

STATES OF JERSEY

OFFICIAL REPORT

THURSDAY, 8th OCTOBER 2009

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

PUBLIC BUSINESS – resumption

1. Draft Sex Offenders (Jersey) Law 200- (P.132/2009) - continued

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

The Assembly resumes consideration of the Draft Sex Offenders (Jersey) Law in the name of the Minister for Home Affairs. Now, the principles have been adopted. The Scrutiny Panel has agreed it does not wish to look further at the law. So we move to the principles. How do you propose to take the principles, Minister?

1.1 Senator B.I. Le Marquand (The Minister for Home Affairs):

I sense that I may be pushing here to a relatively open door, so I think I will attempt to take this by parts until I run into difficulties.

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

So you will start with Part 1?

Senator B.I. Le Marquand:

Start with Part 1 which is Articles 1 and 2. Article 1 is the interpretation section which has definitions of various different words which have particular meanings in the context of the law as a whole. It also deals with offences in terms of widening out the meaning of Article 2 to attempts and aiding and abetting and things of that nature. I will not go into any further detail. Article 2 is the sexual offences to which this law applies. Now this is a pretty well comprehensive list of all the existing sexual offences in Jersey but there are some safeguards which have been built in because there are certain sexual offences such as gross indecency which have various different forms and some of the forms would not be appropriate that the committing of the offence would lead automatically to being subject to notification requirements, so there are various different safeguards in relation to that and also technical issues on the law of sodomy. But I think that is all I wish to say at this stage.

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

Are Articles 1 and 2 seconded? [**Seconded**] Would anybody like to speak on Articles 1 and 2? We will go to the vote then on Articles 1 and 2. All Members kindly show, those in favour. Those against. Articles 1 and 2 are adopted. Moving on to Part 2, Senator.

1.2 Senator B.I. Le Marquand:

Article 3 is a very important Article because this deals with the persons who are subject to notification requirements. This is the core of the system and there are a whole variety of different routes by which people can come into that. The primary route is in 3(1) which is where a person is convicted in Jersey of an offence set out in Article 2. The secondary route will be a situation which a person is subject already elsewhere in the British Islands to notification requirements and to the system, and they then come to Jersey. They then have got to report and declare themselves and so on. After that there is a whole mass of different routes in which, broadly speaking, are there to deal with either offences committed outside the Island or offences committed before the law came into existence or offences which have been declared by another court or which can be declared by Jersey as sexually aggravated. The point here is that you might have an offence which was not a sexual offence within Article 2 or the equivalent of that, but nevertheless there was a strong sexual element which warranted it being brought in. In relation to most of the later examples of routes in, there is a requirement for a court order and also in the case of some of them, there is also a requirement that the people are found to constitute a risk to particular individuals or to a group of individuals. I will say no more at this stage. I could have spent hours on this and indeed have, already. Article 4 deals with the Court having powers to exempt persons from notification requirements. This is dealing with some of the more minor offences which are in Article 2 but, in

fact, can be anything or nothing, and a very good example of that would be indecent exposure, because indecent exposure can be a relatively minor offence caused by some mental frailty or temporary madness on the part of a person or if it is to children, or something of that nature, it could be really quite serious. So Article 4, in relation to the offences set out there, gives the courts, when sentencing, the power to say: "This person will not have to be subject to notification requirements because this is not serious enough to warrant that." Article 5 deals with the period during which people will be subject to notification requirements and a Court must set this period when sentencing or when a person comes into notification requirements via various different routes. Now the general principle that has been followed here is that the Court would set a minimum period of 5 years. It can set a lesser period but then has to give reasons. The period of 5 years is a period before a person can make application to no longer be subject to notification requirements. So if they do not make application or if the Attorney General does not make application, they will continue to be subject, although such applications can be made. I now need to deal with a point which was raised by Deputy Le Hérissier, who is not here at the moment, yesterday, the research in relation to the work which was done by the Scrutiny Panel as to why we have a different system. The Scrutiny Panel was correct that in the U.K. (United Kingdom) the system is that normally the notification periods are the same length as the period under the Rehabilitation of Offenders Law. That is absolutely correct. But the difference we have here, as the Attorney General explained yesterday, is that the English law did not attempt a catching up process whereas we are. We want to be able to go back. We have 35 people we think are high risk in relation to serious offences and so we have a different sort of system. We do not have a system where people are just coming in for the first time. We have got a system where we are looking back, and that of course then will throw the timings completely out as compared with the rehabilitation of offenders. I gave reasons why I did not agree with the Scrutiny Panel on this, which merit those given by the Attorney General. But I needed to cover this point, it having been raised yesterday. There are masses more detail on Article 5 but I will pass over that. Article 6 deals with the notification requirements, although in simple terms, a person who is subject to notification requirements must notify an authorised officer, who is a police officer authorised by the Chief Officer for that purpose, as to their home address and if the home address changes there are provisions as to how they keep that up to date, and also as to each name the person uses. They also have to notify of any attention to travel outside the Island and, again, there is a mass of detail which flows from that, technical detail about where and when a person notifies, what happens if they are in hospital or cannot notify at a particular time and provisions for all these kind of things. Again, I pass over a mass of detail. Article 7 contains additional requirements. The additional requirements are there so the police officers can check the identity of a person or utilise things like fingerprints or D.N.A. (Deoxyribonucleic acid) samples or photographs for purposes of identification in relation to suspicion of crimes, so this is part of the system of having such information available on the individuals who are subject to notification requirements and, again, there is this information as to when items can be shared. The system remains subject to the Data Protection Law and there are offences which are created in relation to that, indeed I should have mentioned there are offences also created for failures to comply with the notification requirements. Article 8 is the notification requirements for travel outside Jersey, which I have already mentioned in passing, because a person has to notify when they intend to leave the Island, here is a system for dealing with that, what they have to do and the offences which arise from not so doing. Article 9 relates to powers to search. Now this is the powers to obtain search warrants for a whole variety of different purposes. In each case a search warrant has to be sought by an application either to the Bailiff or to a Jurat, and this is so that there could be a proper checking-up process that information provided for home addresses is correct. In extreme cases, a power to enter premises to check that there are not vulnerable persons or children there who should not be in breach of orders, and so on. A mass of details again which flows from that and penalties in relation to offences, but I do not think I need to go into more detail at this stage.

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

Are Articles 3 to 9 seconded? **[Seconded] [Interruption]** You propose that we have the défauts raised on Deputy T. Pitman, Deputy Le Fondré and Deputy Southern. Those in favour. Those against. The défauts are raised. Does any Member wish to speak on part 2?

1.2.1 Deputy M. Tadier of St. Brelade:

It is really just an issue of management or practical issue relating to Article 5 and I think one of my colleagues asked this during a hearing not so long ago with the Minister. It is really one to do with the list and the 5-year rule. One of the concerns raised was how the list would be maintained in that if the requirement is not that they are automatically removed after a 5-year period but that they have to approach the department or the relevant authorities to be removed, what checks are there going to be to make sure that any people who may be deceased in that time are removed or will that automatically happen anyway as the process goes on? Just maybe comment on the human rights implications, if one has to apply to be removed rather than the automatic removal after 5 years.

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

Does any other Member wish to speak on Part 2? Minister, I will ask you to reply to Part 2 please.

1.2.2 Senator B.I. Le Marquand:

The system is a proactive system. Once people are subject to notification requirements they will be meeting periodically with probation officers or other officers. The requirements for notification have an annual basis, which I should have mentioned but I was trying to avoid detail, and have to be renewed annually so if someone has died there is no doubt whatsoever that people are going to know they are not there. Deputy Tadier is quite right that the system is that a person remains on the list until they come off it but, as I said before, there is a lot of work to do here and people are not going to ... those operating it are not going to want people to be put on lists unnecessarily, although sometimes it is automatic because of a particular offence, or to be kept there for any longer than is really necessary. I am advised, but I cannot say by whom, that the whole law is human rights compliant.

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

Those Members in favour of Part 2 kindly show. Those against. Part 2 is adopted. We move on to Part 3, that is Articles 10 to 12, Minister.

1.3 Senator B.I. Le Marquand:

I want to take 10 on its own, if I may because 11 is the most controversial. I did want to flag that up to the Members of the House. Article 10 is restraining orders. Now, in very simple terms, restraining orders are orders made by a Court either at sentencing or subsequently, and that can include the Magistrates Court if the Magistrates Court were the sentencing court, which operates a bit like an injunction. It tells a person that there are things they must not do and it can tell them things that they must do and failure to comply with that is a criminal offence with sentencing up to 5 years. There are a variety of different routes into restraining orders. Sometimes what will effectively happen is that consideration will be given to a person being put on notification requirements at the same time, but it could theoretically happen separately with consideration just being given by the Court to a restraining order. There are safeguards built in, which I need to particularly point out, and that is that the Court must be satisfied on a balance of probabilities that the person poses a threat of serious sexual harm to the public or any person or persons. So it is quite a high test before this can come to operation, they pose a threat of serious sexual harm and orders cannot be made ... effectively the Attorney General cannot bring applications unless he satisfied with that. There is also a power to make interim orders because sometimes court proceedings can go on quite a long time, as Members are no doubt aware, and so there is a power to make an interim order prior to the final determination of the matter. There is a great deal of detail which I do not think I need to go through, but that is the essence of it.

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

Is Article 10 seconded? [**Seconded**] Would anybody like to speak on Article 10?

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

Just briefly, this may even come under 11, would the courts be able to prohibit someone, for instance, a convicted paedophile who has done his term in prison from going within a certain radius of a school?

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

Does any other Member wish to speak? Minister, would you like to reply?

1.3.2 Senator B.I. Le Marquand:

Yes, they would if that was deemed necessary for the protection of youngsters; yes, they would. I expected someone to ask me an interesting question about chemical castration, but no one has, because they have just adopted that in Poland and I expected someone to ask me that question, which the answer is theoretically the Court could order that but of course courts are subject to human rights considerations. Although theoretically they could order a person to do anything, they would still have to be clear that it was necessary and proportionate within human rights considerations. Chemical castration is not actively being considered at this time but times may change.

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

All those in favour of Article 10 kindly show. Those again. Article 10 is adopted. Do you wish to take 11 and 12 together?

1.4 Senator B.I. Le Marquand:

Yes, I will take 11 and 12 together. It is 11 particularly that is different. Now 11 is different and I had always intended to highlight this to the Members of this Assembly; 11 is the only case in which a person can be subject to an order, here called the Child Protection Order, without having ever committed a criminal offence. Now, when I first came across this I had to think very carefully about this as to whether it was necessary but we have had situations, historically in the past, we could have a situation in which a person might be acquitted of an offence and yet there might be huge amounts of evidence against him sufficient to have very real concerns. Or we might have a situation where there was not enough evidence on any individual case but nevertheless a clear indication that this person represented a danger, a serious risk, to children. Child Protection Orders are purely geared to the protection of children. The defendant must be 15 or over and the Attorney General applies to the Royal Courts in relation to a person who resides in Jersey or who the Attorney General believes is in or is intending to come to Jersey. The application can only be made if it appears to the Attorney General that the defendant has, whether before or after the commencement of the Article, done an act mentioned in paragraph 3 and that as a result of the act there is reasonable cause to believe that it is necessary for a Child Protection Order to be made. So that is a first safeguard. The Attorney General has to be satisfied of those things. The acts are contained in subparagraph (3) and involve engaging in sexual activity involving a child or in the presence of a child. Child is defined for the purposes of this paragraph as under the age of 16, whereas in other areas of law it is under the age of 18. Various other acts are mentioned. One of the things that concerned me when I first read that was that some of the acts in themselves could have an innocent explanation. The fact that an act, under this category, does not necessarily mean the person has done something wrong because they could be legitimate sex education or indeed a lot of films which contain matter which might potentially fall within this area. But the safeguards are contained in paragraph (4): "On the application the Court may make the order if it is satisfied on the balance of probabilities that ..." firstly the person has done the act and secondly, and this is the core thing, that: "It is necessary to make the order to protect children generally or any child from harm from the defendant." So I am satisfied there are sufficient safeguards, firstly the process

by which the Attorney General has got to be satisfied of certain things. He then brings an application, act must have been done which falls within paragraph (3), and the necessity must be there of making the order to protect a specific child or children. A Child Protection Order prohibits the person from doing anything described in the order, and that could be targeted in relation to staying away from a particular child or away from schools generally, or whatever, and it has effect for a fixed period of not less than 2 years specified in the order. Again, paragraph (6) gives a further safeguard because it says: "The only prohibitions that may be imposed are those necessary to protect children generally or any child from harm from the defendant." I have gone through the core provisions there in more detail than other matters to demonstrate to the Members of the Assembly that there are appropriate safeguards. I believe this is necessary. We are talking about the protection of children from predatory paedophiles who may simply have got away with not having a conviction but nevertheless who represent a substantial risk. Of course there is the power to make interim orders and the offences in relation to breach, but I will not go into much more detail because I have dealt with the core.

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

Are you going to talk through Article 12 as well?

Senator B.I. Le Marquand:

Article 12 is travel orders. Now, here this is one of the areas in the law where we are looking not just at responsibilities in Jersey but at international responsibilities relating to people who live in Jersey, who are subject to orders in Jersey, and who are going to travel away. We have international responsibilities towards the protection of vulnerable people in other parts of the world. But there is also another issue because if you are going to have sex offenders able to travel to other parts of the world and commit offences, in other words, get back into the habit of committing these sort of horrendous offences which they do, then it is more likely that they will commit such offences again upon returning to Jersey. So there is also a protection in Jersey element in relation to this. They have to notify, if they are subject to notification requirements, of the intention to leave, where they are going, et cetera, and a Court can make an order either prohibiting them from travelling or saying where they can go, where they have got to stay and what the details are, and when they come back into the Island they have to report again. So that is the essence. Again, in Article 12, the definition of children, once again, is a person under the age of 16 because it is there dealing with potential offences against those under the age of 16. Sixteen, of course, being the age in which most jurisdictions, or certainly the British jurisdiction, sexual intercourse outside of marriages is not a criminal offence. I will not go into much more detail. There are penalties for the offence in paragraph (9).

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

Are Articles 11 and 12 seconded? **[Seconded]**

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

I just wondered on the Child Protection Orders in respect of the person's age is 15. Why is it 15 on this particular section and not 16 like the rest of them are please?

1.4.2 Deputy R.C. Duhamel of St. Saviour:

Similar point: is there not an element of inconsistency in that in other countries we do have different ages set for sexual maturity?

1.4.3 Deputy M. Tadier:

First of all, I just wanted to seek clarification for myself as to why 11 and 12 were taken together. I think the main contentious issue is Article 11 and certainly that is the case for the panel, and unless there is a good reason I would prefer them to be taken separately because I would not like to vote against Article 12 just because we have got a problem with Article 11, but maybe the Minister can

explain in summing up. But the real area our panel has an issue with, and I apologise that I am not as well versed in legal or technical speak as the Minister or, indeed, our chairman who cannot be here at the moment. But the real issue that we have is with the appeals process. Article 11 deals with people who may for quite valid reasons need to be served an order but people who either have not been convicted of an offence but who also may not have even been to court and acquitted of an offence, it may, as the Minister said, be behaviour which is deemed to be inappropriate which qualifies them for an order. But really the appeals process being held in public is something that we do have an issue with and I think it has to take into consideration human rights implications. But not simply that, just that natural justice would dictate, it would seem to myself and to the panel, that if somebody has not been to court, been convicted of an offence, or even been to court and been acquitted that certainly that information is very sensitive and if somebody is having to go to appeal something which is not already in the public domain, and having to prove their innocence, if you like, then I am very concerned and the panel is very concerned that this is all going to transpire in the public domain, in court. We have heard already from the Attorney General and from the Minister during the Scrutiny session, it is not ideal for courts to sit in camera, that is perfectly understandable. But also it is not satisfactory for people who may well be innocent, and we work on a principle of innocent until proven guilty in Jersey and in the U.K. So, at the moment we are not completely reassured. I know the Minister said yesterday that courts can and may under certain circumstances sit in camera but I am afraid the use of words such as “can” and “may” does not really reassure the panel and it may not reassure Members here. What we would like to have a reassurance from the Minister that in these circumstances, when somebody has yet to be able to prove their innocence, and the status quo is that as far as the law is concerned they have not committed an offence, that they should be entitled to this privacy to be able to clear their name with the accorded privacy. So I think that is the real area that we would like to seek clarification on. It is a very good law. I think in summing up again we will thank the Minister for the hard work, it is a tough piece of legislation but this is one sticking point and certainly if we do not receive reassurances in this area then I think we are certainly going to have to either abstain or vote against. I would encourage Members that if the Minister does not give satisfactory reassurance that any Members who do have concerns should either abstain or vote against. I think the Article will get carried anyway, but just so that it sends a signal to the Minister that this is an area of concern for the House.

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

If you could just clarify briefly, Minister. Are you prepared to take separate votes on 11 and 12?

Senator B.I. Le Marquand:

Yes, this was the reason why I wanted to take 11 separately.

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

I can be very brief because despite what Deputy Tadier said, he put those concerns across very eloquently. Obviously I am member of the panel too. If I could just perhaps enlarge on that concern really. I remember a case some years ago where initially there was concern by Social Services that young children, well certainly below 16, were watching adult videos which, as I say, did give rise to concern and there were questions whether that was down to the parents. It turned out it was just a result of children looking where they should not, as children can do sometimes. But there was not any untoward motive. The parents certainly were not even aware. Perhaps they should have had a bigger lock on their cupboards in their bedroom or whatever, I am not quite aware of that. But the concern would be, as Deputy Tadier said, people in that case had not committed an offence yet if they were going to have to appeal then suddenly there is all that stigma around and I think ... well, I know the Senator agrees in a small Island that would be hugely damaging. So I really would ask, as Deputy Tadier has already done, that we do have some concerns because I am not sure we could support 11 because of this. Otherwise “can” and “may” is

not really good enough I am afraid, although again I congratulate the Senator on his hard work and the 33 drafts, or whatever it has taken. I am not trying to make more work for him but it is a very genuine concern. People are, as Deputy Tadier said, innocent until proven guilty.

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

I thought my question had been asked already by Deputy Dupre but she has asked it the other way round. On the explanatory notes Article 11 allows the Royal Court to make orders restricting the activities of people who may be child abusers and then, as the Deputy says, in respect of a person aged 15 or over. If, and in these times where we have many families who, let us say have step families and we have older brothers with younger siblings or sisters, whatever, why 15? If there is inappropriate sexual activity taking place from a child of 13 or 14 on a very much younger member, why have we reached this age of 15? I do not understand we need an age there. It is a totally different question. I would just like that explained because I am concerned that at this time 15 may be too old and a lot of people start these offences at younger ages and I would just like to know the reason why we have agreed to 15.

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

Perhaps the Minister could comment, there has been a question raised about the publicity for somebody who may not be convicted. The Court has the powers to restrict the publishing of names for cases which involve minors, is there any reason why the same orders could not be used in this case?

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

Are there any further contributions? I ask the Minister to reply.

1.4.7 Senator B.I. Le Marquand:

Firstly, in relation to Deputy Dupre's question, unless I have misunderstood her question, which is possible, I think she has misunderstood the age of 15. The age of 15 is referring to a potential offender not to their victim. That is why one has a different thing. I think that then leads me on to Deputy Martin's question which was on that particular point, and I do not know the answer to the question. I inherited the 29th draft of it and made improvements where I thought improvements were necessary. I suspect the significance of the age of 15 in Jersey law, the only significance I can think of is that that is the age at which a person can potentially be sent to prison ... I am sorry, to youth custody. As this is an order which would have to have enforceable sanctions, that might have been the thinking. I suppose the other rationale would be the assumption that younger children ought to be controllable and that if they were doing things which they ought not to do in relation to yet younger children that they would probably have to be removed from the home in any eventuality and there would be sufficient powers for Social Services. Apart from that I am speculating there, but I do not know. It may be we followed what is in the U.K. I do not know. Whether the Attorney General has a more detailed knowledge on the genesis of this, I do not know. I studied it as it is. The question raised by Deputy Duhamel in relation to different ages for sexual consent in different places is a good question, and that is absolutely correct. This is recognised in parts of the law where for an offence to be recognised in Jersey it also has to be an offence in the place where it is committed so there is accepted that, but I think the question is probably asked in the context of travel orders. I suppose the question he would be asking would be if it was lawful, say, in another jurisdiction for there to be sexual intercourse with under 16 year-olds, is it reasonable that there be a prohibition on the person going there. I think the answer is yes because it is our standards, surely, that should be applied to the issue and also, of course, how would you know ... let us say hypothetically sexual intercourse was not illegal in a jurisdiction of 14 somewhere, how would you know the person would confine themselves to 14 year-olds, particularly if they had a record of offending with younger age groups than that. Courts do, of course, have discretion in relation to whether they make an order or do not make an order in

relation to a travel order. In relation to the Article 11 point raised by Deputy Tadier and Deputy Pitman, I did explain yesterday that this does not just relate to appeal proceedings, this relates to the initial application as well because the initial application is made to the Royal Court, and therefore that is a public court and so their concerns equally apply. I understand those concerns and I share those concerns because of the difficulty in a small Island of adverse publicity that an application has been made alleging such things. As I explained yesterday, the Royal Court does have powers under Article 29(4)(b) in particular, which says: "A Court may sit in private in proceedings in which any powers under this law may be exercised by the Court with respect to any child." Therefore my suspicion is that, as in most cases, I expect the Court to follow that although the law does not require the Court to make rules in that respect. As in most cases, the application will have originated because of particular things done with a particular child. I always thought in a vast majority of Child Protection Order cases that they would fall within that and I explained, I think, yesterday that in addition to that there are other powers under which the Court could provide that. But there is nothing in here saying the Court must do that and this creates a slightly difficult position because it will then be very difficult to test the feeling of the House in relation to this. If the House really felt that in all cases involving applications for Child Protection Orders where a person had no previous conviction, that they ought to be held in camera, then it would be possible, of course, to amend the law to say that and that would be the best way of doing it, although one would have to check first of all on the points raised by the Attorney General yesterday as to whether that breaches human rights in some other more subtle way. My own personal view, I am by nature trusting in Courts and in their wisdom having served there for many years and I personally am content to leave it as it is. I would hope that Members would not vote against this Article simply on that reason. I am struggling to try and work out a mechanism by which the feeling of the House can be tested on this. Perhaps if I urge Members who were concerned on that issue to abstain rather than voting against and/or to let me have a note saying that they really are concerned and would prefer if there was an amendment to the law in order to deal with this, then it would be possible to come back relatively quickly with an amendment and that would not delay the whole law because we could get that also up to the Privy Council. But I personally am happy to leave it to the Courts. I have run into a problem because I started writing down the question of the Connétable of St. Saviour's but did not write the whole of it down and now I cannot remember it. Can I ask him to clarify what his question was?

The Greffier of the States (in the Chair):

I am sure he can clarify that for you.

The Connétable of St. Saviour:

I think part of it has already been answered. It was in relation to the Court having the powers to restrain disclosure from the media of names for minors and could that be done in the case of people who did not have convictions?

Senator B.I. Le Marquand:

The answer to that is that the power exists. It is already in here somewhere but I cannot remember at this stage exactly where. There is an Article making it a criminal offence to give details which would lead to the identity of a child who was referred to and so on. That is here in addition to the powers that generally exist.

Deputy S. Power:

It was really to ask the Attorney General if he were prepared to comment on what the Minister for Home Affairs has been saying for the last few minutes.

Mr. W.J. Bailhache Q.C., H.M. Attorney General:

I wish to address some of the human rights aspects which the Minister has just touched upon, but in doing so I think perhaps it is necessary to go back over what this Article is doing. Under

Article 11(1) the Attorney General may apply to the Court for a Child Protection Order in respect of a person aged 15 or over who is the defendant. So that is to say the Attorney General is going to Court to get an order against a person who might be aged from 15 or above, and I think the reason that 15 has been chosen is that that is an age where predatory sexual activity in relation to younger children might start rather than 14, and also there is a feeling that it is wrong to drag 14 year-olds before the Court as a defendant, and there will be some learning in the international conventions about this which, I am sorry, I have not got to hand because I was not expecting this question. But I am sure that there is, as I say, some learning in international conventions about that. But the nature of this order is that it is an order against somebody who might be aged 15 to 18 but who might be aged, of course, in the age above that. It seems to me that if one is looking at the issue of whether or not proceedings should be heard in public or in private there are a number of competing interests. Generally speaking, the Royal Court must sit in public. That is a requirement under Article 6 of the Human Rights Convention. It should sit in public. There are express cases where it is allowed to sit in camera but if one is looking at human rights issues you need to be sure that it is proportionate to sit in camera and not in public. If the Assembly were to pass a law which said the Court must always sit in private, in camera, that would be saying that there are no circumstances at all, any circumstances, where it is proportionate to sit in public and that seems to me to be very unlikely. I think we would have a serious human rights problem with the legislation if that were the case. The Minister says that the Courts can be trusted to sit in private where it is necessary and in public when it is not, and I respectfully agree with that. There is an ability to make rules. It is clear that if one is looking at getting orders against children aged 15 to 18 the Court is going to be sitting in private and the children not going to be identified. So it is really only a question of are there any circumstances with people who are over 18 where it would be right to sit in public, and there may well be. It may be the case that there has been a full trial and there is no doubt about the evidence which has come out in the trial, which shows that the accused has done some activity which, nonetheless ... which falls within 11(3) but nonetheless falls short of being a criminal evidence. So that it may be that he has given the child something which relates to sexual activity. He may be charged with a criminal offence of sexual activity and been acquitted of that because there is not enough evidence of it but nonetheless there has been enough evidence, which is not really disputed, that he has given the child something which falls within 11(3)(c). So in those circumstances it would be proportionate to sit in public because the Court has already heard that evidence in public and when the child protection application is made immediately afterwards it makes no sense to say this is going to be heard in private. So that is why I say, I think there is a problem in saying the Court must always sit in private because there will be circumstances where it is proportionate to sit in public, and I think there would be a real human rights problem with the law if it were to be amended to say that the Court must always sit in private.

Deputy J.A. Martin:

Can I just have a clarification from the Attorney General please? Because of the answer given by the Minister the age of 15 being: "Oh well, it will be Social Services and they will have to be removed from the home." Now is he talking about the child that is being abused or the abuser? But where does that leave Social Services, with all due respect to the Attorney's comments, he said 15 is usually the age that sexual predatory could begin. Well, it might be usual but it is not always and where does that leave ... is there another law under the Children's Law that I do not think I am aware of, that this states over the age of 15? Where would that leave someone who is 14? I agree with you saying dragging a 14 year-old to Court but the Attorney himself already said that these would be held in camera. I just am nervous of this 15 when in today's age younger people are exposed so much to sexuality ... things sexual earlier. The age of predatory being 15, I am not convinced of and I am wondering whether there is any movement on that or ...? I really am concerned that it is going to fall back on Social Services and there will not be a law for us to protect. I am very sorry, I just need clarification.

The Attorney General:

I think there will be powers with younger children of 13 or 14 who might be engaging in that sort of activity. There will be powers under the Children's Law where one would expect the application to be made to Court for some sort of interim or permanent care order which will allow a care plan to be made, which addresses that child's behaviour. But surely the practical answer for this is to ask the Minister to undertake to review the age which he can do and bring it back at a later stage if it looks like being a problem in practice. I think that is the practical way forward.

Deputy M. Tadier:

I appreciate the whole area of the Courts and the issue of not sitting in public but in camera but I think the whole problem is that these kind of deals have to be done by the Court. If there were another system whereby the appeal could take place in a Tribunal as it might otherwise for an employment case or something that would not be such an issue. But my understanding is it is only the Court that can issue the order and it is only the Court that can deal with the appeal. I still do not think the panel has received satisfactory ... the question I would have ... and also I just comment on the fact that the evidence has to be heard in public in the first place is probably something the panel did not pick up. I mean we have an issue with that as well, I believe, and consequently with the appeal being held in public, so I would ask, is there any way that this House or the Minister for Home Affairs can give clear direction to the Court that is the will of the House and the Minister for Home Affairs that in these circumstances the Court should sit in camera. That is the simple question. I know we are in a catch-22 but that is what I would ask.

The Greffier of the States (in the Chair):

Is that a question for the Minister or the Attorney?

The Attorney General:

With respect to the Assembly, the Assembly cannot give directions of that kind to the Court but the evidence will be given in public only ... I was giving an example of cases where the evidence might be given in public. If it is appropriate to sit in camera, in private, because, for example a 16 year-old or 17 year-old is the subject of the application, then the whole proceedings will take place in private anyway, including all the evidence. There will be no question of identification of that person and no question of the matter becoming public. The point I was making was that unless you can say there are no cases where it is appropriate to sit in public you have to let the law stand as it is and let the Court decide on a case by case basis when it is going to sit in private.

Deputy P.J. Rondel of St. John:

Could the Attorney General explain to me and also to the House, given that young people can vote at 16 and we have a child law that says 18, when does a youngster become an adult? In the Children's Law it says 18 and yet they can vote at 16. Could he try and give some clarity to that for me please?

The Attorney General:

No, Sir. [Laughter]

The Greffier of the States (in the Chair):

Minister, I understand you are willing to take the vote separate on the 2 Articles?

Senator B.I. Le Marquand:

Could I just improve on my answer to the Connétable of St. Saviour because I have now found the Article to the question. It is Article 29(5) and (6) which together create an offence of publishing material which is intended or likely to identify a child as being concerned in proceedings before the Court and so on. I move the vote on Article 11 separately. Perhaps I should have commented on Deputy Martin's second comment. I cannot amend a solution(?) but if there were proved to be

problems in relation to the age of 15 this would be a matter that would have to be reviewed by an amendment to the law. It could be. So I propose Article 11. I call for the appel.

The Greffier of the States (in the Chair):

The appel is called for on Article 11. All Members who wish to vote are in their designated seats. The Greffier will open the voting on Article 11.

POUR: 29		CONTRE: 4		ABSTAIN: 1
Senator B.E. Shenton		Deputy R.G. Le Hérisssier (S)		Connétable of St. John
Senator J.L. Perchard		Deputy S. Pitman (H)		
Senator A. Breckon		Deputy M. Tadier (B)		
Senator S.C. Ferguson		Deputy T.M. Pitman (H)		
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Greffier of the States (in the Chair):

Do you move Article 12?

Senator B.I. Le Marquand:

I propose Article 12.

The Greffier of the States (in the Chair):

The appel is called for. **[Interruption]** No, the Minister proposed them together but took the votes separately I am afraid, Deputy. Very well, the Greffier will reset the voting system and the Greffier will open the voting on Article 12.

POUR: 32		CONTRE: 1		ABSTAIN: 1
Senator B.E. Shenton		Deputy R.C. Duhamel (S)		Deputy M. Tadier (B)
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 Trinity				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Greffier of the States (in the Chair):

Do you move Part 4, Minister, Articles 13 to 17?

1.5 Senator B.I. Le Marquand:

Articles 13 to 16 are 4 of the routes into the notification requirements. In the case of Article 13, this is where there has been a conviction for sexual offences before the commencement of the law and either in Jersey or elsewhere and application has to be made by the Attorney General to the Royal Court and that leads to notification requirements. Article 14 is convictions for sexually aggravated offences before the commencement of the law and this is in relation to offences in Jersey or outside. Again there has to be an application, and there is a safeguard here that an order is only made so that notification requirements only apply where the Court is also satisfied that the offender poses a risk of sexual harm to the public or any particular person or persons. So there has to be a continuing risk for it to operate. Article 15 is convictions for sexual offences outside Jersey. Again an application has to be made to the Court. There are some slight technical complications in that one, but I will not bother at this stage to go into them. Article 16 is convictions for sexually aggravated offences outside Jersey and again there is the same safeguard, rather similar to Article 14 that the Court has got to be satisfied the offender poses a risk. In all of these cases, these are routes into the notification requirements. Article 17 is completely different from those, although it is in the same section. This is part of our international responsibilities again, and this relates to a situation where we have a person ordinarily resident in Jersey who does not act in a jurisdiction outside Jersey, which is an offence under the law in that jurisdiction, so that should satisfy Deputy Duhamel in this particular case, and where the Act, if done in Jersey, would constitute a sexual offence in Jersey, which means that the person can be tried in Jersey for an offence committed in another jurisdiction if these conditions are met. That is part of our

international obligations. It is also a recognition, in relation to some of the countries, to which people from Jersey might travel and commit sexual offences that there may be difficulties in relation to extradition proceedings. So it is right and proper that they be capable of being tried here. Article 17 may be slightly more controversial than 16 so I propose to take comments on all but perhaps may take the vote on 13 to 16 separately to the vote on 17 in case there are any Members who want to record abstention to that.

The Greffier of the States (in the Chair):

Are Article 13 to 17 seconded? **[Seconded]**

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

I wonder if the Minister will explain how these cases will be brought to the attention of the Attorney General and does it mean that every single person who has been convicted of a sexual offence in Jersey will have to be considered for referral to him or whether they will be automatically referred? What will accord him to make the decision that they should be sanctioned under this legislation? Does this Minister know ... I am sure the Minister will know how they will be brought to the Attorney General's attention, can he give an indication of numbers?

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

Building on what the Constable of St. Lawrence has asked. Under 15, how will the Attorney General reassure him or herself that indeed the offence committed overseas was directly comparable to an offence on the Jersey statute book? How will they also assure themselves that the criminal trial process was similar, if indeed that is part of it. Secondly, under 17, acts outside Jersey; how will a trial take place here? Will witnesses have to appear, for example, or will it be done on the basis of sort of written depositions or dispositions or whatever? How will a trial take place on that basis? If the authorities are not prepared to extradite, for example, then how will the jurisdiction here get the evidence?

1.5.3 Deputy R.C. Duhamel:

I think we have problems to which I was alluding under the section 12 of the travel orders. I am not at all clear whether or not if an offence is deemed to be an offence, and it has not been committed in another country. Say, for example, they go to Spain and there is underage sex with a 13 year-old which is permitted in Spain, is that deemed under the Jersey rules and law as an offence under our rules, in which case that if a person who came from Spain to Jersey has undertaken these practices do we nab them and say, as they come through the airport or the harbour, to say: "Well, sorry, you are subject to a notification order, or whatever, because you have done something that under our laws are deemed to be an offence." It is a little bit ambiguous in my mind and perhaps the Minister would explain or indeed if the Attorney General is in a position to give me an assurance or reassurance on the issue then that would help.

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

Just picking up the point that Deputy Duhamel made; what would happen if it was a Jersey child in Spain with a Jersey person at the age of 13?

1.5.5 Deputy M. Tadier:

That was the concern I was going to raise, it seems like a very strange situation. I may be too late to speak on this but I will ask the Minister for Home Affairs anyway as it may be relevant for the whole debate in general. This law, while it is to do with child protection, the sex offenders register is to deal with anyone who has committed any sexual offence, for example, a rapist who does not have a predilection for children but maybe for older people of either gender, presumably they are still a threat, though not necessarily to children, the question I wanted to ask before is that why is it restricted just to children because presumably anyone who commits a sexual offence is still a threat to women, let us say, and why are we not restricting travel on those people in other countries?

1.5.6 The Attorney General:

Perhaps I could address some of the questions which relate directly to me. The first thing I want to say is Article 17, which is the provisions which deal with criminal prosecutions in Jersey for acts done by residents of Jersey outside Jersey. The first thing to say is that the jurisdiction of the Court is usually a territorial jurisdiction. The court has jurisdiction over acts that take place within its jurisdiction. Therefore, if, taking Deputy Jeune's example, a Jersey person takes a 13 year-old person who lives in Jersey off to Spain and has sexual relations with that person in Spain, a Jersey court would not have jurisdiction over that unless you create the jurisdiction by some statutory provision. That is what this does. It does create a jurisdiction for the Royal Court to exercise in respect of acts which take place outside Jersey. Now, there is under this Article dual criminality, in other words, the act which takes place must be an offence, not only under Jersey law but also under the law of the jurisdiction where it takes place. It is only in those circumstances that criminal proceedings in Jersey can be started. The next thing to tackle, I think, is perhaps Deputy Le Hérissier's point about evidence. Of course there will be some circumstances when it is difficult to get all the evidence before the Court. That is no different from any other case, that sometimes it is difficult to get evidence which proves that the offence has taken place, even though you might have a reasonable suspicion that it has. But the assessment of whether or not there is sufficient evidence to take it forward is a matter for prosecutors and they will do that on a case-by-case basis, looking at the evidence that exists. Sometimes there may be admissions made by the accused to the police. That may be enough to take the case forward to court. It may be a case, as Deputy Jeune's example shows, where the victim is also resident in Jersey and therefore can give evidence. It may be a case where the person concerned is prepared to come to Jersey to give evidence voluntarily. You cannot make them come. So it is not a question of extradition here in relation to getting evidence from somebody other than the accused but it may be that they are prepared to come to Jersey to give evidence. This assessment will have to be made on a case-by-case basis. The other thing I would say about Article 17 is that certainly our applications, where, under the U.K. legislation there is an ability to prosecute in the U.K. for acts taken outside the U.K. and these usually are targeted at British citizens and therefore apply to British people in Jersey, it is desirable, so it seems to me - it is a matter for Members, obviously - that one has a provision of this kind because if one is looking at prosecuting a person in Jersey for acts done abroad, it is better that they should be prosecuted in Jersey where they live than have the possibility of facing charges in the English courts where they do not live. So it seems to me to be right that the Island exercises a jurisdiction over its own residents, which is what this Article is doing. I am not sure if there were questions which I have missed but I will try and deal with them, if any.

The Greffier of the States (in the Chair):

I call on the Minister to reply.

1.5.7 Senator B.I. Le Marquand:

Firstly, the Connétable of St. Lawrence, in relation to how matters will come to the attention of the Attorney General. Well, of course, in relation to previous offences in Jersey, there is going to be a process, part of the catching up, of looking at those, which are a matter of record, of course, and assessing risk and so on. I have got the figure of somewhere between 200 and 250 people in relation to that. Now, if the question was also intended to cover people who might have convictions in other parts of the world ... it was not, I see. I wanted that question. If it was a question of somebody in relation to the trial process in relation to some of the different Articles within 13 to 16, well, of course, if an application is made by the Attorney General and is opposed, there may well be a need to hear evidence in order to establish the facts in relation to it. So it is no different from any other trial process. That is where the Royal Court will need to, among other things, make rules of court to set out what the full process is and no doubt will adopt similar procedures, appropriately adjusted to those which already exist in the U.K. in parallel cases because that is the normal route which is taken. In relation to the question of Deputy Le Hérissier, yes, of

course, there will be practical difficulties. The Attorney General has already answered this. There may well be practical difficulties in getting witnesses. But this only applies in relation to people who are ordinary residents; they are people who are here, who have gone outside and committed these offences. So there is a logic to their being subject to the authority of the authorities in Jersey. I did make the point for the benefit of Deputy Duhamel that Article 17 was only where the act constituted an offence under the law in force in that jurisdiction. But he may not have heard that because I think he was talking to Deputy Tadier at the time I made the comment. But I would also ... to reassure him, that also implies, and I think perhaps it was Deputy Jeune who raised the particular point, although she may not have spoken, she may just have looked at me. I may have interpreted what she was saying. But all these Articles which refer to previous convictions are referring to convictions, if it is outside the Island, under the law of the country. So no case under 13, 14, 15, 16 could be a situation where there was not an offence in Spain or otherwise in the particular jurisdiction involved. Deputy Tadier very cunningly got in a question on Article 12, out of time, which was why travel orders - we have already, of course, agreed to this, Deputy - were restricted to the purpose of protecting children generally. I assume because these are the worst type of categories of matter and also because it can be quite difficult in relation to a person travelling to a country to know whether or not they were going with the intent of committing an offence against someone there. You have to have a total blanket, almost, provision. Whereas if you see somebody is travelling to Thailand or some other jurisdiction which is well known for matters relating to child prostitution, then you really have got rational reasons for it to be. But I assume those are the reasons. So I would like to move to the votes on Articles 13 to 16, separately, if I may.

Deputy R.G. Le Hérissier:

I wonder if I could ask for clarification either from the Minister or the A.G. (Attorney General)? If somebody is asked to declare sex offences because they come from a country ... and we are employing a lot of people in residential homes, for example, who are not from the jurisdictions named here, is there a legal requirement that they declare, prior to the vetting and barring law? In other words, we have got a vast number of people - it was raised yesterday - who may have been convicted overseas in an overseas jurisdiction. What steps are we going to take to verify, if, indeed, we can take any?

Senator B.I. Le Marquand:

I think I can answer that. There is not a legal requirement at the moment that is part of the vetting and barring package that there would be legal responsibilities. But if you have got a person who is coming into the Island from outside the E.U. (European Union), then, of course, there will be immigration issues and they will have to apply for permits and so on and checks would then be done in that context. It is in relation to people from the E.U. who have the right to come and the right to work. There could, hypothetically, be irresponsible employers out there who are not currently following the current vetting arrangements. It would be most regrettable if they were. But that is one of the reasons why we have to move to the full package of vetting and barring.

The Greffier of the States (in the Chair):

Very well. I put Articles 13 to 16. Those Members in favour of adopting them kindly show. Any against? The Articles are adopted.

Senator B.I. Le Marquand:

I also propose Article 17.

The Greffier of the States (in the Chair):

The appel is called for on Article 17. If Members are in their designated seats I will ask the Greffier to open the voting on Article 17.

POUR: 34		CONTRE: 0		ABSTAIN: 0
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Senator B.E. Shenton				
Senator J.L. Perchard				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Lawrence				
Connétable of St. Mary				
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 Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
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 A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Greffier of the States (in the Chair):

Minister, do you propose Part 5, Articles 18 to 26?

1.6 Senator B.I. Le Marquand:

Yes, indeed, Sir. These are the appeal procedures. Now, they start with Article 18. This was an area where there were major problems which I inherited and had to review because previously the suggestion was that all appeals were going to be by way of re-hearings. A re-hearing is when all the evidence is heard for the second time and appeal courts simply do not do that unless there are exceptional circumstances of new evidence or something like that. So I do not know how that has slipped in. But they deal with things by way of review. They look and see whether the decision at the lower level was a reasonable decision and whether it was appropriate to intervene in it. The other thing that had not been looked at very clearly was the classification of which matters were going to be treated as criminal and which ones as civil. Now, this is particularly important for technical reasons in relation to the Court of Appeal where there are entirely different procedures in relation to these. I have taken a few and this has been followed through and is set out really in Article 18(3) in detail, that where the matters arose out initially of a criminal conviction, that the matters should be treated as criminal. But in the unusual case of Article 11 where there was not a criminal matter, that they should be treated as civil. That is reflected. We have appeal rights

against just about everything, every decision which is made or the refusal to make decisions or the nature of the decision which is made. Where orders are made initially by the Magistrates Court, which is in a minority of cases and really is as a result of a conviction in a Magistrates Court, and possibly a restraining order flowing from that, there is a double right of appeal. The right of appeal to the Royal Court by review and then on to the Court of Appeal. In all other cases where they start at the Royal Court, the right of appeal is simply up to the Court of Appeal. Some of the rights of appeal are given to the defendant; some are then given to the Attorney General, depending upon the particular case. I do not propose to go into much more detail. It simply covers every aspect of any kind of decision that can be made in relation to this and I would propose Articles 18 to 26 *en bloc*.

The Greffier of the States (in the Chair):

Are the Articles seconded? [**Seconded**] Does any Member wish to speak on any of Articles 18 to 26?

1.6.1 Deputy M. Tadier:

My concern here, again, is the same as with Article 11, that the panel has not been satisfied that, in the due circumstances, appeals will be held in private effectively. So this raises an issue for the whole of the area of 18 to 26. I would suspect that, once again, any Members who do have an issue with this may want to register their dissent here, so maybe the Minister could clarify whether he agrees with that analysis.

1.6.2 Deputy T.M. Pitman:

Again, purely from the panel's point of view, I just have to echo what my colleague Deputy Tadier has said. It is a real shame to ... I do not want to vote against anything, really, in this law. It is so important. But I just really wish these things could have had a slightly more decisive outcome. I appreciate what the Attorney General has told us and the difficulties. But it really is a concern with appeals, and people are innocent until proven guilty. It is just not good enough yet, I feel, and it has put us in a difficult position where we probably do have to vote against. That is not something we wish to do, I know.

The Greffier of the States (in the Chair):

Do you wish to reply, Minister?

1.6.3 Senator B.I. Le Marquand:

I am going to assist my colleagues who wish to express their concerns in relation to procedure, it is only Article 23 because Article 23 is the appeal in relation to child protection orders. All the other matters, as we indicated before, commence with there being a criminal conviction of some sort. So to assist those who might wish to replicate the voting pattern previously under Article 11, I propose to take a vote first of all on Articles 18 to 22, which should be non-controversial, then on 23 separately. Well, in fact, if I can take 18 to 22 and 24 to 26 at the same time and then 23 separately, if the arithmetical juggling is not allowed, I will take it in 3 parts.

The Greffier of the States (in the Chair):

Take 3 votes, Minister, it is easier.

Senator B.I. Le Marquand:

Three votes, right, 18 to 22 then, please, Sir.

The Greffier of the States (in the Chair):

Very well. I put Article 18 to 22 together. Those Members in favour of adopting them? Yes, the appeal is called for on all 3 votes. Very well. Members are in their designated seats. The first vote is on Articles 18 to 22 inclusive. The Greffier will open the voting.

POUR: 34		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator J.L. Perchard				
Senator S.C. Ferguson				
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. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
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 A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Greffier of the States (in the Chair):

Very well. Do you propose Part 6, Articles 27 to 28, Minister?

1.7 Senator B.I. Le Marquand:

Yes, Sir. Part 6 deals substantially with the arrangements for running the system and with the supply of information. Clearly we are dealing here with very sensitive information in relation to former offenders and I was grateful for the discussion earlier on in relation to the principles of the law for those who agreed with me in relation to the sensitivity and the importance of the maintenance of confidentiality in relation to matters. Article 27 deals with the supply of information by the Chief Police Officer and basically provides the ability to provide information for appropriate purposes. Article 2, paragraph 2: “The Chief Police Officer may supply information to which this Article applies to a person in Jersey or elsewhere, who, in the opinion of the Chief Officer needs information to prevent, detect, investigate or prosecute an offence.” So there is a safeguard. Notwithstanding that, there will still be an overriding data protection consideration in addition to that and in parallel with that, although there may be other powers, referred to in paragraph 5, to supply information under other statutes and those are preserved. Article 28 is in relation to the management arrangements to be established. Now, this first one’s definition section,

which refers to Chief Officers as being the Chief Officers of various different Ministers. The Ministers are defined lower down and it refers to a general agreement which is going to have to be set up for management arrangements and also to ensure appropriate protocols under data protection. There are also interested parties, who include the Connétables, Comité des Chefs de Police and various different organisations. In addition, we have office holders, which is the Chief Probation Officer, the present Governor and the chief person in relation to Custom and Excise and dealing also with immigration matters. The core of this starts really in paragraph 2 which says: “The Ministers and the Chief Police Officer must liaise within 6 months of the commencement of this Article enter into an agreement that sets out their general arrangements that they have agreed and they must put into effect in order to provide for the assessment and management of persons who pose a risk of sexual harm.” This is what we are going to need all the staff for, the actual management and the arrangements. The Data Protection Commissioner has already been involved and started working and been very helpful in assisting us in relation to this because we are going to need to put into place protocols so that there can be proper data sharing over and above the matters I have already referred to in Article 27(2). A key Article subsection is paragraph 6. The actual agreement, once agreed, will have to be laid before the States. Paragraph 5 puts the responsibility on particular individuals to operate the system and make sure it operates properly. But paragraph 6 is important because it says: “In doing so [that is, in operating the system], the appointed officer [that is a Jersey police officer and the Chief Officer, so that is the Chief Officer of the department] must act in co-operation with the office holder.” In other words, they must act in co-operation with the probation person, Governor and Customs and Immigration. “May seek for help and advice from interested parties.” So they have discretion, depending upon the particular case in terms of talking to other people. There is the ability to show information where that is required to be shown, in order to obtain opinions and advice in relation to this. I am not going to go into much more detail because it is very, very complicated and technical, but it provides a solid framework for the operation of the new law and for the necessary safeguards to be put into place.

The Bailiff

Are Articles 27 and 28 seconded? **[Seconded]**

1.7.1 Connétable G.F. Butcher of St. John:

I am just really seeking a little bit of clarity on this one because I have some concerns. While the honorary system has a very good relationship with the States Police at the moment, it has not always been the case. My concern is: will certain information be passed automatically to the Honorary Police, the Connétable or the Chef for dissemination within the Parish if necessary, as they are all police officers? I would just like some clarity on that.

1.7.2 Deputy R.G. Le Hérisier:

Some specific questions: the Constable has asked the one, obviously, about the 2 police services. If a person is released from prison, I think, as parole, in any case, a consultation process occurs. But would these arrangements, for example, automatically mean that victims and immediate family members were drawn in to give their views? Secondly, if the general agreement, for example, laid down some parameters, to give an example, about how a person could involve themselves, say, with sports clubs; they could play with adults or on adult teams or be involved with adult teams but they could not, for example, be involved with children’s teams. If the club took a more draconian view of the matter and said; “No way are we going to let you on the premises because there may be a danger of contamination, so to speak”, to what extent, having made an agreement or there having been a general agreement and presumably the offender having agreed to its terms or having been informed of its terms, could a body like a sports club extend the restriction, if there was a restriction contained in the agreement, to what extent could the agreement put physical restrictions, for example: “You shall not live near somebody”, which, as I said yesterday, is a real issue on the Island, obviously? It is easier when you have got a bigger society and you can detach people from

situations but where there is a chance here, obviously, of people coming in very regular contact, how would the general agreement deal with issues like: “You shall not go near a primary school”, for example, which we know in Jersey will be a very, very hard issue to work with? But obviously that is a common restriction in other jurisdictions: somebody hanging around the outside of a school, for example. So how would that work in Jersey? Also, would a general agreement ... I think it does but if the Minister could confirm: can a partner approach the authorities and say: “I have this new partner and I have a suspicion about their background. They have not been open with me. I want to have a report on whether they have been an offender in this regard.” I wonder again what the Minister’s answer is there.

1.7.3 Deputy K.C. Lewis:

Following on from Deputy Le Hérissier’s question as regarding the dissemination of this information, something quite worrying, if I can quote briefly from the reports. It says: “It has long been recognised by those who work with sexual offenders that their offences are rarely isolated lapses of judgment which will not be repeated. Where a person is convicted for sexual offence, the sentence can be severe but almost all offenders are released at some point with little or no supervision after release. Even after serving a custodial sentence, the sex offender may still pose a risk of harm to the public or to particular members of the public.” My question is: regarding the dissemination of information, it does come down also to the Minister for Education, Sport and Culture, for one. But following on from Deputy Le Hérissier’s question, will this information be passed down to the local schools?

1.7.4 Deputy M. Tadier:

This whole need to know area. We have the ... I will not call it privilege, but it was a unique opportunity to speak to a former offender who had been through the system, been rehabilitated as best as he could in an intensive programme but of course both the panel and members and, indeed, the individual in question recognised that paedophiles in particular are effectively incurable and what is needed is a time of vigilance. He was quite candid and frank in the way he spoke to us, which was something that the panel really appreciated and it was quite humbling, in a certain respect. What he did tell us is that it is phenomenon, often, for child sex offenders, once they have come out or maybe even before they have been picked up by the legal system, to befriend easy targets such as divorcees who may often have young children. That it is quite cynical, of course, but these are the type of predators we are dealing with. They will befriend and get into a relationship with a young/middle-aged mother, get in there, ingratiate themselves with the family and then say to the children: “Look, basically, I am with your mother now and if you say anything I am going to split up with your mother.” The children obviously are in a very delicate position and not very articulate either. So while I am not advocating that partners should necessarily be told, this is an area of concern to the panel and I think it should be to Members because if we are really talking about need to know and we know that most abuse happens in the family or it happens by parents or guardians, people with responsibility, then it would seem to me, in practical terms, that these are the people who do need to know and this is something which is not being addressed by this law. I appreciate that it is a very delicate area and it has all sorts of human rights implications. But at the end of the day, if it is the children that we are trying to protect, I would just flag this up as an issue because the law is only as good as the information and the people that have been told. I think that is an area of concern which it is not easy and which needs to be addressed.

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

It is just a general question on the Article 28 management arrangements. We see where it states: “Ministers and office holders”. Understandably they are relevant to the law. However, I was just wondering how that works also with the Chief Minister’s Department and the role of the Chief Officer in overseeing implantation of policy and how that works with the structure that is set out under Article 28.

The Greffier of the States (in the Chair):

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

1.7.6 Senator B.I. Le Marquand:

I thank the Members for their very searching questions. I am not sure I am going to be able to come up with all the answers. But I will do my best. Firstly, in relation to the question of the Connétable of St. John, I think it was, in relation to automatic information sharing. I think the answer to that is “no” because I do not think you see anything here which is talking about automatic information sharing. The Connétable and the Comité des Chef de Police are one of the groups that may be consulted but not one of the groups that must be consulted. At the end of the day, the issue in relation to this is going to be one of the issues that is going to have to be addressed in relation to the agreement setting out the general arrangements. There is a protection because information can be provided directly by the police under Article 27(2) but only for the prevention, detection, investigation or prosecution of an offence. I see that as being different from the general management arrangements in the way that is structured differently. I may be wrong but I think the answer is probably going to be “no” on that, although obviously if there is a suspicion about particular offences there would be reasons in relation to that. Next question I have got noted: victims of family matters as to whether or not they would be consulted. There is a provision in Article 28(9) which says: “Nothing in paragraph (6) is to be taken as prohibiting the appointed officer and the Chief Officers from seeking the view of the public or any particular person or persons.” I think that is the only provision that I can see which would allow consultation with the people affected in relation to that. We are talking about a process of consultation with a view to coming up with appropriate safeguards, an appropriate system of management of a person. The question asked by Deputy Le Hérisier in relation to clubs, of course, as he knows and I know, is not a hypothetical question because I raised exactly this example with the Scrutiny Panel. That was a situation in which perhaps information would somehow get out to an organisation like a club in exactly the circumstances that he was talking about, which might then act unreasonably. There is nothing in here to compel people to act reasonably in relation to their dealing with people because they also have human rights. But probably one is almost moving into the area then of discrimination legislation, although I do not think I have ever seen a category being suggested for previous sex offenders in relation to that. Having said that, one of my hopes is this: that the very fact that there will have been a proper assessment, a detailed consideration of risk, et cetera, et cetera, ought to be of some assurance to show, shall we say, the people managing the sporting premises, that the risk had been assessed and that it was appropriate. The problem is at the moment with no proper system people can sometimes get very defensive and feel: “Well, I cannot possibly take any risks with this former paedophile. I am not prepared to take the risk and therefore I am just going to have a blanket refusal” or whatever. It is a very long answer. I think it is the answer I gave to the Scrutiny Panel before in, in fact, slightly more detail. The issue in relation to not to live near someone order, well, of course, this is not a matter for the general arrangements. This would be a matter for a specific order. This is the sort of thing one would expect to find in a restraining order. The general arrangements are going to be in relation to how we implement and check up that someone is complying with the order. But such matters would form part of the restraining orders, involvement of schools, education, et cetera, and I think this possibly also impinges ... well, a Deputy whose name I have temporarily got a block on, who is dressed in red in the middle. Deputy Vallois, thank you. Just came back in time there. The structure here is that you have a definition of Ministers but you have really got a definition of Ministers, not so that it is the Ministers that do all the work but so that the Chief Officers of those Ministers then come into play. Particularly if you go back to paragraph (5), the appointed officer, that is a police officer on behalf of the Chief Police Office and the Chief Officers must implement the general agreement. So it is envisaged that Chief Office Education is going to be in play and there is the Chief of Housing, Chief Officer of Home Affairs - I have 2, of course - Health and Social Services, Education and Economic Development.

So all these are going to be involved in the process within the loop with appropriate officers from their departments.

Deputy T.A. Vallois:

Sorry. I was asking with regards to the Chief Minister's Department, how that role is within this area and how the Chief Officer of the Chief Minister's Department, seeing as his role is of overseeing policy implementation with the other Chief Officers, I was wondering how that works.

Senator B.I. Le Marquand:

Well, that is almost a political matter. That is a higher level of oversight where I have to say the Chief Executive quite wisely said: "Well, it has not shown too much interest in this law." That is a higher level structurally than this because we are talking about arrangements for management. This would be almost oversight at a level above that of the Ministers in terms of central co-ordination. So I see that as being quite different. Oh dear, this dreaded question about the partner who was suspicious, which was asked of me on a previous occasion by the Scrutiny Panel. I think the answer I gave then is that if a person had concerns in relation to their partner and they had children, then one would expect them to share those concerns with the children's service initially. But obviously if they have suspicion that offences were being committed then they might be going and making a complaint in relation to that. But I do not think this could ever provide a general ability for anybody to check up on their partners in a general way. That does not sound to be right at all.

Deputy M. Tadier:

I think the first point is that often the partners do not know; that is the whole point. These people are very good at keeping their behaviour secret. It is not so much whether the partner should approach the partner but it should be whether they are the ones on the list of people who need to know and therefore should be approached and given the information rather than the other way round because they cannot make an approach if they do not have any suspicion.

Senator B.I. Le Marquand:

I think the question being asked, as to whether there is going to be some sort of general right to approach the Child Protection Unit. I would have thought the answer to that would be "yes", although they would have to be cautious about the information that they gave out because of data protection. I think that must be right. I am afraid this is a very complicated area because I can see conflicts of rights all over the place here in 2 tiers and I do not have a definitive answer. It would have to be worked out as part of the arrangements.

Deputy M. Tadier:

I think that is not quite the question. The point I was making is can the partners be, if it is considered necessary by the authorities, to inform them directly, so to approach the partner under certain circumstances if the person in question is considered a threat. So if we know that there is somebody out there who is an offender who may not be completely rehabilitated, has moved in with a single parent with 2 young children, can they be included on the need to know list and be approached automatically, rather than them seeking advice?

Senator B.I. Le Marquand:

Okay, thank you. I have now understood that question. That one I can answer. The answer must be "yes" because it is necessary for the prevention of potential offences. In addition to that, one would expect the authorities to be contemplating seeking restraining orders which might require the person to move out. So inevitably there is going to be some need to involve parents in that sort of scenario. Sorry, I thought the question I was being asked was much more difficult. I have got a note down which says "structure" but I do not know what that means. I do not know whether I have covered the ground already in relation to that. If not, could the questioner clarify their

question for my benefit because I have got “structure” written down? Otherwise I think I have covered the points. We move on to Articles 27 and 28.

Deputy R.G. Le Hérisier:

Just on a point of clarification, just if I may press the Minister on the sports example because it is quite a good one. It appears that people are thinking that if there is a sex offender, convicted person, who wishes to be involved in a sport and parameters are put around this, for example, you can only engage with senior teams rather than the junior teams, who would be told in the sports club? Would it be the chairman; would it be the coach? I know this is getting into very detailed issues. But we did hear evidence that the whole thing could get out of control and different people would start taking different views. The whole idea, in my view, would be, to get clarification, that the president would be told and it would stop there. It would stop there. I wonder if I could get the Minister to ...

Senator B.I. Le Marquand:

One would not expect to be told at all unless there was a really acute reason for the protection of children. The particular example I gave was where the management of the particular place apparently found out from some other source which should not have divulged the information and that occurred.

The Greffier of the States (in the Chair):

The appel is called for on Articles 27 and 28 together. The Members are in their seats. The Greffier will open the voting on Articles 27 and 28.

POUR: 37		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator B.E. Shenton				
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. Saviour				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy M. Tadier (B)				

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

The Greffier of the States (in the Chair):

Minister, do you wish to put the citation Article together with part 7 and 8?

Senator B.I. Le Marquand:

Yes, I think the rest of part 7 and 8 together, yes.

The Greffier of the States (in the Chair):

Articles 29 to 32?

1.8 Senator B.I. Le Marquand:

Article 29 relates to rules of court and these are made in accordance with the normal matters, which involves not just the Royal Courts but also the Law Officers; the Greffier and the Viscount, and, as I explained yesterday to advocates and to ecrouves(?) who are experienced in procedural matters. It is an extremely thorough process of consultation. The Court is given, in general, powers to make rules in relation to matters which are set out in paragraph (3). Then in addition to that there are some specific matters like paragraph (4) which I have already referred to, in particular (4)(b), where examples are given where they may wish to make rules. Paragraph (5) is the offence which I mentioned to the Connétable of St. Saviour in relation to publishing material. This is quite wide, in my view, because the word “publishing” includes, within a programme service, for causes(?) to be published. But, in my view, placing on a blog site on the internet would probably be “publishing” within this. So this is to protect the identity of children and is wider than that which normally exists. Paragraph (6) deals with the specific defence where a person does not know that there is reason to suspect that they would be identifying the child. Paragraph (7) is purely definitions. Article 30 deals with matters of proof in relation to convictions outside Jersey and will allow rules of court to be made to create a procedure whereby if the Attorney General is alleging that there is a previous conviction outside of Jersey the person will have a time period in which to challenge it in accordance with the procedure. There is a safeguard built in in paragraph (2), that, notwithstanding that that may not have been complied with, the Court may still require proof by the Attorney General in the normal way. Article 31 adds various offences which are contained in this law in relation to the schedules to the Police Procedures and Criminal Evidence (Jersey) law as being serious offences. The Members of the Assembly may recall from a debate, which I will not specify, previously, that the powers of the police in relation to search and arrest vary depending on whether or not there is a serious offence. Of course, there are also search warrant powers, which I have mentioned already under this law. Finally, last but not least, Article 32 names the law and also indicates that it will come to force on an appointed day. So there will need to be appointed day acts to bring this into force. It will not come into force automatically upon registration by the Royal Court. I would propose the remaining Articles 29 to 32 *en bloc*.

The Greffier of the States (in the Chair):

Are Articles 29 to 32 seconded? **[Seconded]** Does anyone wish to speak?

1.8.1 Deputy T.M. Pitman:

It is just a question. I am not sure who best to pitch it to, to the Attorney General or the Minister. But when you talk about publishing and blog sites, now I am not really that au fait with the workings of websites. But I believe that in certain cases if a website is served from certain jurisdictions then they would be outside any action from Jersey law, so to speak. So could I have some sort of clarity on that because I really do not understand where we would be left if something was published, and, as I say, it was based in America or wherever? If we could have some explanation of that, that would be useful.

1.8.2 Deputy K.C. Lewis:

Just a brief question to 32. Of course we all welcome this new law coming in. I know there is much work to be done yet but when does the Minister anticipate this law being enacted?

The Greffier of the States (in the Chair):

Do any others wish to speak on any of these Articles? Does the Attorney General or the Minister wish to address the point?

Senator B.I. Le Marquand:

I am hoping the Attorney General is going to address the first point.

The Attorney General:

I was hoping the Minister was going to. The relevant provisions, I think, are in Article 29, is the subject of the question. The first thing to say is: under Article 29(7) there is a definition that “publish” includes “cause to be published”. So wherever the publication takes place, theoretically, technically, if there is a server in California, for example, if the information is being put on that server by somebody who has done things in Jersey, they will have caused it to be published in Jersey and therefore they will be within the reach of the criminal offence which is created under Article 29(5).

1.8.3 Senator B.I. Le Marquand:

I am going to answer the question of Deputy Lewis. When? Well, we have not got enough money to go full blast at this before about Easter time and certainly would hope to be starting the operation about Easter of next year. Finally, before I call for the one before the last vote because it is the Third Reading, I want to pay tribute to those who have worked on this before me because a huge amount of work had been done, at least 29 drafts, before I even came on the scene, a great deal of work from the Law Officers. I pay tribute to the law draftsman and embarrass him because he is sitting upstairs and thank him particularly for his patience with some of the comments he has had to put up with and queries from the Minister. But this is a major job and it has been extremely well done, if I may say so. Having thanked all those involved and also past Ministers, of course, for their part on this, and staff of Home Affairs, I would move to propose Articles 29 to 32 *en bloc*.

The Greffier of the States (in the Chair):

I put Articles 29 to 32. Those Members in favour of adopting them, kindly show? The appel is called for. So if Members are in their designated seats, the Greffier will open the voting on Articles 29 to 32.

POUR: 39		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator B.E. Shenton				
Senator F.E. Cohen				
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. Saviour				
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.B. Fox (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Greffier of the States (in the Chair):

The Bill is adopted in Second Reading. Do you propose it in Third Reading, Minister?

1.9 Senator B.I. Le Marquand:

Yes, Sir. I just want to make one comment on the Third Reading and that is that I am afraid my work does not end here in relation to this. There is a lot of work to do. There is a lot of work to do on the roles. There are orders which have to be made, most of which are fairly simple and straightforward. But there is a great deal of work in relation to the management arrangements involved in the data protection register and people from various different things. So I am going to be still working hard on this for some time and that is going to be one of my excuses if other pieces of legislation do not happen quite as fast as this House hopes. I would move the Third Reading?

The Greffier of the States (in the Chair):

Is that seconded? [**Seconded**] Does anyone wish to speak to the Third Reading?

1.9.1 Deputy R.G. Le Hérisssier:

Just to reiterate what the Minister said, and, indeed to thank him and his team and the law draftsman. It has been an enormously complex job and he has, as I think Deputy Tadier said yesterday, moved it ahead with remarkable speed, given the 33 versions that we have looked at. The only thing I would say, also has been evidenced by the questions and the comments, it is

enormously sensitive, it is enormously complex and it is an evolving matter. As both Deputies Jeune and Tadier, I think, said yesterday, there is a real issue about the help we offer in the broader community because this is not a total solution. People might think it is total solution but Deputy Jeune made that point yesterday which needs to be re-emphasised: there is a real issue and I know that the Minister for Health and Social Services, as I speak, is looking at the whole issue of provision on a so-called voluntary basis in the community because that has to be part of the overall package.

The Greffier of the States (in the Chair):

Does anyone else wish to speak to the Third Reading? Do you wish to say anything in reply, Minister? Very well, I put the Bill in the Third Reading. The appel is called for. So if Members are in their designated seats the Greffier will open the voting on the Bill in Third Reading.

POUR: 40		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator B.E. Shenton				
Senator F.E. Cohen				
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. Saviour				
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.B. Fox (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				

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

2. Draft Amendment (No. 12) of the Standing Orders of the States of Jersey (P.133/2009)

The Greffier of the States (in the Chair):

The Assembly comes now to P.133, the Draft Amendment (No. 12) of the Standing Orders. Members may recall that with Standing Orders there is no debate on the principles as such. We move directly to the individual Standing Orders. Chairman, do you wish to propose these all together or in parts?

2.1 Connétable J. Gallichan of St. Mary (Chairman, Privileges and Procedures Committee):

While the majority of the amendments are not at all contentious, there is one point on which the Assembly may wish to take a separate vote and that would be Articles 4 and 5 which reduce the minimum lodging period.

The Greffier of the States (in the Chair):

Just 4, I think, Minister, yes. Do you wish to take, first of all, numbers 1, 2 and 3 together in relation to the question ballot?

The Connétable of St. Mary:

Yes, Sir, thank you.

The Greffier of the States (in the Chair):

Very well. Standing Orders 1 to 3.

The Connétable of St. Mary:

These amendments give effect to a decision of the Assembly which was taken in July in response to Deputy Tadier's proposal to introduce a fairer selection procedure for the order in which all questions would be noted on the order paper. They are self-explanatory. It simply involves the introduction of a 2-stage ballot process. I would remind Members that only a couple of weeks ago Senator Shenton was left on tenterhooks when he had one oral question to ask. It was right at the end of the order paper. Several other Members had 2 questions appearing during the same session. So this, of course, would deal with that nicely. I move the amendments.

The Greffier of the States (in the Chair):

Are Standing Orders 1 to 3 seconded? **[Seconded]** Does anyone wish to speak? I put those Standing Orders. Those Members in favour of adopting them kindly show? Against? They are adopted. Do you move paragraph 4, Chairman?

2.2 The Connétable of St. Mary:

As I have explained, we took a decision in July which had only just been given effect to by the last vote. What happens generally is that Standing Orders amendments are often made on the back of a States decision. In that case it seems illogical to have to wait 6 weeks for the lodging period, whereas a 2-week lodging period would have meant that those changes were already in force. This is, of course, a change to a minimum lodging period and I would envisage that anything protractible, contentious or anything that was not coming on the back of a States decision would still have a longer lodging period. I move the amendment.

The Greffier of the States (in the Chair):

Is Standing Order 4 seconded? **[Seconded]** Does any Member wish to speak?

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

I am a little bit concerned about this. I take what the Chairman has just said. Quite clearly, where the States has made decision, as we did with the oral questions: 2 different decisions, 2 hours and then the decision about sequencing in the ballots, that is fine. Two weeks, obviously to accelerate the process. But this does include the provision now that any change to Standing Orders would only require the 2 weeks, although, as the chairman has said, if it was contentious then it would be 6 weeks. I just find that a little bit vague and it could have been specified perhaps, in any case. So if the chairman would like to comment on that. It seems to me that it could have been specified that where the States has taken a decision and where P.P.C. (Privileges and Procedures Committee) are simply tidying up, then there is a 2-week minimum, which would cover the requirements.

The Greffier of the States (in the Chair):

I call on the chairman to reply.

2.2.2 The Connétable of St. Mary:

I think it is safe to say that what we are doing is we are moving a class of projets into a different section of Standing Orders. To try and differentiate between what was contentious and what was not would probably be a step too far, probably because Members feel different things are contentious at different times. As I have said, this is a minimum lodging period and it is up to the Assembly to seek a different date for debate at any time if that is desired. So I maintain the amendment.

The Greffier of the States (in the Chair):

I put Standing Order 4. The appel is called for on Standing Order 4. If Members are in their designated seats the Greffier will open the voting.

POUR: 32		CONTRE: 3		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy of St. John		
Senator B.E. Shenton		Deputy A.K.F. Green (H)		
Senator F.E. Cohen		Deputy J.M. Maçon (S)		
Senator J.L. Perchard				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Helier				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				

Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy D. De Sousa (H)				

The Greffier of the States (in the Chair):

Very well. Do you wish to propose 5, 6 and 7 together, chairman?

2.3 The Connétable of St. Mary:

Thank you, yes, Sir. Five and 6 are a little housekeeping exercise. Originally it was intended that oral question deadlines would be different to how they were finally adopted, with the result that it was not anticipated that they would be listed in time to go on the order paper. In practice this always happens because of the deadline for submissions was brought forward to Thursday at Noon. As they are already listed on the order paper the requirement for the Greffier to circulate them before the starts of the session falls away. So Articles 5 and 6 deal with that and the revocation of Standing Order 41 and Article 7 is simply the citation and commencement. I move the amendment.

The Greffier of the States (in the Chair):

Are Standing Orders 5 to 7 seconded? **[Seconded]** Does any Member one wish to speak? I put those paragraphs. Those Members in favour of adopting them, kindly show. Any against? They are adopted. There is, of course, no Third Reading with Standing Orders.

3. Draft Protection of Children (Cigarette Lighter Refill) (Jersey) Regulations 200-(P.134/2009)

The Greffier of the States (in the Chair):

So we move on to the Draft Protection of Children (Cigarette Lighter Refill) (Jersey) Regulations and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Protection of Children (Cigarette Lighter Refill) (Jersey) Regulations: the States, in pursuance of Article 2 of the Protection of Children (Restriction on Supply of Goods) (Jersey) Law.

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

Earlier in the year I brought to the House the draft legislation, which was called the Protection of Children (Restriction on Supply of Goods) Law, which was, in fact, an enabling law. Members will recall that they gave unanimous support to this. A major provision in the law empowers this Assembly to make regulations prohibiting or restricting the supply of specified goods to persons under the age 18. These draft regulations bring to conclusion a process which began in 2006 when the States supported a proposition by Deputy Southern to restrict the sale of cigarette lighter refill canisters containing butane to children. At the time a very robust case was made by Deputy Southern for controls through legislation. Indeed, it was acknowledged that while, fortunately, the sniffing of butane gas by children is not a big problem in Jersey, that States should, nevertheless, try to minimise any prospect of a tragedy and these regulations certainly help to achieve that objective. As Members will note, the regulations are very short and simple and therefore I need say no more. I maintain the proposition.

The Greffier of the States (in the Chair):

Are the principles seconded? **[Seconded]** Does anyone wish to speak on the principles of the regulations?

3.1.1 The Deputy of St. John:

I have one or 2 concerns. Firstly, would it be an offence for a person to purchase a canister of gas for a young person? I say this because a number of young apprentices and young tradesmen would use this type of gas, whether they are a plumbing or heating engineer, et cetera, in a small portable gas blowlamp and the like. Likewise if you were a chef you would probably use it as an assistant chef when you are doing crème brûlées and the like. Therefore, would it be an offence for, say in my case, to purchase and pass this on to a 16 year-old apprentice to be working on the tools up on a building where you did not have electricity or whatever else. I would like to know from the Attorney General or from the proposer, the Minister, whether we would be creating problems for ourselves?

3.1.2 Senator B.E. Shenton:

I think my eyesight is going. The Deputy of St. John appears to be wearing a leather jacket. Can I just ask what the maximum fine is likely to be? Thank you.

3.1.3 The Deputy of St. Mary:

Yes, it is just a point of detail but probably quite an important one as the fine we are talking about, the prison sentence, is up to 12 months, I believe. Where it says in the first paragraph of the report: "Any trader who supplies such product to a person under the age of 18 years will commit a criminal offence." Now does that mean that every trader has a legal obligation to establish the age of any young person who is buying such a product, and if so, could he just sort of explain how that duty would be carried out? I just have a slight ... I have a concern there. I expect it applies in other areas too but if you could just explain exactly how that can be laid at the door of the trader?

3.1.4 Deputy K.C. Lewis

Just briefly, it is just a question regarding a canister containing butane or containing a substance with butane as a constituent part. I am presuming this also includes lighters, et cetera, disposables?

3.1.5 The Connétable of St. Saviour:

Yes, on the same point regarding containers with butane, I take it this is cigarette refills but what about containers that are used for camping gas which can hold considerably more butane?

3.1.6 Deputy M. Tadier:

It is similar to the Deputy of St. Mary and I am sure it is something which may be covered elsewhere with the sale of other goods, but I am quite concerned that given the relative severity of the sentence for selling the product, to what extent the retailer is required to ask for I.D. (Identification) or to what extent there is a margin for error. For example if someone comes up and there are some youngsters who perhaps look older than they are so if a 17 year-old who looks 21 comes up is he therefore making himself liable for prosecution and is he ... are we going to revert to a situation like in certain U.S. (United States) states where when purchasing alcohol everybody has to provide I.D., whether you are 18, 21 or 56, you still get asked for I.D. in the U.S. in supermarkets and at the bar in certain states.

The Greffier of the States (in the Chair):

I call upon the Minister to reply.

3.1.7 Senator A.J.H. Maclean:

The Deputy of St. John has raised this point with me and I do understand where he is coming from with it. I have to say that the purchase, whether it is through retail or indeed trade suppliers would obviously be covered by these regulations for apprentices in building firms or whoever it happens to be. It is the sale of products that contain butane which are covered, and I do understand that it does present difficulties. As far as the use thereof within a building firm, as far as I am aware it is dealing with the sale of and providing it is under suitable supervision it should not present a problem in my understanding. Senator Shenton asked about the fine. The fine is unlimited. The

Deputy of St. Mary asked about the obligations of the trader, I think he was most concerned about, and it is very similar to other products like alcohol. Yes, there is a responsibility and indeed it is a question that Deputy Tadier was also asking. It is the responsibility of the trader themselves. Some of the larger traders have built-in mechanisms within their till where a staff member dealing will have a reminder that the product in question is restricted by age. There is a duty there to then request whoever is purchasing to give proof of age. Deputy Tadier asked the question about the severity of the penalties and how it would fall upon the retailer. There is built into the law a due diligence defence which does give some protection. It is the responsibility of the retailer to take all reasonable precautions and that should provide some safety as far as the 2 Deputies are concerned in that regard. Deputy Lewis and the Constable of St. Mary ... sorry, my apologies, the Constable of St. Saviour, wrong Parish, both asked about other products. If they contain butane technically under the provisions they are covered as well in the regulations. I maintain the proposition.

The Deputy of St. John:

Could I have the clarification from the Attorney General ...

The Greffier of the States (in the Chair):

He is not here, I am afraid.

The Deputy of St. John:

Because I have concerns that we may be bringing people into a law that we need clarification on before I can vote.

The Greffier of the States (in the Chair):

Well, I am not sure if the Attorney is in the precinct.

The Deputy of St. Mary:

I would like also a point of clarification which the Minister can probably deal with, if that is all right. I can see that there is this diligence defence but will the Minister assure the House that there will be serious public awareness around this, so that it is known that people who are on that edge of maybe looking like 18, maybe not, know that they have to have I.D.?

Senator A.J.H. Maclean:

Yes, certainly the large traders have already been contacted and are aware that these regulations are in train. The smaller traders will also be contacted and made aware of exactly what their obligations are, but as I mentioned earlier it does follow on from other abuse of alcohol purchases and so on, so traders are aware but yes, we will ensure that that particular point is covered.

Senator J.L. Perchard:

It may be of interest to the Deputy of St. Mary that there are similar restrictions on the sale of glue, of course.

The Greffier of the States (in the Chair):

You cannot just have a speech, Senator. Mr. Attorney, were you aware of the question the Deputy has asked or would you like him to repeat it?

The Attorney General:

No, if it could be put again, please.

The Greffier of the States (in the Chair):

Would you like to put your point again, Deputy?

The Deputy of St. John:

Could the Attorney General please confirm or otherwise whether an offence will be committed of purchasing a canister of gas for a person under the age of 18? Say you are an employer, as a plumber would use gas, small gas blowlamps up on a roof, maybe for lead burning, or whatever, it could be construed that by purchasing a canister of gas and giving it to your apprentice you are committing an offence. Could you confirm one way or the other? Thank you.

The Attorney General:

I would like a moment to observe that, please.

The Greffier of the States (in the Chair):

I will need to ask the Minister to propose the regulations, so I wonder if we could put the principles of the regulations and then vote. Would you be happy to proceed that far, Deputy? We have had the summing up, Deputy. Do you wish to ask a point ...

Deputy A.E. Jeune:

Another point of clarification, perhaps, is whether a person under the age of 18 working in a store could legally sell the lighter refill canister? Thank you.

The Attorney General:

Sorry to take a bit of time. I need to refer back to the principle law and because that is 2009 I do not have it in hard copy, so I am having to get it on my screen. I will be with you in just a moment. I would now be very grateful if the questions could be put again. **[Laughter]**

The Deputy of St. John:

Will it be an offence for a person to purchase a canister of gas for a young person and, as I explained just before, if that young person is an apprentice plumber or heating engineer or maybe even an apprentice chef and he requires that particular gas to do welding or lead burning, or if he's an apprentice chef for maybe glazing some crème brûlée and the like?

The Attorney General:

If it is required legitimately in the course of a business the answer to that is no, it will not be a criminal offence.

The Greffier of the States (in the Chair):

Very well. I put the principles of the regulations, those Members in favour of adopting?

Deputy A.E. Jeune:

Sorry, and also could I have the answer to a person working in the store, whether they would be able to sell under the age of 18?

The Greffier of the States (in the Chair):

Is that a question you are able to address?

The Attorney General:

This regulation covers the sale to a person under the age of 18 and does not deal with those who may be under the age of 18 who are working in the shop.

The Greffier of the States (in the Chair):

Very well. I put the principles of the regulations, those Members in favour of adopting kindly show. Any against? The principles are adopted. Do you formally propose Regulations 1 and 2, Minister?

3.2 Senator A.J.H. Maclean:

Yes, Sir.

The Greffier of the States (in the Chair):

Is that seconded? [**Seconded**] Does any Member wish to speak on Regulations 1 or 2?

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

Just briefly to say with some gratitude I can now finally throw away the file which was quite thick labelled *Solvent Abuse* which I started working on over 3 years ago and I thank the Minister for finally getting this into the right form to become law.

The Greffier of the States (in the Chair):

Do you wish to say anything in reply, Minister?

Senator A.J.H. Maclean:

No, I do not think it is necessary.

The Greffier of the States (in the Chair):

Very well. I put Regulations 1 and 2. The appel is called for. So if Members are in their designated seats. The Greffier will open the voting on Regulations 1 and 2.

POUR: 31		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A.J.D. Maclean				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy G.P. Southern (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Greffier of the States (in the Chair):

Do you propose the regulations in the Third Reading, Minister? **[Seconded]** Does any Member wish to speak? I put the regulations in the Third Reading. Those Members in favour of adopting kindly show. Any against? The regulations are adopted. I do apologise to the Economic Affairs Scrutiny Panel, it has just occurred to me I omitted to ask the panel if they wished to scrutinise the regulations, but I take the answer to be no, luckily?

Deputy J.M. Maçon of St. Saviour (Economic Affairs Scrutiny Panel):

No, thank you, Sir.

The Greffier of the States (in the Chair):

Thank you, Deputy. Excuse me.

4. Composition and election of the States: abolition of 6 Senatorial positions in 2011 (P.138/2009)

The Greffier of the States (in the Chair):

We come now to the proposition of Deputy Jeune relating to the abolition of 6 senatorial positions in 2011. I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion: (a) to agree that 6 positions of Senator should be abolished from 2011 at the expiry of the term of office of the 6 Senators elected in 2005 with the total elected membership of the States thereby reduced to 47 members; (b) to agree that in October 2011 the 12 Connétables and 29 Deputies should all be elected on a single election day and for a period of 3 years; and (c) to request the Privileges and Procedures Committee to bring forward for approval the necessary legislation to give effect to the proposals.

4.1 Deputy A.E. Jeune:

This proposition would have fallen if P.P.C.'s (Privileges and Procedures Committee) proposition, P.72/2009 had been successful. However in light of the general feedback I was receiving from Islanders, there did not appear to be a great deal of appetite for super constituencies. What was clear then, as it was when I was electioneering, is that there was a very strong belief that the number of States Members should be reduced, the feeling that Jersey was over-governed, and one can understand that. Fifty three Members to govern less than 100,000 people. How time flies by. It is now almost a year since the last elections. Something has to give. I therefore put this proposition forward to be in place for timely debate should, as I said previously, P.72/2009 not succeed. There has been much debate as to the role of the Connétables in the States Assembly, most recently as the Constable of St. Clement's amendment to P.72/2009, and it has to date always returned a vote that they remain as part of the States Assembly. That was only a short time ago that we debated at length the constitution of the States, something P.P.C. had clearly done a great deal of work on, and I would urge Members to use their power of recall and also to bear in mind the general feeling of Islanders that we should get on with debates in a timely manner to ensure we address the great many issues that are before us. This proposition reduces the number of the Assembly to 47, a number which Deputy Trevor Pitman and I appear to agree on, although in different scenarios. It allows for all Members to fulfil their commitment to their terms of office for which they were elected. It does not at this time completely remove the Island-wide vote, as 6 Senators remain. If adopted, it brings all Members into line for the 2014 elections. It provides for P.P.C. to review between 2011 and 2014 how well the business of the States has been managed with 47 Members and is it sustainable; whether there can be further reductions; or whether there has been a demonstrable deficit created by the reduction of 6 positions which necessitates an increase. But it would have to be demonstrated. It also facilitates the move to a 4 or 5-year term of office for all Members to be introduced from 2014, which is what one would find in most democracies. It would provide for a reduction in the payroll bill in excess of £250,000 per annum. It would send a strong message to Islanders that we, as an Assembly, are prepared to look at

ourselves when dealing with efficiency and effectiveness and streamlining the Assembly. What is in a title? Yes, there is a difference of an Island-wide vote and, yes, that can be argued, is a big difference. But the question is, is it essential? It appears the parochial system is generally what folk want to maintain. Why is the Island-wide vote so important? In England you vote in constituencies, not England-wide. Similarly Wales, Scotland and Northern Ireland. We know from experience that Deputies and Connétables are well able to fulfil the Ministerial roles as well as being good scrutineers. Having had the opportunity to work alongside a Minister who was a Deputy I can see that he would be no different if he were a Senator. His aptitude and attitude would remain unchanged. He is highly professional, intelligent and an absolute gentleman **[Approbation]** **[Laughter]** and that is what this Assembly and the people of Jersey needs and I hasten to add so are many others in this Assembly today including my own Connétable. The point is in the ability. It is not, in my opinion, in the title. Whether we are Senators, Deputies or Connétables we all have one vote. The fact that some Members are Island-wide does not give them any additional voting power. Senators and the Island-wide vote were introduced to the States in 1948. I do not intend to give a history lesson. In fact history was never my strong point when I was at school anyway, but it would appear that the role of Senator has not been reviewed, but we certainly gave a lot of time to Deputies and Connétables a few weeks ago. Similarly I note that there was much debate in initially February 2007. The then chair of P.P.C. assured the House any reforms proposed and agreed by the Assembly would be in place for 2008. Deputy Gorst also said at that time: “The public wants change, the public expects change and remember that Christmas is coming.” Well, 2 Christmases have passed and a third is nigh, and it appears to me we are no further forward. Also at that time Deputy Southern had concerns in respect of the value of MORI polls. Deputy Le Hérissier commented on poor attendance at public meetings so it is up to us, this Assembly, to get on with it. June 2007 when debating a single election date for Connétables there was reference to 4-year terms. July 2007 it was acknowledged the public desire for a reduction in the numbers. Deputy Martin I noticed wanted to see a way forward to a general election. In the main Senators have had experience of Deputies but ask yourself this, were their abilities any different when they return to this Chamber apart from where they sit? Senator Le Main’s seating arrangements excepted. As I said earlier, this is about good management. It is about demonstrating that in difficult times we are able to look at ourselves for efficiency and effectiveness as well as looking at all the departments we are responsible for. It is about us being responsible and accountable for how we spend taxpayers’ money. Never mind a few pounds on lunches, this proposition if adopted will save more than £250,000 per annum. This House has accepted the proposition of Deputy Le Fondré that there should be one election day and it has already been discussed by this Assembly that the election day should be brought forward. Part (b) requests Members to consider that for 2011 this should be in October and the 3-year term of office for Members elected at that time would fall into place with the Senatorial elections of 2014. Part (c) requests that Members agree to call upon the Privileges and Procedures Committee to bring to this Assembly the necessary legislation for these proposals if adopted. I ask Members to show the willingness for change. Fewer Members by 2011 with a single day election and a general election by 2014. I thank Members for listening to my proposition and again remind Members to please be conscious of time and I maintain the proposition.

The Greffier of the States (in the Chair):

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

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

I will start it off. It will be a very short speech. I will not be supporting this proposition. I will ask the Chairman of P.P.C. to look at whether we could just have one constitutional debate per the life of an Assembly because it seems to me we are just going to spend our time ripping each other apart, navel gazing, scoring points: “Well, he voted for the Constable so let us get rid of the Constables, he voted for the Deputies, let us get rid of the Deputies.” I have had enough of it. I

have got real work to do and I am sure lots of Members of this Assembly have as well. The Deputy said to get on with the work. I want to get on with the work. I want to stop this nonsense. The other thing I will say is in my mind this is the one post, the one position, the Island clearly indicated it wanted. **[Approbation]** So we are going to get rid of it. Nonsense. I would much prefer if nobody else spoke and we just went for the vote.

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

I was not going to support it either but for a different reason. We have P.146, it is due to be debated in a couple of weeks' time, it is calling for a referendum and I think if any decision has got to be taken let us wait until at least the States have agreed whether we should have a referendum or not. If we do not agree to a referendum then maybe we could come back to debate Deputy Jeune's but I would not be supporting it anyway because I do not think this is the way forward. However we have got to debate it.

4.1.3 The Deputy of St. John:

Over my time canvassing a year ago one of the things that did come up on the doorstep was that the public wanted reform in the States. We have had attempts already several times this year at reform without any luck. The other thing that came up on the door was that the public wanted representation across the Island to stay where it was, so as far as I am concerned I would not like to see a reduction in Senators because they are an Island mandate and it brings a balance of views from across the Chamber, across the Island, into the Chamber, whereby a Senator can be representing somebody in St. Ouen this morning and Gorey this afternoon. So therefore I will not be supporting this proposition but at the same time I would not want to stop a Member from being entitled to do so, in particular when the public have been asking for a reduction in the number of Members in this Chamber.

4.1.4 Deputy G.P. Southern:

Sorry, I drifted off there. Yes, I am in favour of reform, substantial reform, coherent reform of the States Assembly and reform along the lines suggested by Clothier way back in 2001. 1999. I am afraid this piecemeal approach of a bit here and a bit there is while I am sure well-meaning it is half baked. I will not be voting for this and I encourage everybody else not to vote for it too.

4.1.5 Deputy A.T. Dupre:

I am just very disappointed to see that there are only 5 Senators in the room. I think they should all be here to hear the debate anyway.

4.1.6 The Deputy of St. Mary:

I shall be brief. It seems to be the tone of this debate. The main argument of the proposer appears to be that the public want change, but we know that. This proposition is constitutional reform worked out on the back of an envelope and it really is sorry that we are debating it in a way. Just a few points. First, the election date and it is symptomatic of the approach of the proposer where she says that she gives a specific date and ties us down to October 2011 in advance of P.P.C. considering this. Now P.P.C., I just happened to have looked at their agenda because the good Deputy to my right is a member of the P.P.C. and I just looked at it, I do not think it is confidential, and they are considering it. They are considering it on Friday, the whole matter of the date of a general election or of an election. So why we would be voting for something that then ties the hands of P.P.C. in advance of them looking at it properly defeats me and I cannot see any justification for doing that. This proposition makes no attempt to inform Members of several key issues. Proportionality. We are told absolutely nothing about the effect of this proposal on proportionality. It is fairly clear to me it reduces proportionality because it reduces the most proportional Members of the States but the point is that the proposer has said nothing about that. Representation: again we are told nothing. Involvement of the public, there is no evidence either way as to whether this would improve or reduce the involvement of the public. The one effect we

do know of this proposition is that it would reduce membership of the States by 6. Now again there is no evidence at all of the effect this would have on the functioning of the Chamber. Now the Presiding Officer yesterday pointed out that we were skating close to the quorum virtually the whole day. Now the reason was that while some Members were busy networking nearby and listening, others always up to about 6 are busy hunched over their computers downstairs doing the work that they have to fit in as well as be here, which I was doing this morning as well. I was listening and working. It is not the best but there you go, you have to do what you have to do. I just question whether it is a good idea to reduce the numbers. The annex to the Annual Business Plan had pages and pages of legislation that this Chamber has to plough through and get right and there is also originating our own proposals and doing our scrutiny or Ministerial work. I am not going to say that it would be better or would be worse to have 6 less Members. I am just saying there is a serious issue here and the cost of failure, failure to scrutinise a proposal, a plan, a building development, a law, the cost of failure is huge and again there is no evidence as to the effect of reducing the number of Members in this Chamber by 6. What we are told is that the Chamber would look at it when it has happened. When it has happened we will see whether it was a good idea or not. I would rather that we looked before it happened whether it was a good idea or not. Finally, the claim that this proposition is in line with public opinion. Well, yes, the public were asked in 2006 a series of questions about specific elements of any package and that was a correct way to go about it and the public did indeed say that it would rather have fewer politicians. Now as P.P.C. correctly pointed out in their report of P.72 they would say that, would they not? Politicians are not flavour of the month, we are fairly low down the trustworthiness list, I believe, and the public if asked: "Would you like fewer politicians?" are quite likely to say yes. However they also said, 78 per cent of them, that they wanted the senatorial mandate, a much higher percentage than were unhappy with the number of politicians. But we had no discussion of this in the proposition. We have no weighing up of the different things the public were trying to give us a steer on in 2006, or rather they were asked to give us a steer and they did, but there is no discussion about how these things could be married up and our job is to come up with a solution, a package that meets with the public steer. This is a random stab in the dark and I do urge Members not to vote for it. Thank you.

4.1.7 Senator P.F.C. Ozouf:

I do absolutely support the right of a Back-Bencher to bring a proposition and for it to be debated. It is frustrating, I think we need to change the rules and the time limited on the amount of time we do this, and we should be able to despatch Back-Bencher's propositions, have a quick view and I will attempt to be very brief. This basically is the end of the senatorial mandate, if it is supported. I think there should be an Island-wide vote, I do not agree with the greatest of respect, with Deputy Jeune. I do not think that ... I think that a senatorial election is the only Island-wide test of public opinion and I think it should be maintained. So finally I will just say that I agree with Deputy Jeune that there is a real issue about the Assembly needing to take a lead on cost-cutting and reductions. Tomorrow I am going to be discussing with the Corporate Affairs Scrutiny Panel the plans for the comprehensive spending review and the review of the fiscal strategy that is going to be required. Just as all departments are going to need to be asked to deliver efficiencies and savings so this Assembly has got to do so too, but I am afraid that I do not agree that it should be by cutting 6 senatorial seats. I suspect that we need to be looking at, I am afraid, the deputorial seats and reallocating fairly [Laughter] the issues in relation to the constituencies, et cetera.

4.1.8 Deputy S. Power of St. Brelade:

I also feel that this proposition by Deputy Jeune is a sort of arbitrary decision and I feel it is not in any way linked into previous work of the Privileges and Procedures Committee. It would be like anyone in this Chamber bringing an important proposition for whatever reason to extinguish the role of the Deputy of St. Mary, for instance, because perhaps it is the smallest Parish in the Island, or St. John for that matter because it is another small Parish in the Island, or for instance

extinguishing the role of the Deputy of St. Brelade No. 1 because it is another smaller area and could easily be represented by the other 2 Deputies. **[Laughter]** Tongue in cheek, tongue in cheek. I think that this report and proposition is not based on anything of any substantial base and I do not think we should support it. I also would agree with Senator Ozouf, we should not extinguish any part of the Island-wide mandate until we replace it with something, whether it is Deputy or whatever. So, on this basis, I have to tell Deputy Jeune that I will not be supporting this proposition. Thank you.

4.1.9 Deputy R.G. Le Hérissier:

Those immortal words: “I was not going to speak.” The only thing I would say with some empathy towards Deputy Jeune, did we not prove last time that big strategic coherent overviews to reform are the path to disaster? It now seems, having taken Deputy Le Fondré to our heart with a gradualist approach, we are now saying that is also the path to disaster. Basically, we have the proverbials in the twist, we cannot move forward because we ourselves are the problem. I would just say that I do support entirely Deputy Green and Deputy Hill’s frustration and I rose to say my incredible surprise at Deputy Wimberley’s apparent assertion that the more people you have apparently the more effective the States is. Well, I hope he did not because I have never heard, quite frankly, a more fatuous assertion.

The Deputy of St. Mary:

Can I have a correction? He is impugning my integrity **[Laughter]** and I did say that there was no evidence either way.

4.1.10 Deputy T.M. Pitman:

Very briefly, for once I have to agree with Senator Ozouf. Yes, we definitely do need to look at the fairness of the distribution of Deputies. St. Helier is clearly under-represented by at least 3, the figures do tell us that. As for his other motive I think to try and get rid of the Deputies, well, what can I say? What can I say?

Senator P.F.C. Ozouf:

I did not say get rid of them. **[Aside] [Laughter]**

Deputy T.M. Pitman:

Only certain of them, yes. Maybe the Senator has even got some proof, perhaps on the same document about Deputy Southern wanting to destroy the finance industry. Perhaps he could bring it in. I think what we do need to do is keep ... the Senators are valuable but what we certainly do need to do is look at the quality of some people that get in, I think, and that has definitely been brought home to me by Senator Ozouf. I cannot support this, I do think that we should wait for this debate because I think there is one coming up around referendum and perhaps that is the better time to look at it, but I think we have all got to be aware that the public are facing a bit of overkill in this area. I think reform has got to come but I think we have got to be a bit more clever, a bit more focused on how we do it. So I am afraid I cannot support this but I do absolutely endorse Deputy Jeune’s right to bring this forward and I think it is very worrying to hear Senator Ozouf say about trying to curtail Back-Benchers, because to be honest I mean they have some of the best and most well thought out things that come through, despite having no sort of research facilities. We have not got half a dozen people running around beck and call for us, so it is very difficult. Perhaps that is why some of us have to work so hard, I mean perhaps the Senator has got a problem with that, I do not know. But I think you would have to find that generally Back-Benchers’ propositions are pretty well researched and quite well focused. If only we could say the same for the Council of Ministers, but then I do think there is a bit of a problem there because we seem to have one Senator who thinks he is the Chief Minister, another one who acts like he is a Chief Minister and then Senator Le Marquand who will soon be the next Chief Minister. **[Laughter]**

Senator P.F.C. Ozouf:

I did not want to interrupt but the Deputy is not representing what I said.

The Greffier of the States (in the Chair):

I think we heard what you said.

4.1.11 The Connétable of St. Mary:

Deputy Green asked me a question when he spoke. There is an easy way to limit the amount of debate. If Members had supported my committee's proposition it would have been done. I have to say briefly at the time when the P.P.C. proposition was defeated I was a little concerned that we had such a huge reduction in support over the last time something similar was debated and I said then to quite a few people I think it is probably because a lot of the newer Members in the house think there must be an easier, simpler way to do it and until we have worked that through and seen the different ways of doing it, perhaps it will not happen. I think we might have an example of that today. This proposition seeks to remove 50 per cent of the Island-wide mandate without, and this is the crucial thing, providing anything in compensation for it. P.P.C.'s proposition of course did away with the all-Island mandate and that was in many ways to many Members the least satisfactory part of it, but at least in our proposition we did compensate to some degree by proposing larger constituencies. Again they did not find favour, but there was a compensatory mechanism. The 2 main themes that were revealed in consultations were that the public ... well, one of the main themes, the major theme apart from a general election was the fact that they wanted ... the public wanted an Island-wide vote and I think to do away with an Island-wide vote or to reduce it by 50 per cent without that compensatory mechanism would be a step in the wrong direction. Of course we are already moving to a same-day election for the next year and Deputy Jeune's proposition seeks to tie us to a particular time. I would echo what the Deputy of St. Mary by his espionage has said, in that P.P.C. is already engaged in looking at changing the date of the election and to seeing how that can best be done. There are significant difficulties to be overcome with moving to an October election for all Members, because at the present time our entire cycle of events during the Assembly's life focuses towards a December start and there are various important things that happen in the run-up to the new Assembly being sworn in that will have to be dealt with by moving them. It would be wrong to jump to a date without having put, as the phrase goes, all of our ducks in a row and it may well be that the Assembly decides that perhaps May is the time that it wants to have an election. Now I am not saying that that can be achieved by 2011 but what I am saying is that based on the work that P.P.C. is currently undertaking I am not able to say with any certainty that it would be possible to do what the Deputy's proposition part (b) demands and for that reason I would urge Members to reject both part (a) and part (b). Thank you.

4.1.12 Deputy M. Tadier:

There is certainly a debate to be had here about the roles of individual Members in the States and depending on one's individual views one will have an opinion on the Senators, the Deputies and of course the Constables but what I would say is that this is simply not the time to be debating this motion. It has been said that the proposition is deficient in other ways, well that is not for me to say. What I would say is that there is a referendum coming up for debate ... sorry, a proposition for a debate on a referendum which is down to take place in 4 weeks' time. This is simply to find out and to give the public the opportunity to have their say on the role of the Connétables and there is an amendment which has been submitted by the Deputy of St. Martin to extend that to Senators, which I am minded to accept. What I do not want to have is to have Members in 4 weeks' time rejecting that on the basis that it does not have an option for Deputies or that another amendment has not been made, so I would ask Members, if they have any objections to the wording, that they do submit amendments. They have 4 weeks to do so and I will not be taking too kindly to that as an excuse. The reason I mention the referendum now is that I think it is only appropriate that we at least have the debate on the referendum. This is not a debate to get rid of the Connétables, it is not

a debate to get rid of the Senators, it is simply a debate to allow the people of Jersey so that next time, as Deputy Green said, we should have a strong and proper but informed debate about all constitutional issues so that we can put this thing to bed once and for all. I think it is unsatisfactory that we keep coming back to the House every year or every few months as it has been said navel gazing. **[Approbation]** We do all have strong opinions on this, I mean certainly in my manifesto I favour one class of States Member, I think that would be something which would bring clarity to the States in decision making and, as Deputy Jeune has said, there is nothing to stop a Deputy or a Connétable doing an equally good job as a Minister that that Senator can do. But the point is I am a democrat and I hope that other Members are, so we need to listen to the public, we need to make informed decisions. I think that this is not the right proposition and it is certainly not the right time to be taking that.

4.1.13 Senator J.L. Perchard:

Briefly, I think this type of debate is tortuous and quite frankly had Deputy Jeune put forward the proposition to remove the 6 Senators that were elected in 2005 of which I am one with immediate effect I think I would have supported her, so tortuous is it. **[Laughter]** I think she must get the message that the House are not supportive. I ask her to withdraw.

The Greffier of the States (in the Chair):

You do not intend to withdraw, Deputy? No.

4.1.14 Senator S.C. Ferguson:

Just a small comment. The Members have been talking about the date of the election. I would suspect that our elections originally were based on the farming cycle, however if changing the date affects a great number of additional issues and could even go back to changing the date of the financial year of the States and I would hope that before P.P.C. finally picks on a date like that, they would consult with both the Minister for Treasury and Resources, possibly the Auditor General and the Public Accounts Committee because the collateral changes could really be quite difficult. The only other thing I would say is that removing one set of Senators removes one of the strengths of the senatorial system, the stability given by the overlap and frankly I have here a copy of the Constitution of the United States. Well, frankly, you know if it is good enough for them then ... oh, dear, I am sorry presumably the honourable Member cannot read himself. No, I think it is one of the strengths of the system - the stability - and as has been already said there is a liking for the all Island mandate and so obviously I shall not be voting against this.

The Greffier of the States (in the Chair):

Deputy Jeune, it is entirely a matter for you, but do you wish to respond to the requests from Senator Perchard or not?

4.1.15 Deputy A.E. Jeune:

No not necessarily responding to Senator Perchard himself; in fact just before he got up I was getting to my feet but respecting the rights of others to speak I sat back down again. I have listened to what Members have said this morning and particularly what Deputy Tadier said in respect of having a referendum and being somebody who is incredibly pro referendum I will withdraw at this stage, if I may. **[Approbation]**

The Greffier of the States (in the Chair):

Are Members willing to grant leave to the Deputy to withdraw the proposition? Very well, the position is withdrawn.

5. Statistics User Group: re-appointment of Chairman (P.149/2009)

The Greffier of the States (in the Chair):

The Assembly comes now to P.149, Statistics User Group: re-appointment of Chairman and I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to refer to the Act dated 17th November 1999 in which they approved the establishment of the Statistics Users Group and to approve the reappointment of Mr. Charles Christopher Gooding Clarke as Chairman of the Statistics User Group for a period of 3 years commencing on 26th October 2009.

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

I think the States can be proud of the service that we get from the States Statistical Department, which is of course an independent unit, but it is nonetheless correct that they should have oversight by an independent statistics user group. That group not only checks over the Statistics Unit, but can also suggest other ideas which may be of interest to that unit. So, we are fortunate that the current chairman of the user group is prepared to stand for re-election. Mr. Charles Clarke has been an excellent chairman of this group up to date. His C.V. (Curriculum Vitae) is attached. He has the time and the ability to devote to this job and I have pleasure in proposing his reappointment.

The Greffier of the States (in the Chair):

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

5.1.1 The Deputy of St. Mary:

I have to say that I am quite disappointed in this proposition because it looks as if we are back to the bad old ways of handling appointments. Now, I thought that the good Constable of St. Lawrence, myself and others had achieved progress in this area and I cannot remember which appointment it was, but there was an exemplary one pointed out by P.P.C.'s chairman and we thought: "We have almost got there" and now we are back, it appears, to square one. We do not know when Mr. Clarke was originally appointed. We know a little bit about him and I have some questions here. What was the actual process? We are told that the Appointments Commission has confirmed that they support the appointment. Why was there not an open advertisement and maybe there is a good reason for that, but we are not told. Who are the other members? This is a very important group, by the way. The supervision of statistics and making sure that they are unbiased and fit for purpose is a really important function of our government and it is right that there should be a statistics user group. It was a big step forward at the time. But, as I say, who are the other members? What is the scope of this group? We are not told and we should know what they do and how often they meet. We should be given a skeleton idea of what this is about and not be assumed that we all know. I roughly know, but I must say I could do with a little bit more detail than this, so I would like the Chief Minister to respond to that when he is summing up.

5.1.2 Deputy G.P. Southern:

As the Deputy of St. Mary has just suggested, it is an absolutely vital role to monitor the independence of the Stats Unit. I suppose the Chief Minister suggested that the Statistics User Group does suggest areas that might warrant investigation. I just wonder, in the balance of things, to what extent the Chief Minister - because the stats group does come under him - has the major influence over what stats are examined and to what extent other departments and other Ministers have an influence and whether in fact coming under the umbrella of the Chief Minister that we can be confident that the stats group is not in some form of political control.

5.1.3 Senator A. Breckon:

If I may assist the House, the Joint Advisory Council was the precursor to this - and Senator Le Sueur will be well aware of that - and this was set up as an independent body and in 1999 it was well advertised for organisations to get involved and I must declare that the Consumer Council are represented on here by the Deputy Chairman of the Council who is also a representative for the

Citizens Advice Bureau, so there is a dual role there and other organisations as well and it was advertised to the general public. So, to my knowledge it is fairly representative and independent. The other thing is there was an issue about getting a chairman and I am sure the Chief Minister will be aware of this. It was not easy to get somebody to do the job and I think what might have been clearer if the membership had been included and a little bit about that then that perhaps might have helped Members that did not have the in-depth knowledge. But the Joint Advisory Council was formally made up of employees, employers and others - that is how it was termed; do not ask me what "others" are, but there were - and Members of this House - the former Connétable of St. Saviour, Jack Roche and Senator Vernon Tomes - people like that were involved over the years and indeed Senator Le Sueur, and on a professional basis I think also a former company were advisers and used to collect the statistics and some of this used to come under the Chief Adviser's Office. So, there is a history to this and I probably have got a lot of information and if anybody wants some I can provide some, and I am sure the Chief Minister can. But I do not think, with the greatest of respect, there is anything untoward or suspicious of this and I know that the group do work with the Statistics Unit and they do oversee the work they do. I also suggest - and it is something that Members may be aware of - that things that Members might require, pound for pound parity between Jersey and the U.K. being an example, that is something that they could put to the Statistics Unit if anybody wants to make that representation. The other thing is I would ask Members to be aware of something. If we start playing "ping pong" when people put their names up, then people will not put their names up because, okay, if it is us standing against each other in election for something or other then that, I consider, is fair game, but when in effect you have got members of the public, they do not necessarily put their names forward here [**Approbation**] to be picked at and queried by us, so I would advise caution on that.

5.1.4 The Connétable of St. Lawrence:

I just rise to ask again that when we have these appointments brought forward for our consideration we are given as much information as possible in order for us to make an informed decision and I thank Senator Breckon for having elaborated for Members today, but I do not think it is appropriate for him to have to rise to do that because we should have been supplied with it in the first place. So, I will continue to rise when we discuss appointments such as this and continue to request that the information be supplied to us in advance in order to, as I said, make an informed decision. Senator Breckon mentioned that he thought it would be helpful for him to address the House and frankly I must say do we not need all the help we can get.

5.1.5 The Deputy of St. John:

Firstly, I would like to thank Mr. Clarke for putting his name forward. Secondly, we heard the Deputy Chief Minister's scathing remarks about the report and proposition of a back-bencher. They were scathing, Senator - through the Chair, with my apologies. The Chief Minister and all the Ministerial departments have got a whole host of staff within those departments that can in fact do the necessary research and bring to this House properly researched documents. To come in here with 3 or 4 small paragraphs on this particular proposition, it is not acceptable given the comments passed in recent times in this Chamber; recent times since I am back. This was a problem previously and it has not changed. We have gone into Ministerial government and there is direct working relationship between the Ministers and their senior officers and yet the Chief Minister can allow something like this to come to the House with this small amount of information. I said I am very pleased that Mr. Clarke is taking on this position yet again or putting his name forward, but it is for the Ministers - and in particular the Chief Minister - to give us all of the information.

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

How many more times are we going to do this? Every time there is an appointment we just seem to love embarrassing ourselves before the public, which is exactly what we are doing. This

proposition was proposed and lodged in the proper time. Why, for instance, did the Deputy of St. Mary not contact the department to find out the information which he is requesting today?

Senator J.L. Perchard:

On a point of order, to correct the Constable, it is a reappointment which makes it even worse.

The Greffier of the States (in the Chair):

Well, I call on the Chief Minister to reply.

5.1.7 Senator T.A. Le Sueur:

I hear what Members say and I hear what the Constable of St. Lawrence says about the reasons for giving an informed decision, and I remind Members the decision we are being asked to take is, is to approve the re-appointment of a chairman. Now, if Members wanted to know the membership of the Statistics User Group that is published on the green sheet which Members get updated every so often. If it is a question of what the Statistics User Group does they can look at the website. This is a proposition about re-appointing a chairman and I make no apologies for doing what I have done, which is to give a full background to who the chairman is. I am grateful to Senator Breckon for explaining that we had difficulty achieving a chairman in the first place. This is not the sort of job which people are queuing up to apply for. We are very grateful and I am very grateful to Mr. Clarke for agreeing to stand for re-appointment. I sometimes wonder when you come up against these sorts of comments whether people will continue to stand for these sorts of jobs. **[Approbation]** So, I make no apology for doing what I have done. I do indeed confirm that in answer to Deputy Southern's more reasonable comments about the scope of the Statistics Unit that they get, probably from various sources, into producing all sorts of extra work and there is a limit to how much they can do and they have to prioritise. For example, they are now doing more work on price comparisons, which I am sure the Deputy and Senator Syvret will be glad to know. They are looking at a regular business survey to see and give us more up-to-date information which will help us then make decisions. We could double the size of the Statistics Unit and get double the amount of information, but we have got to be realistic. We get very good service from that Statistics Unit and we get very good service from the Statistics User Group who keep them in check. I maintain this proposition and I ask for the appel.

The Greffier of the States (in the Chair):

Very well, the appel is called for and if Members are in their designated seats the Greffier will open the voting.

POUR: 41		CONTRE: 1		ABSTAIN: 1
Senator T.A. Le Sueur		Deputy J.M. Maçon (S)		Deputy of St. Mary
Senator P.F.C. Ozouf				
Senator F.E. Cohen				
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. Martin				
Connétable of St. John				
Connétable of St. Saviour				

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 J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy 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)				

6. Jersey Police Complaints Authority: appointment of Chairman and members (P.150/2009)

The Greffier of the States (in the Chair):

We come now to the Jersey Police Complaints Authority: appointment of Chairman and members in the name of the Minister for Home Affairs and I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion in accordance with Article 2 of and the schedule to the Police (Complaints and Discipline) (Jersey) Law 1999 (a) to appoint the following as the Chairman of the Jersey Police Complaints Authority for a period of 3 years effective from 1st January 2010, Mr. Thomas Slattery; (b) to reappoint the following members of the Jersey Police Complaints Authority for a further period of 3 years effective from 1st January 2010, Mr. Anthony Beaumont, Mr. Andrew Cornish, Mr. Stephen Luce.

6.1 Senator B.I. Le Marquand (The Minister for Home Affairs):

The Jersey Police Complaints Authority is the independent body which was set up in order to deal with police complaints matters. Their role in relation to that is that they oversee investigations and they make recommendations as to whether or not there is a matter which should proceed to a disciplinary hearing. They do not conduct disciplinary hearings because police disciplinary hearings are conducted within the police force itself. But nevertheless their role is an important and responsible one. I want to make tribute to Mr. Leslie May, former treasurer of the States, who has been chairman of the Police Complaints Authority for the last 9 years and who was instrumental in setting up the current system and also to a further retiring member, Mr. Tony Roberts who has been a member for the same period of 9 years. We advertised for additional people to come forward in relation to this and I am afraid our first efforts were not very successful because there were no new applicants, but fortunately Mr. Tom Slattery who has been the deputy chairman for a number of years has allowed his name now to go forward to become the new chairman. The chairman's role

is quite pivotal because he receives the initial matters and decides whether or not it is sufficient to warrant a full process and then allocates it to one of his colleagues, or indeed if it is difficult deals with it himself. In addition to that we have 3 other existing Members - Mr. Anthony Beaumont, Mr. Andrew Cornish and Mr. Stephen Luce - who are willing to go forward for a further 3 years. Members will see that there has been consultation with the Appointments Commission as to whether or not it was necessary for there to be a process of re-interviewing them because of the difficulties in obtaining other candidates. All 4 of these are excellent candidates. I have worked personally in the Youth Court with Mr. Cornish and Mr. Luce and can inform Members that they were both excellent members of the youth panel and indeed fulfilled their role both seriously and excellently. I do not know Mr. Beaumont personally, but Members have details of his background and experience and I have met Mr. Slattery. So, I simply ask the Members to appoint the new chairman, Mr. Slattery, for 3 years from 1st January 2010 and to reappoint Messrs Beaumont, Cornish and Luce. The last thing I want to say at this stage is that we are seeking to re-advertise to see if we can obtain further members and hope for a better response. At least one Member of the States has contacted me and given me the name of a potential person and I hope that person will respond to the advertisement process.

The Greffier of the States (in the Chair):

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

6.1.1 The Deputy of St. Martin:

Members may recall I spoke about the appointments about 2 or 3 years ago when we made the last lot of appointments, but I want to begin by thanking everybody for undertaking the role on the Police Complaints Authority, but it is quite clear that things are not right.

The Greffier of the States (in the Chair):

This is not a debate on the Authority's work.

The Deputy of St. Martin:

No, Sir, but I think it is important.

The Greffier of the States (in the Chair):

It is about these particular individual appointments. We cannot have a debate. That is for another day, I think.

The Deputy of St. Martin:

Yes, all right, but I do think that one of the reasons that there are problems is because I think it is time that the Minister looked at the terms of reference for appointment and also the role the particular members are asked to do, and also I think looking into other issues which are why are people not coming forward. There is this perception that it is an independent Police Complaints Authority and again I think the chairman 3 years ago reminded me I should not speak wider on this subject. But I do think there are problems with the Police Complaints Authority and unless they are addressed they are going to continue to have complaints or difficulties not only in getting people to come and do the job, but the people who are making complaints against the police being satisfied that their complaints are being looked at and being supervised in a proper manner, because at the moment there is no right of any explanation given to anyone who makes a complaint against police and they are told it is not substantiated, yet there is no explanation as to why it has not been substantiated. So, there are issues there. However, that said, just one little correction; Mr. Luce does not play at St. Lawrence Church, but I believe he plays at the Methodist Chapel, but that is just one thing. Again, I would like to thank those people who are offering their services and certainly I have spoken to the Minister before and no doubt we will need to speak again because I think there is an area of concern about the Police Complaints Authority and it needs addressing.

6.1.2 The Deputy of St. John:

Having been on the Home Affairs Committee in the past, the panel in fact has done a lot of good work and I would like to pay particular thanks to those members of the panel who are continuing, but in particular to Mr. May for having done an excellent job in his time. **[Approbation]**

The Greffier of the States (in the Chair):

I call on the Minister to reply.

6.1.3 Senator B.I. Le Marquand:

I thank Members for their comments. There is an issue as has been raised by the Deputy of St. Martin in relation to the giving of reasons. That I have taken up with the outgoing chairman and I will take that up again because I am of the opinion that there ought to be some degree of statement of reasons why it is viewed that the matter is not upheld or where it is not appropriate to go to a disciplinary matter, so I will take that up. In relation to the reason why perhaps people may not be coming forward, with some hesitation I would mention simply that which Mr. May has mentioned to me as being one of his principal concerns, and that is the politicisation of matters concerning disciplinary matters concerning the police. He is concerned that if these matters become political “footballs” that that will put good people off from wanting to get involved because of the criticism which can then be involved and I hope that that will not be so. It is quite right to criticise the system and I accept that there are systemic improvements that could be made. So, I simply move the proposition as I so did before.

The Greffier of the States (in the Chair):

I put the proposition. Those Members in favour of the document, kindly show; against? The appel is called for on the proposition. If Members are in their designated seats, the Greffier will open the voting.

POUR: 40		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F.C. Ozouf				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Lawrence				
Connétable of St. Mary				
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 J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				

Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy 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)				

7. Draft Public Holidays and Bank Holidays (Jersey) Act 200- (P.151/2009

The Greffier of the States (in the Chair):

The final item of Public Business is the Draft Public Holidays and Bank Holidays (Jersey) Act. I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Public Holidays and Bank Holidays (Jersey) Act. The States in pursuance of Article 2 of the Public Holidays and Bank Holidays (Jersey) Law 1951 have made the following Act.

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

Again could I ask the Assistant Minister, Deputy Le Fondré, to act as rapporteur?

7.1. Deputy J.A.N. Le Fondré of St. Lawrence (Assistant Minister, Chief Minister’s Department - rapporteur):

All this does is move a public holiday from Boxing Day, Saturday 26th of this year to Monday 28th and basically keeps us consistent with the U.K. It does not create a new holiday; it just moves it. What I will say is if this is approved today what we will try and look at is can we bring legislation to make this occurrence an automatic thing and I move the proposition.

The Greffier of the States (in the Chair):

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

7.1.1 Deputy J.A. Martin:

Yes, the rapporteur makes it sound very simple. Just be aware what we are doing, we are having Christmas Day on Friday and we are moving the Boxing Day bank holiday to Monday. Under any law that I have researched - because it does not come under Sunday trading because it is not Sunday - every shop everywhere in Jersey will be allowed to open on what everyone would know as Boxing Day because as far as I have been born Boxing Day follows Christmas Day. **[Approbation]** So, it is not as easy and it does not protect a lot of workers who do work. It is protecting workers who work Monday to Friday. It is not protecting workers who work Monday to Saturday and I have a real, real problem with this because I just caught the other day out of the corner of my eye reading the *Post*: “Please do not shop on Boxing Day” and I thought: “What is that?” and I did not read the article, but as soon as I read this I realised what it was and that is what you will be asking. Christmas Day, Friday; open for business on Saturday; Sunday is your normal and we have Boxing Day. It has not been thought through and I would ask for this to be withdrawn because I do not think it should go through as it is and come back with something that is sensible.

7.1.2 Deputy A.K.F. Green:

In exactly the same vein - in fact I tried to look at whether I could bring an amendment and I have to say I could not find the right wording for it - but this is the start of the destruction of family life **[Approbation]** because it will be voluntary to work the real Boxing Day, but it will not be voluntary; people will be forced to work. Mothers who have to work to pay the mortgage will be forced to work Boxing Day - family life as we know it - and I have got a real issue about Sunday trading as well, but we will talk about that when it comes up. The other issue; it seems inherently unfair to me that those in the hospital, for example, and the fire service, the police and other essential workers - those that work the real Boxing Day - will be paid plain time and those who work the Monday - the new designated public holiday - will get double-time. Where is the equity in that? I am not happy with this at all.

7.1.3 Senator B.I. Le Marquand:

I rise simply to seek an assurance. I well remember that on a previous occasion when there was a similar consideration that it had the unintended effect of giving all States workers, including myself as magistrate, accidentally 2 extra days of holiday. Now, I merely seek an assurance in the reply that this has been properly thought through and that we are not perpetuating the same blunder again.

7.1.4 Deputy T.M. Pitman:

Again very short and to the point because the points raised by Deputy Martin and Deputy Green are absolutely spot on. We have only heard a few minutes ago the dismissing of Back-Benchers propositions yet here we have an example of the sloppy rubbish brought before us by the Council of Ministers, badly thought out and we hear an Assistant Minister say: "It is all very easy." What absolute nonsense. No consideration again for ordinary people. This will not be voluntary at all. The impact on ordinary people will be severe, very negative. I think it should be withdrawn just as Deputy Martin says. For once let us see the Council of Ministers think things through and think about ordinary people instead of themselves and perhaps business owners.

7.1.5 The Connétable of St. Saviour:

Quite briefly, we are now in October. We have known I think from the beginning of the year when Christmas was. Why could this not have been brought earlier to allow businesses time to plan, families' time to arrange their affairs? **[Approbation]** I will be voting against it.

7.1.6 Deputy A.T. Dupre:

In my previous life I used to work on a Saturday, so having the Saturday as the public holiday was great for me because it was a day off. I do not see any reason to change it.

7.1.7 The Deputy of St. John:

I, like others, feel that this has not been thought through properly and I propose we move on to the next item.

The Greffier of the States (in the Chair):

Well, Deputy, traditionally the Chair will disallow that. Unless a reasonable number of people have spoken and there have not been many speeches yet I think it is slightly premature to propose at this stage, but let us see if any other Members wish to speak on the proposition.

7.1.8 Senator T.A. Le Sueur:

I would simply point out that we are going to get ourselves into difficulty here. There are only 2 choices; either we accept this Act or we reject it. There is no simple amendment to it and we have to make a decision today because really, as the Constable of St. Saviour says, we need to give people time to think about this. Really this comes about in parallel to what is happening in the U.K. and there is a difference between a public holiday and a bank holiday and the rules of public holidays and bank holidays are different. Now, because of that difference I can give the assurance

to Senator Le Marquand that there are no financial implications as far as the States is concerned. It does not affect the States pay bill one way or the other; it does not change and while that was a concern to me as well I did specifically ask that question. What we will do if we do not approve this Act is we will have one Boxing Day with 26th December whereas the U.K. will have 28th December. That strikes me as being a recipe for total confusion for the Island. If that is what we wish to do let us do so, otherwise let us pass this Act.

7.1.9 Deputy M. Tadier:

I am glad that Deputy Martin and Deputy Green got up because this is one of those pieces of law which can sometimes go through under the radar and I think it is a very valid point and it was elucidated by Deputy Dupre. There are many people on the Island who do not fit the 9.00 a.m. to 5.00 p.m., Monday to Friday category and it is in various different roles; it may be at the hospital, it may be at the prison or it may be people normally who work in the private sector in shops which have to stay open - often Saturday and Sunday in the smaller shops - and I know that certainly in the telecommunications industry that I used to work in, shift work 24 hours a day was necessary to cover 7 days a week. So, it is certainly not much help to people in those situations. I think this is a "half cooked" measure. I think it has the general appeal if you are lucky enough to work Monday to Friday, sure it is great to have the Monday off as well and I think that is attractive in that sense, but it seems that otherwise it does not do anything for those people who will be forced to work on the Saturday which is traditionally the day that follows Christmas. Christmas Day when you spend it with the family, it is nice to have the subsequent day to relax and to perhaps get over your hangover or just to digest properly from all the overeating. But nonetheless it is a day that follows Christmas Day and if it is a couple of days later it does not have the same purpose. So, I would suggest that we reject this law and send it back to be looked at. As we have heard an amendment seems complicated, but I am sure something can be come up with which is better than this.

7.1.10 Senator A. Breckon:

It says in the report that consultation has taken place with the Chamber of Commerce through the Economic Development Department. I wonder if somebody - and I do not know if it is the Minister or the rapporteur - could comment on that. The reason I say that is thinking about shop workers in the lead up to Christmas there will be shops open in the evenings; there will be some Sunday opening through the *Fete de Noue* anyway or however that is going to be done, and therefore people with families are already making that commitment. Now, if the Saturday is a holiday, Sunday would not normally be an open day for many so people who had been in that situation who had done extra work up to Christmas would have Friday, Saturday and Sunday and I just wonder what the implication is by what is the consultation with the Chamber of Commerce? Has some deal been done to say that shops in effect will not open on the 26th if the bank holiday status is removed and instead the Monday will be substituted, but I still get the feeling that shop workers in particular will not get a 4-day break? They will get a 3-day break one way or another and I wonder if somebody who has been involved in those discussions or negotiations could tell the House what that would mean for perhaps shops and businesses in particular because some of the people in these situations they are not unionised and in some instances the policy will come from what happens in the U.K; they are doing it in the U.K; there is national change in the High street and they will do the same here. So, perhaps somebody could enlighten the House?

7.1.11 Deputy A.E. Jeune:

I think I would be right if I said Boxing Day has fallen on a Saturday before, so, in his summing up, could we be enlightened as to what took place when it happened before and also if I remember right if Liberation Day falls on a Saturday we do not change that; am I correct? **[Approbation]**

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

What concerns me is the lateness of the date for making this decision. There are a lot of people that are on shift work - emergency services, working in hospitals, police stations, fire stations, et cetera, et cetera - and there are probably an awful lot of others who have to book their leave well in advance because they have to provide a 24-hour service. One of the traditions is that you let families with children have Christmas Day off and the single officers prefer to have New Year's Day off, but if you start bringing things in like this - the changes in at short notice - it can seriously affect the quality of life for so many people and I think that is wrong. At the moment I think that the status quo should stand, but for next year or any other year where it is anticipated that there could be a problem for the future that this should be ironed out, discussed with all the relevant parties long before a decision is brought back to the States.

Connétable A.S. Crowcroft of St. Helier:

Can I suggest a point of order? As it is 1.00 p.m. could we perhaps have the adjournment so that the rapporteur could take further advice?

The Greffier of the States (in the Chair):

Well, you are free to propose the adjournment if you wish, Constable. Do you wish to propose the adjournment?

The Connétable of St. Helier:

Well, it just seems to me that if we are in danger of making a decision because we have not had more advice from various parties perhaps that could be done over the luncheon?

The Greffier of the States (in the Chair):

Well, you have proposed the adjournment. Those in favour kindly show; those against? We will continue, Constable.

7.1.13 Senator S.C. Ferguson:

Yes, perhaps I could assist the House here. This problem cropped up I forget how many years ago when the Shadow Public Accounts Committee was in existence and the then chairman had a number of ideas about this and muttered, fulminating even, about it and then when this cropped up again I contacted him and asked him about his views on this and he said that he remembered the debate and so on, but he really could not come up with any alternative to the one that is being proposed. It is a question of are we going to be in line with the U.K. or not. It apparently is not going to cost us any money. I merely refer to it for the benefit of the House.

7.1.14 Senator P.F.C. Ozouf:

I do not think sometimes that the Council of Ministers and the Chief Minister's Department can win on this. It is frustrating and I understand Members' frustration about considering these matters and the lateness perhaps in the fact that it was brought up. I understand that; we accept that. I hope Members would accept that there are significant pressures on all of our sides in delivering matters. It seems to me that this is a simple choice. There is no easy answer here. If we reject this proposition there will be no public holiday for all people who work Monday through Friday. They will be deprived of their holiday. That is a situation that it remains the case and there is no simple answer. I accept the issues and I think we are all uncomfortable about this issue of Saturday opening and Boxing Day, but there is simply no alternative from where we stand at the moment and that is the matter for Members. Members either accept the fact that workers from Monday to Friday will have an additional day on Monday, which brings us in line with the United Kingdom, and accept the fact that there is going to be some, I hope, very limited shop opening on Saturday. I think we need to bring pressure to bear, but that is the only thing that we can do. Members have a choice; either they give Saturday as a holiday; either they give Saturday as the Boxing Day; deprive Monday to Friday workers or they give Monday. I think that is the only option that the Assembly has, unfortunately.

Deputy J.A. Martin:

Sorry, can I just ask for a point of clarification from the speaker? He says all we have in this House is to bring pressure to bear on shops not to open. Does he mean just pressure? There is nothing in any law that we have to use? Can you make that quite clear, please?

Senator P.F.C. Ozouf:

I have not been close to this issue at all and I understand perhaps the Attorney General is able to help us in the Assembly, but I believe that that is the situation. We can bring pressure to the Chamber of Commerce; we can ask, but I think that is what the Assembly faces. There is no easy answer here.

The Greffier of the States (in the Chair):

Are you able to assist the interpretation of Sunday trading and public holidays, Attorney General?

The Attorney General:

The Sunday Trading Law is not in place here because the position in relation to Sunday trading is Sundays are defined to include Good Friday, Christmas Day and Liberation Day which I think answers the question from Deputy Jeune, but Boxing Day is not deemed under the Sunday Trading Law to be a Sunday. The position that we have as a matter of law is under the Public Holidays and Bank Holidays (Jersey) Law 1951 which: “Confers a power on the States to appoint days to be observed as public holidays and bank holidays. The States may, by Act, appoint the days of the year which are to be observed as public holidays or bank holidays and any such Act may relate to the same day in each year or to any day in any year.” So, there is a power in the States to designate public holidays or bank holidays. Pursuant to that power there has been the Public Holidays and Bank Holidays (Jersey) Act 1952 which sets out in the schedule the days which are to be observed as public holidays and that schedule includes 26th December if a week day. So, Boxing Day falling on Saturday as a week day is a public holiday. So, the structure of the proposition here is to amend that so as to say that 26th December for this current year we are going to substitute 28th December which in effect moves Boxing Day to the Monday. In answer to Senator Ozouf’s question, it is possible for the States to designate an additional day if the States think that is the right thing to do. There would obviously be significant financial consequences of such a designation, but that would be a matter for the States. That is the power that the States have.

Deputy A.K.F. Green:

Can I just ask another question? How difficult would it be therefore to add Boxing Day to the list of days that are considered under Sunday trading?

The Attorney General:

Well, there could be an amendment to the Sunday Trading Laws to add Boxing Day and would need to be debated in the usual way. It would not happen for this year, for sure, because it would not get to the Privy Council in time.

7.1.15 The Deputy of St. Mary:

Just briefly a few points; one point is that Boxing Day if it does become a normal trading day that will affect the lives of all those who live around particularly the major outlets or indeed near any outlet throughout the Island, so people have to consider that impact on people. The point about the lateness of this coming and the fact that we might have been able to work other ways around this has been made. Following the U.K.; maybe this is one occasion where we should be more “family friendly” than the U.K., than what they do over there. It is not necessarily the case that we should follow what they do; not necessarily. Finally, and most importantly, in paragraph 6 of the report: “Consultation has taken place with the Chamber of Commerce through the Economic Development Department.” I would like the rapporteur to tell the House what other consultation has taken place with regard to this, and obviously I am mainly concerned with the workforce of all the different

areas that are under this change and of course with the general public - although that is obviously more difficult to do - but in particular with workers who would be affected by this.

Senator P.F.C. Ozouf:

May I ask a question of the Attorney General? If the States adopts this Act would it be possible in order to meet the points raised by the couple of speakers that want to designate the Boxing Day to pass a triennial regulation? Now, obviously we would need to deal with minimum lodging periods, but is it, in theory, possible to pass a triennial regulation to so designate the Saturday?

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

While the Attorney General is looking at the appropriate law can I just ask also, Senator Breckon mentioned about the consultation with Economic Development. I would like to hear from the Minister about what that consultation was with the Chamber of Commerce.

The Greffier of the States (in the Chair):

The Minister is free to speak if he wishes. The debate is coming to an end. Do you wish to address the Assembly, Senator? Mr. Attorney?

The Attorney General:

The States can be asked to make a further Act. If this Act is adopted the States can be asked to make a further Act which appoints 26th December as a public holiday this year. If that happens that will be a matter for Members and financial consequences will be considered at that time, but that is certainly open to the States.

7.1.17 Senator J.L. Perchard:

The Attorney General has just motivated me to say something before the rapporteur replies and if we were to reject this proposition as opposed to the suggestion just made by Senator Ozouf, but to make Monday, 28th a public holiday rather than accept Boxing Day to be the 28th and make the 26th a public holiday we would be achieving the same thing, but retaining the dignity of Boxing Day on the 26th. Would that be possible; could I ask the Attorney?

The Attorney General:

Boxing Day, according to some people's analysis, will remain Boxing Day, whatever the States decides today and all this proposition is doing is dealing with when the public holidays are. It does not, to my mind, change Boxing Day.

7.1.18 Deputy J.A.N. Le Fondré:

Yes, I will not try and deal with the individuals; I will try and deal with the totality of some of the comments. I will have to say that some of the issues that are raised, I raised when it first came to me, particularly on timing and in addition in relation to Senator Le Marquand about are we absolutely sure that we are not creating an extra day here. Because from memory - my memory and I think Senator Ferguson's and obviously Senator Le Marquand's which are probably all similar - is that last time - and I believe it might have been a date about New Year's Eve, New Year's Day area rather than the Boxing Day - the States created 2 bank holidays or public holidays. That cost the States or the taxpayer a lot of money, is all I can remember and I can remember there being a huge outcry at the time from the private sector because again it seemed to be discriminatory between the public sector and the private sector and I obviously point out the various financial constraints we are all under at the moment. So, it is in the hands of the Assembly at the moment and what we are facing today is a straight choice between the Saturday and the Monday. What I will say - and it is not an area I get involved in particularly because I try not to go into the sales initially - but Boxing Day sales happen whenever those occur, which is the shops. Whether that is a good thing or a bad thing, those are happening on bank holidays as they occur. So, what one is trying to do here is to turn around and say it is a public holiday for the Monday. As I said, my understanding in terms of

how the public sector is affected, there are no financial consequences arising out of this because it is - particularly in shift workers - as to who falls on to what shift et cetera. There are arrangements in place which try and take account of the treatment of individuals and public holidays and weekend days and things like that. So, I think the point was and the summary really to speak to Senator Ferguson's comments again, there is an inconsistency, but does one want to be out of step with the United Kingdom - which sometimes is not a good thing to be in step with them - but in logistic terms and employment terms and the holidays with people going away to the United Kingdom and things like that, that is where we are. So, I think at the end of the day I am going to maintain the Act. If States Members wish to reject it then what that would mean is the bank holiday falls on to the Saturday unless things change and that would mean your private sector side, your Monday to Friday, will not get a bank holiday this year in relation to Boxing Day. It also means any public sector workers who work on a 9.00 a.m. to 5.00 p.m., Monday to Friday will also not get a public holiday. So, obviously the benefit then is for the people potentially who work on the Saturday, although I suspect Boxing Day sales will carry on and obviously for shift workers as well and I maintain the proposition.

The Greffier of the States (in the Chair):

Do you wish for the appel?

Deputy A.K.F. Green:

The Assistant Minister is not quite right in relation to the public sector because if a bank holiday falls on a Saturday and we do not re-designate it, they will get a day off in lieu as per their conditions of employment.

Deputy J.A.N. Le Fondré:

My understanding is it depends on the circumstances relating to the individual shift workers because some people choose to take a day off in lieu and some people can decide to take the fundings.

The Deputy of St. Mary:

On a point of clarification, the rapporteur did not address the question of consultation at all.

Deputy J.A.N. Le Fondré:

My apologies; I do not have the full information. All I have got is that consultation took place with the Chamber of Commerce. I do not know what other consultation took place.

The Deputy of St. Mary:

The question was whether there was consultation with any other group?

Deputy J.A.N. Le Fondré:

I just said, I do not know what other consultation took place, but I will endeavour to find out.

The Greffier of the States (in the Chair):

Do you wish for the appel? Yes, the appel is called for in relation to the Act. If Members are in their designated seats the Greffier will open the voting.

POUR: 23		CONTRE: 20		ABSTAIN: 1
Senator T.A. Le Sueur		Senator J.L. Perchard		Deputy M.R. Higgins (H)
Senator P.F.C. Ozouf		Connétable of St. Ouen		
Senator A. Breckon		Connétable of St. Martin		
Senator S.C. Ferguson		Connétable of St. Saviour		
Senator A.J.D. Maclean		Deputy J.A. Martin (H)		
Senator B.I. Le Marquand		Deputy G.P. Southern (H)		

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

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Greffier of the States (in the Chair):

Very well, the Assembly comes finally to the Arrangement of Public Business for Future Meetings. Chairman of P.P.C.?

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

Taking as a basis the arrangements set out on the lavender sheet, for 20th October P.137 will move to 17th November. On 3rd November P.144, the Plémont Holiday Village: acquisition by the Public, moves to 1st December, and there is the addition of P.168, the Planning Building Bylaws: changing provision of disabled toilets/changing rooms lodged by Deputy Green. On 17th November there is the addition of P.137 which was moved from 20th October. P.158, Draft Taxation (Land Transactions) (Jersey) Law (Appointed Day) Act moved to 8th December as does P.159, the Draft Taxation (Land Transactions) (Amendment of Law) (Jersey) Regulations. We have an addition of P.166, Draft Proceeds of Crime (Amendment of Schedule 2) Regulations; P.167, Proceeds of Crime (Supervisory Bodies); P.169, Draft Foundations (Winding Up) Regulations lodged by the Minister for Economic Development; P.170, the Draft Foundations (Mergers) Regulations; and P.171, the Provision of States Members Lunches for Certain Meetings and Parking lodged by Senator Ferguson. On 1st December, as I have said, we have P.144, the Plémont Holiday Village. On 8th December the items moved - P.158 and P.159 - and that will also be the meeting at which the budget proposals will be debated in due course. I would like to give Members sufficient notice at this time if possible and I would propose that as we have done recently for that long debate we meet on 7th December, the Monday, starting at 2.00 p.m. to take the organisational business and the questions as that seemed to work quite well, so that we will be able to start the debates on the Public Business on the Tuesday at the opening session.

8.1 The Connétable of St. Helier:

Could I withdraw P.108, Ann Court Housing Site Temporary Use, following the successful amendment of the Business Plan amendment. I do not want to “muddy the water” with a further debate on the matter.

The Greffier of the States (in the Chair):

Very well, that is withdrawn.

8.2 Deputy M.R. Higgins:

Unfortunately I missed what the Constable of St. Mary said initially; the first movement. P.104, the Committee of Inquiry Confidential Files held by the States of Jersey Police on States Members and Others, is scheduled to come up at the next session. What I would like to do is move it back to 17th November, the reason being that the investigation is still going on and it would be premature for us to debate it at this time.

The Greffier of the States (in the Chair):

Very well, it will be moved. Are there any further comments on the arrangement of future business? If not, that is agreed. The meeting is closed. The Assembly will reconvene on 20th October.

ADJOURNMENT