raise the money to pay for what I have just been talking about, which is the extra manpower to do the regulation of these more complicated machines. So, I just find this statement of the financial and manpower implications fairly misleading and would like the Minister to enlarge on this fairly minimalist statement. There is a wider point too, of course, that in promoting and moving forward technologically to something more complicated requiring more regulation we are into some kind of job creation scheme really and the Island can do without extra population to regulate gambling. But I know we are where we are, people do gamble, *et cetera*, it is an issue which goes into many other areas as well about regulating behaviour, which really should be discouraged. Therefore I would just like him to comment on financial and manpower implications because it seems to be a bit of a muddle.

2.1.3 The Deputy of St. John:

I will need some comfort from the Minister. We heard the Minister say yesterday that betting shops had in fact a number of on-licence machines within their premises and they had to be

removed. That immediately sends out the message to me that the licence operators, the betting shops, and some of these come from big conglomerates from outside the Island who found a way of getting around our laws. That is a real concern. Before I can support this I will need some comfort from the Minister to the effect that this is going to be properly policed. I am supportive that we have to move forward and gaming machines have gone forward. It is like motor cars. We know that motor cars historically used to let off a lot of emissions. Those have been controlled by emission systems within the vehicles not by taxing gas guzzlers. So they are controlled in a different way. But I have in the back of my mind suspicion that if these companies that are operating our betting shops have already found a way of usurping the law by bringing in machines which had to be removed how are we going to police this. Before I will vote and support it I really need the Minister to give me some comfort and Members comfort that the new board that we are putting in place will have the teeth to be able to revoke a licence at very short notice, but please give us some comfort.

2.1.4 Deputy A.E. Jeune:

In my younger days I remember these machines and calling them one-armed bandits because I certainly thought of them as bandits. You put your money in but you did not get it back. **[Laughter]** Well, in my case anyway. So I rapidly went off the idea of the use of such machines. But I have seen people enjoy using these machines responsibly and I have seen people using these machines possibly irresponsibly in an addictive type of way. But what I feel is these Regulations, as I see them, will allow to bring these machines into the 21st century and, at the same time, raising the fees associated with them. In the comments to P.140 (amendment) I notice that it says in the last paragraph that this has been agreed with the majority of the industry. So, I believe I will be supporting this proposition.

2.1.5 The Deputy of St. Martin:

In a funny sort of way this proposition should have come first because this is one of the key factors in raising the funds for the Gambling Commission because, as we heard yesterday, we are looking somewhere around £350,000-£400,000 to run the Commission. It has got to come in from fees from somewhere. The industry feels that ... not cheated but left out a little because these machines were operating, as the Minister said, way back in August 2003 and they were taken out in December 2004 when it was discovered that possibly the legislation which we thought had been put in place by this House in 2001 catered for it, as indeed it did not they were then withdrawn. It is unfortunate really, it has taken 5 years for the industry to get these back and they are desperately needing them. At the moment, just to help the Deputy of St. John, we were given a Green Sheet 2 weeks ago, we gave the breakdown of the number of machines and indeed there are 29 of the old style, which bring in a revenue of £58,000. It is quite likely that very few of these machines will remain; they will not need the 29 because they will come on to the new ones because, as Deputy Jeune said, we are moving into a new age, the industry is looking for them and indeed the punters are looking for them. I would hope that Members will support it. I am grateful also to the Deputy of St. Mary, he stole my thunder because indeed he mentions about the financial implications and that would be one of my thrusts for saying there is no need for £4,000 when there is no additional manpower or financial implications so what do they want the extra money for if there are no financial implications, but we will come to that when we deal with my amendment. But I would hope that Members will support this in principle what we are doing. We are, as Deputy Jeune said, bringing the machines into the newer age but bearing in mind they were there already. They were there 5, 6 years ago and what we are doing, the Regulations now will make them legal and we have got to assume that all the safeguards will be there, because that is why we are having this new Gambling Commission. But one goes with the other. I would ask that Members will give their support.

The Bailiff:

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

2.1.6 Senator A.J.H. Maclean:

I clearly understand the concerns of some Members and I clearly understand the concerns in particular of my good friend and colleague, Senator Le Marquand. He is right about the risk to addiction for gambling. We have discussed over the last day or so the introduction of a Gambling Commission in order to try and ensure that such issues are dealt with as appropriately as possible. He raises, understandably, concerns about the old machines versus new and numbers of machines but there are, in most bookmaker shops... I have not got the exact total figure in front of me, but most of them have 2 of the existing ones in place and they are looking to replace effectively like for like. That was an undertaking that I gave when I had a discussion with colleagues at the Council of Ministers that we would replace within the policy statement like for like old new machines in terms of numbers and that is exactly what the policy seeks to do. It certainly is not seeking, as I think the Senator is concerned, gradual liberalisation in this area. We have, as I mentioned in my opening comments, already got server-based virtual racing in the licensed betting offices. These are very similar in many respects. In fact from an addiction point of view one could argue that they are probably more of a problem because, of course, somebody choosing to use them can then go to the counter and stake whatever they so choose. But it does demonstrate the importance of having proper controls in place and having an effective regulator to ensure that both the operators operate responsibly and, indeed, there are provisions in place for those individuals who find themselves getting into trouble. I would hope that Senator Le Marquand would accept that the safeguards in place should be delivered by the Commission. There is a direction available from the Minister should that be necessary and, of course, the ultimate sanction would be indeed this Assembly in the future should any individual Members be concerned that the progression of this particular issue or the way in which gambling was being dealt with was not appropriate. I hope the Senator feels that the strong regulatory position that we have now introduced with the Commission will improve the situation and give him the necessary peace of mind to allow the industry to modernise the outdated machines they have got and use the more modern ones, which in themselves have a great deal more safety mechanisms in place than the old machines had, and I will come on to that in just a moment. I would like to just touch, if I may, on the Deputy of St. Mary. He talked about the provisions with no manpower and costs, financial implications. Of course, the manpower aspect is dealt with in-house; the resourcing of any support required for the Commission is allocated from Economic Development. We have already talked about the 4 staff that are allocated to support it at the moment. As far as financial implications are concerned well, of course, it would be a matter for the Commission themselves and ultimately their ability to raise additional revenue if that were necessary. But they are resourced currently to be able to discharge their obligations in an appropriate fashion. The Deputy of St. John... I am always delighted to comfort him, if at all possible. He quite rightly and on a similar note is concerned about lack of compliance. He was drawing comparisons to discussions yesterday with regard to what he described as unlicensed machines. In fact, it was more a case that the bookmakers did not feel they were breaking the law, that it was a misinterpretation, as my understanding of the situation, that these machines which of course are allowed in the U.K. and they thought they were bringing in machines which were acceptable. That was picked up and it was dealt with appropriately. That is why strong action was taken and the machines were removed once the position was understood. As far as policing is concerned, as I have said before, it is a role for the Commission and the department to ensure that they are properly policed, and this goes back to one of the concerns of Senator Le Marquand about safeguards. These new machines are server-based machines. As such they can be accessed remotely. The department and the Commission can access them on a regular basis remotely, they can follow the patterns of play and they can ensure that they are being operated appropriately. Of course they have rights to attend upon the individual premises but there is that additional safeguard from these more modern machines that they can be and will be monitored online on a regular basis. Data of course is available. Deputy Jeune talked about her experiences with one-armed bandits,

and I must admit my very limited experience in this area whenever I put 10 pence into a machine I never seem to see it again, however the payout percentages are very high and I am delighted that Deputy Jeune has dealt with the machine in a similar way to I did and I hope others do. It is a recreational tool. Some people get a great deal of enjoyment. The issue is knowing when to stop and, of course, that indeed I accept and recognise can lead to problems which is the reason why we have put in place the Commission and all the work that it is going to do to help those who have addiction issues. I would like to thank all Members that have spoken and all those that have showed support. I do think this is a sensible and pragmatic way forward. It does allow the industry to modernise outdated machines. I think that is important. It does provide more provisions for safety and security for both players and those that might get themselves into trouble, and I would hope that Members will support this pragmatic proposition. I maintain the principles.

The Bailiff:

The appel is called for in relation to the principles of Projet 140. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 31		CONTRE: 7		ABSTAIN: 0
Senator T.A. Le Sueur		Senator B.I. Le Marquand		
Senator P.F. Routier		Deputy of St. Ouen		
Senator P.F.C. Ozouf		Deputy of Grouville		
Senator T.J. Le Main		Deputy I.J. Gorst (C)		
Senator F.E. Cohen		Deputy of St. Mary		
Senator J.L. Perchard		Deputy E.J. Noel (L)		
Senator A. Breckon		Deputy D. De Sousa (H)		
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Peter				
Deputy S. Pitman (H)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

This is a matter which falls within the purview of the Economic Affairs Scrutiny Panel. Deputy Higgins is not in the Chamber but the Deputy of Grouville is still in the Chamber. Do you wish this matter referred to your panel?

The Deputy of Grouville (Vice-Chairman, Economic Affairs Scrutiny Panel):

No, we decided yesterday we would not.

The Bailiff:

We move to consideration of the individual Regulations. May I suggest, Minister, you move Regulations 1 and 2?

2.2 Senator A.J.H. Maclean:

Yes, Sir, I am happy to do that. Regulation 1 defines the Gambling (Gaming and Lotteries) (Jersey) Regulations 1965 as the principal Regulations and Regulation 2 amends definitions in the principal Regulations. I propose Regulations 1 and 2.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on Regulations 1 and 2? All those in favour of adopting Regulations 1 and 2 kindly show. Those against. They are adopted. There is an amendment to Regulation 3, Minister, so perhaps you could propose Regulation 3 on its own.

2.3 Senator A.J.H. Maclean:

Regulation 3 replaces the current Regulation 16 of the principal Regulations which currently limits their scope to machines operated by inserting money in a slot, in other words, the old fruit machines. The new Regulation instead sets out guiding principles of responsible conduct, safeguards for children and vulnerable people, prevention of fraud and money laundering, and fairness to consumers. It requires the Minister to have regard to those principles and to promote good practice. It allows the Minister to approve codes of practice which may refer to technical specifications. Breach of a code is not generally an offence in itself but the code is admissible in proceedings where relevant and breach can be grounds for cancellation or refusal of a licence. I propose Regulation 3.

The Bailiff:

Seconded? **[Seconded]**

2.4 Draft Gambling (Gaming and Lotteries) (Amendment No. 15) (Jersey) Regulations 200-(P.140/2009) - amendment to Regulation 3 (P.140/2009 (Amd.))

The Bailiff:

There is an amendment lodged by the Deputy of St. Martin to Regulation 3 and I will ask the Greffier to read the amendment, paragraph 1.

The Deputy Greffier of the States:

On page 12 Article 3, in the substituted Article 16; (a) after paragraph (1)(a) insert the following subparagraph: “(b) avoid imposing or maintaining unnecessary burdens on persons providing or operating gaming machines” and renumber subparagraphs (b) and (c); (b) in paragraph (4) after the word “may” insert the words “after consulting such persons as appear to the Minister to be likely to be affected”; (c) after paragraph (7) insert the following paragraph: “(8) The Minister must (a) in exercising his or her power under paragraph (4) to approve a code and performing his or her duty under paragraph (1)(b) in relation to that power, particularly take account of any burden that may be caused by any unnecessary inconsistency between a provision of an approved code and any similar provision in any other jurisdiction in which providers of gambling services also operate; and (b) keep under review the provisions of any approved code or of any technical standards referred to in such a code” and renumber the remaining paragraphs, and alter internal cross-references accordingly.

The Bailiff:

Can you assist Minister on whether you are accepting this amendment?

Senator A.J.H. Maclean:

Yes, Sir, I can and indeed I am.

2.4.1 The Deputy of St. Martin:

It will shorten the debate quite a lot because really we are back again to the policy statement regulation. My amendments were lodged before it came and what we are going to now have, which I think is right, it is now enshrined in law that there will be no burdens, *et cetera*, which will be compatible with R.126. I do not think there is more to add, I make the proposition.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak on the amendment?

2.4.2 The Deputy of St. Mary:

Here we go again, I am referring to paragraph (c) of the amendment. I think we are discussing all 3 together, is that right? I will just make sure that Members are aware of the actual wording here: "The Minister must in exercising his or her power in relation to that power particularly take account ..." "Particularly" why ... anyway I will just read it: "... particularly take account of any burden that may be caused by any unnecessary inconsistency between a provision of an approved code and any similar provision in any other jurisdiction in which providers of gambling services also operate. Now, Senator Le Marquand in the debate on the principles challenged the direction in which this whole issue of the machines might be going and we were assured by the Minister that there would not be gradual liberalisation. I think we were assured. But in that case we do not need this amendment. We really do not need it. It is an open door to challenge ... on many grounds those words are all challengeable in law "unnecessary", "inconsistency". They can and may very well be challenged when the Commission refuses to take us down to a level of regulation that may be operating elsewhere. I will just refer Members to the comments of the Minister because they completely contradict his position in accepting this amendment. On page 2 of his comments, paragraph 4, near the end, he writes: "This seems superfluous insofar as the Minister would not be expected to inflict anything unnecessary on an operator and from that perspective is entirely supportable. What it does not and cannot mean, however, is any suggestion that the Minister will countenance levels of regulation that do not meet the high standards that would be required in Jersey simply because they are not adopted elsewhere. Well, if the Minister is saying that our Regulation is independent of Regulation elsewhere and that our high standards will not be compromised by standards existing elsewhere that might be lower than what on earth are we putting this amendment through for? The Minister has said that our Regulation is independent of Regulation elsewhere. Jersey can in this matter - and should - decide for itself under our excellent Gambling Commission with a chairman whose praises have been sung. Why should we take note particularly, it says, of unnecessary inconsistency with the situation elsewhere. Then the Minister goes on, so long as that is accepted within the Minister's policy statement then the amendment should be supported. Well, I am sorry, there is no reason to refer to the policy statement. We have got the Law as it is and we do not need to amend it, to loosen it, to create problems for ourselves with challenges and problems for the Commission in regulating Jersey in the way that they see fit. I, for the life of me, cannot see why the Minister is accepting this. It weakens the Regulations, it weakens them badly and I urge Members to reject this amendment.

2.4.3 The Deputy of St. Ouen:

I reflect in many ways similar concerns that the Deputy of St. Mary has expressed. I suppose bringing it more down to a basic level I would ask who are we here to protect. It seems that many of the amendments are being proposed by the Deputy of St. Martin is to reduce the impact on the betting shops and also reduce the opportunity to levy sufficient sums to provide for and protect the most vulnerable. I believe that this amendment does exactly the same. It is allowing and removing

the emphasis that the current legislation places by, as the Deputy of St. Mary quite rightly said, softening it to such a degree that I believe that it will not benefit the public at large, simply the business that is operating the machines.

2.4.4 The Connétable of St. Brelade:

The proposer of the amendment refers to unnecessary burdens. Could he define his interpretation of burdens because to me it is open to selective interpretation and the interpretation given by operators may be different by the interpretation given by gamblers, and I think it is quite important that we are clear on this?

2.4.5 Senator S.C. Ferguson:

I would agree that this is an unnecessary complication. It is nice and warm and fluffy but let us not forget that complicated law is a happy hunting ground for lawyers. Let us keep it simple, straightforward and not support this particular amendment.

2.4.6 Senator A.J.H. Maclean:

I thought it would be helpful for Members just to give some clarity as to why I was happy to accept this. I am relatively neutral on the matter but I think if we take into account the actual wording here. What it asks the Minister to do particularly is to take into account, and that is all it is. It is looking at what is happening in other jurisdictions. That is exactly what the Commission is looking to do anyway. It is exactly what governments are doing when they are looking at good regulation, they consider what others are doing. What it does not mean is that we take into account what is happening elsewhere, pick the lowest common denominator and reduce our standards down to that level. That is absolutely not what it is about. All it is simply asking is for us to take into account what is going on elsewhere, it does not mean a lessening of standards at all. I just thought it would be helpful to clarify that.

2.4.7 The Deputy of St. John:

I will not be supporting the amendment. I believe that the Minister and his original work was sufficient and all this does is, to me, muddy the water.

The Bailiff:

Does any other Member wish to speak? I call upon the Deputy of St. Martin to reply.

2.4.8 The Deputy of St. Martin:

I would like to come in and answer the negative side. I have got a question about: "What is burden?" I think the Minister has tried to explain. What it means really, you do not suddenly impose something on an industry without consulting and if one remembers where we were with P.139, I said what we need to do is have an industry that is working alongside the Commission. There is a lot of integrity, a lot of trust required, and in fact it can be... it is part of policy now that there will be this consultation and bear in mind the policy came after my amendment. Really, what I am asking for is it is enshrined in law so there will be this consultation so burdens are not just put on you. You cannot just say: "Right, you are going to pay X amount without any consultation." If you have got to have trust between the industry and the Commission there ought to be that goodwill, and this is basically asking for that goodwill. I do not think in any way it takes away - and this may be to the Deputy of St. John and the Deputy of St. Mary and St. Ouen - it does not take anything away from it. All it adds to it is this business about consulting because at the end of the day the Commission will make the decision but it will make the decision having consulted, and we all know that sometimes you can consult with people and disagree with them. But at the same time you can say: "I have consulted" and this is basically what it is. I am disappointed that Members who are great ones for saying we should consult are now asking us not to consult.

The Deputy of St. Mary:

A point of clarification. We are talking about 3 separate amendments, there are 3 paragraphs here and I believe the proposer is confusing (b) and (c), and will he clarify they are completing separate matters?

The Deputy of St. Martin:

They are all part of Article 16 and they follow on. So what we want to do, and the Deputy of St. Mary thinks we are aiming for the lowest denominator, I would hope that he would get away from that. What we are looking for is high standards. That is why we have just had this Law we have just passed, and what we do not want is blinkered thinking. We ought to be looking at what is going on. If there is better practice going on outside Jersey we should go for that better practice. It seems to be that we know best in Jersey, and sometimes we do know best but certainly we know best because we have looked elsewhere and said: “What is going on elsewhere is not what we are doing.” What this proposition or my amendment is doing is trying to get people to consider that it is important to consult, do not lay your burdens without consulting, but at the end of the day the buck stops with the Commission. The buck will stop with the Minister as well, so all this is quite a simple but, I think, a very important piece of legislation and I would be disappointed if Members did not give it support, bearing in mind it is now part of the policy as well, so this just backs up what the policy is saying. I ask for the appel.

The Bailiff:

The appel is called for then in relation to the amendment.

Senator B.I. Le Marquand:

Are there going to be separate votes on (a), (b) and (c)? It would be helpful, I think, if there were.

The Bailiff:

Deputy, are you happy with that? Then we will take paragraph (a) first of the amendment. The appel is called for in relation to that. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 21		CONTRE: 13		ABSTAIN: 0
Senator T.A. Le Sueur		Senator T.J. Le Main		
Senator P.F. Routier		Connétable of Trinity		
Senator P.F.C. Ozouf		Connétable of Grouville		
Senator A. Breckon		Connétable of St. Brelade		
Senator S.C. Ferguson		Connétable of St. John		
Senator A.J.D. Maclean		Connétable of St. Mary		
Senator B.I. Le Marquand		Deputy of St. Ouen		
Connétable of St. Ouen		Deputy S. Pitman (H)		
Connétable of St. Helier		Deputy of St. John		
Connétable of St. Saviour		Deputy of St. Mary		
Connétable of St. Clement		Deputy E.J. Noel (L)		
Deputy R.C. Duhamel (S)		Deputy M.R. Higgins (H)		
Deputy of St. Martin		Deputy D. De Sousa (H)		
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

The Greffier will reset the voting machine and we move to paragraph (b) of the amendment and the Greffier will open the voting.

POUR: 26		CONTRE: 5		ABSTAIN: 0
Senator T.A. Le Sueur		Senator S.C. Ferguson		
Senator P.F. Routier		Connétable of Grouville		
Senator P.F.C. Ozouf		Deputy of St. Ouen		
Senator A. Breckon		Deputy of St. John		
Senator A.J.D. Maclean		Deputy E.J. Noel (L)		
Senator B.I. Le Marquand				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy S. Pitman (H)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

The Greffier will reset the machine and we move to paragraph (c) and the Greffier will open the voting.

POUR: 12		CONTRE: 21		ABSTAIN: 0
Senator T.A. Le Sueur		Senator P.F. Routier		
Senator A. Breckon		Senator P.F.C. Ozouf		
Connétable of St. Helier		Senator T.J. Le Main		
Connétable of St. Brelade		Senator S.C. Ferguson		
Connétable of St. Saviour		Senator A.J.D. Maclean		
Connétable of St. Clement		Senator B.I. Le Marquand		
Deputy R.C. Duhamel (S)		Connétable of St. Ouen		
Deputy of St. Martin		Connétable of Trinity		
Deputy J.B. Fox (H)		Connétable of Grouville		
Deputy J.A. Martin (H)		Connétable of St. John		
Deputy A.E. Jeune (B)		Deputy of St. Ouen		
Deputy A.T. Dupré (C)		Deputy S. Pitman (H)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy of St. Mary		
		Deputy T.M. Pitman (H)		
		Deputy E.J. Noel (L)		
		Deputy M.R. Higgins (H)		

		Deputy A.K.F. Green (H)		
		Deputy D. De Sousa (H)		
		Deputy J.M. Maçon (S)		

The Bailiff:

We return to Regulation 3 as amended, does anybody wish to speak on Regulation 3? All those in favour of adopting Regulation 3 kindly show, those against. Regulation 3 is adopted.

2.5 Draft Gambling (Gaming and Lotteries) (Amendment No. 15) (Jersey) Regulations 200-(P.140/2009) - Regulations 4 to 9

The Bailiff:

I think I am right in saying, Minister, there are no further amendments until Regulation 10 so would you like to propose Regulations 4 to 9 together?

2.5.1 Senator A.J.H. Maclean:

Yes, Sir, if I may. Regulation 4 amends Regulation 17 of the principal Regulations to reflect the requirement to comply with licence conditions. Regulation 17 of the principal Regulations makes the use of gaming machines and licensed premises, in other words betting offices, lawful. Regulation 5 replaces Regulation 19, that allows for the use of a machine by virtue of a licence of the principal Regulations. The new Regulation details the conditions for granting and renewal of machine licences. It also allows for the imposing of conditions on the licence and provides for the Minister to publish standard conditions and apply them unless there are exceptional reasons. Regulation 6 repeals Regulation 20 of the principal Regulations so that the licence conditions can deal with the manner in which money may be removed from a machine. Regulation 7 substitutes the new version of Regulation 21 of the principal Regulations. The new Regulation is largely the same except it reduces the Minister’s power to make Orders and the scope of the prohibitions in relation to those orders but allows for licensing conditions. It also extends the Regulation to cover software and connections to remote machines. It removes the paragraphs on the keeping of records as they can be dealt with by licence conditions. It adds a requirement for installers and repairers to be approved by the Minister, which is an updated version of the equivalent provision in the Order previously made under the Regulations. Regulation 8 amends Regulation 22 of the principal Regulations to reflect the amendments to Regulation 21 and to require a person to comply with any relevant code of practice in order to be able to use the defence of taking reasonable care. Regulation 9 amends Regulation 26 of the principal Regulations so that documents can be served at an address provided in connection with the licence. I propose Regulations 4 through to 9.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on any of those Regulations?

2.5.2 Senator P.F.C. Ozouf:

Just a minor matter, I may be wrong, but the Minister for Home Affairs and I have just spotted on paragraph 5 under the Conditions of 19(9)(e) - just to show that we are reading it - that there is a reference to a Chief Police Officer. We are not aware of any title of somebody called Chief Police Officer unless it is in the Law. Should it not be the Chief Officer of Police? So it might need an amendment *sur le champ*.

The Bailiff:

It may be one of those matters that the Law Draftsman feels able to deal with as a pure typographical error. Does any other Member wish to speak?

2.5.3 Deputy I.J. Gorst:

Simply to say that it is a shame the Minister had not spotted that earlier, then he could have voted against the principles. [Laughter]

The Attorney General:

If it assists, under the Gambling (Gaming and Lottery) Regulations, the principal Regulations, Chief Police Officer means the Chief Officer of the States of Jersey Police Force. [Laughter]

The Bailiff:

Very well, the Attorney General has the answer. Do you wish to reply, Minister?

2.5.4 Senator A.J.H. Maclean:

Just briefly to say that I am delighted that my Ministerial colleagues are showing such attention to the detail and I thank them for their consideration of a potential typographical error, which clearly was not the case. I maintain the Regulations.

The Bailiff:

All those in favour of adopting Regulations 4 to 9 kindly show. Those against. Regulations 4 to 9 are adopted.

2.6 Draft Gambling (Gaming and Lotteries) (Amendment No. 15) (Jersey) Regulations 200-(P.140/2009) - Regulation 10

The Bailiff:

Do you propose Regulation 10?

2.6.1 Senator A.J.H. Maclean:

Regulation 10 amends the schedule to the principal Regulations. It increases the annual fee for licences from £2,000 to £4,000 per machine whether the licence holder continues with the previous machines or uses server-based gaming terminals, but relating to Regulation 11 in the current holder's licence. The fee was last increased on 14th March 2002. A new paragraph 6A is inserted in the schedule to broaden the Minister's power to refuse the grant or transfer of a licence including cases where the person has been involved in non-trivial breaches of licence conditions in the last 5 years. A new paragraph 10A is inserted to expand the Minister's power under paragraphs 11 to 18 to cancel a licence so as to include power to cancel for a breach of a licence condition. The licence holder must have been given a warning notice and the breach or the combined effect of repeated breaches as not as being trivial. The Minister can also refuse to renew a licence on a similar basis. The Minister is able to determine and publish various matters of policy which currently have to be prescribed by Order. I propose Regulation 10.

The Bailiff:

Is that seconded? [Seconded]

2.7 Draft Gambling (Gaming and Lotteries) (Amendment No. 15) (Jersey) Regulations 200-(P.140/2009) - amendment to Regulation 10 (P.140/2009 (Amd.))

The Bailiff:

There is an amendment to Regulation 10 lodged by the Deputy of St. Martin. I will ask the Deputy to read the amendment.

The Deputy Greffier of the States:

Number 2, page 17 Article 10 in paragraph (a)(ii) for the amount £4,000 substitute the amount £2,630.

The Bailiff:

Are you accepting this one, Minister?

Senator A.J.H. Maclean:

No, Sir.

2.7.1 The Deputy of St. Martin:

Again, this is quite straightforward really. It is down to Members if they want to vote probably with their conscience. We talked earlier about burdens, *et cetera*. If you are running a business and you are suddenly going to have something imposed on you, which is going to double your cost overnight, is that the way it should be done? Through no fault of their own the industry have quite rightly ... they have not paid ... there has been no increase in their fees. It is not their fault. It is simply because E.D.D. or E.D.C. (Economic Development Committee) beforehand did not raise the fees. Now, had the fees gone up by what we would normally call 2 and a half per cent it would be below the R.P.I. (retail price index) and for ease, and to make it easy for me and also for those people who are going to give me the figures, I asked if I could have the R.P.I. figures and the R.P.I. figures would show that if indeed the costs had gone up yearly by R.P.I. the fee would be £2,630. Now we have already heard that there are no manpower or financial implications so if indeed we are going to have these machines in, would it not seem reasonable, no financial implications, no manpower implications, so what the industry will be doing is paying what they should be paying; £2,630 and not £4,000 overnight. One other thing that is important to raise, it does say in the comments that to seek a reduced fee, which has been reached by negotiations between both parties, seems entirely wrong and will perpetuate the current inconsistency between cost of regulation and setting the fees. Well, that is not consistent again with the email that you will have all received, which I sent out Monday night, which comes from the industry, which said: "An increase in existing fees as outlined in line with R.P.I." So the industry are quite happy. You say they would be anyway but again they are not ... this is not quite correct when they say they have agreed it. They have agreed to R.P.I. Also, very importantly, because the Minister said earlier that the fees were currently in line with elsewhere, in actual fact I have checked and I have an email this morning at 8.25 a.m. which confirms that the price per fee for market with a similar machine in the U.K. is £2,215, so what, in fact, if we are talking about the cost outside the Island, they would be much cheaper in the U.K. than what they were in Jersey even with the R.P.I. It is down to Members really if they feel that if they were running a business and they suddenly find they like to have a doubling of the fees, well, that is it. But I maintain that in fairness and interest of being fair that my proposition, the increase go along with R.P.I., would be consistent and fair. I make the proposition.

The Bailiff:

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

2.7.2 Senator S.C. Ferguson:

We seem to be lumping apples and oranges together. We have 2 types of machine, some that are old-fashioned free-standing and clunky and some that are modern, up-to-date software-generated where we can really keep an eye on them. I think in order to get this into context it will be useful if the Deputy of St. Martin could give us an idea of the cost of the machines both the old and the new, the average profit per machine, old and new, and why did he not suggest different fees for the old and the new machines? It seems to me a very simple thing but perhaps he could give us those figures so we could get the whole thing into context.

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

Senator Ferguson has asked exactly the question I was about to ask.

2.7.3 Senator A.J.H. Maclean.

Firstly I would just like to say that this is not a question of us imposing an increase on the industry in many respects because, of course, the choice is entirely theirs as to whether they want a machine or not. Members should remember that these machines for the industry are profit centres. The industry themselves are keen to have the machines and through our consultation process I can tell Members that the majority of the industry are supportive, because they want the machines they are prepared to pay the fee. They knew what the fee was going to be through the consultation process and they accepted that and were prepared to pay it. I made a comment earlier on about bringing our fees broadly in line with elsewhere, the U.K. and other jurisdictions. The Deputy of St. Martin quoted a fee for a machine of £2,215. Of course in the U.K. there are 2 points to bear in mind. First of all the legislation allows bookmakers to have 4 machines per shop, but also in the U.K. there is duty charged on top, so of course when you take that into consideration, which we do not have, the fees are far more in line. In fact, we should be looking at fees not just in isolation of these machines but fees across the board. The department, in consultation with the industry agreed to reduce our original proposals for full cost recovery, the Minister for Treasury and Resources here was keen to get full cost recovery in year one; that was even more stringent than I was proposing and my department was proposing. We have gone for a stepped approach and broadly speaking it is accepted by the majority of the industry. I am sure Members would not expect them to be enthusiastic. Nobody wants to pay more fees but that is the fact of the matter.

2.7.4 The Deputy of St. John:

I recall the same proposer, the Deputy of St. Martin, bring an amendment to this House on the Licensing Law. At that time he was working on that occasion for members of the licensing profession and he brought all these amendments ...

The Bailiff:

I do not think you can say: "He is working for members." [Laughter]

The Deputy of St. John:

He was representing the views of the licensing ...

The Bailiff:

Raising matters of concern of the licensing industry.

The Deputy of St. John:

I will use your expression. That being the case, on that occasion the laws were amended as per the Deputy's wishes and obviously the House of the day, he managed to persuade enough Members, and we finished up with a carbuncle on a boil because having amended that Licensing Law he did not make sure that other laws were amended, i.e. the taxi hours, *et cetera*, and we finished up ever since the Licensing Law was extended, having problems at the Weighbridge, continually night after night on weekends. By playing around and being a spokesperson for any particular group, as he is on this occasion, I do see, and he is feeding us with information continually - which is fine. That is our responsibility - but in doing so and wanting to reduce these figures the Treasury and the Minister for E.D.D. have done their homework prior to coming to the Chamber, not on the hoof being directed from outside the Island, because we were given a letter earlier this week or a copy of an email, which came from off-Island. Jersey is Jersey. We do not need our strings in this Chamber being pulled from off-Island, and it does get to me when people off-Island try to influence the way we run our business and that is all I am going to say but this is the second time I have seen the Deputy of St. Martin bring something to this House and it is the end result that is important. The Minister for E.D. and his department have looked at this in depth and we have heard the Minister say a few moments ago that the Minister for Treasury and Resources wanted to have a bigger bite of the cherry. I think we have got it about right on this one.

2.7.5 Senator P.F.C. Ozouf:

The Deputy of St. John is quite correct that the Treasury and E.D. have had a lot of discussions about the issue of fees on all of the matters that are before the Assembly in the next proposition and this. Certainly we have challenged E.D. and had some fairly feisty discussions, which is a good and positive thing, on the issue of fees. I am disappointed by the proposition by the Deputy of St. Martin. I really thought that we had done away with the notion that the States should slavishly follow an R.P.I. increase on fees. There are instances where the States are providing a service which is well in excess of the fees and we as a legislature - we as Members of this Assembly - cannot justify taxpayers' money being used to subsidise some areas. Now, on this case ... we will come on to the debate about fees later because there is an amendment. I think it is a good opportunity to have an amendment but the fact is I cannot really add anything else for what the Minister is quite rightly saying, it is completely erroneous to suggest that the £4,000 fee should be linked to the U.K. fee when there is betting tax on top of that of 15 per cent. It is absolutely wrong and I reserve my position in relation to a betting tax and a betting duty. That will be something that I will review in the fiscal strategy review and it may well be that in good communicative discussions with the Minister for Economic Development and his Assistant Minister that we may well come up with a different form of charging for these machines based upon the use of them going forward that could mean that the fee would be reduced but we would put a duty on it instead. I think the £4,000 fee that the Minister is proposing is the right figure and it is the right figure for taxpayers and for the benefit of Islanders, and I urge Members to reject the amendment comprehensively.

2.7.6 The Deputy of St. Mary:

Just a brief point on the comment of the proposer in his report on the financial and manpower implications. He does suggest that the type 2 gaming machines ... in fact he says: "Type 2 gaming machines for which will not require any additional manpower." When I queried this in the principles debate the Minister made quite clear that there is a substantial work stream that comes out of this. Then the Minister said that it is not technically more manpower because the manpower is there already. But the fact is there is work generated by these machines as well as an income stream for the operators. So, there is a work stream for the regulator and quite a substantial one. So, I think this is an element of cost recovery. I just wanted to clarify that because I think the proposer is trying to suggest that somehow this levy is for sort of no particular reason. Well, it is there to cover the costs.

2.7.7 The Connétable of St. Brelade:

I think it is only right and fair that the fees are commensurate with the returns from these particular machines and I would echo the words of Senator Ferguson in asking the proposer to clarify what he thinks are the returns to the operators from these machines.

2.7.8 Senator A. Breckon:

I believe that these machines are different technology and I think the industry generally is supportive but I was also interested in what the Minister for Treasury and Resources has just said because he has walked into a nice little trap. Next week I have an amendment to the budget to increase some company fees and he is opposing it, and they have not been increased since 1998. So, I will be looking forward and hope I can get the Hansard of what he has just said to remind him of that next week. But, I think, these fees as proposed by the Minister are justified.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon the Deputy of St. Martin to reply.

2.7.9 The Deputy of St. Martin:

I think if I start with Senator Ferguson. It may be the question should have been asked of the Minister when he brought his proposition asking for £4,000. What I have done, I have put my figures up by R.P.I. which I consider, as I said, when I started my speech, it was a fair one. Had the

fees gone up every year Members would have been asking, like they did with licensing... they would have gone up year by year by probably 2 and half per cent. As it is, they are going to go up by R.P.I., which is probably quite a few percentages higher than it should be. The profit, that is down to the number of people playing. If they are people like Deputy Jeune, and certainly the Minister, they do not get their returns, but they are like me, I do not even waste my money putting my money in the first place, because I do not think I am going to win. So it is down to people, it is a leisure activity, some people get enjoyment from it. I do not see what the enjoyment is, but again it is not for me. I do not play it, but I should not stop other people. But really I am looking at fairness. R.P.I. is R.P.I. and had it gone up every year this is what people would be paying now. I do not know what figures they were because one does not know. It depends how many people go in and play and how many win. I do not know. That is part of, I suppose, the fun of it. People do not know if they are going to win or lose, they hope they are going to win. The reference was made about me slavishly following the U.K. The only reason I did my homework was because, as the Minister said, they are consistent with elsewhere and I have done my homework and I am just saying the figures for the U.K. are £2,215. So, all I am doing is giving the answer, or rebutting what has been said or the insinuation that is there. No doubt, as the Minister said, they can have up to 4 machines in the U.K., so be it. At the moment I think it has been proposed 2, but what we have got are the old machines. Had the old machines gone up by R.P.I. they, too, would be now £2,630, that is what the Minister would be coming up from, unless he could show cause as to why he needed more. I cannot labour the point other than saying I am looking for fairness. The Deputy of St. John, I think, has been a bit unkind. I am not a representative. I took this upon myself. It would have been lovely if he had managed to do a bit of work himself. He may have looked at some of these things. As I say, I spent a fair bit of time on here and, I think, he was again unkind about the licensing, about the alcohol. Again, he was not in the Chamber last time when we debated it. I called for review and States accepted my proposition. I brought his proposition 2 years ago on 3rd September 2007, asking for a review of the licensing fees because I have always felt they were not 'user pays.' I believe they should be more. I said earlier this morning there is no mention about any responsibility fund and yet we get more problems from alcohol and yet no one is jumping up and down saying: "We should have a responsibility fund." No one is saying: "We should be having higher fees for licensing." Yet, when I am coming along here saying: "Yes, the fees should go up but they should go up by R.P.I." I am getting shot at. Anyway, Members can have it on their conscious, they can vote as they feel. I believe that, in fairness, it should be R.P.I. and we will be having this debate again, because P.141 is all about fees, but I am asking for R.P.I. I ask Members to support my proposition and I ask the appel.

Senator S.C. Ferguson:

A point of clarification, Sir. Does the Deputy of St. Martin agree then that he has not got the figures for the profitability of these machines which would also give a basis for calculating the licence fee?

The Deputy of St. Martin:

I gather the licensing fees are according to 'user pays.' The Minister is saying that I need X amount of money to recover the user pays. That is what they are based on. I do not know how the Minister has come to the figure of £4,000. I do not think anyone knows how much profit is going to be made because it depends how many people play the machines. It is just one of those answers I cannot give, maybe the Minister could give it, but I do not know. All I am saying is it depends on the number of people playing, how much is won and how much is lost. I do not know. It is an unknown figure. The industry, itself, does not know but what the industry, and we have agreed to it, they are looking forward to these machines because they are futuristic. The old figures were £2,000 on the old machines and they will automatically go up if, indeed, they wish to renew them. My feeling is that they will not renew them because they will see them as superfluous because people will not want old technology, they will play with new technology. So, in actual fact, there

may well be a reduction in the old style, but there certainly will be an increase in the new one. I cannot answer the question I have been asked.

The Bailiff:

Very well then, the appel is called for then in relation to the amendment of the Deputy of St. Martin in relation to Regulation 10. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 2		CONTRE: 30		ABSTAIN: 0
Connétable of St. Lawrence		Senator T.A. Le Sueur		
Deputy R.C. Duhamel (S)		Senator P.F. Routier		
		Senator P.F.C. Ozouf		
		Senator A. Breckon		
		Senator S.C. Ferguson		
		Senator A.J.D. Maclean		
		Senator B.I. Le Marquand		
		Connétable of St. Ouen		
		Connétable of St. Helier		
		Connétable of Trinity		
		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. John		
		Connétable of St. Saviour		
		Connétable of St. Clement		
		Connétable of St. Mary		
		Deputy R.G. Le Hérisssier (S)		
		Deputy J.B. Fox (H)		
		Deputy J.A. Martin (H)		
		Deputy of St. Ouen		
		Deputy of St. Peter		
		Deputy S. Pitman (H)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy of St. Mary		
		Deputy T.M. Pitman (H)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy M.R. Higgins (H)		
		Deputy A.K.F. Green (H)		
		Deputy D. De Sousa (H)		
		Deputy J.M. Maçon (S)		

The Deputy of St. Martin:

Sorry, Sir, is it too late to ask that my vote be included. **[Laughter]**

The Bailiff:

Too late, I am afraid. Never mind, at least it was not the casting non-vote. **[Laughter]** Now then, we return to Regulation 10 as amended. Does any member wish to speak on Regulation 10 as amended, or not amended?

Senator A.J.H. Maclean:

I, perhaps, might just say to the Deputy of St. Martin that if he needs a ring binder I might be able to help with that. [Laughter]

The Bailiff:

All those in favour of adopting Regulation 10, kindly show. Those against, Regulation 10 is adopted.

2.8 Draft Gambling (Gaming and Lotteries) (Amendment No. 15) (Jersey) Regulations 200-(P.140/2009) - Regulations 11 and 12

The Bailiff:

Minister, do you wish to propose Regulations 11 and 12 together?

2.8.1 Senator A.J.H. Maclean:

Yes, please, Sir. Regulation 11 contains transitional provisions. It allows a current licence holder to chose to continue with existing machines for up to a year after the next renewal, paying the original fee and operating under the original Regulations and Order. This allows for a betting office to retain their old machines for up to 2 years, without an increase in fee. Regulation 12 provides for the citation of these Regulations and brings them into force 7 days after they are made. I propose Regulations 11 and 12.

The Bailiff:

Seconded? [Seconded] Does any Member wish to speak on either of those 2 Regulations? Very well, all those in favour of adopting Regulations 11 and 12 kindly show. Those against, those Regulations are adopted. Do you propose the Regulations in Third Reading, Minister? [Seconded] Does any member wish to speak in Third Reading? All those in favour of adopting the Regulations.

Deputy I.J. Gorst:

Could I call for the appel, Sir?

The Bailiff:

The appel is called for in relation to the Third Reading of the Regulations. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 31		CONTRE: 3		ABSTAIN: 0
Senator T.A. Le Sueur		Senator B.I. Le Marquand		
Senator P.F. Routier		Deputy of St. Ouen		
Senator P.F.C. Ozouf		Deputy I.J. Gorst (C)		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				

Deputy of St. Peter				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

Very well then, that completes that matter.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The adjournment is proposed. The Assembly will reconvene at 2.15 p.m.

LUNCHEON ADJOURNMENT

PUBLIC BUSINESS - resumption

3. Draft Gambling (2010 Fees) (Jersey) Regulations (P.141/2009)

The Bailiff:

We come to the next matter on the Order Paper, which is the Draft Gambling (2010 Fees) (Jersey) Regulations P.141 lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Gambling (2010 fees) (Jersey) Regulations 200-: the States in pursuance of Article 3 of the Gambling (Jersey) Law 1964 have made the following Regulations.

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

The current level of fees does not cover the cost of regulation and historically were never set at a level to meet the actual costs. The move by the States to proper resource accounting has allowed the true cost of the service to be identified. Full cost recovery is in line with States user pays policy, and is absolutely appropriate for this industry. I believe the gambling fees should move away from being publicly funded by the taxpayer and the costs should be borne by licensees. This policy was confirmed by the results of a public consultation carried out in April 2008. This consultation showed overwhelming support for the establishment of a new Gambling Commission which, of course, we have already approved, and importantly, that it should be funded by licence fees. These proposed increases are absolutely necessary to reduce the cost to the taxpayer and will bring Jersey fees more in line with other jurisdictions. There have been no fee increases since 1st January 2001 but, of course, costs have continued to rise. The level of regulation required of gambling has increased worldwide as, indeed, it has in many other sectors such as finance and indeed the I.M.F. (International Monetary Fund) included the sector within their 2008 inspection. The fees have not been raised to a full cost neutral status in one go as it is accepted this would be more difficult for the industry to manage than a phased increase. Cumulative R.P.I. would have

raised fees around £155,000, meaning this proposal is some £78,000 over our R.P.I. If this level of increase is accepted the department's costs will adjust so the department's income is raised £233,000, reducing the deficit paid by the public, as is currently the state. We believe it would be unreasonable to inflict full cost recovery on the industry immediately in one hit. But the increase still has to be above the R.P.I. figure in order to achieve full cost recovery in a reasonable timeframe. A doubling of the fees sounds unacceptably aggressive, but bearing in mind it is from a low starting point, I believe it is not unreasonable. Although the industry is not jumping for joy over the proposed increases, they mostly accept the rationale and have remained largely silent on what is a fairly emotive topic. Permits and registrations have remained unchanged since 1998 and, as such, do not reflect the cost of regulation. Last year there were a total of 402 applications for registrations or licences by clubs or societies. With every permit and registration having to be checked for correctness, and a new licence or registration created, printed and posted to the club or society in question, plus the added resolution of various queries or issues of guidance. Complaints and other issues that affect betting offices and social gambling need to be addressed swiftly and promptly. Reports have to be prepared for the Minister, informing him on the current sales figures for the lottery and, indeed, social gambling. Budgetary projections for income from social gambling and betting offices need to be forecast and reported accordingly. This year has also seen an unusual increase in mistakes in the operation and reporting of social and charitable gambling. One instance included a serious enough event to be reported to the Attorney General. All of these functions come at a cost, a cost that is not currently being met. I recognise that some efficiency can, and indeed, must be made. A reduced regulatory burden for the charitable sector is being drafted within the new Gambling Law. As I stated above, licences, such as bookmakers, amusement premises, credit betting office and track licences have remained unchanged since 7th November 2000. Registrations for societies and permits for the likes of bingo and cinema racing have not been increased since 1st January 1998. I hope Members will agree that this has been a long enough holiday for any form of increase. Unfortunately, gambling matters have not been considered of sufficient importance to merit being kept under review and up to date which, I have to admit, is no fault of the industry. It is precisely for that reason the department is not proposing to move directly to full cost recovery, being it recognised that it would be an unreasonable lump to impose on the industry in one go. In fact, following discussion with the industry, we agreed to moderate the proposed increases to levels that are being debated today. To reduce them even further, as other amendments seek to do, fails to recognise the need for fair cost recovery. Not to increase these fees, as proposed, simply increases the subsidy the industry receives from the taxpayer and, in my view, that is not an acceptable position. We have heard the claim of self-regulation, but to suggest that a professionally operated commercial bookmaker should be considered in the same manner as a sports social club or charity is, indeed, unacceptable. The industry does not self-regulate and never has. The precise reason for the industry being a compliant and acceptable one is because of the understanding within these professional businesses of what their duties and obligations are. Members will be aware that the industry has been largely silent on these proposed increases because they supported the principle of the Gambling Commission and they supported, in particular, the introduction of the new gaming machines which we approved just before lunch. I hope the Members will also support these fee increases. I propose the principles.

The Bailiff:

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

The Deputy of St. Martin:

Could I just ask the Minister to explain where the 401 permits were granted? I just did not quite catch where they came from.

Senator A.J.H. Maclean:

I think I said 402, but it is the permits for last year, applications for registration or licences by clubs or societies.

The Bailiff:

Does any Member wish to speak on the principles?

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

I will be supporting the principles. However, together with this letter that arrived on our desks yesterday from the Jersey Port Users Association... it proposed the increases for children on their port duties of 100 per cent. I thought that we were past these sorts of increases. Several years ago - it must be several at least by now - we tackled in debate the issue that the States needed to review all forms of charging so that we would not see these types of catch-ups. Unfortunately, this has obviously been one area that has escaped scrutiny. Perhaps Ministers and the Public Accounts Committee may take this on board that if one has got through the net, and there is another here on this port users thing, arguably, then there is possibly more.

3.1.2 Senator A. Breckon:

Just a few comments. I have generally seen this as a modernisation. I looked at this; I think it was in 1999-2000. One of the issues, not so much for the bigger players, but for, say, a parent teacher association with a school... supposing they had a raffle at Easter and then they had another one in the summer. For that they had to apply for 2 different permits and there were rules and regulations and this thing was becoming a nightmare. What disappoints me a little bit in this is that if a parent teacher association wanted to raise money in such a way then perhaps they could have a permit that covered a number of things. We could, perhaps, encapsulate some of this if they wanted to have 2 bingo nights a year and one raffle, then if they had one permit that allowed them to do that and then produced an annual report, I think it cuts down on some of the red tape. Again I am interested in some of the levels of this. Where I think there is a problem is where a number of the bookmakers are single operators and this fee... they do not have the weight of the national companies that operate here, and therefore it is a bigger issue because their base costs are a considerable part of that, and it is not a certain area of recovering them. I think that is probably where the Deputy of St. Martin... some of these issues are coming from in some of the increases that are proposed. But having said that, the other side is, perhaps... and I know there are amendments to this, that suggests this thing should be washing its own face from the start. But, there again, we do not want to make it too difficult for clubs and societies that do have their regular raffles, tombolas, fund raisers and things like that. I hope the Minister will bear in mind that perhaps, not now, but in the very near future, somebody could look at a process of getting P.T.A.s (Parent Teacher Associations) and charities and organisations like that under a permit system that allowed them to do a number of things without having to come back and say we are going to sell 5,000 tickets at 50 pence each and we are going to pay out this, that and other. If the system is in place that says they pay out 70 per cent or whatever they ... then they can report for that and the Commission can go back and they could ask, say, 50 of the 2,000 organisations or whatever that might apply, to produce a report. So, I think, there is an easier way than this, but I see this as being as a step, but I am not convinced about some of the fees. I will need to listen to some of the arguments.

3.1.3 Deputy J.M. Maçon:

Very much on similar lines as Senator Breckon, I am more concerned, perhaps, with those who just do, perhaps, one annual event and how well this will be communicated to them because it could, to an extent, be a surprise. I would just like the Minister to explain how well this is going to be communicated to the public, to charities, to those individuals that might not engage in these practices often.

3.1.4 The Deputy of St. Martin:

I have got a lot of amendments to come, but I just want to give an opening shot here. We have continued to hear about the cost to the public. I just want to know, what are these 4 people doing at E.D.D. What are they doing? Because I purposely asked how many permits had been issued and if you take 4 people, very highly paid civil servants, what are they doing because they are issuing these 402 permits? I did ask the department for a breakdown of the permits issued; that why I was querying why we got 402. Amusements with prizes, nil; amusement with prizes, one permit issued; 47 bingos and there were public bingos, 20. These bingos are the sort of things that I know I have been involved with St. Martin's Battle of Flowers, who have run a show; and Jumilage, they run... these are the sort of ... Now, we have got 4 very highly paid civil servants issuing these licences. We have got one gaming event, there were 9 permits issued for Crown and Anchor last year; 17 for cinema racing; 117 lottery permits; Bingo registrations 60; cinema registration racing 15; lottery registration 113; betting office 29 permits; there are 29 bookmakers. So how much time do they need, they have been given a licence, go into Treasury, pay your fee and that is it. Yet, we have 4 civil servants, what are they doing? There is no quibble. Quite rightly, the fees should have been put up, but these 4 civil servants have been so, so busy over the last 8 years they could not bring a yearly increase and now we are trying to get a great big chunk, not only R.P.I. but an additional fee. So, really, we ought to be looking to see what are those 4 officers doing? Quite clearly, it does seem to be totally unfair, asking people who are only having a licence issued for a bingo, for 4 civil servants to be issuing it. Quite clearly there is a dire need for a review of these licences. The States approved my proposition 2 years ago for review of the Licensing Law. That review has not been carried out 2 years on. I give notice now to Members I will be bringing a proposition asking Members to have a review so we can quite clearly know what the user is paying for and what the user is getting. For quite clearly there is no objection; I do not have a problem with this particular piece of legislation, because I do agree the fees should go up, but I would hope that Members, at the time, will vote for them going up at R.P.I. and not at the fees that are being considered by E.D.D.

3.1.5 The Deputy of St. John:

I might be singing from the same hymn sheet in part on this as the Deputy of St. Martin, which he might be pleased to hear. But I would have liked, when I look at the actual amounts, to have weeded-out that of the businesses that come, or are owned by companies off-Island, to those businesses which are on-Island. The difference being one would be paying tax on-Island and the others would be going back to the main benefactors at the head company in the U.K., or wherever they are registered - if we could have had that broken up in parts - those people who are not paying taxes on Island would be paying the bulk of any charges. Then look after the people who are doing their raffles and their bingos and their Crown and Anchor, *et cetera*, put those up by R.P.I., and then I could go with it in its entirety. But I think the Minister should really be looking after our local people. We know, full well, that many companies are not paying tax on Island and yet they are dictating certain policies to us, which are being taken on board by some Members. We have seen the letters being circulated earlier today, and so forth, so therefore, I say let those people who are creaming off the most out of this Island, pay the most. It may not go down well with the Minister for Treasury and Resources but I think these people should be paying a bigger part towards the problems that gambling causes, whether it be bingo or scratch cards or whatever else, but we look after our own but we should be making sure that those people who are creaming off the top in this Island, and not contributing to our exchequer, should be picking up the biggest part of any of these charges.

3.1.6 Deputy A.T. Dupre of St. Clement:

I just want to check that it is for each licensed premise; it is not for one bookmaker; it is for each single shop, I want to check first of all. Secondly, I think the idea of any club or organisation getting a yearly permit for whatever they are doing is one that we should think about.

3.1.7 Senator P.F.C. Ozouf:

Just to respond to the Deputy of St. John and his comments concerning Jersey-owned versus non-Jersey owned entities. I do understand the point that he is making and this has been a commitment from the previous Minister for Treasury and Resources and myself that we will continue to try to identify and find a solution to the issue of Jersey versus non-Jersey entities. It would be, however, as I am led to understand, not possible and not be a defensible position to put a different charge on locally versus non-locally owned entities. I know that is not the answer that he wanted to hear. But what I will tell him that in the fiscal strategy review which we are undertaking, and other matters concerning the review of Zero/Ten which I will be addressing in the budget next Tuesday, we are looking at this issue. We continue to try and find a solution to end what is widely regarded as being an unfairness, albeit that the U.K. entities pay tax on all remitted profits to a higher level than they do locally. So, it is not that they are not saving tax, if they are remitting their profits, then they will be paying them to the U.K. exchequer instead of Jersey.

The Bailiff:

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

3.1.8 Senator A.J.H. Maclean:

Deputy Le Claire, who has now left the Chamber, raised some issues unrelated to today. I understand the point. I think the opportunity to discuss matters of disparity between other departments and other areas with regard to fees will come forward either later today or tomorrow. He was referring in particular to port charges. As I have already said, my belief is that the charges proposed today in these particular Regulations, are appropriate. I listened with interest to the comments of Senator Breckon. Senator Breckon has a lot of experience in ... I was going to say gambling matters; that probably gives the wrong impression. He has experience of the industry from his professional background, both as a consumer council and working on the committee in the past. I listened with interest to what he had to say and he is right. More work does need to be done and I would certainly hope to look at redressing the issue with regard to small clubs. I think there are many other areas where levels of red tape for societies, small organisations do need to be looked at. There is room for improvement on that and I would certainly hope that in the not too distant future, we can address these particular issues. Deputy Maçon asked important questions with regard to communications of the changes to fees. The route that is used, typically, is that notices in the *Gazette* would notify the changes, but in a more proactive route than that, all main agencies get contacted with the schedules of new fees once, of course, they are approved by the Assembly. We also go out and inform organisations like the Association of Jersey Charities to make certain they are fully *au fait* with changes. Members will appreciate that most of these fees have not changed, as I have mentioned several times, since between 1998 and 2001, so it has been some time. So, it is important that the communication is appropriate and we will make certain that does happen. Which leads me on to the Deputy of St. Martin; again, he is questioning the appropriateness of the department, the resourcing of the department. We have covered, to be fair, most of this yesterday and I would just reiterate what I have said previously that, in my opinion, the department is appropriately resourced for the functions it undertakes from a regulatory point of view with gambling across the board, the numbers of staff and the funding for it are as they should be at the moment. Indeed, in the future, there may well be opportunities - depending on the decisions that this Assembly takes - to reduce the costs and, of course, that would be beneficial but at the moment, I do feel, they are appropriate. The Deputy of St. John, he again raises poignant points with regard to tax between locals and non-locals and he is right in many respects but the Regulations are not structured in a 2-tier way so it is not within our powers, as we stand at the moment, to do anything about what he is suggesting. Notwithstanding the fact that it presents a whole raft of other issues if one did anyway, but it is an area that certainly needs further attention. I would certainly accept and concede that. I would say to him, though, that despite the fact that a large number of the licensed betting offices are U.K. operations in the Island, the benefit, of course, is that they do contribute an enormous amount in terms of staffing. There are over a 100 members

of staff which are employed locally within the Island and we have the tax take from that and so on. So there are benefits from that perspective, but more work certainly needs to be done. I would just like to thank all Members for their contribution and I maintain the principles.

The Bailiff:

All those in favour of adopting the principles, kindly show. Those against. The principles are adopted. Deputy M.R. Higgins, do you wish this matter to be referred to your Scrutiny Panel?

Deputy M.R. Higgins (Chairman, Economic Affairs Scrutiny Panel):

No, Sir, we do not.

3.2 Draft Gambling (2010 Fees) (Jersey) Regulations (P.141/2009) - Regulation 1

The Bailiff:

Very well then we move on to Regulation 1, Minister. Do you wish to propose Regulation 1?

3.2.1 Senator A.J.H. Maclean:

Yes, Sir, paragraph 2(a), that is the Gambling (Betting) Regulation, substitute the amount of £96.75 to the sum of £150, so I propose Article 1.

The Bailiff:

Is that seconded? [Seconded]

3.3 Draft Gambling (2010 Fees) (Jersey) Regulations (P.141/2009) - amendment of the Deputy of St. Martin to Regulation 1 (P.141/2009 (Amd.))

The Bailiff:

Now, there is an amendment to Regulation 1 lodged by the Deputy of St. Martin, so I will ask the Greffier to read that amendment.

The Greffier of the States:

Amendment 1, page 11, Regulation 1: for the amount £150 substitute the amount £131.14.

3.3.1 The Deputy of St. Martin

I have a sheet here with everyone which was ... possibly the Minister could remind the House what we are talking about for the £150, is that for the ... what particular permit was this, was this the ...?

The Bailiff:

At the moment we are speaking to your amendment.

The Deputy of St. Martin:

Yes, I know. Well, all I am putting ... I have no argument with ... I am sticking with my story. The theme throughout that it is no fault of the industry, or those people concerned, that their fees have not been put up for 8 years. I am asking for it to go up by R.P.I. as opposed to what the Minister is asking for. So, I do not think there is a lot of debate about it. I make the proposition.

The Bailiff:

Is the Amendment seconded? [Seconded] Does any Member wish to speak on the amendment to Regulation 1? No Member wishes to speak?

3.3.2 Senator P.F.C. Ozouf:

I have not heard any persuasive argument; maybe that is why nobody wants to speak about why we should be accepting the Deputy of St. Martin's amendment. We are not here to be friendly to licensed betting offices, *et cetera*, and people running gambling businesses, we are here to represent

the public and allocate funds accordingly and, where necessary, put appropriate charging mechanisms in place. Nothing more to be said.

3.3.3 The Deputy of St. John:

I think the question that the proposer had asked was what the £150 was for. Well, if I am reading right under 1, it is the Gambling (Jersey) Regulation for betting from £96.75 to £150, which I think is acceptable.

The Bailiff:

Does any other Member wish to speak? Very well, I call on the Deputy of St. Martin to reply.

3.3.4 The Deputy of St. Martin:

Nothing more to add. It will be down to Members if they think it is right that people should have this fee put up, way beyond R.P.I., they will vote against it. I believe it should R.P.I. and I maintain the proposition.

The Bailiff:

The appel is called for then in relation to the amendment of the Deputy of St. Martin to Regulation 1. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 6		CONTRE: 34		ABSTAIN: 0
Senator B.E. Shenton		Senator T.A. Le Sueur		
Senator A. Breckon		Senator P.F. Routier		
Connétable of St. Lawrence		Senator P.F.C. Ozouf		
Deputy R.C. Duhamel (S)		Senator T.J. Le Main		
Deputy of St. Martin		Senator F.E. Cohen		
Deputy A.K.F. Green (H)		Senator J.L. Perchard		
		Senator S.C. Ferguson		
		Senator A.J.D. Maclean		
		Senator B.I. Le Marquand		
		Connétable of St. Ouen		
		Connétable of Trinity		
		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. John		
		Connétable of St. Saviour		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Deputy R.G. Le Hérisssier (S)		
		Deputy J.B. Fox (H)		
		Deputy J.A. Martin (H)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy of St. Peter		
		Deputy S. Pitman (H)		
		Deputy K.C. Lewis (S)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy of St. Mary		
		Deputy T.M. Pitman (H)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy M.R. Higgins (H)		
		Deputy D. De Sousa (H)		
		Deputy J.M. Maçon (S)		

The Bailiff:

Very well, we return then to the debate on Regulation 1. Does anyone else wish to say anything on Regulation 1? All those in favour of adopting Regulation 1, kindly show. Those against. Regulation 1 is adopted.

3.4 Draft Gambling (2010 Fees) (Jersey) Regulations (P.141/2009) - Regulation 2

The Bailiff:

Then do you propose Regulation 2, Minister?

3.4.1 Senator A.J.H. Maclean:

Yes, Sir, I do. These reflect all the different amounts for the different areas. I do not know whether Members want me to go through each individual one, but I suspect the mood is *en bloc*, I am more than happy to answer any questions should they arise, Sir, so I propose Article 2.

The Deputy of St. Martin:

With respect I think the House are entitled to know what we are voting for *en bloc*. I think they are itemised (a), (b) and (c), some of them refer to small clubs, *et cetera*, and I think it is only fair that Members know what they are going to vote for.

The Bailiff:

Deputy, of course, it is a matter entirely, but it is in the explanatory note. The explanatory note to the Regulations says exactly what each one is for.

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

Sir, it is in the explanatory note but (a) in the explanatory note is different to (a) in the Schedule.

The Bailiff:

Well, that is a matter for the Minister whether he wants to go through each one.

Senator A.J.H. Maclean:

Sir, I am happy to, if Members would bear with me.

The Deputy of St. Martin:

Could we not have voted on each on separately?

Senator A.J.H. Maclean:

I would suggest that in the interests of time if Members have got a particular interest, I answer it, I would be happy to do that, rather than go through each one, because I am sensing the mood that Members do not want me to explain each individually and we are going to have a debate on the amendment anyway.

The Bailiff:

Very well, this is the amendment but so ...

The Deputy of St. Martin:

Am I allowed to speak on it, Sir?

The Bailiff:

Yes, the Chair is getting confused by this one too. The Deputy of St. Martin, you have not, in fact, proposed your amendment yet. You just stood up to propose it but then you asked the Minister

elaborate, which he has declined to do, so I think now you need to make any proposition you wish to in relation to the amendment, but then we should read the amendment first.

3.5 Draft Gambling (2010 Fees) (Jersey) Regulations (P.141/2009) - amendment of the Deputy of St. Martin to Regulation 2 (P.141/2009 (Amd.))

The Greffier of the States:

Amendment 2, page 11, Regulation 2(a). In paragraph (a) for the amount £50 substitute the amount £22.95; (b) in paragraph (b) for the amount £110 substitute the amount £84.16; (c) in paragraph (c) for the amount £20 substitute the amount £15.30; (d) in paragraph (d) for the amount £50 substitute the amount £42.85; (e) in paragraph (e) for the amount £50 substitute the amount £15.30; (f) in paragraph (f) for the amount £10 substitute the amount £7.65; (g) in paragraph (g) for the amount £20 substitute the amount £15.30; (h) in paragraph (h) for the amount £20 substitute the amount £15.30; (i) in paragraph (i) for the amount £110 substitute the amount £84.16; (j) in paragraph (j) for the amount £1,000 substitute the amount £336.64.

3.5.1 The Deputy of St. Martin:

Almost put the repeating box on and be done for repetition. Again, we are down to the principle. If Members want to turn to page 7, as the Minister has declined to give us an indication what we are going to vote for, maybe I could go through it. But what has been asked for here is amusement with prizes is to go up from £220 to £1,000. Indeed, I do not think there was a permit issued last year when I read out earlier, so it does not really matter how much it goes to because no one has got it. You have got the amusement with prizes for a commercial event; that is going to go up from £55 to £110; for those private bingos, instead of £10 you are going to pay £50; for the public bingo from £5 to £10, I reckon that should be R.P.I. which would be £7.65; the gaming and event permit has been proposed from £15 to £50, I am proposing it should go down to R.P.I.; and the Crown and Anchor permit, £55, again doubling to £110. I believe again that should be down to R.P.I. which would be £84; the cinema racing permit £28 to £50, again that should be less, it should be R.P.I.; the lottery permit £10 to £20, that is your small clubs, they are going to pay £20, again it is only a matter of pounds but again we are looking at the principle. But should things go up just because someone says they should have more rather than going with R.P.I., caused by the fees have not gone up simply because the E.D.D. did not put them up. The bingo certificate registration £10 to £20, you may feel that is quite all right, doubling the fee there, but again, I believe it should be R.P.I. So we go on. But I do not need to repeat myself. I believe it should be R.P.I. It is for Members to disagree with me if they so wish. I make the amendment.

The Bailiff:

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

3.5.2 Deputy A.E. Jeune:

What I find amazing is that this amendment is really drawing to our attention, very clearly, and I can understand what the Deputy of St. Martin is saying when he says what is in the Regulation is (a), (b), (c) does not work against the explanatory note of (a), (b), (c), but I can see that it is clear and I can see what I am looking at. But what I do not understand is why some things are going up by 100 per cent, others are not. Why things are hitting clubs and associations more than they are commercial events? I just find it all rather confusing at this stage.

3.5.3 The Deputy of St. John:

Given some 11 years have passed since the last increase I have got a lot of sympathy with the Deputy of St. Martin. But there are areas like an amusement with prizes commercial; I think well if you have got a circus over here that are taking money through their roundabouts, *et cetera*, and the like, I think, yes, they should be contributing at a realistic figure for today. Anybody that comes in off-Island and gets a permit, or people that want to go racing at Les Landes, they come over from

Guernsey for the weekend, or from wherever, from France, yes, they should be contributing at the current rate today. Because we have had some errors in the past, we should not be holding back for those particular types. I sincerely hope that when we take the vote we can take from (a) to (k) on a number of separate votes so that the Minister will get the feeling of the Assembly where we want the taxes, or the charges, to go. I do not want to see the small football club or the Cancer Research, if they are running a raffle, paying an exorbitant fee over and above the actual R.P.I. I want to see a level playing field for charities and local clubs. But I do not want to see people coming in off-Island, going to a commercial organisation, then that commercial organisation and should be paying a fee that the Government think is correct for 2010, not something that is still holding us back to the way things were prior to the credit crunch. Things are changing and I think we have to take that into account. This is an area that, as far as I am concerned, anything to do with a commercial operation, if they want to stay in business they have to expect to pay a sensible fee, and some of those figures I do not think are out of the way, whatsoever. Thank you.

3.5.4 Deputy A.K.F. Green:

I am pleased to follow on from the Deputy of St. John because I am like minded. I think for clubs, associations, charities, this is totally, totally wrong. What you are doing is taxing them for very often raising money to do the job that the States should be doing. I do hope we can take these individually because I will not support anything that makes life more expensive and more difficult for small clubs, associations and charities.

3.5.5 Deputy R.C. Duhamel:

I had thought that this House had set a precedent, a number of years ago, that any price increases on charges would not be out of line with R.P.I. While that does not necessarily stop step changes from being presented to this House, I would have thought that it would have been a sensible practice in each particular case where a stepped change, which was out of line with the R.P.I. percentages, the case would have been made for such a step change by the Ministry in question. I have not heard that as yet and until I do I think I am inclined to go along with the previous practice of the House and to vote accordingly. If we do not do that then I am in 2 minds as to whether or not, by endorsing stepped increases, which have not been properly explained or justified, we are setting a new precedent. Certainly, there are some other interesting propositions that are about to be coming to the House, either before the budget or after the budget where such charges are being mooted. It would be interesting to know whether or not, as I said, endorsement of stepped increases in this case justifies further cases for stepped unargued cases in the future.

3.5.6 Senator A. Breckon:

I think this amendment is worthy of serious consideration because it does mix, to some extent, the commercial interests with the individual and I think where the problem is, how much does it actually cost to administer. If you want one for a lottery, it is a certain price and if you want one for cinema racing it is 150 per cent more. Well, why is that? You fill a form in, you send it in, somebody sends it back and you are given information. How this all fits in, and although it is a modernisation, it still looks a bit messy. Something that worries me, in what we have just done, and it says this on page 6 of the report: "The Minister has also lodged draft legislation to create a new Gambling Commission - see P.139 of 2009, Draft Gambling Commission (Jersey) Law 200- - and the Commission will be expected to finish the modernisation programme and bring fees fully into line with costs." What if I am the chairman or the secretary of a school P.T.A. and it costs £200 to administer my licence for the summer fete raffle. What are we going to do? Are we going to pay the £200? That worries me, if somebody looks at charities and associations, let us be honest about this, many of these organisations need these fundraisers. I am looking at the Constable of St. Clement here, I do not know whether he has got any raffle tickets on him but he usually has some, for something or other. He has, yes; I thought he might have some? **[Laughter]** So, he could usually tap me for a fiver, but again he has the ticket there; that has got somebody's name on, who

has applied for a permit, who has signed to say all will be done as it should be and what prizes will be paid out and what will be done with the money. But then, what is the cost to process that? It worries me if we get to a stage where we price out the little organisations, somebody's school fete that want to do a fundraiser once a year and for them they might raise £500, £600, £700. They are not going to pay £200, or cannot afford to pay £200 up front, and I think it is sad really that it has gone 7, 8, 9, 10 years, in some instances. But having said that, part of the problem with this, if somebody brings it back every 2 or 3 years then they say: "Well, what are we doing, what are we doing here, why are we doing this, why is it going up", you know, 13 pence or 17 pence or something like that. There were some Regulations to do with something or other, I cannot remember what it was, that were triennial, I think it is brought back to this House every 3 years and it was never enacted. I think it was do with milk subsidies and it was done 7 times, that is to say, over 21 years or more. There may be another way of doing this in that you could put something in that reflects the cost but is not a burden and the burden is not necessarily again on the big players, it is against the little organisations. So, I would ask Members to bear that in mind when they vote, but having said that, I cannot see how you process an application for a few pounds. There needs to be a minimum cost and, again, I would suggest to the Minister that if the Commission, when they are in place look at this, they do not go overboard too quickly and clobber the small organisations and the people who need the few pounds that Constable Norman has got the tickets for. That is how a lot of these organisations work and function and without it, let us be honest, we might well have to fund their activities because many of them are fulfilling a vital role throughout the community but maybe, as a step change, the Retail Price Index is the way forward as a temporary measure. It is not ideal and maybe, when we get further on, the bigger players could afford something else. Then there is a problem with cross-subsiding things. It is not an ideal situation but one that we have to get out of and perhaps following the Retail Price Index is the way forward for now.

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

I appear to be have been rather disenfranchised and it is a long way up here. Can you all see me? **[Laughter]** Sorry. I have been listening to this debate outside the Chamber and becoming more and more bemused, and somewhat angered, by the approach being taken by the Minister for Economic Development over this sudden hike in charges. It occurs to me that we are going to see more of this in the days to come, maybe next week. This is stealth taxes - hidden stealth taxes - no doubt about it. We have got a bit of a jam in terms of our funding and spending. So we will find a way to get in more money, one way or another, and Economic Development misrepresented this as, if we were to do R.P.I., if we were to moderate these sudden charge increases, then we would be assisting the bookmaker and the like. But make no mistake, whether it is the bookmaker, or the landlord, or the business, they are going to pass these charges on. It will end up coming out of your pockets and whoever it is that is having a flutter on the lottery, or the bingo, or whatever. It will end up coming out of their pockets. That is what, in effect, we are being proposed. Imagine, if you would, that you were renting a house and your landlord, for some unknown reason, forgets to raise the rent over a period of, what is it, 10 years, 8 years, and all of sudden he comes along to you and says: "I just realised, I am going to double your rent, overnight." I think you might go along to the Rent Tribunal and say: "Surely, he cannot do this, he has decided not to raise my rent for 8 years and now he wants to double it, surely that is excessive, surely that cannot be right" and I think the Rent Tribunal might say: "Yes, he has got to be more moderate than this." But that is what we talking about here: "Oh, E.D.D. has forgotten to raise their charges for the past 8 years." Oops. Who is to blame for that? The bookmaker? The person having a flutter? The person playing bingo? It is not their fault. But now we can just raise the lot together. Here we go. I will be voting against this.

3.5.8 The Connétable of St. Brelade:

While I do not feel I can support the Deputy's amendment, it does bring to one's thoughts the fact that there is not a declared longer term strategy with regard to the raising of fees and perhaps the department may consider that. In terms of fairness to businesses, I understand that consultation has taken place to arrive at these fees. But for the future, I think business needs to know what is planned, whether there is going to be a, perhaps a 3-year freeze, 5-year freeze or perhaps an 11-year freeze as in the past. But some clear indication, I think, would be of benefit.

Connétable J.L.S. Gallichan of Trinity:

The Connétable of St. Brelade has taken my thunder, Sir.

3.5.9 Senator B.I. Le Marquand:

I have been trying hard to match up the comments at various different places with the actual Regulation numbers and I cannot do it. I can do it for some of them by virtue of a process that there is only one that goes from £X to £Y, but in several cases things go from £10 to £20, and I simply do not know which one is which. This is unsatisfactory and if I am going to be asked, as I am, I hope, to make a reasonably intelligent decision on individual items, please, please, please, will somebody tell us what each of these Regulations relates to, so we can see which particular item we are voting on individually.

3.5.10 Senator A.J.H. Maclean:

I think it would understandably be helpful if I try to clarify this confusion. Under Article 2, if I could draw Members attention to perhaps page 11, if we look at the first one, (a) which is an increase of £15 to £50, that is gaming at an event. The fee covers fetes, fairs, includes events like Battle of Flowers, or International Air Display and the current fee does not cover the cost of electrical work undertaken to produce the permit and so on; (b) is Crown and Anchor, which I think Members will be familiar with, increase £55 to £110; (c) is the registration of societies; (d) is cinema racing, Members have got the figures in front of them, £28 to £50, I do not think it probably needs repeating those each time; (e) is private bingo permit; (f) is a public bingo permit.

Deputy A.E. Jeune:

Could I ask for a point of clarification on that? What is the difference between a private bingo and a public bingo? Thank you.

Senator A.J.H. Maclean:

A private bingo permit is a one-off fee for the year and does not cover the cost of administration of issuing or scrutinising returns, which can be any number during a given year; whereas a public bingo permit is a fee charged for an event, for the production of the permit and for scrutinising of returns to ensure that it conforms with the conditions and the requirements of the Regulations.

Deputy A.E. Jeune:

Sorry. So if it was a church event, which one would apply to them?

Senator A.J.H. Maclean:

The public cannot go at present. Sorry.

Senator A. Breckon:

If I may assist. The Minister might agree with me that a public event is open to the public but private is for members of a club or society. He might wish to agree with that.

Senator A.J.H. Maclean:

I would wish to agree with that. I think we are getting unnecessarily confused. I think Deputy Jeune is probably still confused by the look on her face. I will try and address it at a later date. Right. (g) is a lottery permit; (h) is a lottery registration; (i) is amusement prizes at an event; and (j)

is amusement prizes in an arcade. If I may, I have not spoken on this yet and I think I would just like to continue, having hopefully clarified where the charges sit for Members.

The Deputy of St. John:

I am still confused. If the Minister could run over those again because they were running from one into another. I was trying to note down as we went along and I would like to get it right. So if we are able to vote on them individually afterwards at least I will have it down right. Thank you.

The Bailiff:

More slowly then, I think, Senator.

Senator A.J.H. Maclean:

If I could draw Members to page 11 - I do not know if the Deputy is on page 11 - so we are on the right page: (a) is gaming at an event permit; (b) is the Crown and Anchor; (c) is registration of societies; (d) cinema racing; (e) private bingo permit; (f) public bingo permit; (g) lottery permit; (h) lottery registration; (i) is amusement with prizes at an event; and (j) amusement with prizes arcade. I will continue with my comments, if I may. Hopefully Members are clear on those particular categories.

The Bailiff:

Minister, if I may, just from the Chair, I do think that is a very unsatisfactory process. Your report really should have made clear which leads to which. **[Approbation]** I appreciate that there are contents in the explanatory note in the report but, as Senator Le Marquand pointed, they do not marry up with the numbering. So it was impossible for anyone to work things out.

Senator A.J.H. Maclean:

Yes. I accept your comment, Sir, and I understand Members' dissatisfaction with the fact it is not easy to understand what is in the report. Hopefully what I have just said has clarified it and for future presentations of this type I will ensure that we deliver something that has a great deal more clarity.

Deputy A.T. Dupre:

Can I have a clarification? Regulation (j), is that in an arcade? We do not have any arcades, have we?

The Bailiff:

Can we return? The Minister is speaking on the amendment.

Senator A.J.H. Maclean:

Having said that, to Deputy Dupre, there were, of course, arcades in the past, Funland and what have you. So the provision is there for that requirement. I clearly understand a certain degree of unease with Members with regard to these fees. I understand in particular the concerns that Members have with regard to smaller organisations, specifically clubs and societies, associations, small groups. I do appreciate that but I would try to draw to Members attention that the fact that there has not been an increase in these fees for some considerable period of time is one defence. The fees also that we are talking about for these small groups, societies, clubs and associations, tend to be very small starting base figures. For example £5 to £10, £10 to £20 and so on. So the actual figures are very low and I would say that in many cases it is not getting anywhere near a cost recovery for the issue of permits when we are only charging £10 or £20 for the issue therein. I would give an example. For charitable lotteries, just to give an example on that, the registration is £20. The permit is £20. Once registered, of course, that is not a sum that has to be paid again. For example we could draw in the Jersey Hospice, £1 million draw. They originally registered and paid £20 and £20 then for the permit. This year they are only paying £20 for the permit for that

particular event and so on. So the headline figures are relatively low but I do accept the concern, particularly because there has been a period of time where there has been no increase at all, it does appear, at face value, to be significantly higher. Deputy Duhamel raised the point about R.P.I. Again it goes back, if you extrapolate out the original charges between 1998 and 2001 and you added R.P.I. it would come out at a figure which is below what we are proposing today. One of the reasons for that was at the time, back in 1998, 2000, 2001, the department, as I understand it, did not, for whatever reason, operate on a cost-recovery basis and so the fee structures that were set at that time were below a level to recover the costs even at that stage. We are trying to get to cost recovery. We have tried to work with these figures to be reasonable and fair and take a stepped approach to try to increase, particularly with regard to the licensed booking offices, betting offices and so on. Long-term strategy was mentioned and I think it was a particular relevant point by I think it was the Constable of St. Brelade and he is right. A long-term strategy to ensure, most importantly, that fees are increased on an annual basis and appropriately. In future it will be something that the Gambling Commission will be in a position, as a professional body, to advise how and what is appropriate for fees moving forward. In particular they will be taking a keen interest in areas of the community such as clubs and societies which fulfil a very important function within our society and community to make sure that the charges are proportionate and are as fair as they possibly can be. I would just comment also, if I may, on comments made by Deputy Southern, talking about sudden hikes and hidden stealth. Well, there has been in many areas consultation and discussions over the increase of fees. This is not intended to be a hidden stealth tax or increase in any shape or form. But, more importantly and more concerning, I was worried about his comment about bookmakers passing on their charges. Well, I mean, clearly that just does not happen. It cannot possibly happen. It is not a retail product that you buy in wholesale and sell retail. Somebody goes in to bet. They put their money down, whether it is a machine or however they choose to do it. There is no charge or effect on the consumer themselves. So that, I am afraid, is completely untrue. I would conclude by simply saying that although I appreciate and understand the concerns of Members with these increases, I would ask them to please bear in mind that the figures involved here are very low. They come from a very, very low base; £5 to £10, £10 to £20 and so on. We are trying to move to a position of cost recovery. We do not feel the taxpayer should be responsible for meeting these costs and a fair and slow and stepped approach is what is being proposed here. I would ask Members to support this proposition at this instance and in the future we have a longer-term strategy driven by the professionals in the Gambling Commission that has just been approved. I hope that that, Members will accept, is a pragmatic and sensible way forward. In that respect, I would encourage Members to reject this proposition. Thank you.

Deputy A.K.F. Green:

Sorry, could I just make a point of clarification? I think the Minister was mistaken on the lottery registration. You register every year and then you apply for a permit for every raffle you want to run in that year. You do not get a permit for the life of the association or the club. It is register every year.

3.5.11 The Deputy of St. Mary:

I would just urge Members, in spite of the problems with the presentation, to go with this because it is a move towards cost recovery. I just know that there might be a feeling in some quarters that because the presentation was so muddled ... I was going to comment on that before Senator Le Marquand and then the Chair has pointed it out to E.D. that it is really unsatisfactory and that is the second time in a month that they have brought something unsatisfactory to the House. But, please, let us not get stuck on that in terms of voting. The increases, as the Minister pointed out, for the charitable items are very, very small. They are starting from a tiny base of £10 going up to £20 and so on. So I think they probably are acceptable and, unless I hear to the contrary, I will be voting for all of these but they have to be taken separately. We have to know what we are voting for and I think that point is taken. But let us not confuse the errors in presentation and the confusion with the

principle of the thing because if we go for the R.P.I. solution we are making the taxpayer subsidise the gambling industry.

3.5.12 Senator B.E. Shenton:

I was chairman of the Hautlieu P.T.A. for a number of years so I am well used to applying for permits and all this sort of stuff. We used to have to apply for an annual bingo registration which has gone up from £10 to £20 and then I am pretty sure we used to apply, because it was only open to members from the school, for a private bingo permit which has gone up from £10 to £50. Now, the bingos themselves, we used to hold 2 a year. We never used to make much more than sort of £250-£300 out of them. It was more for the enjoyment of the children in the infant school. It was very much a young person's type of event. I would just like the Minister to clarify why the bingo permit private is going up 5-fold. Thank you.

3.5.13 Deputy J.M. Maçon:

I think I will just reiterate one point which is this will be a stepped approach. Therefore, the figures that are before us that we are being asked to increase by the Economic Development Department will carry on going up and up and up so that in the end it will wash its face. Therefore, there are some questions raised: "Is £50 enough for a charity at the moment?" Well, that is going to go beyond that and I do not know where that leaves us but I think Members should be aware of that.

3.5.14 Senator P.F.C. Ozouf:

It is certainly not Members' fault but we are discussing something which in total, in terms of these fees, raised £8,000 last year and I do not know what the corresponding increase brought by the Deputy of St. Martin is. I think the Minister's proposal is £23,000 for this area of fees perhaps and the Deputy of St. Martin is below that. I suspect that in the redrafting of these laws then these fees might be more appropriately set by Order so that Members can then challenge them if they are not happy with them on a yes or no basis. It is not Members' fault at all but we are making very heavy weather out of issues which are quite minor. I do think I have sympathy and I have not heard any convincing arguments apart from the Deputy of St. Martin's standard phrase that he says that we should only be increasing fees by R.P.I. I think we have got to be slightly more thoughtful, if I may say, on that. The cost of administration is something that E.D. and the Gambling Control Office need to cover and I am sure Members can understand that in turning around a permit ... and this permit is not just a bureaucratic piece of paper. The permit is there for the protection of the people that are playing or taking part in the fundraising event. Of course, the permit is there to ensure that there are appropriate safeguards, that there is appropriate documentation of who wins and the appropriate drawing of the prizes, *et cetera*. It is there for the protection of the people that are participating in, as Deputy Green quite rightly says, fundraising measures. Some of them will be large and some of them, like the hospice lottery, will be small. I personally do not see that there is an issue with asking for a permit which is raising a permit of say £20 for the individual of a fundraising event. I remember a figure which has stayed with me for some time. The administrative costs of raising an invoice when dealing with all the administrative arrangements of an officer spending time looking at it, checking it, the postal receiving and sending, is around £35 for a basic administrative function. If I am wrong, if it is £30, then clearly the public is still subsidising for the basic administration for these issues which is for the protection of the public. I am not sure that it is appropriate to have a massive debate about these things. I have not heard anything convincing from the Deputy of St. Martin in relation to an R.P.I. increase. I think the Minister is being reasonable. He is still subsidising and his department is still subsidising what effectively are charity raising activities. But there is a cost and there is a control to be borne in mind.

3.5.15 Deputy J.B. Fox:

I am pleased to follow the Minister because the Minister, on paper, is perfectly correct. His timing in bringing these words out is most inappropriate. This is the time when people are suffering. People are struggling. Not only individually but people in small organisations; whether they be voluntary or professional, and these are the things that you talk about, charities. More and more charities at the moment are doing things that government used to do and are not doing now and I am afraid that when you talk about things like this, I am just ... not me personally. I chair the group for the Move-On Café. We have got to kit out a whole café. We cannot get the support that we used to get because everybody else is wanting support, quite rightly. There are many deserving quarters and some are more deserving than others. But, needless to say, we have all sorts of health and safety regulations now that we cannot just have second-hand material or equipment that we used to be able to have. We have got to it up to a standard that is fireproof and all sorts of other things. You know, when you talk that it is only £20, that is still £20 for that particular one. You want to do another one, so you have got to register it. That is another £20. It soon mounts up and I think this is where there must be a balance. I agree that we were doing fine on P.139. We had all the information. We had pre-meetings and everything else. But the layout in this and the defining of exactly what these particular groups apply to and apply from, we have not had enough consideration to it and right down from a private bingo, *et cetera*. Some of these items are very important to the voluntary sector, especially the schools; whether it is schools or clubs or football or whatever. You know, it provides a new kit, shall we say, for the infant's football team or for the Scouts or whatever. So, I mean, I would like to say that we look on this amendment for those things that involve charities and the other professional issues we are going to be discussing later anyway in a subsequent amendment of Deputy Noel's. But I feel very uncomfortable about voting for this and especially with the Minister for Treasury and Resources not fully accounting for the sensitivity at this moment in time and the amount of hard work that volunteers and others are going into arranging these things in order to support our less well-off, our young people and indeed our senior citizens as well. Thank you.

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

I do not often agree with Deputy Fox but I do agree with just about everything he said, as someone who obviously worked with young people. The last 10 years I was involved I think we raised about £250,000. There is a lot of work goes into that and I think there is a lot more consideration that should go into such matters on the impact of that because the potential is hugely damaging. Volunteers to do these things are hard enough to come by. I think perhaps the Minister for E.D. has not focused on that enough. So, again, I fully endorse what Deputy Fox has said. Thank you.

3.5.17 Senator J.L. Perchard:

I am motivated to speak now. I had not planned to. Getting a flavour from Members, I think I am going to suggest - and I do it reluctantly - that the Minister takes this back and comes forward with a new programme of charges exempting every charitable organisation who cares to hold a fundraising type evening or event and offer it to these organisations as a service of the States of Jersey. Wonderful work is done by charities and organisations, clubs raising money for children and sporting activities by associations. I think we often take them for granted and I do feel that if the Minister took this back it is not going to have a great economic impact for his department but it would be a wonderful gesture on behalf of the States of Jersey supporting those hard-working honorary people who raise money in a charitable capacity. I would suggest then that it could be those registered with the Jersey Charities Commission and nobody else. I say to the Minister, and I say it reluctantly because I do feel he has done an excellent job of bringing forward these 3 propositions, take it back. Come back with an exemption for any organisation running an event that is a charitable organisation and with the charges levied on the others, as Deputy of St. John suggested, perhaps a little higher for the commercial organisations, and I suspect he will get full support of this House. Sir, I do not know what the form is. Do I propose that the Minister takes it back? Do I ask him to take it back?

The Bailiff:

I am afraid you can only ask him to.

Senator J.L. Perchard:

I formally ask the Minister to take it back and recognise that he has not really got the mood of the House on this one.

Senator P.F.C. Ozouf:

Can I just ask a point of order? Members have 3 options, as I understand it; either to have the *status quo*, go with the Deputy of St. Martin's proposal or the Minister's. If Members vote on each individual item or group them together for the commercial versus non-commercial then they have got a clear option that they either go with the Minister, go with the Deputy of St. Martin or throw the whole thing out, which achieves Senator Perchard's amendment. Would that not be a better way to proceed?

The Bailiff:

I do not think it is for the Chair to say which is a better way to proceed. The Senator has asked the Minister whether he will take it back. That is a matter for the Minister to consider. But the point you make is right in the sense that Members can, on each individual matter, depending on whether it is commercial or not, they can either vote for an increase as per the Minister, vote for a limited increase as per the Deputy of St. Martin or reject the amendment and reject the proposition altogether. So all those options are open to Members.

3.5.18 Senator T.A. Le Sueur:

I think we need to get a sense of proportion here because, of these increases, quite a lot of them refer to the commercial sector. We have got a very simple option in front of us both for licences for the commercial sector and for the private sector in that there is the amendment the Deputy of St. Martin or the proposition of the Minister for Economic Development. I think, as Senator Ozouf just said, if we take each application in its own way then those which deal with commercial licences, clearly they must take a particular view on that aspect. Those deal with predominantly social licences, Members may well be able to take a different view. I think to lump the whole lot together and just say: "Take it all back and start again", is confusing the issue when what we have here is clear evidence that costs are not being recovered. Fees have not gone up for years, in some cases over a decade, and something needs to be done. So I think, given that we have the option of taking the vote individually on each of these cases, there is no case to be made at this stage for taking it back.

Senator J.L. Perchard:

Just a point of clarification from the Chief Minister. If the Chief Minister and the Minister for Economic Development can confirm exactly which licence is charitable and which is commercial I suspect the House would agree with the Chief Minister. But I am not sure he can.

Senator P.F.C. Ozouf:

If I may, I think the commercial ones are (b), (i) and (j); in other words, Crown and Anchor and the 2 amusement arcades of which there is not an amusement arcade anyway.

Senator B.E. Shenton:

Does that mean the Minister for Treasury and Resources is accepting the Deputy of St. Martin's amendments or the others?

The Bailiff:

Can we please not hear on a whole lot of points? Now, does any other Member wish to speak.

3.5.19 Deputy A.E. Jeune:

Just to ask which of the bingos is the commercial one?

3.5.20 Connétable K.P. Vibert of St. Ouen:

I really believe that we are getting ourselves in a terrible mess here and the reason for it is what Senator Le Marquand raised, in that the explanatory note accompanying the report does not match up the items that we are voting for. Now, I know that the Minister has done his very best to try and explain the situation but I still think that we are going to get to a situation where we are going to be asked to vote without being totally honest and saying we know exactly what we are voting for. I think if the Minister would maybe take this back and come back with a report which clearly identifies each item so that when we do come to vote for it we know exactly what we are voting for. I think at the moment there is an element of confusion despite the Minister's best efforts and I suspect that we will make the wrong decision.

Senator A.J.H. Maclean:

I can appreciate the confusion that has been caused by this particular proposition and I think the suggestion by the previous speaker has a certain degree of merit. I believe that it could have been presented more clearly and I would be happy to take it away and re-present it in a format that I think would be helpful to Members and hopefully we can progress the matter in that way. **[Approbation]** Thank you.

The Bailiff:

Very well. It must follow, Minister, in relation to the Regulations as a whole, I mean if the principles have been approved and Regulation 1 has been approved that, therefore, debate on the Regulations as a whole will stop and the other amendments will have to be dealt with later. Can I just be clear, are you withdrawing the Regulations or are you simply asking that debate upon this should cease? Minister, I think you have to withdraw the whole matter then and start again next time with a better report.

Senator A.J.H. Maclean:

There might be another option perhaps. Is it possible to move to the next item?

The Bailiff:

If somebody proposes it, yes.

Senator J.L. Perchard:

Sir, I would like to propose that we move to the next item.

The Deputy of St. John:

As we are in the middle of an amendment to this particular issue, have they just proposed that we move on to the next item which reverts back to the main proposition, Sir?

The Bailiff:

Well, we have had that before but I think where it is an amendment and there is a proposal to move to the next item of business, it is the matter as a whole which goes. So do we have a proposition to move to the next item?

Senator J.L. Perchard:

Yes, Sir. I would like to formally propose that we move to the next item.

The Bailiff:

Is that seconded? **[Seconded]** I do not consider that to be an abuse of process and, therefore, it is acceptable. There is no debate upon it. So all those in favour of moving to the next item of business kindly show. Those against. So we move to the next item of business.

4. Young Offenders: naming by the media (P.148/2009)

The Bailiff:

We now come to the Young Offenders: naming by the media - Projet 148 - lodged by Deputy Pitman of St. Helier and I will ask the Greffier to read the proposition. Before he does, Deputy, do you wish to take it as amended by your own amendment? I am sure that would be sensible. So the Greffier will read it as amended by your own amendment.

The Greffier of the States:

The States are asked to decide they are of opinion: (a) to agree that the current restrictions on releasing the names of young offenders from the age of 12 who are convicted of a serious assault, murder, manslaughter, rape or robbery shall be amended to permit the naming by the media and others of such offenders provided that the courts shall retain a discretion to order that the offender shall not be named if (i) an individual has been identified as having learning difficulties impacting upon their actions, or (ii) the court is satisfied that there would be a serious risk of physical or mental harm to the individual if he or she was named or satisfied that there are other wholly exceptional circumstances that are sufficient to justify overturning the normal presumption in favour of naming; and (b) to request the Minister for Home Affairs to bring forward for approval the necessary legislation to give effect to a decision.

4.1 Deputy T.M. Pitman:

I am really disappointed that Senator Maclean has gone because I wanted to point out that size is important. **[Laughter]** Indeed, it is just as well I know my place because I almost feel important. Almost. Firstly, I would like to thank the Attorney General. Though it obviously took a very, very long time indeed, I think nearly 2 months, to get his comments, I am aware that it will have taken a lot of consideration. So I thank him for that and I was not even going to mention that I think his predecessor said that he did most of the work but there we go. But the comments are important because for many Members the result of this and how they vote will come down, I think, to whether they see signing up to the Convention on the Rights of the Child is overriding everything else or whether it comes down to being brave enough to take some action and face up to a very difficult issue. So introducing the proposition, the few points I do think I need to highlight for Members, other than the one I have just mentioned, we have obviously heard a lot about long and rambling speeches and, while the record does point out that I am not one of those in the habit of making long speeches for the sake of it or indeed one who feels the need to speak on every issue, I am afraid that the subject here today demands that I will be making a longer speech than usual. Perhaps that is why so many people have disappeared already. But I can assure Members that I will try to speak for no longer than absolutely necessary. To qualify this, as Members will by now be aware, I have had to lodge my intended amendment to P.148 calling for a focus strategy group to examine all of the underlying issues that contribute to youth offending as a standalone proposition. That is now P.201. So I am going to leave all those wide and absolutely crucial areas of debate until 19th January. However, I do have to add that, if Members wish, they can still have the full 90-minute version of the speech or you can have the 25 minutes. Looking at the faces, I am sure the 25 minutes will be the one that Members will want. That is fine. All I would say is please do not be too critical of some of the things that I will probably have to leave out. So while preparing that element of the debate those underlying areas are less than satisfactory in many ways. As T.S. Eliot wrote in *Four Quartets*: "In my beginning is my end." I think that is very, very relevant. That said, focusing on the straight issue, of doing something now to combat youth offending - serious youth

offending, let us remember - rather than simply to sign up to a very well-intentioned document but a flawed one, I think we can keep certainly my speech and probably the debate down to a length of time that Members will find they can listen to and hopefully contribute to. Having got that out of the way, I must make it quite clear that this is not a J.D.A. (Jersey Democratic Alliance) proposition. This arises purely from my own professional and personal experience over many years working with young people in the community, both here and within inner-city Leicester, and indeed from the large number of contacts expressing concern on this issue that I have had over the past 12 months. To that regard, while I think of it, I would like to thank the 180 now that have contacted me and come up to me with support since I lodged this. It is appreciated. I think it is always important to listen to what the people say, whether you agree with them or not. That really leads me in to say that I am very pleased to bring the proposition today, which probably some people are surprised with me bringing it. But I am pleased because I think I am in a very rare position of a win/win situation. I may get one vote. I may get 2. If I follow the Deputy of St. Martin's lead, I might get less than I think. But it will not matter as far as the majority of the public are concerned, I think, because most people, I believe, think that the argument has already been won. It is a difficult and emotive issue but people want action and it is action that Government should have taken a long time ago. Now, for those Members who listened to the talk-back show - I will not do any advertising on which radio station it is on - on Sunday you will know that I was criticised by Deputy Martin for not basing this proposition specifically on any reports from experts. While I understand where the Deputy is coming from, a Deputy you obviously have a great deal of respect for, in fact I have a lot of ... it is love and affection. It is true. She is great. Huge amount of respect. She is in my top 4 favourite Deputies. I will not say where she comes in the top 4 but she is. She talks a lot of sense and I think, even after agreeing to disagree on Sunday, I hope that we can still call each other friends. I certainly do not want to tempt her to dub me a mega-git or whatever her new term was yesterday. I think we both recognise although we have got very different views we have reached those on genuine exploration of the issues at hand. Now, to enlarge on that, reports and statistics as we certainly regularly see - we have probably just seen it - they can be made to mean many things. Thus when I put together that report I specifically appealed to Members, all who will have different experiences and perspectives, to contribute - whether as a Constable, teacher, policeman or even perhaps just as a parent - to examine where they came from really on that personal position; their personal position, common sense and, of course, from listening to the public as I have said. If they are not picking up anything from the public on this issue then I really do not know where they are hiding. What the public are saying on the radio, on forums, in cafés, pubs, on the bus. People... the majority of the people want some form of action here. They see us, politicians, as little more than apologists for doing nothing and I do not think that is a position we can afford to hold. They see us as responsible for creating this culture of a very small minority of young people being untouchable and abusing it. Let us get it on the record now, most of our young people, I know everyone will agree, are absolutely amazing. They cause no problems at all and they are a real credit to the Island. **[Approbation]** But many members of the public, I believe, view us as caring more - and I know this is something that Senator Shenton will likely be speaking on later - for the human rights of offenders than the human rights of victims and "Lefty Liberal" or not, as I may well be, I have to say that these views are wholly understandable. But still, even though I was quite clear about the approach I wanted to take, wondering if it could be just me who had gone to bed a Democrat and woken up a Fascist - and that was a joke - just me who had reached the conclusion that naming was another possible constructive step towards attacking youth offending, a step that could support the core needs to make inroads to all the areas that underlie young people going off the rails. A couple of weeks ago I did do a quick scan of a variety of material on the internet anyway and I am pleased to say that what I found confirmed my original decision. One of the first pieces of work I found was opinion emanating from within Australia, the Parliamentary Research Service. Now, though this dated back several years, it was interesting to see that some of the arguments listed in support for such a naming approach included that naming would increase the personal accountability of young offenders for

their actions. Now, I am going to have to go through these so I hope people will bear with me. This fitted in with my own opinion that getting young people to own their actions and the consequences was a highly positive one. Certainly a step too that fitted in with my commitment to restorative justice, for owning and accountability is what this is all about. The so-called naming and shaming tag, and I think it is an unfortunate tag, is really a media invention. I do not think it is a helpful one either because, although certainly shocking, embarrassing, shaming, call it what you will, certainly does play a part, again the media do tend to make these things nice and convenient. Further still, another message put forward is that naming would increase public safety by alerting members of the community to the presence of young offender who have committed serious crimes. I stress, we are talking serious crimes here. This too fitted in largely to what I felt was another important area, i.e. that Government must have and act upon a responsibility to consider public safety. These are serious, serious offences we are talking about here. Not littering or cycling the wrong way down a one-way street; although that is legal, I think, in St. Helier with our present Constable. It is an important area of concern to many parents who have pointed out their concern over the negative influence that such offenders could have on their own son or daughter. Now, that might be hard to appreciate for some but I think it is relevant. The public interest argument was one that was also, I would add, put to Deputy Martin and I very ably by email during the phone-in from a lady, I believe someone from the legal profession. Yet another argument and why I bring this, put forward again in Australia, was that naming young offenders would act as a deterrent to the young offenders themselves and to other young people. Now, again, this is something that I do believe very strongly to be of value. It also fits in to the concept of restorative justice to anyone who understands the approach fully and it is more difficult than people think. If it is handled skilfully it could help a young offender to see the damage and consequence to either him or herself and to significant others in their lives and turn them away from the possibility of even more serious offending further down the line. That is a key area for us to focus on. The argument that the fact that a young offender has been named will for some bizarre and unidentified reason then prevent professionals, such as I was, working with them successfully is, I am afraid, just nonsense. I say that from all of my years of working with young people, it is utter nonsense. Indeed, if we follow this frankly absurd - I do not mean that disrespectfully but I find it absurd - argument from the Minister for Health and Social Services then we logically also have to stop finding young people guilty or giving them a sentence too, because these will obviously have an impact on forming barriers to overcome for workers. To move on, a further example from this research worth commenting on was the argument that naming would prevent juveniles taking advantage of the special protection available to them in the knowledge that their wrongdoing would not be made public; just as important, I believe, is getting young offenders to own their actions and more so perhaps even than the public interest factor. The Government clearly has a responsibility to consider. This argument does tie-in with the feeling of being untouchable, that "Billy", the former young offender quoted in my report, talked of and being one of the attractions of offending behaviour to those considered too young to name. It is also, quite demonstrably, a real concern among the public. I do not think many of us would dispute that. If the Assembly would bear with me just a moment I will quote a few lines from what that young man said. Of course his name has been altered: "I think we all thought it was such a laugh. Seemed like you were untouchable and I suppose that was half the attraction. My mum hated me getting into trouble. She never talked about it to anyone outside of family so I never really had to deal with any grief from any other adults. You did not see your name in the paper like an adult would." Now, I think that statement from someone, now 20, says a lot. But to move on as quickly as possible, all of the above thoughts which I found in Australia also dovetailed neatly with what I realised the other day was feedback from just over 40 young people that I have questioned about issue of naming, i.e. being both a deterrent and being a tool to help young people accept ownership of their offences. Similarly, the crucial issue of whether 12, as I am proposing, was an appropriate age where young people knew right from wrong. Indeed the support for this - and I acknowledge it was a little to my surprise - was total. Every one. Interestingly, the age of the young people I counted as opinion here, and I

am not making any claims of a scientific approach because clearly it is not, were all between 12 and 17. Certainly the ones I knew, for obviously I do know a lot of young people through my previous profession, among the ones I knew, they were certainly not all angels. But a little more on that later when we come up to what I would consider the pure folly of simply signing up to a 20 year-old convention in the idea that it is going to be a panacea to all our ills in the area. The fact is that for every argument for on such an emotive topic, you can of course generally make one against. This research I refer to appeared to be no different, with counter-possibilities like, for example, some young offenders, however a small number, could possibly welcome being named. I acknowledge that in my report, of course. There was that lofty tome of the *J.E.P. (Jersey Evening Post)* pointed out and who would argue with their wisdom. Such publicity for most young people and their parents would be hugely unwelcome. Another potential highlighted against was touted as being if there had not been a wave of violent crime in a particular jurisdiction then, in that case, there would not be a sufficient need to change an existing law. Well, that one, I would suggest, cannot be argued in Jersey right now with any validity. But, of course, one can put forward others and I do not dispute that, not in any way. But, as I say, I will come to that specifically when we get to the comments from the Minister for Health and Social Services. It has to be acknowledged here the obvious “against” justification on this issue and the big stumbling block for Deputy Martin herself, this being that while a number of jurisdictions are now evidently looking seriously at developing this, including Canada, Australia, and both major parties in the U.K. have been talking about this ... Indeed it is also interesting to note that only this week the Government are asking members of the public to comment online about appropriate sentencing methods for young people. Something I would suggest we might consider more in Jersey. But due to the still developing thinking in this area it just does not exist, the vast tome - sorry that is my word for the day: “tome” - of quantitative data that Deputy Martin would like to sway her mind. Of course, I fully understand her perspective in wanting that. I completely understand that. Yet, equally - and this is where I come to smile - in spite of all the emotive talk by some, and I am sure we will hear a lot more today though I am sure it will all be genuinely based on people’s feelings when we hear why this approach would not work in their view, there is not, and for the very same reason, irrefutable, 100 per cent cast-iron evidence to back up the argument that this approach would not work. Yes, we can talk about the different issues of civil law and A.S.B.O.s (Anti-Social Behaviour Orders) and the greatly varying ways that they have been applied but they are not the same. Indeed the whole process of giving these A.S.B.O.s, a tag that sounded cool, was flawed from the very start and if you talk to a lot of professional youth workers they will tell you exactly that. Try talking to young people about it as well. I have. I do wonder how many of the corporate parent have. But whatever else there is, and it is not contrasted to what I have just outlined, there is evidence piling before us, week in-week out, that what we are doing now in Jersey most definitely is not working, period. Our present approach is failing and it is failing big time and we cannot blame all of it simply on the lack of a designated secure unit, although that is obviously a major issue. I say again, we can talk about possible negatives of such a naming approach like the potential of labelling and here I would draw attention to the information sheet which Deputy Martin has given us. Obviously Professor June Thoburn I have got a huge amount of respect for. However, when you see things like this, I am afraid the great big flaw with it, again... no consideration given to boundaries which young people need or accountability and those are real failings. Of course another concern flagged-up for us is the possibility of a serious offender being ostracised for a time as a result of his or her criminal actions and there is that concern. There is that reality. But I am afraid all of these concerns need to be set within the real world and too many people who approach this issue do not seem to live in the real world; a real world where actions do have consequences, where the conscious decision to violate another person’s human rights, to almost kick some innocent visiting student’s eye out of their head for no other reason than they are foreign, batter a complete stranger unconscious, stamp on him simply because you can and it seems a laugh because you are drunk - or many other examples I could and may give in January’s debate on my other proposition - should and must have an impact on your life and liberty and anyone who does not accept that, I am afraid, really does not

live in the real world. But they do not and the majority of the public, I believe, share this view; certainly from the huge amount of contact that I have had. We saw it again on Sunday. In the long-term they do not help anyone; not victims, not the wider community and certainly not those who are tempted to offend. I do not really want to highlight the Minister for Health and Social Services because I am aware that she is representing the corporate parent and there are several people who make that up but I have to say, very politely, that on this matter they are away with the fairies. I am sorry if I get quite heated about this but I feel very passionately about things that impact on young people. Moving on, I do have to say that I find the suggestion that government, any government, should apparently be paralysed from taking any action on an increasingly worrying and serious problem unless and until someone can find a report or thesis on the subject supporting what they are considering quite shocking. I ask, does our own experience and understanding suddenly count for nothing once we are elected should we face a difficult issue? This is a difficult issue. If it is the case, as one example, where we cannot do anything until we have got reams and reams of evidence, then I do find it strange how we look back at one recent example with electoral legislation. Now, whatever you think of that, there was absolutely zero evidence to support it and the whole concept is not supported, and there is legal research done to back this up, in any human rights-compliant democracy in the whole world proven. Yet we did it. We did it. So should the easy cop-out, the lure of just signing up to a treaty, the Convention of the Rights of the Child in this instance, suddenly override all else? Even when, upon any in-depth analysis of that convention, it is demonstrably both out of date and fatally flawed. I have to say that it certainly should not. Realisation of this is important because whatever Members' opinions ... and if those opinions on the benefits of naming differ from mine but are genuinely held and logically formed then fair enough. Fair enough. I offer Members the straight choice today between 2 things. One is voting for an admirably intended document that is, however, fatally flawed and failing to recognise the real difference between a young person and a child. Indeed a convention that is so confused in areas that while it states at the beginning that all under the age of 18 must be considered a child, yet in its own Article 38 morally contradicts this by asserting that States parties should endeavour to ensure that no one under the age of 15 - yes, 15 - should take part in armed hostilities. How does this one flaw, I ask, really fit in with Article 40 and the idea that naming would be such a catastrophic event for a young offender to face? I do look forward to the explanation from some of the corporate parent who seem to find that not to be a problem. I was thinking about this and you could almost see in some countries a little role play with the situation. You know: "Do not worry, Mrs. Jones, we are all signed up to the Right of the Child Convention now. Of course we will not name little Jimmy for raping and robbing that young woman and the fact that he kicked her unconscious after he had done it, forget it. We are all young once, are we not, and he is only 15. Dear me, the damage to his self-esteem having him shunned by the community if his name was put into the paper. It does not bear thinking about, does it, Mrs. Jones? Oh, by the way, we are sending him to the front next week. Yes, of course we will make sure he is named in the paper once he has been killed in action." Madness. Now, that may seem glib but I am certainly not meaning it in that term. That is the madness of that particular flaw within this document. Of course, the Convention also says a lot of, not good stuff, brilliant stuff that we should do. But the truth is we should be doing this anyway, should we not? We certainly do not need to sign up to a Convention to do it. The question should really be: why have we not been doing all the goods things anyway? But, on the other hand, I offer the choice of voting to deal with reality and doing everything good contained within the Rights of the Child Convention and I know some people feel very strongly on it. I know Senator Perchard is passionate that we have this Convention and I understand why. So I am not trying to denigrate in any way people such as the Senator who hold those views. I am just saying it is not perfect. **[Interruption]** On the other hand we should do something that sets this in the real world, a world where most ordinary people do not find acceptable that human rights only seem to apply or matter when it is the perpetrator of a crime's right; where the rights of victim's appear increasingly to count for nothing. Essentially then this is a choice between looking like we are doing something or really doing something.

Please, Members, consider this. It is the difference between feeling that Jersey can proudly stand shoulder to shoulder with those other signatories who are, of course, all household names at protecting the rights of children. China, our new friends in finance, where the Government regularly turns a blind eye to female babies being left out in the elements to die in some poor provinces. They are signatories. Zimbabwe with their pre-pubescent war veterans. Afghanistan. I could go on and on, as I know any Member could who has read this. Now, that is not to dismiss the Convention but let us put this in real terms. How important is it? How much credibility does it have when some of these countries are not committed to human rights or the rights of the child at all? That is the reality. But to me and the many people who have contacted me the choice between the approaches should be very, very clear. The Convention is not the be-all and end-all that we should just sign up to it. After all, as I have pointed out, it is more than 20 years old. What is the big rush now I wonder? Deputy Pryke is obviously not here but I would have asked her and the other members of the corporate parent: why did I not see this in your election manifestos? Let us be honest, it is 20 years old. What is the sudden rush now? Is this just saving face? Is this just looking good? What is more important? It has to be far more important that we do something real, something positive such as this proposition offers us the chance to set in motion. If we really want to sign up to the convention, and in the long-term scheme of things I agree that we should, we should first take the opportunity that is open to all so-called States parties and attempt to rectify the flaws such as the one about everyone being a child at 18, not to mention being all right to let 15 year-olds fight in hostilities. We should approach the U.N. (United Nations) about modifying this. Until then, in reality, signing up with something of high profile abusers of children, such as China and Zimbabwe and many others, would be a complete sham. I am afraid for those who take this approach that the convention is the be-all and end-all there just seems to be no conceptive reality or perhaps appearing to do something is all that matters. I hope that is not the case because, as Martin Luther King said in that quote that I put in the report, doing something and really thinking is quite difficult sometimes, is it not? It takes a bit of political backbone. Now, unlike some, I do not pretend to have all the answers regardless of my professional background in this area. But I believe I have been fortunate in the course of my career and within the voluntary work I did for the community prior to this, to have gained some real insight into the issue and obviously these inform my thoughts, as I said. I have touched on a couple of these flaws already but I will now turn to another issue and a key issue. Can young people at 12 really know the difference between right or wrong? As I made clear in the proposition, contrary to what many people seem to think, the Courts currently do have discretionary power to name young people. Under my proposition, let us also be quite clear - because this was confused on Sunday - that discretion must remain. But serious crimes indicated, the proposition would simply shift the likelihood and thus the deterrent aspect of this happening from a fairly remote possibility; something I honestly cannot even remember happening, to a very real probability, unless, and this is crucial to recognise, unless that young person has learning difficulties impacting upon their actions, or the court is satisfied that there would be a serious risk of physical or mental harm to that individual if he or she was named, further still, satisfied that there are other wholly exceptional circumstances that are sufficient to justify overturning the normal presumption in favour of naming. I suggest that those are pretty far-reaching safeguards. I think any reasonable person, whether they support the suggestion of naming or not, would have to concede that. Let us also keep in mind here that when being tempted with all of the “you are a child until you are 18” idea, the age of criminal responsibility is 10. It is not 16, it is not 14, it is not even 12. I accept the age of 12 and not 16, because I believe that leaving this until 16, and obviously Senator Shenton is proposing that, much of the opportunity for deterring of young offenders away from possibly more serious crimes will be lost. To illustrate this point, I would highlight that I am currently in contact with a family of a young person now aged 13 who, while 12, was involved in a serious assault. Now, from my knowledge of the case, it is interesting that the young person has stated to the mother that she was, indeed, fully aware of what was being carried out was wrong, but due to her circumstances, being led and being much younger than those who led the assault, I would see the court as using its discretion to probably not name her. She

would be protected, this time. A second instance and I would expect the outcome to possibly be different under my proposition. Now, as I said, I am sure Members, probably very genuinely in all cases, will have a lot of emotive things to say about how young 12 is, even with the protection that the proposition offers with the court's continued discretion. I really wish all Members could have seen first-hand how young people have changed in the time since I became a professional youth worker. But let us just consider a few quick realities to help me support my case here. I was in the U.K. at the time 2 year-old James Bulger was murdered by 2 10 year-olds. I am sure that there are probably only a couple of people in the Chamber who cannot remember that. Murdered quite ... well, it was definitely calculated and horrible as I hope all the Members do recall. Did these 2 10 year-olds not understand what they were doing? Let us just remember that they had to lead that 2 year-old over 2 and a half miles, lie to adults who confronted them on the way, inflict 42 separate injuries on his defenceless body. This is a 2 year-old child we are talking about. He was hit at least 30 times to the point where the pathologist, it was reported in court, could not say exactly which blow killed him. Among those things that the police retrieved from the isolated railway siding where they had taken him; 27 bricks, blood-covered stone, 20-inch iron bar weighing 22 pounds, not to mention modelling paint that had been shoplifted on that day and thrown in his eyes ... oh, and some shoplifted batteries that had been forced into his mouth. Too young at 12, Minister? Well, she is not here. Too young to understand what they have done, or to be named for a serious offence? I am sorry; I just do not buy into that. We will use a more recent case; let us consider 13 year-old Hatice Can, which I think a lot of Members will be aware of; it has been in the news a lot recently. One of 2 teenagers - the other was 15 - who bullied a 19 year-old, until, in her despair, she threw herself out of a third-floor window. Not enough? Well, if you read the court reports, as that young woman, Rosimeiri Boxall - I hope I have pronounced her name correctly - lay dying, Can apparently stood over her and said: "Good. You deserve it." Just 13 years old. So, I am pleased to say that the young perpetrators in both cases were named and rightly so. Accountability for such crimes cannot be allowed to be side-stepped just because you have a little cherub face, just because it would, undoubtedly, be something you would have to work hard to face up to in your life and eventually move on. Of course many would say that if you end a life like that, then you should never be a risk to society again and I am afraid I would probably be one of them. Others' lives cannot be so cheap in a socially-just world. Then, of course, only last week over here, we saw a case admitted of a brutal rape and robbery of a 19 year-old girl by a 15 year-old young man, or child, you take your pick. Just a few weeks earlier in Jersey's courts, we were told of 2 16 year-old girls who attacked a man with the heels of their shoes; let off scot-free. Why? Because they were drunk and it was their first offence. Alas. Perhaps many Members are not aware of it but, although not reported, there have been several assaults involving a gang of teenage girls or young women in and around the Royal Square only a few weeks ago. What are we doing as a matter of urgency? It seems like nothing or very little more and I cannot believe that the Minister for Housing or his Assistant, who I know are absolutely committed to putting an end to such things, are happy about that. I mean, we cannot - it is a slightly different issue but it is relevant - seem to even get our act together to change the ridiculous law that means the police have to, on 640 occasions, go and pick up 25 young people who are in care. Really, the fact that that is still a reality, I think is quite shocking in such a small community. Well, I am nearing the end so let me ... but I like my desk so much I will stay a while longer. So, let me pick out another gem that really illustrates, perhaps better than any, how little understanding of the offending and the issues around it to the corporate parent seem to have. It is interesting, indeed, to note that in the comments they criticise over the issue of evidence yet, as demonstrated in the comments on third parties, not only do they, themselves have no evidence for what they would betray as fact - and please read it - but they also display they have no idea of both the current legal system in Jersey or in working with young people impacted upon by such issues. I hope the media are noting this because the level of what I can only call foolishness - I was going to say stupidity - is very worrying, as we are decision-makers. We should apparently reject my proposition because P.148, and I quote: "... fails to take account of risk to third parties", and the proposition, I am quoting again: "... would certainly result

in potential adverse impact upon wider family and most particularly and significantly any siblings within the family who will have had no part in the criminal activity but would be rendered vulnerable to bullying and possibly worse, simply because of their brother or sister's actions." End of quote. Well, very emotive stuff. Whatever was I thinking? Unfortunately, if any of the Ministers had any professional experience working with young people, let alone young offenders, they would know the result of what a young person could potentially have to deal with now, should a brother or sister be convicted and named following a serious crime, is absolutely no different from what happens now when a father, mother, brother, sister, uncle, aunt or grandfather regularly, all of the same name, is convicted, because those family members are named as adults. To put this nonsense from the corporate parent into perspective, I would just point out that during my years as a professional youth worker, I have seen young people who have to cope with family members being convicted and named for offences including abusing children - children the young people involved knew - rape, serious sexual assault, robbery, G.B.H. (grave bodily harm), shoplifting, drug dealing, drug possession, breaking and entering, affray, indecent exposure, motor theft, fraud ... oh, and while working in inner-city Leicester, murder. Now, I am not sure where exactly the Deputies Pryke, Noel, Martin, Reed, their advisers ... Senator Le Marquand, if he supports this contention, have been living. Wishy-washy liberals. I am feeling more right-wing by the moment. Where have they been living? I look forward to hearing just how any one of them thinks it is going to be a different impact on a child or young person simply because the person convicted and now named happens to be a brother or sister between 12 or 18. It is absolute nonsense and there has been absolutely no consideration in their comments on that. It really is quite ridiculous. It is absurd. As I said, Deputy Martin - a huge amount of respect for her - when I spoke to her about this area she had clearly not considered it. But I am sure Deputy Martin, for one, has some great, huge volume of evidence to substantiate why it is different; those examples that I have just outlined. Perhaps she is just deliberately keeping them secret from me to lure me into a trap? Pretty much, I think I will leave it there. I could say a lot more and there is ample evidence, let me assure Members, if you talk to people who work with young people and young offenders. I have got all the statistics of young offenders in Jersey; I do not think that is the key issue here, going into that, because I am afraid this is going to come down to what Martin Luther King said: "It is about cold, hard thinking and taking difficult decisions." I could fill a 3-hour speech and maybe I will come back ... maybe I will come back in January and do it if necessary, because just like the Deputy of St. Mary with the environment, I am passionate about young people. Of course, if this premise of "a child until 18" ... if it is to be accepted in Jersey, is correct on face value, then I think we had better start rewriting a good many of our laws, not to mention the laws of many other signatories, I would imagine. I will leave it for other Members to talk about the age of majority in Jersey, because that is an issue to consider and I think maybe Senator Perchard might have some thoughts on that. If you are a child until you are 18 then let us be realistic; surely we cannot have children viewed as appropriate to have sex, to start and look after families, as you can at 16. Surely we cannot feel it appropriate to let 17 year-olds drive motor vehicles on our roads, to join the armed forces. I know here you would not be sent to the front but certainly in some countries you would, in fact, they would send you at 15. Where would it be appropriate where you can vote at 16, as you can in Jersey, for the very politicians that would sign up to a flawed convention like that? Well, I will leave that for Senator Shenton, because that is the basis of much of his own amendment, I believe. While we are on the issue of these bonkers' flaws in what is a young person, what is an adult; what about doing something about the ability to claim rent rebate earlier. Because, realistically, those are the sorts of things we are going to have to start looking at; what is a child, a young person, adult? Now, Jersey, in this area, we are in an absolute mess and I am sure we are not alone. Well, I can think of a few potential propositions alone coming out of those areas but I will leave that until after Christmas. For now, I really must close on this final point of nonsense from the Minister for Health and Social Services' comments. It is quoted that naming and shaming - her spin, not mine - loses sight of proportionality. The Minister goes on to tell us, and I quote again: "Unfortunately there is no clarity of objective in the proposition. Unless the objectives are clear it

is impossible to discuss the proportionality of the measures proposed.” Just think about that; no proportionality. Although we had asked Members to consider in closing, as here we are talking about very serious offences, not just violent assaults; murder, rape, manslaughter, robbery and, yes, I think it would be quite easy to say: “Well, robbery; is that such a concern?” but remember, the courts will maintain discretion. I would not see someone stealing a mobile phone being treated the same way as someone ram-raiding a supermarket and I think that is just common sense. All these offences are not even something that could be dealt with within our Island’s excellent Parish Hall Inquiry system. They are all far too serious potentially, in my view. The Minister and the rest of the corporate parents may be happy to do what my grandmother used to call “flap about”, i.e. to talk tough but do very little. The public and the majority of the public, I believe, expect us to take difficult decisions and act, and rightly so. I, for one, will be able to face the electorate next time, should I stand again, and say honestly that at least I tried to do so. Here, I am sorry, but I have to say: what happened to the man I was going to support for Chief Minister, because he talked tough, he said I was an ally in fighting crime and he appears to have gone all namby... Liberal, or neo liberal? The verdict is out. With that, I thank everyone for listening; it was a long speech but I hope you appreciate that I had to make it. I move the proposition.

The Bailiff:

Is the proposition seconded? **[Seconded]** Very well; then there is an amendment lodged by Senator Shenton and so I will ask the Greffier to read that amendment.

4.2 Young Offenders: naming by the media (P.148/2009) - amendment (P.148/2009 (Amd.))

The Bailiff:

Very well; then there is an amendment lodged by Senator Shenton and so I will ask the Greffier to read that amendment

The Greffier of the States:

Page 2, paragraph (a) for the words “from the age of 12” substitute the words “from the age of 16”.

4.2.1 Senator B.E. Shenton

I am afraid I do not have a long speech but I think there should be a saying in the House: “Beware the lectern”. It seems if someone gets a lectern they make a long speech. There is also an old saying in the House that given the choice between making a decision and putting it off, the States will usually put it off. I was impressed by the clear arguments of Deputy Pitman’s original report that accompanies his proposition but I was a little bit concerned that the age of 12 would be too young in many Members’ eyes and result in the proposition being thrown out. I was also reminded that quite recently we had the age 16 voting debate where speaker after speaker spoke of the maturity of 16 year-olds and how responsible they all were for their actions. We have now put ourselves in a position where 16 year-olds are mature enough to vote, yet in the eyes of the law they need to be protected from their own actions. Sixteen year-olds are not all Harry Potter-type kids. They are young adults and often when they commit crime they know exactly what they are doing and it seems strange to me that many that said that they were mature enough to vote, may well argue that they are not now old enough to be named. Indeed, the U.K. Prime Minister, Gordon Brown, has pushed through a naming culture in the U.K. Just to quote, it says, which is a recent news comment: “Gordon Brown is set to unveil a new drive to name and shame jobs hit with anti-social behaviour orders as part of a renewed focus on law and order. The Prime Minister is to warn unruly youths that their A.S.B.O.s will be publicised via leafletting and the internet.” They do name in the U.K. I remember that the U.K. is a signatory to the International Convention of the Rights of a Child, but they do name in the U.K., which is slightly at odds ...

Deputy S. Pitman:

Point of clarification, please? Could the Senator just outline or give some idea as to what crimes these A.S.B.O.s are for, because it is my understanding that they are for less serious crimes than what the proposer is talking about in his proposition.

Senator B.E. Shenton

Yes, they are for less serious crimes; I was going to give you an example of a 12 year-old called Aaron Garbot who was named in the press. His crime was vandalising property and threatening people. So, an A.S.B.O. can be given for a crime of a much lesser seriousness than that proposed in this proposition. Also, they do name for more serious crimes. Just to take a quote from the newspaper quite recently: "16 year-old Moses Mathias should be eagerly anticipating his G.C.S.E. (General Certificate of Secondary Education) results. Instead he is being hunted for the murder of another schoolboy. In a groundbreaking move, police have put out a poster of the boy and placed a £15,000 bounty on his head. Giuseppe, who lived in Ardwick with his 36-year-old mother Samantha and stepfather, was shot in the head by the 16 year-old in a pub car park late at night in what police fear was a bungled drug deal." So what we see is children are named in the U.K., which would appear to be in breach of the U.N. Convention of the Rights of a Child, which the U.K. is a signatory of. In fact, when you look into this document, you find that it is very much a tick-box document, which is a "nice to have" but it does not achieve very much. It does not do anything to protect society from unruly youths. Other signatories, apart from U.K., but as I said before, named recipients of A.S.B.O.s from the age of 12, are Iran, Saudi Arabia and India. Now, next year, I plan to go on holiday in India and it will be quite refreshing to visit a country that has signed up to the U.N. Convention, because I expect to see no child labour, a place where no child is slapped and a Shangri La existence for children. The reality will be very much different, but they have "ticked the box", so perhaps that is all that is necessary. Should Jersey really be aspiring to achieve the standards of these countries when they cannot even achieve the standards themselves? The issue of human rights was raised. In my opinion, the main beneficiaries of human rights legislation are often the perpetrators of the crime [**Approbation**] and those that have been caught. It rarely seems to apply to the victims. I have the *Jersey Evening Post* which was the day after I lodged my proposition; Wednesday 14th October 2009. "Nine months' jail for out-of-control teenager, aged 16. An out-of-control teenaged gang member who took part in a vicious attack on a young man in St. Brelade will spend the next 9 months in La Moye prison. It took the youth court panel one hour to reach its decision yesterday, after hearing details about the teenage boy's 4-month crime spree. Within 5 days of the teenager receiving probation in July, the 16 year-old went back to committing acts around the Island, the court was told. The boy, who had a history of violence, and a gang of 5 other youths, attacked a teenager on 22nd June in St. Brelade. The gang punched and kicked him repeatedly to the head and body, leaving him with particularly unpleasant and very serious injuries, the court heard. Centenier Phillip Coffey said the boy then lunged at the police officer, hitting him on the head. When he was questioned about the assault in St. Brelade, he denied kicking the teenager and police did not offer any evidence as to the exact involvement in this assault." Further charges were read out in court. "His fingerprints were found all over a smashed-up portable cabin in Coronation Park, which had both its windows broken and a traffic cone thrown through the window." One month later, on 19th July, he was arrested for being drunk and disorderly after downing half a litre of vodka and shouting extreme racist remarks and comments to the members of the public. When arrested he attempted to kick the officer. These are the sorts of children we are trying to protect. On 14th September the teenager entered his grandmother's bedroom demanding money and the keys to her partner's car. She hid the keys under her pillow but later in night she woke up to find the keys and the car were gone. These are the sorts of people whose human rights are protected. These are the sorts of people that we are trying to protect through signing up to conventions. What about the human rights of the numerous victims? [**Approbation**] Too often the law appears to protect the rights of the guilty, without giving due consideration to the innocent. Too often we ignore the rights of pensioners to visit St. Helier at night without feeling threatened. We ignore the unacceptable language of youth in public

places. We ignore the feral-like behaviour at weekends. We turn a blind eye, because if we say anything we may breach their human rights. What about our human rights? What about the human rights of the law-abiding members of our society? Is the signing of a tick-box convention really more important than the quality of life for our local population? This proposition simply moves the default to naming the youths rather than the default to be not to name. Can anyone in this Chamber really argue that this individual should not have been named? Within 5 weeks of receiving probation in July, the teenager was back to committing crimes. Does this really sound like a system that is working? Does it sound like a system that does not need to be changed? I think it is about time we started to raise our standards and started standing up for the rights of the innocent. We can sign tick-box conventions by all means. We can boast that we are on a par with Iran and India but it does not protect the people in our society. I believe that it is time that we put the public first and stopped listening to the woolly liberals that protect the guilty and persecute the innocent. At 16 you are old enough to vote, at 16 you are old enough to take responsibility for your actions and I believe at 16 you should also be named. I put forward the amendment.

The Bailiff:

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

5.1.1 Deputy P.V.F. Le Claire

We have heard 2 very emotive speeches about some subjects that I am sure most of us, including the people that are listening on the radio to this debate today, can agree with in some circumstances. Especially in relation to pensioners feeling safe, or young foreign students feeling safe within the streets of Jersey, and I do not think there is anybody that will disagree that there is a body of work to do there. But I just do not think that this approach, which is an amendment to Deputy Pitman's proposition, is the right approach. I would like to say 2 things first of all before I continue. One, I have a declaration of interest to make inasmuch as I have a partnership in a media company, although there is no pecuniary interest here. The second thing I would like to say is that I am due to debate a proposition to remove from Standing Orders the proposition to move to the next item and I am probably going to withdraw that when we get to that after the successful example of its use, and apologies to the Constable of St. Mary who I enjoined with a rather challenging conversation on that issue earlier in the week. I do not think this should be moved to the next item. I believe we should vote on this amendment and we should vote on the proposition because what we are trying to do is highlighted in some of the arguments. I completely agree with Senator Shenton and I completely agree with Deputy Pitman but I will not be voting for either of them because I think their approach is totally wrong. What needs to happen is they need to set those arguments on their head. We are not trying to introduce the United Nations Convention on the Rights of the Child to raise the standards and protect the sorts of people that are conducting themselves in this manner. What we are trying to do is introduce the United Nations Convention on the Rights of the Child to raise the standards that this Government and this States Assembly through its Ministries and departments exercises its responsibility to the rights of the child, across all sectors, including home ownership, and the rights of the individual children in this community to be given a front door with something more than just a number on it. I think what we need to do is we need to look at what we are talking about here. Had Senator Shenton really thought this through perhaps - and I have not done that body of work because it is his amendment - perhaps we need to look at the age of majority. The United Nations Convention on the Rights of the Child gives, and it is clearly spelt out in documents on English websites, educational websites and the Every Child Matters websites, the rights of the United Nations Convention of the Rights of the Child do not extend to people in the U.K. that are 18. It extends to people in the U.K. that are under 18. They talk about people that are under 18 that that extends to as young people and children. Now I live in town and I have been brought up in town and most of my family lives in town in Cheapside, in Havre des Pas, in Garden Lane, I do not need to know what it is like to be in these streets and how it feels to walk around these streets at night. We have got a body of work to

do in relation to how we tackle what is happening within the community. I have sent some suggestions to the Assistant Minister for Home Affairs about what other police forces are doing, especially in regard to this matter in Sweden, where they are piloting a very successful project in picking up young people and calling the parents in who are normally quite shocked to find that their own children are on the streets participating in these sorts of behaviour. We will never get the rest of the world ... and I am sure many participants of these nations in other countries might set the aim, but they will never achieve Nirvana. Iraq, India, the rest of those places; they will not ever achieve it, but it is an aim and it is an objective. In Jersey there is definitely a need to raise our standards and it is not these children that I am aiming to protect when I bring propositions to the States Assembly that are unanimously supported by the likes of people such as Senator Shenton and Deputy Pitman, to extend the United Nations Convention on the Rights of the Child to Jersey. It is because we have got vulnerable children within our own society that are not being best-protected in the legal term, in the civil term, in the corporate parent term, in our society. We need to raise the standards. Unless we adopt the United Nations Convention on the Rights of the Child then we will not be doing that. All we will be doing is naming those same children that ...

Deputy S. Pitman:

Point of Order; sorry, but that is not the issue as to whether or not we should be introducing the human rights for children. The issue is what Deputy Pitman is talking ... sorry, I forgot what it is. Yes, it is not about the Human Rights Convention and bringing it in, it is about naming 16 year-old offenders.

The Bailiff:

I do not think it is a point of order. Carry on, Deputy.

Deputy P.V.F. Le Claire:

Thank you. To help Deputy Shona Pitman; I am trying to make sense of the problem that we have got within this community by highlighting the fact that introducing something that does not make sense, which will block something that does make sense, is not the right approach. Now, it was largely based upon the speech that Deputy Pitman gave that I was referring to the United Nations Convention on the Rights of the Child. I will curb it and come back to that in a second speech, because that might be better. But in this instance, we look again, and I am timely reminded, to the age of majority. If you have a legal age of majority less than 18 in other countries, then it can be. The definition of children is all persons less than 18 years of age, unless the legal age of majority in a country is lower. So, surely there is a body of work there that if Senator Shenton believes that at 16 people gain the right to vote so they should be able to have equal rights in society, then the proposition that he might consider bringing, if it was one that would do the work that sets out that level playing field, it might be that lowering the age of majority and all that that entails, will be a better prospect for achieving the aims of Senator Shenton. I do, however, concur with his view that the streets of St. Helier need a body of work, but I do not think that the objects or the objectives or the work that needs to be done has had a chance to be done and I have confidence in the Minister for Home Affairs, and I have confidence in the Assistant Minister for Housing and I am trying to work with them in suggesting ways in which we might meet some of the challenges that the young people present when they have not got control of their lives or they have not got control of their situations. Either it be through the lack of funding ... Deputy Fox mentioned he was the chairman of the Move On Café, well, I was quite surprised he said that there was a struggle for money. When the Aquila project was sold, £500,000 was ring-fenced and the Move-On project is getting £250,000 of that to do up the harbour offices; so it is going to have some money. The other portion is going to go to the La Motte Street Centre, which I am involved in, which will help the youth people there. So, that is the sort of thing that we need to be doing in this Chamber. Those are the sorts of initiatives that we need to be taking. We need to be getting behind the police and the non-government agencies and giving young people things to do. We need to be enforcing and

supporting our youth workers and encouraging more of our youth workers in society to be supported and afforded. But just naming people because they reach a certain age and they have done terrible things, I am afraid is going to block out the opportunity to bring in the United Nations Conventions on the Rights of the Child. In my view and also in the learned Her Majesty's Attorney General's view, if we were to adopt it in moving forwards to adopting the United Nations Convention on the Rights of the Child, we would have to then repeal this. We would be made to look rather silly. Now, I do not think for one minute that what is going on, either in the United Kingdom with young children killing other young children, or what is going on in the streets of St. Helier; young children beating up foreign students or stamping on people's heads with stilettos, is acceptable either. I do not think it is acceptable. I think it is wholly unacceptable, but we are throwing the wrong thing at all children by trying to suggest this is the answer. Naming and shaming may have merit, although it is arguable, I am sure the Minister for the corporate side of things - both the Minister for Education, Sport and Culture and the Minister for Health and Social Services will speak on these issues - but in my view, the Members, with respect, are going about it the wrong way. I agree with their concern. I sympathise with their concern. I applaud their stance in trying to tackle this. I think they are going about it, though, in the wrong way. I think one of the things that has been suggested by naming and shaming them; it may be agreeable to a lot of young people but, with respect to Deputy Pitman now, if ever a Deputy of the States had spoken to me when I was under 18, I would have been: "um, um, um, um", "You know, do you agree?" "Uh, uh, uh, yeah." A lot of people that he has spoken to, young people especially, have agreed with his view. Well, they may have done in front of him; I do not know whether they would have carried on and shared that view had they had an alternative set of examples laid before them, such as the rights of the child to have legal representation, which has only just been seen with the X children, for example. We have only just started to see the rights of the child enabled to have legal representation in this Island. The United Nations Convention on the Rights of the Child, which may be stopped from coming in if we adopt this amendment and if we go on to adopt the proposition, will do away with so much that is needed. I will come back and argue some of the things that Deputy Pitman said about the nonsensical issues of the Treaty but maybe, ending up my speech by saying to Senator Shenton, if a convention is a wish list, then it is a wish list that we should have signed up to a long time ago.

5.1.2 Deputy R.G. Le Hérisier:

Thank you. I have had some of the wind taken out of my sails by Deputy Le Claire and I must commend him on his analysis of Deputy Shenton's argument. I have some sympathy with the issue of 16 being the possibility rather than lower but beyond that my sympathy stops. I think it was an unbelievably populist argument based on a few cases which were presented well beyond the elasticity that the argument allowed for and I am, quite frankly, very surprised. As ever, the whole thing, and I would like to respond to Deputy Pitman, so I am, like Deputy Le Claire, I feel a bit constrained. I think one of the things is, of course, when you take an extreme position on this or when you accuse the rest of the world of being namby-pamby, wishy-washy, wet liberals, as is quite clearly the case, and the Minister for Home Affairs seems to be the prime candidate, along, no doubt, with myself **[Laughter]** you obviously have to put your argument in extremes and this is what both Senator Shenton and my dear colleague, Deputy Pitman, have done. For example, we had talk of A.S.B.O.s; how ineffective they are. They get a bad press but they were brought in to deal with so-called low-level crime; older people living in apartments who had people throwing paint at their windows, who were continually knocking on their doors, gangs of children and so forth and the police came to the conclusion, after massive documentation, that they wanted these children removed out of that area. Now, to an extent it was displacement; moving them, sadly, to another set of neighbours.

Deputy J.A. Martin:

Would the Deputy just give way for one second? It is nothing to do with his speech; it is a point of clarification I would like from the chair, because I would not want the Deputy to feel constrained, because I had this debate earlier with my Assistant Minister. The wording of the Amendment is so narrow - it is just changing the age - surely both the last speakers will be allowed to speak to Deputy Pitman via the amendment, because you cannot just dictate to the age. I am just wanting a ruling from the Chair; I think the Chair would be a bit lenient on this, because everyone keeps talking about second speeches and I am just ... it is so much a narrow point that I think it would be very difficult for anybody not to stray into and not want to talk to the actual proposition. Could I have a ruling, please?

The Bailiff:

Yes. I agree that there has got to be some tolerance here because it is very hard to consider Senator Shenton's amendment without straying into the main issue, but I think Members should try and make sure that what they are speaking to is relevant to the amendment, because that is what the debate is on. But what I was going to say to Deputy Le Hérisier is I cannot see that A.S.B.O.s have anything to do with either proposition, **[Laughter]** seeing as they are not in Jersey and nobody is suggesting they should come in, so perhaps you could move on to something else.

Deputy R.G. Le Hérisier:

Well, it is very kind of you to draw my attention to that, but what I was trying to say is of course the reason that A.S.B.O.s have been quoted is they are used by some police forces, and it is mentioned, I think, in the learned Attorney General's - there is never an unlearned Attorney General - report that it is one of the naming techniques used. The reason it is used as a naming technique is to control movement. In other words, people are told by the police: "These are the people against whom an A.S.B.O. has been applied. They are not allowed in this area." That is why the naming occurs there. Naming then is put forward, and this is really the basis of the kind of cases that Deputy Pitman and Senator Shenton have mentioned: naming and shaming is often used to reflect the horrendous nature of the crime and society's revulsion at the crime. The irony is, of course, with the Bulger case, which Deputy Pitman made a great play of, of course the individuals, yes they were named, but of course immediately now they have been put for the rest of their life basically in an anonymous cocoon because of the feeling that there will be public revenge, so what happened to the naming and shaming? Yes, the feeling came out, the feeling of the public came out, and it has to be said, when you look at what I consider the second reason to reflect the horrendous nature of the crime; in a way, we have systems of justice to mediate between the obvious anger and the revulsion that people sometimes feel about certain crimes, and in order to prevent us expressing that directly, we have a system of justice in place to try and mediate between those feelings and the individual. Another situation is the group of people who do not need to be named in order that their geographical movements do not need to be monitored, and those where the sense of revulsion is so great that we feel there has to be naming, even though it can be argued, as with the Bulger offenders, it does not really ultimately lead to the desired result, which sometimes, it has to be said, is almost psychological - if not actual - lynching. The third issue is where we can deal with young people and manage the situation, and these are the people probably that we do not want to name and shame, because despite Senator Shenton's views about people carrying out quite horrendous crimes - and he is right to draw attention to it; he is very wrong to make it the whole basis of his arguments - there are a group of people who are in that situation because of a total abdication, for example, of parental responsibility, and that is the situation that has to be managed. If in a small island like Jersey you name and shame, I would disagree with Deputy Pitman's view that there are sort of ancillary crimes, shall we say, in the family grouping that will ultimately lead to the children. That is not a reason to engage in open season. That is a reason, I would have thought, to try and control the situation better. But the whole reason is that you feel at certain levels you are dealing with people. If you come in at the right time, if you can - which is sometimes enormously difficult - you can handle the parental situation. You can deal with

it and stop it, and the Parish Hall Inquiry is another great contributor to this process. You can deal with it before it needs much tougher sanction. So that is a reason why, in my view, we do not name and shame. I would also draw the attention of Senator Shenton to the fact, yes, we do know there is a group of people in this society who are running out of control and we read about their more dramatic or horrendous equivalents in Britain, but it has to be said there have been several people in this Assembly for some years - and the Minister in his previous incarnation of Home Affairs has been fighting for this - there is a group of people for whom we need to provide secure accommodation, and quite frankly, there has not been the necessary support given, because I know when people like Deputy Hill, myself and other people have pushed for it, we have been accused of trying to set up youth prisons, whereas what we were trying to argue was that there was a group of people who were not manageable, who could not be contained by the current sanctions, and yes, of the so-called wishy-washy liberals, and they had to be exposed to secure accommodation, because that was the only way you were going to calm down the situation. But that is still not a naming and shaming approach. It is just saying there are gradations in the problem you are faced with. You cannot indiscriminately apply the same hard-headed approach or hard-hearted approach to people as is being put forward. If I may revert slightly to some of the points that Deputy Pitman raised, because I do think they perhaps apply. He continually went on about research, research, and I think he was conflating research with the state of public opinion. If he wants to talk about research, he has to talk about the different techniques and sanctions there are available and whether they work or not. We can run all sorts of surveys about the public want capital punishment, the public want naming and shaming. That is consumer kind of research. He never put on the table - and I certainly have not heard from Senator Shenton - what techniques work and what techniques do not work. All I have heard is: "These crimes are so horrendous. You are protecting their human rights. You are allowing the victims to suffer, therefore they must be named." Well, maybe so, but where was the rationale? Where was the rationale? What strikes me, if you read Deputy Pitman's report, he has a quote, a very good one, which as he said, he did not get from my big book of quotes, but he has a quote from Martin Luther King where he says: "There is an almost universal quest for easy answers and half-baked solutions. Nothing pains some people more than having to think." Well, that is the whole point. It is so easy to come up with a quick solution: "Name them, shame them. Humiliate them" and somehow they will be traumatised into never doing this again. Oh, that it were so. Oh, that it were so. We live in a much more complicated world. We live with people, some of whom should accept the consequences of their action, but we live with a lot who unfortunately reach that point sometimes ... and I know this is a plaintiff cry that you have in that film, *West Side Story*: "Gee, Officer Krupke" you know: "I come from a totally deprived background. Please take pity on me" the cry that has gone down the decades, but sometimes people do come from enormously deprived backgrounds, messed-up backgrounds, and people are quietly working across the agencies on trying to sort these situations out, and you talk to these people, and as I am sure Deputy Pitman has, and that is why I am incredibly surprised he has reached this conclusion. You talk to these people and the last thing they will tell you, there is no easy solution. When he says we have done nothing, and Senator Shenton, as the former Minister for Health and Social Services, says we have done nothing, what about the Kathy Bull report? A report, I should add, for reasons that of course are all mixed up sadly with the current controversies, we have a lot to answer for in the fact that we never pushed that report forward at the time in the proper way, and there are certain people who sadly speak out of both sides of their mouth in terms of that report. But that was a template. That was a template for moving forward on dealing with the whole issue of juveniles. That was the first major wake-up call this Island had, and it certainly did not say: "Oh, name and shame them because you are being namby-pamby about their human rights blah blah blah." So just on this issue of human rights, and I know there is this frustration, and people feel as a society we have gone over the edge with human rights, and you only have to open papers like the *Daily Mail* and it is full of stories of welfare cheaters and fake immigrants and feral juveniles and so forth. All I would say is in any system, there is always a balance and I agree, we may have gone slightly overboard, but I do not think putting forward something which sadly, if you

analyse it, it is a simplistic solution. It is one, sadly, that is motivated by some unfocused need: “We have to get some kind of revenge to deal with this.” But in moving the issue forward, what you will do if you target the wrong people as opposed to that small group who have to be dealt with, the constant offenders, the people who we should be putting in secure accommodation, but that is not the main group, but if you target the wrong people you will get even more embittered people and you will miss using the right kinds of sanctions, and that is why I totally, totally disagree, and that is why the Scrutiny Panel also made some comments along that line.

5.1.3 Deputy K.C. Lewis of St. Saviour:

There is the thought going around that youngsters out there are out of control. It is a very small minority, but with the drunken behaviour of the small minority, we are getting cars scratched, tyres slashed, wing mirrors torn off, windows smashed, people sworn at, property damage and buildings covered in graffiti. Only this past weekend, I was called out to some residents that have had their houses and garage damaged by vandals graffitiing everywhere. I know the main proposition is regarding very serious crime, but I will keep my comments to the amendment at the moment. I will speak on the main proposition. The amendment here is for the words: “From the age of 12 substitute the word 16.” I think if it goes through at 12, the proposition will have no chance whatsoever, but from 16 it may be in with a chance. I will speak on the main proposition.

5.1.4 Deputy S. Pitman:

I would just like to respond very quickly to the previous speaker and also to Deputy Le Claire when he said that youth workers can have the answer to dealing with young offenders in restorative crime. Well, in that restorative work that youth workers do with young people, there is no punitive measure there. The young people are not punished for their crime, so there has to be a point where they do. I am sorry, but there has to come a time when these young people have to learn responsibility, and it does not matter, in my view, how abused some of these children may have been, there has to be a time when they take responsibility for their own actions, and I am talking about serious crime here. Also on the youth workers, we know that a significant number of young people do not go to youth clubs, so they are left out, and of course we do not have enough professionally trained youth workers who deal with the very vulnerable. It is usually those, not the voluntary workers, and it does take professionalism, it does take training and I do not think that Members really consider the kind of work that needs to be undertaken with these young people. I think that we witnessed that in the debate or the proposition I brought to the House a while ago in trying to get the Youth Service in the statute books. I tried to get that made into a legal body, and the argument was that at a time of economic downturn and short money that we cannot afford those kind of services. So that is the importance that we have placed with dealing with these young people. To Senator Shenton, I would just like to ask him how he came to the age of 16, because as we know, Deputy Pitman has been a professional in this area for 11 years and he has comprehensive and professional understanding of young people and why they commit crimes. Now, all I know about Senator Shenton is that he is a parent. Where is this professional evidence that 16 is the answer? There is nothing in his report that supports that argument, in my view. He also mentions a boy of 16 who had committed a serious assault and he had a history of violence. Well, he may not have had that history of violence if he had been appropriately dealt with at a much younger age. We are for ever hearing that it is we are about catching people while they are young and preventing them from committing crimes, and yet the Senator can come out with this. It is documented in so much research that we need to catch people at a young age, and we also need to deal with them in a multi-agency approach and a holistic approach, and to me, the age of 12 is part of that restorative and holistic approach to these crimes. Thank you.

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

We at the Health and Social Services Department Ministerial team note that the amendment to the proposition lodged by Senator Shenton, in which he has proposed 16 years as an appropriate age at

which to apply the amending reporting restrictions, we have sought independent advice from a variety of experts in this area. These include the independent chair of the Jersey Child Protection Committee, Mike Taylor; Andy Williamson, the author of the recent investigation into Children's Services; the Data Protection Commissioner; Law Officers and various other local experts in the field of child welfare. On behalf of the Ministers for Home Affairs and Education, Sport and Culture that together make up corporate parent, we are unable to support the proposition by Deputy Pitman or the amendment by Senator Shenton for 5 principles, which we have set out in our lodged comments. If we were to support this amendment, and indeed, the proposition, it would require of us to be satisfied that there was some evidence - indeed, any evidence - to support the notion that such action would have a positive impact upon young offending. No evidence has been brought before us by either Deputy Pitman or Senator Shenton that naming will be a deterrent and a positive influence. The Minister has gone out with local police only last week and heard firsthand the disrespect shown to the police by some, and we must stress that it is a very small minority of youngsters. We can assure the House that these particular children would not be shamed by being named in the media. It would be a badge of honour. So this proposition does not change behaviours. In reinforces them, and I will give an example of that at the end. But worse, it does compromise our intentions for compliance with United Nations conventions. As we have stated in our comment, it would seem to perverse to introduce such a measure when it has been found to be in direct conflict with the terms of the U.N.C.R.C. (United Nations Convention on the Rights of the Child) and would undoubtedly draw criticism from the Supervising Committee at their next review. Deputy Pitman argues in detail that the solution to successfully addressing youth offending is through a socially just society, which invests early in supportive services and equitable distribution of resources. He states: "If you put sufficient monies into these areas early enough, you save an absolute fortune the following years." This is a fact, and an inarguable one. There is national and international research evidence to support this statement. Such an approach, i.e. substantially early investment into universally entitled services for the children and the families would no doubt find support the corporate parent in its entirety. However, the Deputy's proposition is at the very least at odds with his support of the early investment approach. Shaming, as Deputy Pitman states in his report, is a recognised tool in restorative justice, in which the perpetrator is made to see the damage that they have done to the victim. However, in the context of restorative justice, naming and shaming is used in a very specific and controlled way. The Parish Hall Inquiry system employs shaming practices, aimed at reintegration of youth offenders into their community and encouraging them back into acceptable behaviour. However, the shaming in this and other restorative justice work is a process which is supportive, not punitive in nature. It usually takes place in settings involving the victims and their family, the offender's family and others closely associated who are significant in their lives. It does not involve the publication and naming of the offence of the children as young as 12 - or if the amendment is adopted, 16 - to the community as a whole, as is intended by this proposition. Page 5 of the proposition refers to the shock of being held up for the entire world. The publication of personal details of young offenders would necessarily become a permanent record, especially on the internet and other electronic media now. Individuals would be forced to live with a detailed record, beginning with their childhood, that would stay with them for the rest of their lives, wherever that individual goes: searchable and accessible from anywhere in the world. As the proposition rightly states, public naming and shaming risks losing sight of the importance of proportionality. Unfortunately, there is no clarity of object in the proposition amendment or otherwise. Unless the objectives are clear, it is impossible to discuss the proportionality of the measures proposed. The position of children in the care of our department is of particular concern. Looked-after children are vulnerable, having by definition already experienced disruption and difficulty in their family lives. Such difficulties, really entirely not of their own making, might well have contributed to their anti-social and offending behaviour. These children are often already categorised in a negative way in the media and in the minds of a significant proportion of the population. This is an accurate reflection of the children in care, the great majority of whom are not involved in offending behaviour. This proposition could well

contribute further to the degree of prejudice and ostracism that these vulnerable children already experience. The proposition also fails to account for the risk of third parties, referring only to the requirement placed upon the court to assess the potential for serious risk of physical or mental harm to the individual. The naming and shaming approach would certainly result in a potential adverse impact upon the wider family and most particularly, significantly, any siblings within the family who will have had no part in the criminal activity, but would be rendered vulnerable to bullying and possibly worse simply because their brother or sister had taken various unsociable actions. Again, this factor is of greater significance when applied to looking after children and their family as a whole. This is especially important in a community such as ours. We consider that a comprehensive review of the youth justice arrangements across the board is essential to understanding and implementing the many and substantial changes to the current legislation administrative process and the service provisions which are required in order to successfully resolve political and public disquiet. The corporate parent can confirm that the groundwork for such a review has already been completed, and this should allow issues to progress in a timely manner. The corporate parent Ministers believe that it is appropriate to ensure that all legislation changes relevant to the Children's (Jersey) Law 2002 and the Criminal Justice Youth Offenders Law 1994, including the pressing need to consider custodial sentencing to Greenfields should be made at the same time. Therefore, we would recommend that any debate on this proposition is deferred until the outcome of the Youth Justice Review is known, and that any proposals can be considered on their respective merits. The Ministers that together make up the Corporate Parent, having considered the legal advice received, resolved to oppose both this amendment and the main proposition as both were contrary to Article 40 of the U.N. Convention for the Rights of a Child, which this States Assembly has agreed to ratify earlier this year. We recommend that Members reject this proposition. Having made the majority of my speech, I would like to take a few more moments of Members' time to recall a meeting which took place with myself, Deputy Green, a senior member of the Health and Social Services Department, a young person who under this proposition would have been named and shamed and their parents, which took place last Friday. That young person read out a statement they had written, which was honest, thought-provoking and extremely courageous. In respect to the naming and shaming, and in their own words, they said that they felt that they would have to live up to the label they had been given, completely the opposite effect that Deputy Pitman is trying to achieve. I urge Members to reject this amendment, and indeed, the proposition.

5.1.6 The Deputy of St. Ouen:

Not only as Minister for Education, Sport and Culture, I am a member of what is being termed the corporate parent that is being tasked with the responsibility for children, but equally, and perhaps more importantly, sir, I am a parent myself of 3 now grown-up children. I can assure you, and I am certain that all other States Members in this Assembly can do likewise, that 16 year-olds are absolutely still children. They are certainly not adults in any sense of the word. Yes, they can have and do express intelligent views. They are able to, in some respects, determine what is more appropriate behaviour. However, they lack experience, and that is one of the main issues that is linked to children. Equally, and more importantly, even though we now accept and provide legal definitions for what may or may not be appropriate for a 16 year-old, it still follows that they are not an adult and not considered an adult by law until they are 18, and in medical terms as well as in the definition of what a child is or is not. I equally abhor the crimes that have been mentioned by both Deputy Pitman and Senator Shenton. I ask Members that: what benefit will be gained from naming and shaming that individual? Indeed, let us just take an example, if that article that Senator Shenton read out, instead of not mentioning a name, had mentioned my name, James Reed, as the young individual that had perpetrated that crime. Where is the benefit? Is it a benefit to James Reed? I do not think so, because he would have gone through the court process and he would have been convicted and dealt with in a certain manner. Now, who says that at 16, even though I might have committed those crimes, that I could not have become a responsible adult and played my part

in society to the extent that I have? I ask again for Members to consider who would benefit from naming James Reed as the individual, rather than it being silent? No one. Not the victim, not the individual, not society. Perhaps a few that are curious to know who it was, that is all. Will it stop those crimes from happening? Sadly, it will not, and perhaps this is the more important point that has been touched on by other Members, and indeed, the Minister for Home Affairs has been extremely vocal before he was elected to this Assembly and even now that we do need to review our youth justice arrangements. There are some cases and instances where it is not appropriate, where we do have the issues of what do we do with the persistent young offender, the 14, 15 year-olds, who for whatever reason we have not been able to correct their behaviour. That is a much deeper issue. They involved indeed the corporate parent, my department, the Education, Sport and Culture Department, Health and Social Services Department and the Home Affairs Department to do what we have been tasked to do most recently in the Williamson Report, and that is to properly - and I mean properly - develop a children's plan. That is not some superficial plan, that is a plan that properly provides for our children, that properly identifies not only what their rights are, but equally what their responsibilities are to our society. That is the challenge for us, not simply allowing the media to print the fact that James Reed has committed crimes that he has been convicted for. Let us make the difference. Let us commit, let us continue to commit, because this Assembly has already committed additional funds to implement some of the Williamson plans and proposals. Let us continue to push forward and support the initiatives already in place to deal with our young people who have behavioural difficulties and other issues early on in their lives. Let us provide and continue to provide the support so their parents, who struggle, can manage their young people and their young children. They are not people, they are young children. Let us use that proper term. No, they are children. Youth workers I am afraid that I have spoken to in most recent times and since I have become Minister are absolutely determined to play their part in supporting those young people, which I am sure Deputy Pitman has... Where they tend to disagree with him is that plastering their names or allowing their names to be used in a paper does nothing. It does nothing. In fact, it makes the relationships between the adults and individuals that are engaging with those young people, it makes it far more difficult; far more difficult, because it creates a barrier. I am not condoning the actions of the very few young people that get into trouble, but this is not the way to do it, and I hope that States Members will not support either Senator Shenton's amendment, or indeed, the main proposition.

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

I will support this amendment, principally because I think if the main proposition is carried, I would rather 16 than 12. My first instinct, I would say yes, this is really going to help, but on reflection, I am worried about it, and I have grave doubts. I will speak further on the main proposition, but I will support this amendment, as I said, because if we get to that, I think it is less damaging than 12 year-olds.

5.1.8 Deputy J.B. Fox:

First of all, I should clear up straight away that I do not believe that either this amendment or the main proposition are sustainable and therefore I shall not be voting for them. The reason why is that no one thing is a solution to any problem. It is a combination of things that make things work. To give you a brief example, I was standing with a community policeman - when we had some community policemen - which I will go into, on Liberation Square one night and there was a lot of merriment, with about 100 young people as would be described there all having had enjoyed themselves and no doubt a percentage of them with coke cans, *et cetera*, with vodka and various other things, but he said: "Now, how do you pick out of all this lot of what is deemed inappropriate or appropriate? There are just so many people." But then he said: "If you think this is bad, let us go across to the Weighbridge. I have just come from there and there are about 150 adults there. They are even worse in their behaviour and performance." It was beyond belief of what was going on, but of course, that is not what this is all about. This is about naming individuals at a given age

to the public. Now, the courts and the authorities already have that opportunity if they so choose to. They do not use it very often and there are probably understandable reasons why, because there are side-effects, but I want to cover that just slightly later. I want to carry on with the subject that no one thing works. When I was head of community policing as well as crime prevention, we had 6 officers dedicated, and of course every other States' police officer and every other honorary police officer, plus probation officers plus youth officers, whether they be professional or volunteers, scouts, cubs and you name it; those organisations all the way through the Island dealing with a large percentage of our youths, and that is without the parents and the other volunteers, all there to try and bring our young people up in a society with responsibilities and learning of what is right and what is wrong and, *et cetera*, and having a bit of fun at the same time. But there are those few that go off the rails and people like us over the years have had to deal with those, and there are some very serious crimes. I was a governor at Greenfield at one point in time and obviously had dealings with serious crime involving young people and not so young. But it does not just affect them, it affects where they go to school; it affects their brothers and sisters and their parents and where they live and society. Now, one of the things that I was involved in was on a National Technical Committee of the Association of Police Chief Officers project design groups, and I was one of 17 people from throughout the whole of the country, and we used to have meetings in different parts of the country so that we had the flavour, and the whole purpose was designing against crime. Before something happens, you try and design it out, from a whole new town to a new housing estate to bus terminals, to fuel depots, to whatever and you have all this. But the fortune of coming from the Channel Islands is that usually, and being a senior representative, you are able to lump in various conferences or meetings at the same period of time, but usually you had an overnight stop somewhere with one of your colleagues, and he or she took you out to show you what happens in their area. Now, one of the most common things that happens in an area, especially in an urban area or in a city area - but sometimes in small shire towns as well - is that local knowledge of where a serious crime is committed, the name goes out of a person responsible, which is not necessarily the right name, it could be someone suspected of a serious crime. Now, over the years, I have seen family homes been burnt out because: "I will get them back" and someone has retaliated by fire-bombing the house. One particular case was a car that their family had saved up for years and they had just bought this car, and it was fire-bombed, but in fact, they had the wrong car. It just was a similar colour and make to the one that they thought the parents owned, but it was the wrong parent, and this is the sort of thing that happens when you start naming. It has consequences that you cannot determine. Now, going through all the various agencies, when you have someone that has gone off the rails and commits a particularly serious crime, it can be a one-off that will suddenly happen because of the circumstances. Murder is usually the one that everyone remembers, but occasionally you will have it with grievous bodily harm or actual bodily harm or something else like that. They have no previous convictions, they have never been in trouble, they have always been hard-working, they are good citizens and everything else, but something sparks in their life that sets them off, and it could be a tragedy, it could be whatever. It could be a vengeance or whatever, but an eye for an eye and a tooth for a tooth is not necessarily the right way round, and if you end up with a situation where they are going through a teenage period, for argument's sake, where they often do get into trouble, you can recognise that and you can do something about it, and that is the point, you can do something about it. My community policemen spent a lot of time targeting people that were potentially in trouble or were involved. They knew the people in the area where they policed, they had the back-up of all the other police and probation services, youth services, the schools and everybody else, but you had the target, and you brought a lot of people away from that which they were doing or that which they had done, and that is a way forward, but starting to name and shame somebody, you then bring in all sorts of other outside influences, many of which, as I have tried to illustrate in a short period of time, is very hard or impossible to control. That is what worries me, and without going into what the Attorney General said and Deputy Noel and everybody else, because they are all correct, the combination of things is so vast that if you are going to discuss this subject, and I went through the

time of Kathy Bull, and I still have the files full at home of the Kathy Bull Report and all the things that went on, because I was on education at that moment in time, and of course we have subsequent words, and I am not going to repeat that. What I would just like to finally say is it is not just an individual. Even in Jersey, the Minister for Housing and Assistant Minister will tell you of the times when the police are pleading for families to be moved because of dangers to that family living on an estate or in a back street or something else like that, because of the attitude maybe of one of the family or a relative or whatever, and so there is no common thing. This is not the right way to do it. I am conscious of time. Thank you, I think that is all I need to say at this particular moment.

The Bailiff:

Yes, I have 4 Members who have indicated that they wish to speak, so the adjournment is proposed.

Senator J.L. Perchard:

Before we adjourn, can I ask the proposer of the substantive proposition, Deputy Trevor Pitman, to consider accepting overnight Senator Shenton's amendments so that the debate could then move on to the amended proposition as a whole, and I think probably we would get better value out of the debate, because if Senator Shenton's amendment loses, I suspect the debate will fizzle out.

The Bailiff:

Certainly from the Chair, I have allowed - quite reasonably, I think - Members to stray very much into the issues, so one would hope that regardless of the result, there would not be necessarily a full second debate on the main proposition. Members I think will have spoken on the main issues and would not need to repeat themselves. Very well, can I just inform Members, before we adjourn ...

Deputy T.M. Pitman:

Just very briefly, I appreciate what Senator Perchard says, but I am afraid I cannot go along with that, because I think much as I respect Senator Shenton, leaving it 4 years later undermines a lot of the restorative possibilities. I stand by what I believe, and I need a long time to dismantle some of the nonsense I have heard.

The Bailiff:

Very well. Can I inform Members that Senator Perchard has lodged a third amendment to P.79, that is Property and Infrastructure Regeneration: States of Jersey Development Company Limited.

Deputy P.V.F. Le Claire:

I did indicate in my speech that I would be seeking leave of the Assembly to withdraw my proposition to remove the Standing Order, to move on to the next item, after it has been demonstrated today that the Minister himself found that particular Standing Order of value, and I would therefore like the leave of the Assembly to withdraw my ...

The Bailiff:

I do not think you need leave of the States, Deputy. It has not yet started the debate, so you can just withdraw it at any stage.

Deputy P.V.F. Le Claire:

I will withdraw it.

The Bailiff:

Very well. So the Assembly stands adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT