

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 21st APRIL 2010

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

[9:30]

**PUBLIC BUSINESS – RESUMPTION**

**1. Draft The Law Society of Jersey (Amendment No. 21) Law 201- (P.21/2010)**

**The Bailiff:**

The next matter of Public Business on the Order Paper is the Draft The Law Society of Jersey (Amendment No. 2) Law - Projet 21 - lodged by the Chief Minister and I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft The Law Society of Jersey (Amendment No. 2) Law 2010. A Law to amend further The Law Society of Jersey Law 2005. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

Sir, I invite my Assistant Minister, Deputy Le Fondré, to be rapporteur for this item.

**The Bailiff:**

Very well, Assistant Minister.

**1.1 Deputy J.A.N. Le Fondré of St. Lawrence (Assistant Chief Minister - rapporteur):**

This is a very simple amendment in relation to structures within the Law Society in respect of discipline. It extends the pool of people which is the disciplinary panel from which a disciplinary committee can be formed in order to deal with complaints. At present the numbers are fixed at 7 lay members and 4 ordinary members. Under the proposal the pool will increase to a range of between 7 and 15 lay members and 7 and 10 ordinary members, which are essentially the professionals. It is to relieve the pressure on existing panel members and it is easier for logistics as well. I think that covers the main points. It is a very simple amendment and I would like to move the principles.

**The Bailiff:**

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

**1.1.1 Deputy R.G. Le Hérisier of St. Saviour:**

I wonder if the rapporteur could outline further the issues why the expansion of the pool of members has been necessary. Is it because the disciplinary tribunal is meeting more often? If it is meeting more often, upon what matters is it meeting? Secondly, is it the intention of the rapporteur to extend its remit after what I now, in retrospect, feel was the wrong decision; the decision that excluded the Law Officers in public service from its remit? Would that be in future plans?

**Deputy J.A.N. Le Fondré:**

I am sorry, could the Deputy repeat the last part of his question?

**Deputy R.G. Le Hérisier:**

Yes. Is part of the intention of expanding the pool to prepare for an expansion of the remit of the panel in order to deal with disciplinary complaints about lawyers in public service; lawyers who were specifically excluded from the remit of the panel? Thank you.

**The Bailiff:**

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

### **1.1.2 Deputy J.A.N. Le Fondré:**

The main reason this particular proposition was brought to the Chief Minister was in respect of a letter brought initially by the late Christopher Lakeman and I am quoting from the letter: "To provide a workable system for complaints against members. The only urgent change is that the number of panel lawyers be increased. The 2 advocates appointed by the society have been involved in complex litigation and have been unable to devote much time to this important work. Therefore, the preference of the Society is to seek an increase in numbers so the complaints can take appropriate cases in turn." So, in other words, the inference from here is that it was not so much that the level of complaints ... this is my inference. I do not necessarily have the full information. I can always go back and clarify matters. The inference was that, because of the pressures on the professional members who were in the limited pool because of their professional work, this was an easier way of being able to share the workload a lot more efficiently. In relation to increasing the remit of the complaints panel, I do not have the information. I will have to come back. Put it this way. The purpose of this proposition is purely to change the numbers. It does nothing in respect of the remit that already exists. On that basis I make the principles.

### **The Bailiff:**

All those in favour of adopting the principles kindly show. Those against. The principles are adopted. Senator Ferguson, I think this matter falls within your scrutiny panel. Do you wish to have it referred to?

### **Senator S.C. Ferguson:**

No, thank you, Sir.

### **The Bailiff:**

Very well. There are 2 Articles, Assistant Minister. Do you wish to propose them together?

### **Deputy J.A.N. Le Fondré:**

All in a lot, Sir.

### **The Bailiff:**

Are they seconded? **[Seconded]** Does anyone wish to speak on either of Articles 1 or 2? All those in favour of adopting Articles 1 and 2 kindly show. Those against. Those 2 Articles are adopted. Do you propose the Bill in Third Reading?

### **Deputy J.A.N. Le Fondré:**

Yes, Sir.

### **The Bailiff:**

**[Seconded]** Does any Member wish to speak in Third Reading?

### **1.2.1 Deputy R.G. Le Hérisier:**

Yes. As I said in my initial comments, I do regret that the remit of the body was constructed in the way that I have outlined. I wonder if the rapporteur would be kind enough to look at that issue and perhaps report back to the States?

### **1.2.2 Deputy J.A. Hilton of St. Helier:**

Just a quick question. Is there an appeal process for any decision that may be made by the panel?

### **The Bailiff:**

I think that is not up to the Assistant Minister. It is the sort of matter which perhaps should be dealt with during the Second Reading. Does any other Member wish to speak on Third Reading? Assistant Minister?

### **1.2.3 Deputy J.A.N. Le Fondré:**

I will note the comments of the 2 questioners. In relation to Deputy Le Hérissier, I will report back. Absolutely not a problem. In respect to Deputy Hilton, I will obviously make an inquiry against the system at present. This proposition is just expanding the number of members on the panel. I make the Third Reading.

#### **The Bailiff:**

All those in favour of adopting the Bill in Third Reading kindly show. Those again. The Bill is adopted in Third Reading.

## **2. Minimum Wage Level as a Percentage of Average Earnings (P.26/2010)**

#### **The Bailiff:**

We come next to the Minimum Wage Level as a Percentage of Average Earnings - Projet 26 - lodged by Deputy Southern and I will ask the Greffier to read the proposition.

#### **The Greffier of the States:**

The States are asked to decide whether they are of opinion (a) that the minimum wage be set at 45 per cent of average earnings to be achieved over a period of not less than 5 years and not greater than 15 years from April 2011, and (b) to request the Employment Forum to have regard to this objective in making its recommendation on the level of the minimum wage to the Minister for Social Security.

### **2.1 Deputy G.P. Southern of St. Helier:**

In bringing forward this proposition I am tempted to say that it seems a very simple one to me but I recognise that I have thought that in the past and often someone contrives to make it a complex one. So my starting point must be with the awkward squad from the Back Benches over there. In answer to Senator Perchard's query yesterday as to whether I will withdraw this proposition, the answer is a simple no. So I suspect already I am not going to get a clean sweep on this one. The second thing to say is that this proposition has been amended by the Minister for Economic Development, presumably because it contains the word "request". The Minister for Economic Development seems to find it very difficult to use that word but, nonetheless and more seriously, I have absolutely no objection to the amendment. The amendment makes sense. It is a bit belt-and-braces because it contains the terms under which the Employment Forum works anyway. It would be remiss in its activities if it did not take into consideration all those factors (economic conditions, competitiveness and employment) and in fact it does. Anyone who has read any of their reports will see it is peppered throughout with those sorts of considerations from the employers' point of view, from the employees' point of view and from the overall economic point of view. So, as far as I am concerned, I will be accepting that amendment. So we do not have to have an argument over that. The question here is do we wish to do something in Jersey, politically and economically, for the lowest paid? I believe the answer to that is yes. That is why we created the minimum wage in the first place and why, in fact, the Employment Forum has already started on a process of attempting to gradually, over time and cautiously lift the minimum wage from its starting figure of 40 per cent which was set there to ensure that no damage was done to the economy.

[09:45]

It has been shown now that that was a completely safe starting point but was a starting point and that the Employment Forum themselves have embarked on a process of gradually easing that up towards achieving 45 per cent of the average. This, in a way, gives the States' endorsement to that approach. Now, the fuss, or the argument certainly, that we had recently was over the Employment Forum resiling - stepping back - from that avowed intention in the current economic terms, in the

recession, and saying: “Hang on, this year we will not do that.” But still the overall aim is there and on the rate at which they intended to move things, it was about a 10-year rate; half a per cent per year towards 45 per cent. So my proposition, there is nothing to fetter that whatsoever. It says within a time period of between 5 and 15 years, have a go at raising the minimum wage to that 45 per cent mark. It endorses the approach taken by the Employment Forum already. That principle was adopted and received a response from the Institute of Directors - the Institute of Directors no less - endorsing it at the time saying that was an appropriate approach to take and supported this approach. So, far from, in the words of the Minister for Economic Development, simply following a formula for minimum wage setting without reference to economic conditions would make it much harder for the forum to get the balance right. This does not fetter getting that balance right. It merely endorses that the opinion of the Employment Forum is appropriate as it tries to raise the level of the minimum wage. Certainly, in principle, that principle of raising the minimum wage from 40 to 45 per cent got endorsement in many speeches in our last debate on the minimum wage, despite the thrust of raising the minimum wage being defeated. I will just quote twice from the Minister for Social Security because I believe it is absolutely apposite from those times when he said: “It has been difficult for me to bring forward a recommendation from last time because it has been a slight step back from the percentage of the previous year and I strongly believe that they, the Employment Forum, should be bringing forward recommendations which increase the level towards 45 per cent, over time, cautiously and appropriately.” Further on in his speech (and this is important; this is what we are doing today I think): “Sometimes this Assembly has not always felt itself able to make difficult decisions in times of good when it should have done. Part of the role of Government is to put pressure on business to do the right thing.” By “do the right thing” he means, I think, set the minimum wage appropriately and try and lift those on minimum wage from where they are. Finally he says: “I have made it clear to the Employment Forum that when we are out of the recession they should have the courage to come forward with increases because it is only right and proper that they do so.” That is again contexted from 40 to 45 per cent. So I might not be getting Senator Perchard’s vote this time around (or I may be; I do not know) but I certainly would be expecting to get the support of the Minister for Social Security because this puts into action, on behalf of the House, those exact sentiments. I urge people to support this proposition as amended.

**The Bailiff:**

Is the proposition seconded? **[Seconded]** Then, as the Deputy has mentioned, there is an amendment lodged by the Minister for Economic Development and I will ask the Greffier to read the amendment.

**2.2 Minimum Wage Level as a Percentage of Average Earnings (P.26/2010): amendment (P.26/2010 Amd.)**

**The Greffier of the States:**

Page 2, in paragraph (a) after the words “April 2011,” add the words: “subject to consideration of economic conditions and the impact on competitiveness and employment of the low paid in Jersey.

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

I think I will be relatively brief because the Deputy has accepted the amendment, for which I thank him. The purpose of the amendment was simply to bring some economic context to Deputy Southern’s proposition on the basis that it could possibly succeed. I certainly do not support it and I hope it does not succeed and I hope Members, when we get to the main debate, will listen to the argument in that respect. Nevertheless, I do accept and thank the Deputy for accepting the amendment and giving the economic context that I believe his proposition requires. I will leave it at that. I maintain the amendment.

**The Bailiff:**

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

**2.2.2 Senator J.L. Perchard:**

Yesterday I mentioned the folly of this proposition and, of course, the amendment does nothing to correct the folly of it in that a minimum wage, of course, will have an affect on the average wage and, if we are to take 45 per cent of the average wage, we will be in a never-ending perpetual cycle of wage increases. This proposition obviously falls away because of the mathematics but I want to say something else briefly. I was thinking about this overnight ...

**The Bailiff:**

Senator, just to be absolutely clear, you are speaking to the amendment; not the main proposition? The point you have just made is one for the main proposition.

**Senator J.L. Perchard:**

Sir, I did consider that. I think the amendment and the main proposition are intrinsically linked.

**The Bailiff:**

No. I am sorry, I disagree. The amendment is whether you should add the words so that the forum should take into account economic conditions and so forth. You can make all the points you wish to, of course, on the main proposition.

**Senator J.L. Perchard:**

In that case, Sir, tactically, I will be not supporting the proposition. I will support the amendment and save my words for the main proposition. Thank you for your counsel, Sir.

**2.2.3 Deputy R.G. Le Hérisier:**

I thought Senator Perchard was going to talk about smoke and mirrors because there is no doubt this amendment is essentially an exercise in smoke and mirrors. It is a very clever amendment and as far as I am aware - and this is why I think I am totally losing track of what is going on apropos Senator Perchard's remarks - the main amendment is being eaten away at in a very substantial way. I think it shows remarkable generosity on Deputy Southern's part to have accepted the context because it could well end up undermining the very basis of his original proposition.

**2.2.4 Deputy M. Tadier of St. Brelade:**

I do have to follow on from Deputy Le Hérisier. I was thinking exactly the same thing this morning. Obviously Deputy Southern is being diplomatic here and good luck to him. I think that pays off tactically. **[Interruption]** I cannot be supporting this amendment, I am afraid, because of the underlying ethos, I think, which the previous Deputy that spoke alluded to is not one with which I agree. I think it only goes to reinforce the fact that we are not looking after the least well paid in our society. In fact if we did really want to help those in times of economic difficulties, this is exactly the time when we should be raising the minimum wage proportionately to get towards the 45 per cent because that is the point at which it will have most impact for those people while there is an economic slow down. They can play catch up. The point is when the inflation rate is going up higher and higher, of course it is okay for us to put the minimum wage up but that does not do anything to those who are earning the lowest wages. This amendment is basically cynical. It smacks of the neo-liberal paradigm that we have come to expect from this Government that does not care for the average workers in Jersey. It is simply there to support big business, as we will surely find out again when the e-Commerce Law comes up. This Government, like most governments unfortunately in the world, is simply there to support the elite. That is why we know that they are very slow to close down loopholes for 1(1)(k)s who pay less than £5,000 tax a year, while slapping G.S.T. (Goods and Services Tax), which will no doubt go up, on our elderly residents and people who can least afford it right across the board. This is what we have come to expect. So I cannot support this amendment. I will be rejecting the amendment but voting



wholeheartedly for the minimum wage which, to be honest, is far too low anyway. It should probably be in the region of £8 to £10 an hour. We need to close the gap. It is the unfortunate truth. Of course; we will have the old boys laughing at this because it does not fit in with their ideologies but this is the simple truth. This is what will come to happen in my generation when, thankfully, the older generation's ideology has moved on.

#### **2.2.5 Deputy J.A. Martin of St. Helier:**

Just to follow on, I am quite surprised with Deputy Southern. If you read the amendment, it gives 3 reasons for the Employment Forum to come back and say: "We cannot do what" ... even if the Minister for Economic Development was supporting the main proposition, which is why you know, he wants us ... and the Deputy has accepted this amendment which basically, I would say, gives us a *status quo*. Just read it. It gives us a *status quo* where the forum who decide the minimum wage are already but says he will not support the main proposition. I hope Deputy Southern does see sense. He said to Deputy Tadier under his breath: "I have 8 or 10 years' experience." Well, he should have seen this one coming. It negates what he is trying to do and, I am very sorry, I cannot support that. We are going to have a long debate on a waste of time because the Minister has done this just in case it went through and you would have the *status quo*. You cannot support the amendment if you are going to support the main proposition. That is the way I look at it, quite simple, because this is what it does. I am very sorry. Thank you.

#### **2.2.6 Senator P.F. Routier:**

When the Employment Law was first put in place and the minimum wage legislation was adopted, they were successfully done on the basis that the Employment Forum was established and that the legislation and the minimum wage rates had been consulted upon by the forum itself. The very reason the Employment Forum was established was to ensure that political influence was kept to a minimum, especially when the level of the minimum wage was being recommended. Deputy Southern may not believe this but at the time of the establishment of the Employment Forum there was a concern that the extremes of the political spectrum may want to have influence over the level of the minimum wage. In fact it was evident that there were those who did not want to even see a minimum wage and some even wanted to set it at the lower wage that we ended up at when we established the minimum wage. The eventual outcome of a reasonable minimum wage was achieved because Members at the time had the assurance that the level had been thoroughly consulted upon by the Employment Forum. Just so there is no doubt in the minds of Members, may I remind them that the forum are a total of 9 people and they are equally split up into 3 types of people. There are 3 employers, there are 3 employees (which does include Unite representation) and then there are also 3 independent people. This group receive representations from across the Island and they can include representations from States Members. Any States Member can be in touch with the Employment Forum to put forward their views and that is what we should be doing if we have a view on the Employment Forum. But they do look at this thing in a very balanced and even-handed way and they come forward with their recommendations. Deputy Southern is trying to tie the hands and to put one priority above another. The Employment Forum needs to take all ...

#### **The Bailiff:**

Senator, you are speaking to the amendment as well?

#### **Senator P.F. Routier:**

I certainly am, Sir. Yes. I certainly am because I think that it is vitally important that we recognise the importance of the Employment Forum and I hope Members do recognise that they are vitally important and they should be allowed to be getting on with their job. I urge Members to support this amendment.

[10:00]

### **2.2.7 Deputy T.M. Pitman of St. Helier:**

I can be quite to the point. It is really to follow on and echo what Deputy Judy Martin has said. Without repeating all her words what I would really like to enlarge on is I think Deputy Southern really cannot win, can he? When he refuses amendments he gets a political kicking. When he accepts amendments he gets a political kicking. **[Laughter]** That may be the purpose of Deputy Southern for many in this Chamber but not for many of the people who are affected by such matters. The worst thing of all, I think, about this - and the listening public should really be aware of it; I am not sure if the rest of the media will report it - here with this amendment the Minister for Economic Development and the Council of Ministers, I think, are just playing politics. It has really been put here to waste time. No intention of supporting even an amended proposition. So what is the point? That is why I think people get quite disappointed out there and disillusioned. People probably do not like what Deputy Tadier said but the gist of what he said, where he is coming from, is quite correct. You know, we have got to move to a situation where those at the bottom, who often work in the very worst jobs and probably work harder than a lot of others, really struggle. So I just wish people would take that on board. £10 seems like a big figure. Deputy Southern is not proposing that. What he is proposing is a gradual progression in, quite honestly, a way that we should surely all be moving. I would hope that all the politicians in here accept if we do not want a 2-tier society, which is what we have got now, this is the natural path to go. Deputy Southern has given us a good period of years to achieve this. I think it is common sense. It is an entirely credible proposition. I have got no choice but to accept but I am not going to support the amendment and I would urge everyone later to support Deputy Southern and, more importantly, the people who he is trying to help; people who are fundamental, key, probably the real driver of our society and people who really deserve a living wage. This is what that will bring us towards over a period of years. Common sense.

### **2.2.8 Deputy D.J.A. Wimberley of St. Mary:**

I just want to make one point about the Minister for Economic Development's favourite word in any other context which is "productivity". When he writes forewords to business plans the word crops up again and again and again. I well remember a conversation I had some time ago with the States' former economic adviser, I think this was before the minimum wage was in place, and he said one of the main reasons for having a minimum wage is that it drives up productivity. Inevitably, if you pay people more then you have to make sure that they deliver the value that you need in order to pay that higher wage. So I am surprised that that notion of the connection between higher minimum wage and productivity, which obviously the economy needs in some senses, is absent from the Minister's amendment. He simply refers to the 3 elements which I think Deputy Martin referred to as basically get-out clauses. I am just very surprised at the lack of inclusion of that notion and I think I will be opposing this amendment.

### **2.2.9 Connétable G.F. Butcher of St. John:**

Just very quickly. I wonder if a scenario that Deputy Southern has thought of, in a doomsday scenario, that the finance industry should leave our Island at any stage, which would be something we cannot control, the average wage is going to drop dramatically. Does he really want to tie workers into 45 per cent of a much lower figure?

### **2.2.10 Deputy I.J. Gorst of St. Clement:**

I was not going to speak on the amendment but I will in light of one or 2 comments which have been made. I think it is a sensible and appropriate amendment. I think the debate that we have had already, even on the amendment, shows how difficult it is in this particular area to achieve the balance that we must between appropriate pay levels, productivity and profit for businesses. It is vitally important that one of the elements that the forum - which is independent, let us not forget that - considers is the economic conditions. We are going to come on and talk about political aspirations in the main debate but I think that what this amendment does is help to create that

balance and help to make sure that the forum will consider in a very balanced and appropriate way the economic conditions as well as what might be an appropriate wage level. So I do support this. I think Deputy Southern is absolutely right to accept it and I ask that Members also give it their support because it is the considered and appropriate balanced approach to take. Thank you.

**The Bailiff:**

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

**2.2.11 Senator A.J.H. Maclean:**

I will, again, be relatively brief. I thank Members for their contributions that they have made. As the Minister for Social Security has just said, this is really about balance. It is about ensuring, should Deputy Southern’s proposition succeed, that the Employment Forum takes economic conditions into consideration. I take the Deputy of St. Mary’s point. He is right. Productivity is important, it is one of my words that I use quite a lot, but I think it is important that he realises that timing is equally relevant. When we are in a recession, as we are at the moment, when businesses are suffering, it is important that (as indeed the Employment Forum have taken those particular conditions into consideration when considering the minimum wage) they realise, as indeed I think we should, that for businesses it is about maintaining employment, keeping people in work and to be too aggressive with the minimum wage at this particular point is not the right time to be doing it. It is more important we keep people in work. I would add to the Deputy of St. Mary’s my other new favourite word is “request” which I took on board yesterday and I hope that a clear understanding of that will also be forthcoming. I do not think I want to say very much more. Deputy Southern has accepted the amendment, I thank him for that and I hope that Members will also take that. Thank you.

**The Bailiff:**

The appel is asked for then in relation to the amendment of the Minister for Economic Development to Deputy Southern’s proposition. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 37</b>		<b>CONTRE: 9</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy R.G. Le Hérisssier (S)		
Senator P.F. Routier		Deputy J.A. Martin (H)		
Senator P.F.C. Ozouf		Deputy S. Pitman (H)		
Senator T.J. Le Main		Deputy M. Tadier (B)		
Senator B.E. Shenton		Deputy of St. Mary		
Senator F.E. Cohen		Deputy T.M. Pitman (H)		
Senator J.L. Perchard		Deputy M.R. Higgins (H)		
Senator A. Breckon		Deputy D.J. De Sousa (H)		
Senator S.C. Ferguson		Deputy J.M. Maçon (S)		
Senator A.J.D. Maclean				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				

Deputy G.P. Southern (H)				
Deputy of St. Ouen				
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 K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				

### **2.3 Minimum Wage Level as a Percentage of Average Earnings (P.26/2010) - as amended The Bailiff:**

Very well, then we return to the debate on the proposition as amended. Senator Routier?

#### **2.3.1 Senator P.F. Routier:**

The reality of the employment situation at the present time in Jersey is particularly worrying, especially for new local entrants into the workforce. With this proposition the Deputy appears to be in a little bit of denial. He does not appear to understand the commercial realities. He certainly understood and continues to understand the reality of people losing their jobs but he does not seem to grasp the reasons for it. Since the introduction of the minimum wage we have seen unemployment numbers fluctuate and when the level was low the forum was able to recommend a fair increase to the level of the minimum wage. But at other times the forum should have the ability to take into consideration all of the economic matters as well as the level of employment. There is one issue that I am really concerned about and that is the level of youth unemployment. In recent times we have seen the level of youth unemployment rocket. We have seen the statistics released only today that there are 250 teenagers registered as actively seeking work and another 170 between 19 and 25 are all looking for work. We have all been sent this today. When the minimum wage was originally proposed it was proposed that there should be a youth rate so as to enable young people to join the workforce. Unfortunately, Deputy Southern led the campaign to do away with the provision to have a youth rate and he was successful. Unfortunately, I believe he was also successful at adding to youth unemployment and by making local young people not as attractive to employ as older people with more experience, newcomers to the Island; they have been a preferable option for employers to employ rather than young local people. I did consider bringing forward a proposition to ask the Minister to ask the forum to review the situation with regard to the really worrying amount of young people out of work. What made me look at this, I have to say, again, is only recently the U.K. (United Kingdom) have just announced their new rates which do include a youth rate. Off Directgov websites this morning I picked up their minimum wage rates, remembering ours is £6.20 for all age groups in Jersey. In the U.K. it is £5.93 for anyone aged over 21, £4.92 for workers between the ages of 18 and 20 and £3.64 for workers aged between 16 and 17. Of course, Guernsey are introducing a minimum wage very soon and they are going to have a youth rate. When you look around other parts of the world they all have a different rate for entrants into the workforce. What I have decided to do today is to request the Minister for Social Security to give an assurance today that he will ask the forum to consult again on the introduction of a rate that will help new people enter the workforce. If I may be so bold as to suggest that, rather than a youth rate, the forum looks at what New Zealand have just done which is to put in place what they

have called an entrance rate which would be time-limited. This helps to avoid any age discrimination matters. So an entrance rate would be suitable in a time-limited way to people who are trying to get into the workforce. Turning to this particular proposition, this seeks to increase the minimum wage considerably over a few years. I need to remind Members and especially Deputy Southern of the comments made in the Employment Forum's 2007 recommendation which stated quite clearly: "The Low Pay Commission stated that our ability to increase the adult rate by slightly more than average earnings depends on the continued existence of lower rates for younger people. Evidence suggests that the application of the adult rate to the younger people would have adverse employment consequences given the distinctive features of the labour market for young people." The Forum went on to say: "The Forum proposes that if the youth rate is approved this will be taken into account when the 2007 review of the percentage average earnings is used in the calculation of the minimum wage for the following years." So by not having a youth rate or a lower rate we have held back the ability of the Employment Forum to have a higher minimum wage rate. That is the reality of what has happened during that time. I hope the Social Security Minister will ask the Forum to investigate the possibility of an entrance rate. With regard to this particular proposition, I urge Members to reject it because the Forum should be allowed to do their work unconstrained.

**The Bailiff:**

Before calling the next speaker, yesterday the Solicitor General made his first contribution in debate. Today he is about to find out another habit of this Assembly. **[Laughter]** Those who inadvertently disturb the proceedings by mobile telephone or, I would add, a laptop have to pay a fine.

**Mr. H. Sharp Q.C., H.M. Solicitor General:**

Yes. Thank you, Sir. **[Laughter]**

[10:15]

**2.3.2 Senator S.C. Ferguson:**

This proposition takes a somewhat simplistic view of minimum wages and concentrates just on one particular aspect of this and does not look at the broader picture. Our current minimum wage is, on a 37.5 hour week, if my trusty calculator is correct, about £11,856. Now, the Institute of Fiscal Studies have said that in the U.K. a minimum wage greater than 45 per cent of an average wage will increase youth unemployment and among the untrained. But before you all jump on this, the economic position in Jersey is totally different and I will return to this later on. Before we start on this, I think the first thing is we have got to consider who pays. Those employing low-paid workers will lose profits and the consumers of those goods will also pay higher prices. There have been studies which apparently find that the largest consumers of these types of products are also the low paid. So it is a lose, lose, lose situation. So if you look at the problem of the low paid there are 3 alternatives. You can raise minimum wages which, in effect, will be an increase in unemployment, particularly with the young; you can just give the money via benefits and that really is a very inefficient way of doing it; or you can ensure that those on a minimum wage are kept out of the tax net. I think there is a moral issue here. If we believe that an income below a certain level is immoral then is it moral to dump the costs on a particular subset of employers or consumers? If we believe in this then the income should be provided, as I have said, through the tax or the benefit system not through the minimum wage. The tax system is the most equitable and efficient. In the U.K. the minimum wage is above the tax threshold. In Jersey, due to our conservative (with a small "c") policies, the position is totally different. In actual fact, our minimum wage is just around the tax threshold; just below it in fact. So we do satisfy the basic moral conditions that the low paid on minimum wage are kept out of the tax net. This is a problem they do not have in the U.K. because they are brought into the tax net. So if we look at the broader picture, I feel that we really

should reject this proposition - this somewhat myopic proposition - with regard to the minimum wage. Thank you.

**The Bailiff:**

Just before calling any more speakers, I have had raised with me the question of declarations of interest into this debate as to whether a person who has an interest in a company who employs workers on a minimum wage should declare an interest. In my judgment such a person should declare an interest but it is not such as to require withdrawal from the Chamber because this is an aspiration over 15 years it is not sufficiently direct. So it should be declared but there is no need to withdraw.

**Senator S.C. Ferguson:**

Sir, I do have an interest but we do not pay minimum wage.

**The Bailiff:**

Yes. It is only if you are paying minimum wages.

**Deputy P.J. Rondel of St. John:**

Sir, I have interests in several companies. I am not sure what wages are paid but I am sure they are above the minimum wage but, in case they are not, I raise it.

**The Bailiff:**

Very well. I suggest that Members do it as and when they wish to speak. [Aside] Yes, it should be declared by everyone who needs to declare it. Yes.

**Deputy M. Tadier:**

Sir, can I raise a point? Last time we discussed the minimum wage I raised exactly this point to the Chair, who was not yourself. I was pilloried by Members in the Assembly and I was also told by the Chair that it was not necessary for Members to declare an interest because it was a generic interest. I would like that to go on record. It is in Hansard. I believe you made the correct decision today but I think it needs to go on record because this is what I was trying to say last time. If States Members are employing people on the minimum wage (and I am not saying that there is anyone in here who is doing that) then, of course, it seems to me like it is an interest because that is going to affect their profitability so to speak. So it goes without saying.

**2.3.3 Senator J.L. Perchard:**

Perfect timing. Members will know that I have an interest in the Jersey Potato Company and Jersey Dairy Farm. Seasonal workers do come to Jersey on a contractual basis to work for their first year for our potato company and are paid the minimum wage but with the accommodation aspect added on. Accommodation is provided. So it is relevant and I think it is very relevant to the staff that our companies employ that we are able to offer them jobs. This Assembly should be well aware that agriculture and hospitality are under huge financial pressures and any intervention by this House in upping the costs for these businesses will deny these people an opportunity to work. I want to talk about self-interest a bit later because it happens to work on both sides of this argument. On both sides of this penny there is self-interest. Minimum Wage laws, as Senator Ferguson and Senator Routier have just said, hurt the very people that we are intending to help. I believe that minimum wage will hurt these people (the young school leavers, the unskilled) even more. No matter how many ways economists say it, politicians and those supposedly supporters of free markets ... how many times people say it, people like Deputy Southern are content to continue to peddle this simplistic argument about minimum wage. I expect deep down everybody in this Chamber knows that if we pay unsustainable wages to unskilled people jobs will be lost. We all know that if the States, for example, raise the minimum wage to, say, £10 an hour many employees in hospitality and agriculture would be laid off. Businesses are not charities. They hire workers only when

workers create more revenue than they cost the business in wages and compensation. We know that many hospitality and agricultural workers earn less than £10 an hour and they would be laid off if the minimum rate was £10 an hour. Many of them would be laid off. Yet people and some States Members kid themselves when they believe that smaller increases will not harm employment. Some workers, particularly teenagers in part-time jobs, have very low productivity levels. It makes them unprofitable to pay them more than £6.20 an hour. You just cannot afford to. For these workers this proposed increase in the minimum wage will simply mean, as I say, unemployment. The high rate of unemployment among teenagers is both a scandal and a serious source of social injustice. High levels of unemployment among school leavers is largely as a result of minimum wage. Minimum Wage laws will hurt all low-skilled workers but they will benefit (this is the other side of the coin) union workers. No union worker in Jersey earns the minimum wage. So why will it benefit union workers? How will it benefit union workers if we raise the minimum wage? Minimum Wage laws enhance the demand for union workers by ensuring their low-cost, low-skilled competitors stay unemployed. It is no accident that unions and their political representatives are often the biggest supporters of increasing minimum wage. Unions and their politicians are motivated by the more sinister cause of self-interest here because they know their support for increasing the minimum wage, supposedly to benefit the poor, will reduce employment opportunities and create less competition in the workforce. Personally I believe that we should throw out this proposition and that we should veto any minimum wage increase in these times of economic decline, whether tied to inflation or not. If we are really interested in strengthening our economy and helping low-skilled workers to earn more income we should pursue policies that enhance our productivity and not reduce it. As our economy expands, our free market and competition labour market will develop and will ensure that workers earn as much as possible working in real sustainable jobs. I am aware that Deputy Southern has said publicly that he will be a candidate in the forthcoming by-election. I think this mathematically incompetent proposition is nothing more than electioneering and should be thrown out and treated as such because it is mathematically incompetent and it is dangerous to pursue such a policy in such fragile economic times.

**Deputy S. Pitman of St. Helier:**

Point of clarification. Firstly, I would like to ask the speaker what he considers is a sustainable minimum wage and also where does he get the evidence that minimum wages cause unemployment?

**The Bailiff:**

Senator, do you wish to reply?

**Senator J.L. Perchard:**

I am not sure that came out of something I said. It would perhaps be a question ...

**The Bailiff:**

Senator Maclean?

**2.3.4 Senator A.J.H. Maclean:**

Unfortunately this proposition is fundamentally flawed in that it seeks to exert political influence, some would say interference, on the excellent work of an independent body. The Employment Forum established by this Assembly, we should recall, is that independent body. It is vital that the Forum is able to bring forward recommendations regarding the level of minimum wage in Jersey based on evidence and advice from a broad spectrum of opinion, free of any political interference. It is this independence that is at the heart of the Forum's ability to operate. The objective of gradually increasing the minimum wage beyond 40 per cent of weekly average earnings is a goal shared by me and, I know, shared by the Minister for Social Security and the Employment Forum. Indeed, in summing up during the debate on P.211 Deputy Gorst stated: "I have made it clear to the

Employment Forum that when we are out of recession they should have the courage to come forward with increases because it is only right and proper that they do so.” For the avoidance of any doubt, I full endorse the Minister’s view which clearly reflects a link between the Forum’s recommendations and the economic conditions that pertain at the time in the Island. Indeed, the 2003 Law requires the Forum to take into account the effect on the economy of Jersey and the competitiveness of businesses in the Island of any proposed increases in the minimum wage. It is essential that the Forum can continue to give this appropriate weight in making its recommendations, in addition to considering broader States objectives.

[10:30]

Deputy Southern’s proposition could be construed as removing the independence of the Forum to recommend increases to the minimum wage in Jersey. This is both unwise and certainly, in current economic conditions, a potentially destructive recipe that could lead to job losses. I have to ask, is there a real issue with the work that the Forum is doing? I believe, and I think that many Members agree, that the answer to that question is no. The Forum has done an excellent job of weighing all available information and advice in its recent determinations. The Forum’s decision to return to a minimum wage set at 40 per cent of average weekly earnings is a temporary measure, agreed unanimously by Members, to reflect the current challenging economic conditions that we see. It was the right decision made at the right time with the right information. This decision clearly illustrates that the Forum needs to and will exercise flexibility in its approach to achieving the difficult balance between protecting the earnings of the lower paid in the Island and sustaining employment for the lower paid in our society. Changes in the minimum wage are not consequence free for employers, their employees or indeed our whole economy. The impact of the minimum wage in Jersey is most significant in industries such as tourism and agriculture. Both sectors compete with businesses in an increasingly competitive international market in which sustainability and employment levels are at risk. Be in absolutely no doubt, this is the case. Jersey’s tourism industry is operating in a highly price-sensitive market in which increases in operating costs will have a dramatic impact on the sustainability of the sector and many of the businesses within it. This point has been extremely well made by the Jersey Hospitality Association in recent times. Jersey’s agricultural industry, which is increasingly export-driven, is facing similar, if not more intense, competitive pressure and cannot withstand significant increases in the underlying cost base at a time when economic conditions are so challenging. We must ensure we protect our important tourism, agriculture and fisheries industries and, importantly, that we protect their competitiveness and give them the opportunity to maintain the employment that they want and need. I urge Members to allow the Employment Forum to carry on unaffected, allow them to continue to do the excellent work that they have done to date and I would urge Members to reject this proposition. Thank you.

### **2.3.5 Deputy J.A. Martin:**

Always a pleasure to follow the Minister for Economic Development when he is totally paying lip service to the lower paid of the Island. **[Approbation]** He brought the amendment which, as I said in the amendment speech, keeps the *status quo*. Do we really want to increase the living arrangements for the lower paid in Jersey? Well, there are certain politicians who do and we have just been accused of political interference with improving the life of the lower paid against the profit - the profit - of the employers. I am very sorry. I stand accused of that and I admit to it. I am guilty, very guilty. Let me start with Senator Routier. Senator Routier said Deputy Southern is the cause of 1,000 unemployed youth. What about for years the States has done away with any meaningful apprenticeships, any in-house training, taking on your own? No, because Senator Perchard imports everybody on minimum wage. **[Approbation]** Is he talking to Social Security? Are there no youngsters in Jersey who want to work on his farm? I do not know why not. **[Laughter]** I am told here lots of the youngsters, when they were youngsters, they were out in the



fields. It may need a bit of re-education. But, no, people who employ foreigners will not employ the local youth because... are they hungry; do they have to pay their rent at the week? No, they are living at home with mum. Are they as reliable as someone who you are putting up in your shed at the end of the garden or in decent accommodation at the end of the garden that you have to pay for? **[Laughter]** No, they are not. So please do not blame Deputy Southern for the youth unemployment. We knew this was coming. There have been some things put in place to help the youth. We need much more of this half and half, where we go out to employers; we help them to employ the youths of the Island. But do not have the audacity to say that because we do not have a youth rate ... Now we have a new idea from Senator Routier of an entrance rate. Well, let us have a 40 year-old man with a family of 4 or 5 starting work down the Co-op earning less than the 18 year-old because the 18 year-old has been there since school but the unemployed man may be redundant from a very good job but he has his pride and he will not go down to Social Security. He wants to work. Absolutely ridiculous. I have never heard of anything ... I mean, Deputy Southern (you know, I did not agree with him accepting the amendment) has been accused that this is electioneering by Senator Perchard. This was lodged on 8th March. Well, unless he has a crystal ball, nobody knew then that Senator Syvret - or Mr. Syvret now as we call him - was not coming back to the Island. We are going to have a by-election. But if anybody did not already know Deputy Southern's politics, I do not think this would have come as any surprise as electioneering, at principle. Just one last word on the mathematics of Senator Perchard's school, he never used that one today. He started that of course we cannot base it on the average earnings; I got basically because the average earnings is just added everyone together and then you divide it by the amount of people working: "Here is a figure. Mm, you know." But then he said: "If you do increase the minimum wage obviously that will hike up the average earnings and everybody will be paid more." Now, which one of those he believes I am not sure but it is in his own ... as I say, it is in his school. Senator Ferguson, she has her trusty calculator and she works out the person on a minimum wage in Jersey is around, I think she said, £11,800. Well, let me tell you the average States house in Jersey is £13,000 a year. So you are already in deficit if you have got a couple of children, you cannot get childcare and your wife is not working. You need a 3-bedroom house. I am not blaming the Minister for Housing. All rents are very high. So do not talk about: "We are not in the tax take." You cannot afford to pay your rent without benefits. So this is where I can see the Minister for Social Security coming from because his bill is getting bigger, the rich are getting richer and the poor are running very fast and they are still not keeping up. It is absolutely the politics of 60 years ago. Good job none of us are facing the election in the U.K. now. Even the Conservatives and the Greens are all saying: "Look at the lower paid. Look where we are taking the tax." You have got to come around to start thinking you have got to rely on the people here. For years we have brought people in. We went to the E.U. (European Union) before. Senator Perchard is laughing. You know, his company has obviously done nicely out of the E.U.

**Senator J.L. Perchard:**

With respect, I am not laughing at the speech of the Member.

**Deputy J.A. Martin:**

No, because I did not laugh at his. Thank you very much. **[Laughter]** I just pointed out the flaws in it. What I was saying we really need to get real. We do have youth unemployment but it is not because we do not pay a youth rate and it is not because we are aiming to increase the minimum wage each year. I will finish where I started because we are going to get all 37 Members who voted for the amendment standing up and telling us why they will not support the proposition. The proposition is where we want to be, we are told. The proposition ... but it says it is political. No, it is not. It is because it comes from a certain Deputy or a certain part of the House. What is in here is exactly what we have asked, instructed and pleaded with the Employment Forum to do. But no, it cannot be agreed that over 15 years we can edge it up to 45 per cent even with the amendment which is said: considering economic conditions (1), the impact on competitiveness (2), and also the

death, which is what we are promised ... loss of employment in the lower paid in Jersey. Now, if that is not what we have asked the Employment Forum to do, we should sack them, and that is exactly what we have agreed by the amendment. But just wait, there will be at least ... well, maybe not all but the majority of the 37 who voted for the amendment will not support it and that is where we are in this House. We are keeping the lower paid on low pay, a very, very minimum wage for Jersey. I am not being compared to the U.K. I can go and rent a house a lot cheaper even in London than I can in Jersey and buy one. The Minister for Planning and Environment is shaking his head. I am not talking Central London. I am talking outskirts where I can commute quite easily to Central London and earn the wage, earn the wage of London-weighting. So we cannot compare apples and pears, which is what everybody likes to do, and we cannot have the threat that it is always this side of the House or the people who want to get people off the benefits. That is what it is about; people having pride, people going out to work, people wanting to go and work in the fields, especially in tourism. My own daughter has taken to it. She is trying to get on the course at Highlands and probably will. It is one of her interests. To say Jersey children have no interest is an insult and if you carry on talking like that they will not. If you carry on paying them peanuts that is what you will get. You will get monkeys. So at any rate I think I made my position quite clear. I cannot support this. I am fed up already with listening to the last 3 speeches and we will hear more. Of course we agree with it in principle. We have asked the Forum to do it. All this emphasises is to take ... and it says "to request"; to request the Employment Forum to have regard, with the amendment, what we are saying. So you either do believe that we should be having a minimum wage, it should be increased along with the average earnings up to 45 per cent, or you do not. To me it is quite simple and you are going to hear now very, very many excuses why we cannot support it because it is the end of Jersey. I cannot remember who said it, I think it was in the amendment speech (and it is very unusual for me to not to say, I think it was the Constable): "What do we do when finance goes?" Well, the minimum wage will be the last of your problems. I mean, you will be sitting there with hundreds of thousands in negative equity and people running for the hills. Do not talk to me about the minimum wage if the finance industry goes. Thank you.

### **2.3.6 Senator A. Breckon:**

It is appropriate that I follow Deputy Martin because she did refer to a shed and what she meant of course was a chalet. She did not mean a shed. I used to live in a chalet in Dyke Road in 1973 and it was not a shed, it was a chalet. Just to correct that point, and I was not alone. There were 3 of us lived in it. A number of years ago I spoke at an Institute of Personnel and Development seminar, as they were then called, at the Pomme D'or and I proposed that Jersey needs a minimum wage. It was seconded by Francis Le Gresley, who is known to everybody for the good work he does at Citizens Advice, and it was opposed by the then, I think, Deputy Len Norman and some extreme right-winger from the Institute of Directors.

[10:45]

There was a vote taken at the end of the debate and at the time there was very little, I must say, Employment Law protection or whatever else and it was part of an energy that was building up at the time to try to get some things ... I think at the time I might have been a member of the Industrial Relations Committee. One of the things that was raised then and is still relevant now - and I ask Members to bear this in mind - is who pays for low pay? Who pays? The answer is we do. How do we do that? Because we subsidise low pay because if people do not have any money we give them some so that they can live. I just want to expand a little bit on that, because if I am working somewhere and - it does not happen any more, people do not get cash on a Friday night - if you get £300, say on a Friday night, and you have a family and you go home with that then you have got problems. As Deputy Martin said, it would hardly pay the rent in a States house. It would not probably pay the rent. If you look at that, and even if you look at somebody that is single and they have lodging or they have got a flat, a 2-bedroom flat, you are probably looking at £250 and

sums around that. So the question is what does the low pay buy at the end of the week? The answer is not very much. Why I can support this is I believe what it tries to do over the longer term is do the things that we have set down as objectives, raising everybody's level, everybody's standard, and doing it not in a knee-jerk way, but doing it in the longer term, and I think that is where the substance of the proposition is. That is why I supported the amendment, because it does have an escape clause, if you like, which can bring in the relevant conditions and terms at the time, and I think it is something that we can have more discussion about. We come back to the person with the £300. What can they afford? If you take their basic lodging, light, heat, that is quite a considerable part of that, and then what else do they need to live, and what can they buy with that? The answer I would say is not very much. When we look at the other side of the equation and look at what we are paying in benefits, what used to be Family Allowance, rent rebate and other things that have now combined into the Income Support, then we are paying out many, many millions of pounds. Now, that is to some people who have particular circumstances where they have illnesses, infirmities, whatever it may be, and they are supported in that way. I do not have any problem with that. In effect, they have no pay, but you also have a significant proportion of people who have low pay, so if we move it up a gear or 2 gradually then we would reduce ... and we are talking about comprehensive spending reviews - how can we save money? Well, one of the answers would be to pay less benefit, but not take away the benefit, get something to step into the gap gradually. I would suggest, and it will not affect that many people, one way of doing that would be to gradually increase minimum wages over a longer period. What we are doing, I believe, by agreeing this is sending the signal to anybody that wants to listen, Employment Forum, the community and anybody else, that this is the goal that we are working to, and it is, as suggested in the proposition, a long-term thing. I listened for some time to Senator Ferguson and Senator Perchard, and I think there were some extreme views there. Senator Ferguson could have brought tears to a glass eye when she said: "Well, the State will step in there, so that is it, so we need not worry if these people do not have any money." But what I am saying is perhaps we should not do that, we should maybe step back a little bit. She said she would support giving money to people on low paying wages through the States. Well, I am suggesting that maybe we should not quite do that too often. We should step back a bit. If people have got a hobby and they are employing people on minimum pay, then perhaps they should not be in business. They are occupying premises, they are putting rents up. Maybe this is something here where you could put a lever on the economy that would not do any harm, and I do not think it would create mass unemployment. This thing about statistics is a red herring, because if Senator Perchard knew about the statistics he would know that they came out at different times; it is done at different times of the year, and that because we do not always collect the statistics on employment matters very often, generally 6-monthly, sometimes annually... so in this case I do not think that is an issue at all, and it is easy in fact to work out. I think there has been some scaremongering with some of this stuff, because the evidence does not support it, and no Member yet has stood up and said: "Well, 99 people a month have been put out of work because of this." It is not the case at all. One thing that has affected employment in tourism ... and if we look at the beds, the reason why we have lost tourism beds is because of the price of property, and people who own premises have taken the choice to convert them to residential flats in the main when this first went that way to cater for people working in finance. That is what that was. It was nothing to do with rates of pay. It was about: "Do I invest, do I upgrade or do I sell?" and the property became residential. I think what this proposition does for me, it takes a very, very long-term view of things, and if we look ... and if somebody had gone through strategic reports and other things, you could probably find about 8 choice phrases in there that would fit exactly with this and say that it is the kind of thing that we should all be supporting. I cannot really understand why there is some opposition to this in the way that it has been phrased, because the other day in one of the Scrutiny Panels we had the Chief Minister to ask about the connection between employment population immigration, and really what we heard was: "We do not collect the figures very often. We do not know the ebb and flow, but we do not have any knee-jerk reactions." So the answer is: "I do not know." That was the answer, really. What are we doing and why? I am not sure if we

have population immigration, if it is related to this, and people have always come and gone and made a contribution to the Island, and some have stayed longer than others, including myself. But I think this is commonsense, it is a long-term thing and I admire Deputy Southern for doing this, because there was a frustration when you look at the level and now the U.K. and Jersey minimum wages are fairly close together, and I would say - and I think most Members would agree - Jersey is far more expensive than many areas of the U.K. for basic living costs, and we should also recognise that. I think there can be a cost for somebody, but there can also be a saving, and this to me is a commonsense measure, it is a long-term view and I certainly will support it, and I hope the Minister for Social Security will.

### **2.3.7 Deputy M. Tadier:**

This is proving to be slightly more complicated, I think, than many of us appreciate, and I think there are a lot of distractions going on here, because effectively this is not simply about the minimum wage, certainly not for me. It is about fair wages, it is about living wages and what people in Jersey - or anywhere else for that matter - by extension, can afford to live. It is about distributionism, it is about resources and about who gets what in society, about whether people can afford to live, basically. It is quite right that we discuss these things, even if it is simply for the record. First of all, I think I may have become telepathic, because during Deputy Martin's speech, I could swear that I was hearing the old racist Jersey chant of: "There is a boat home in the morning" when talking about going to live in London, and I am sure that none of us in here were thinking that, of course, although that is a typically racist expression that one hears all too often in Jersey, and it is regrettable. But of course the point I think Deputy Martin was making is we do not have a choice in the matter and people have to live in Jersey, they have to work here if they have family here, and so it is only right that we discuss the very important issues about living standards and remuneration. Something which Senator Breckon was talking about, the actual income support and how we like to keep people basically just above the minimum wage, and we end up having to subsidise people who do not get enough money, so we are effectively subsidising businesses that do not pay an adequate amount, for whatever reason. It is we as parliamentarians and as a government who have to pick up the bill, so it is also quite important that we make sure that the minimum wage is not set too low, but rather that it is adequately high. I think, Senator Ferguson, maybe we need to clarify that when we talk about the average wage from the mathematical point of view, we need to clarify we are talking about the median here, not the mean wage, which is normally the common definition of average, because of course if we were talking about 45 per cent of the mean wage, then that would be a lot higher, because as we know, those on very high wages would push up the average. So we are not talking about that. This is very conservative, what we are talking about here. It is 45 per cent of the median wage and, in fact, it is not that radical at all. Even if it were 45 per cent, it is still enough to keep those on the minimum wage repressed, as we like them to be. This is the whole point which was coming out with income support. It may surprise Members that I would like to see an end to income support perhaps in all but the most extreme cases, and maybe many of you share that view. Of course, we always need to look after those who are unable to work, for whatever reason, but I think we do not want a society where people depend on income support, and ironically that is what we are perpetuating, I think, if we do not pay people fair enough wages. I would like to see a debate not simply about the minimum wage, but about the maximum wage. I think we need a proper discourse in society. It is a very difficult subject, of course, but this really ultimately is the disparities in wealth that cause problems in our world and in Jersey. It is interesting to note that the most happy societies are not communist societies, they are not either completely capitalist societies like the U.S. (United States), but they are societies where there is a narrower gap between the rich and the poor, where people are still allowed to consume, they are still allowed to be happy, be free, but there is not a big disparity between the haves and have nots. I think I have perhaps put my finger on it, certainly from my own point of view, about the problem of these kind of debates. They are very divisive in nature, and it is unfortunate, but I think that is deliberate in one case, because we are trying to pit different classes of society against each other.

We heard about a 2-tier society, but I think what we have is a 3-tier society. What we like to do, or certainly what some Members like to do, is to pit the middle classes against the working classes. I know we cannot make personal comments about Members' interests, so I will make general comments about politicians. Generally people who find themselves in governments are often very wealthy, and it is perhaps very ironic when those Members are the ones standing up talking about the minimum wage affecting those who are very poor, while they are the ones who are doing very well from creaming off the profits, because when we talk about a decrease in profitability, they are not worried about losing a couple of jobs at the bottom end. What they are talking about is they are worried about some profit at the top end, so they are concerned that a company that maybe makes £500,000 a year, if they increase the minimum wage, they may only make £475,000 a year, and they have got to share that other £25,000 with people at the bottom of the ladder. The consequences may be that the very wealthy in our society, if we have fair wages and not necessarily just minimum wages, they may have to drive one less car; rather than driving a Jeep and a Mercedes, they may have to drive a Jeep, and let us say a Ford car, and that would obviously be very ignominious for them. Rather than sending their children to school in a Jeep, they may have to put their children on the school bus, and of course that would be terrible, because they would be having to interact with the unwashed, so we could not have anything like that. But to get back to the point, I did say at the beginning this is not about middle classes versus the working classes, because in our system everybody who is brought into this system stands to lose if we do not have fairness and justice in the economy, because of course it is important that we like to say that if the minimum wage is introduced, the people who are hard-working enterprise owners will lose profits, and that is quite true, they may well do that.

[11:00]

The point is they are the ones who have invested in mortgages, not necessarily for speculative reasons, purely because they need a house to live in with their 2 or 3 children, and that is quite correct. But unfortunately, they fall into the idea of inflated house prices and they are also victims in the same way that those on the minimum wage or slightly above the minimum wage cannot even afford to get on to that ladder of owning a house, they cannot dream of that. So in effect, they are both in the same boat, and what we really need to address, if we are to have any kind of justice in society, is the people at the very top end, and I think someone, it may have been Senator Ferguson, again talked about the win/lose. It is a lose/lose if we increase the minimum wage, because the people who are on the minimum wage will become jobless. I would suggest in our game, the only way to win is to be the person on the very top, and if you have got capital already, you are sure to win. That is the only way in our current society that you will win. That is why something needs to change. It is certainly not going to change with our government. These exercises are purely for the record. Good luck to Deputy Southern, because it is a good fight that needs to be done, but of course we know that we are just like Sisyphus pushing the rock up the hill. Ultimately, it will not make any difference, certainly not until the system - which is unsustainable - implodes, which may be 10, 15 or 100 or 1,000 years. Now, on to the subject of political interference, I think the point has probably been made already, and of course it is definitely for us as a government to make policy, and I think it is only right once we have made the policy and given a clear direction that we say to the Employment Forum: "This is what we would like you to do. We would like you to go towards 45 per cent of the median wage at this speed. We want to get it up as soon as is viable." That is only correct, but is it not amazing how we have different arguments for different days? So when we talk about the *Clothier Report*, which I think was already back in 1999, in a different millennium, and we get the results back, we say: "Oh no, we cannot have this, so we will cherry-pick it, even though we have set up a body to come to an independent conclusion." But when it suits, we are quite happy to just leave bodies to do what they want. So I have spoken about closing the gap. I think that is the ultimate thing that we need to do. It is not really about minimum wage, because how many people in Jersey work for the minimum wage? But it nevertheless is an

important principle and it does have an impact on many people. Lastly, I think Deputy Southern was unfairly criticised for electioneering. I know that there is probably an election coming up, I think in 2011, and I would suggest that if Deputy Southern is electioneering that Senator Perchard could learn something from his tactics, rather than insulting people on income support and insulting cripples on the radio. I would suggest that that is a much better way to win votes, the way Deputy Southern is doing, although I do not think he is doing it for that. It is probably just an indirect consequence, because he fights for the people he represents, rather than insulting them.

### **2.3.8 Deputy T.M. Pitman:**

I hope the House will bear with me. I have scribbled out lots of points, because I really would like everyone to not repeat what has been said before and I am certainly going to try to avoid that. I do have to say, really listening to the beginning of the speeches and listening to Senator Perchard, I did wonder if he was running a farm or a plantation, the way he seemed to put his across his personal political ethical beliefs. I am glad Deputy Tadier has mentioned Deputy Southern being of tact, because I think that needed to be said, so I am not going to go any further with that. We certainly had some red herrings already today, I think, certainly from Senator Routier. I hope he is going to come back and reveal that he is course a businessman and he should make that quite clear with his views, particularly about youth unemployment, which he really does not have a clue about, I do have to say. So it has been talked up as if this is all about making something happen today or tomorrow. Deputy Southern is talking about 5 to 15 years. As I say, that is not today, not tomorrow, in reality, a period of possibly 5 elections. I wonder what we will be talking about in 5 elections' time? Perhaps I should not wonder what we are going to be talking about; bicycle laws, quite possibly. Now, trying to cut out some points, Senator Ferguson talked about there being a moral issue here, and although I am not sure that the Senator and I would agree on that moral issue, I think we both definitely do agree there is a moral issue here. For me, that moral issue is what most intelligent people would say, most fair people would say, it is about achieving a balance between an employee's need to make reasonable profit and paying those employed a living wage. I am not going to go on about a living wage, because it has been said by several people ... and really again I have to pay tribute to Deputy Martin, another excellent speech. When I listen to her speak, I just keep coming back to wishing that she had taken up my advice and stood as a Senator last time, because we might have had some coherent economic policy coming out. But she really summed it up, did she not, because what this is about is what the Forum had already unanimously agreed to do, showing a commitment to gradually increase the minimum wage above 40 per cent toward 45 per cent in the future. In the future? Well, I am sorry, but to me, 5 to 15 years, forget all the excuses, that is most definitely in the future, is it not? But for us, for some, the sort of people who bring amendments with no motivation or intention of supporting them, just playing politics, wasting the public's time, the House's time, further undermining public credibility in this House, it is never the right day, is it, never the right day to make a commitment to helping people, and really, when we see the ludicrous comments about we must not have political intervention and involvement in making life better for those at the bottom, what a complete joke. As I say, Deputy Martin did hit it on the head, and to me, what she was saying can be summed up by saying this: it is about whether we are serious about creating a fairer, more effective and a more cohesive society, saying goodbye to the politics of greed that have brought the world to where it is today, which some people strangely do not seem to think it is their policies who brought us here the world over. I really wonder what economics they do read. But if you do not sign up to a fairer society, a more effective, a more cohesive society, then do not vote for this, just wait for the next election and you can vote possibly for Senator Perchard or Routier, and honestly, before long we will have children back up chimneys in no time at all. You will have a nice, fair society where, as we see the facts, we are quite happy to argue for hours about protecting those at the bottom, yet we do nothing, where we have a Chief Minister who takes no leadership whatsoever on multi-millionaires paying less than £5,000 tax. Truly, truly shocking. Oh no, Senator Perchard, I think he is off again. Still, if we keep him in here, at least he is not on the radio attacking people who are disabled. Political

involvement in protecting those at the bottom is one of the key reasons why this Government or any government exists, and it is about time we took that on board. Well, some of us do take it on board, but I really think it is time everyone took that on board, and then we could take that first step on a fairer, more cohesive, more just society. Youth employment: is it all about the minimum wage? When I left school, it might be quite a long time ago, but before I went into retail management, I was working for a firm as a young person, and I tell you what, I did a man's work. I was totally exploited because I was a big-ish lad - and I was not the flabby politician I have become since - and I was being treated as a man, but I was not taking home a man's wage. I think Senator Perchard ought to take that on board, the many young people who worked very, very hard, and they are exploited. Yes, it is an issue with young people, but they are young and they are learning, but I do not think the Senator recognises that. They are not cannon fodder. I do feel passionately about young people, and when I hear this absolute nonsense ... I am not sure if I can say tosh, I am not sure if that is a politically acceptable word any more. The reality regarding unemployment is because of failed policies, and I am sorry, but most of the failed policies are held to the bosom of the people opposite me. That is what we need to get rid of, and personally, I cannot wait for the next election, and we can cast some of these dinosaurs out and we can start building that fairer society. We can burn down the last of the plantations. This should be supported. I admire Deputy Southern for bringing it. He is bringing it for the right reasons. It is something that we have already committed to do, the forum have committed to doing. Let us give them that support to do it. Let us make that step, and I will leave it there. Thank you.

#### **The Bailiff:**

Does any other Member wish to speak? Deputy of St. John.

#### **2.3.9 The Deputy of St. John:**

As a former employer, I always tried to be fair to my staff, whatever age they were, and it still does concern that we see people on minimum wage, and it is to me somewhat unfair and unfortunate. I am retired and have been very fortunate in business, but that said, there are many people who through no fault of their own, whether it be illness or other events within their family, that they cannot get on to any rung of any ladder and they have to stay at the bottom end in the workplace. Whatever age they are, whether they are 15, 17, 30 and they are being retrained, it is important that we look after all people in society, because none of us know what is around the corner. We are going at the moment through a recession, the worst we have had I am told for 60-odd years. None of us were around under the recession of the 1930s, so at the moment, we are all sitting in here and doing very nicely, but there are many people out there who are not. In my own family over the last few months, I know of 3 members of my close family who have been made redundant. They have found themselves other work, but that said, none of us know that we are not going to go home this evening and find that we have a member of our family who has been made redundant, and all that goes with it and the uncertainties of life. If that person who has been made redundant is already on a very low wage, he does not have a cushion - or she does not have a cushion - to work from. I ask all Members here to search their conscience and think of their family and people they know who are on the minimum wage who could at any time lose their job, or people up the very top end of our society, who through no fault of their own could also lose their job. They will have big commitments, and all of a sudden they have to find a job just to try and keep the wolf from the door at a minimum wage. It can affect any of us at any time, so please search your hearts and your minds and think of the people less fortunate than ourselves, whatever age they may be, and when you vote on this, vote with your conscience, and possibly even with your heart on this one, because I think we deserve to help those people at the bottom end of our society to have a step up the ladder. We are not talking about big money here, because it is not big money. We are talking about very small amounts of money. As I was saying some months ago when I brought in the proposition to give our States employees £400 a year, I was trying to look after the people who are at the bottom end. I am not concerned about those people who are making the £50,000, £100,000,

£200,000 a year. I was trying to help the people at the bottom, and all of us should give some serious thought to this, and I ask Members to search their hearts and their minds when they are voting and give some thought to their own families and people they know who help to support this Island, who are doing all the menial tasks, and let us look after them. Thank you, Sir.

**2.3.10 Deputy S. Pitman:**

Just briefly, because much has been said of what I wanted to say. I just want to bring up a couple of points which have not, I do not think, been mentioned.

[11:15]

The first is the equality of opportunity, which is I think relevant when we are seeing people living on low wages; equality of opportunity for people to live a certain standard of life, and in that, I mean, for example, decent accommodation and a family life, because we know that those on low wages who have families, have children, are having to take on more than one job so they can support their family and their accommodation, and live in their accommodation. So I would ask Members to think about those Islanders, and there are many people in that situation. I will give you an example of one of my constituents ... which I would just like to bring this point home about people having to live on income support. She works in one of the market stalls. She gets £6.20 an hour. She showed me her wage slip a few days ago, and it was approximately £23 for 4 hours, and because she does not have enough money to pay for all her accommodation and to pay for her daughter, who is attending further education, she has to receive income support for the rent and income support for her daughter. So really, we are encouraging this if we do not go down the path that Deputy Southern is trying to fight for. Thank you.

**2.3.11 Deputy F.J. Hill of St. Martin:**

I just felt we were making quite heavy weather with this particular debate, and I am rather disappointed that the Minister for Economic Development really could not be supporting it, because it brings forward an amendment but nowhere does it say it supports the proposition. What is the point of bringing an amendment if you do not support the proposition? I do not understand it. If indeed one had the courage of their convictions, E.D. (Economic Development) would have opposed it all right from the start. To me, this seems again there is politics, that is what it is all about: "Well, in case we lose, we better put a safety guard in." A long-stop, probably a cricket term we know about, but that is what this is, it is a long-stop. Well, if in fact E.D. are that supportive to put through an amendment, one cannot say why they cannot be supporting what is being proposed, because all that is being proposed really is a long-term goal that we should be aiming for, and I see no problem about this at all. This should not be about a minimum wage. This should be about a fair living wage, and that is what we should be aiming for, and I would ask those people who have not made up their mind yet, and even those who are part of the executive side, think and be fair about this. All we are asking for - not I am asking for, what Deputy Southern is asking for States agreement - is to have a goal and to work to that goal. There is absolutely nothing to say here that we have to give this money today. It is a long-term goal, could be between 5... could be 15 years, but let us look for a fair living wage. I would ask Members not to spend too much more time on this, but let us come to the vote and give support for what Deputy Southern and indeed E.D. must be asking for, because if they were opposing it, there is no way they would have lodged an amendment.

**2.3.12 Deputy I.J. Gorst:**

During the debate regarding the offsets for the 2010 level of minimum wage, I accused the mover of this proposition of politicking with the minimum wage. He jumped up and down a little bit, but what I did say at that time was that I felt, and still feel, it is appropriate for politicians and for us as an Assembly to give an indication of what we feel is an appropriate minimum wage, and I feel that they are 2 completely different things. An independent Employment Forum was set up to ensure



that they were independent of this Assembly, and I believe that we should have consideration of what they propose to us. However, we are the legislature, it is appropriate for us to have aspirations for the society in which we live, and to make those aspirations known to those bodies which we have entasked with performing this particular function within Jersey society. I perhaps should correct one or 2 previous statements, firstly to say that the average rate is the mean, not the median. If Deputy Tadier were to look at the 2006 report, he would be able to see that and it excludes bonuses, so again, it is a reasonable and generous rate there. Senator Routier talked about the 250 teenagers on the actively seeking work list, and he is absolutely right. However, I should point out that at least 105 of those are on the Advance to Work Scheme, so they are not just sitting at home doing nothing. However, I do not believe that we can be complacent about the other 150, and we are working together as a Skills Executive to extend that Advance to Work Scheme to increase it to those of a slightly older age. So we should not be complacent about that, but it is important that we understand what is included in those numbers. As he knows, when he was Minister and he brought forward the changes to the legislation, which enacted what Deputy Southern had asked for in principle, which was the removal of the ability of the Employment Forum to bring forward a youth rate, I opposed that. I think there were 16 Members who voted to oppose that, and therefore I have no problem in asking them to consider it. However, I should say asking them to consider it is quite different from us then bringing forward a proposal. We can remember that they did consider it last year. They had a great number of responses and I have to say that the majority of those responses were negative, but I believe that we need to continue to be creative, we need to continue to look at all options and not jump to conclusions about what might help in decreasing the number of young people who are unemployed, because I believe that we all find that unacceptable. If we look at the Forum's recommendation for 2008 and just consider what they said there, they said: "Ideally, the Forum aimed to gradually increase the percentage of the average wage used in the formula towards 45 per cent over the coming years if the States of Jersey wishes to raise the bottom end of earnings." I am supporting Deputy Southern today, because I believe that what we will be doing by supporting Deputy Southern - and we must be quite clear about this - is saying that: "Yes, we as an Assembly do believe that it is important that the Employment Forum has consideration towards raising the rate of the minimum wage." It is not just this Assembly's desire to do that. The Forum themselves have said in previous recommendations that it is their aspiration to raise the rate, and what I believe that we will be doing by supporting this proposition is saying that we support that aspiration and we, in a way, give them permission to continue considering that. However, before the party in the front continue foot-stamping, I should add a note of caution and say that it is not binding upon the Forum. The Forum is an independent body. As Senator Routier quite clearly said, there are 3 employee representatives, 3 employer representatives and 3 independent representatives, so we must not, if we support this today, expect that it will happen in the way that this proposition says we aspire that it should happen. It may not happen. It might be, as the Connétable of St. John said, that the economy worsens. None of us knows exactly what is going to happen in the economy, and we hope that it will not, but it may be that it does throughout 2010 and that we could quite sensibly expect the Forum after their consultation throughout 2010 to come forward and say it should stay at the same level as it is. None of us should be surprised by that, because we expect them to take the balanced, appropriate, consultative approach. Having said that, before I get too carried away, the Forum will be shortly starting their consideration of the minimum wage rate which they will bring forward at the end of this year, and I would encourage every Member - notwithstanding what the vote is on this proposition - who has concerns, who has issues that they believe that the Forum should consider, to take part in that consultation. This will not mitigate the requirement for individual Members and bodies to talk to the Forum, to write in to the Forum and to make their views known. The other reason that I say that this proposition will not be binding, because if one carefully reads the words in part B, it requests the Employment Forum to have regard - to have regard - not to go out and do it, but simply to have regard, and that is why the amendment was so vitally, in my mind, important, because what we will be asking the Forum to do is to have regard to our aspiration to ensure that the lower paid in our society do see betterment in

due course, but not at the expense of losing their job, which is why we have included the amendment of saying that they should consider the economic climate. So it might come as a surprise; I know that some industries and I know that the Minister for Economic Development, with his hat on of supporting industry across the Island, feels unable to support this proposition today. We must be quite sure that there are some industries that will find it difficult if in the short term the Forum comes forward with increased rates. We must consider that in due course when we have those recommendations, sir. So finally, I might on a note of ... I am not quite sure what note it is, but I found this proposition personally quite flattering, but I perhaps should not dwell on that, because Deputy Southern seems to have taken a number of my words and translated those words and said: "What a jolly good thing they are. Why not make it more formal, rather than just the words of the Minister?" and I look forward to him bringing many more propositions in the same light. Thank you.

### **2.3.13 Deputy M.R. Higgins:**

I have listened to the speeches made this morning, and I would like to say that there have been some excellent speeches, and in my opinion, some appalling ones. I think the speeches made by the Deputy of St. John and Deputy Judy Martin were excellent, and I must say that I agreed with many of the points also made by Deputy Tadier. As I think most of the points I would have made have been made I will not repeat them, but what I would like to say is that as I believe in social justice, I will be fully supporting Deputy Southern's proposition.

### **2.3.14 Deputy J.A.N. Le Fondré:**

Sorry, I was trying to gather my thoughts after the speech by Deputy Gorst. It is a little bit of aspirations and gestures, I think. We can aspire to do anything, and I would aspire to like to win the national lottery at some point, but I do not think that is ever going to be realistic. I think there are 3 key points on this debate. One is the Forum itself is not constrained, as has already been indicated, to 40 per cent. It can set any rate it likes. Therefore, I think the whole point of that Forum is to give us independent and objective advice and I think we should leave it in the position of being able to make independent and objective advice without putting too much political influence on this. For those who say: "Oh, this is just giving a steer" I think if the States Assembly, as a government, if you like, or certainly as a parliamentary body, gives the steer to an independent organisation to do such and such a thing, it is going to rate very, very heavily in their minds. I think that is impacting on their independence; in other words, what is the point of having the Forum if you want to override their advice? Secondly, it is very much, to be fair to the rapporteur, a long-term proposition. However, to put it into context, my calculations say it is a 12 per cent increase in the minimum wage is what you are looking at. That is the increase from 40 per cent to 45 per cent but, again, it is over a long period of time. Finally, I think to reiterate almost the point I have said, I go back to the amendment, from the Minister for Economic Development and a couple of paragraphs in there: "P.26/2010 could be construed as removing both the independence of the Forum to recommend increases and the requirement ..." well, it carries on about economic conditions: "It illustrates that the Forum needs and will exercise flexibility in its approach to achieving a difficult balance." I think in times when we know there are economic recessionary times, what is the point of the amendment? But even so, I think giving this level of steer at this particular time is not, I am going to say, appropriate and therefore I will not be supporting the proposition.

[11:30]

### **2.3.15 Deputy S. Power of St. Brelade:**

Very briefly, I think I came into this debate with my mind made up, and I think having listened to some really good speeches this morning, I have moved my position. What came across very clearly this morning is this is very much an aspirational report and proposition. There is no set timescale,

there is no set limit. I do not think it is directing the States Employment Forum to do anything. It is an aspirational document. It is one of the vaguest propositions we have ever come across, apart from the percentage increase, which at some time will be looked at, but it is going to be looked at by an independent body. I did worry about some comments that were made in the speeches by certain States Members, and there was a kind of them and us debate, whereby we were talking about Islanders, we were talking about local people and their aspirations, we were talking about youth unemployment, local, and what came home to me during that was that there are a whole body of other people that work on the Island. They work in the hospitality industry, they work in the farming industry, they work as domestics, they work as landscape gardeners, they work in spa shops, they work in laundrettes, they work everywhere, and they hardly ever appear on the radar. What brought it home to me was last week I went with Senator Le Main to the mass in St. Thomas, which was to do with the Polish air disaster. There were some local people there, there were some politicians, there were Jersey people there, but by and large the church was full of young Poles, young Romanians, young Latvians and a good accounting of Portuguese. Before the mass started, Senator Le Main turned to me, and he looked around and I looked around, and he said: "Are we not lucky to have some of these people, because if we did not, I do not know where this Island would be right now." So my speech is largely in defence of the working groups that come into this Island, because they are the backbone of some of the labour on the Island. But it brought home to me that there are a mass of people out there who do not have entitlement to social rental housing. They live in Portacabins and they live in accommodation like that. So let us not forget them. My view today is that I will support Deputy Southern on this, but just bear in mind - please bear in mind - that there is a whole mass of people out there that never appear on the radar. They never complain, they never seek Social Security. They may go to A. and E. (Accident and Emergency) if they have an accident, but by and large they work hard, they save hard and they progress their status in life.

**The Bailiff:**

Does any other Member wish to speak? Yes, Senator Le Sueur.

**2.3.16 Senator T.A. Le Sueur:**

There seems to be doubts certainly in my mind about whether this proposition is simply an aspirational one or whether it goes further than that, and I tend to agree with Deputy Le Fondré that it is more than just aspirational. If it is just an aspirational proposition, then in my view it is superfluous, because the Employment Forum already stated their aspirations and their objectives and I think we would endorse those. But I think it is more than just aspirational, because I think that part (a) of the proposition does set clear time constraints. I accept that part (b) in itself is innocuous enough, but I think part (b) is consequential on part (a), and it is because part (a) does set constraints that I feel more prepared to oppose this proposition. I say that as the person who began the process of creating an Employment Forum some time ago when I was President of Employment and Social Security, and the imperative at that time and now that the Employment Forum members needed to be totally unconstrained. They are reasonable people, they are employers, employees and neutrals. They are a mixture, a cross-section of society and they can be expected to have the same sort of aspirations as we have, and indeed they have stated those aspirations. But I think that if we start constraining them either by this proposition or any other proposition, we weaken the independence of that Employment Forum. I think therefore that this proposition is at best unnecessary; at worst, potentially dangerous. Therefore, despite the good intentions, I am not going to support it.

**The Bailiff:**

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

**2.3.17 Deputy G.P. Southern:**

What I shall do first is just remind Members what they are voting for or against. The States are asked to decide whether they are of opinion that the minimum wage should be set at 45 per cent of average earnings, to be achieved over a period of not less than 5 years and not greater than 15 years from April 2011, subject to consideration of economic conditions and the impact on competitiveness and employment of the low paid in Jersey; to request the Employment Forum to have regard to this objective set by this political body when making its recommendation on the level of the minimum wage to the Minister for Social Security. I ask Members to look at that wording and say: "Where is the danger quoted by the Chief Minister, Senator Le Sueur in that?" It is simply non-existent. I would draw Members' attention, although it was not long ago, to Deputy Gorst's speech, the Minister for Social Security, because what I wrote down at the time was: "A sea of tranquillity in an ocean of storms." Calmly and quietly he set the case why this House should in fact give this direction to the Employment Forum, which takes not one jot away from their thoroughly well-researched and consulted considerations time and time again, but says: "We support you in what you have started to set out to do. We endorse what you are trying to do." Earlier we are told that I am singlehandedly responsible for youth unemployment on the Island, and we had some extensive words from the former Minister for Social Security about introduction of a youth rate, and I will just briefly repeat the arguments that I used then, which defeated the youth rate, and I believe should still hold sway: if a young person cannot do the job, they require training, and if they require training, then you put forward a training package, whether it is 6 months, a year, 2 years long, 4 years long, to train them up to do the job properly and you institute a trainee rate. We have got that. If you want to employ a 16 year-old and train them up to do the job, you can do it at a rate - I do not know what the current rate is - at the trainee rate, less than the minimum wage. If, however, the job requires no training and is merely a labouring job - requires you to learn how to lift and hump - then you are doing a man's job and what you should be paid is the man's rate. Now, that worked then, it works, I still think, now. The appropriate response - because this is not about the youth rate, this is about the minimum wage - to Senator Routier is: "Where is your proposition proposing the youth rate? Bring it. Bring it to the House if you want." It is not there. The last consultation referred to by Deputy Gorst was extensive and talked to some 80-plus students, in fact, about the possibility of a youth rate, and again found it almost overwhelmingly rejected. Senator Ferguson then had a pop with her version of economics, which I always do enjoy hearing. It is certainly a refreshing perspective that she often has, and she asked the question: "Who pays? Who pays?" The answer, as supplied by Deputy Breckon and certainly by Deputy Martin was: "We pay the minimum wage. The minimum wage is set at the wrong rate. We pay, because those families, those people on the minimum wage end up seeking income support and that is our bill, the taxpayers' bill and that is what happens." It was perfectly illustrated by Deputy Martin. You talk about minimum wage, which might bring in £11,800. The rent on a 3-bedroom house, fair rent that we set in the States, is greater than that. You have to rely on income support to support a family on the minimum wage. So the dangers again of following the Employment Forum's advice and endorsing their approach of gradually raising the minimum wage towards 44 per cent will save us money in long run, save the taxpayer money in the long run and reduce inequality, promote greater fairness in society. We are reminded that this is a steer, it is a direction to the Employment Forum. Deputy Gorst again said: "What if we do not reach it, the aim towards 45 per cent? What if in 15 years' time we end up stuck at a position of 43 per cent, 44 per cent, then what?" Then some possibly successor of mine, or maybe ... how old will I be then? I will be 74. Do I still want to be doing this when I am 74? Perhaps. I will come back to the House and say: "Look, we did not get there. What do we want to do next?" No danger, not a problem, but this is a commitment by this House to improve the distribution of wealth and improve the lot of our lowest paid over the next 15 years. To refer briefly to Deputy Le Fondré and his speech, he said: "Well, I calculate this to be 12 per cent." Twelve per cent to be achieved over a period that may be 15 years, is that such a hard task? Is that such a difficult task? Is that a dangerous task? I believe not, and the Employment Forum at any stage, because of economic conditions or competitiveness or employment of the low paid conditions may choose to pause at any stage. This is not about

tomorrow. The speech that we had from Senator Perchard, which seems somehow to be threatening our very existence tomorrow, he did not appear to have read: “Between 5 and 15 years.” This is not about tomorrow, this is not about ramping up the minimum wage tomorrow, it is about over the next up to 15 years, and in the light of conditions, the Employment Forum can be trusted to do its best to do that. All we are doing is saying: “We endorse this approach. Please do aim for it.” I am surprised by Senator Maclean, the Minister for E.D., in that he can manage to bring an amendment to a proposition and then not support the proposition as amended. It seems to me that is a perverse way of working anything. Either he opposes full stop or he amends, but once amended, surely that is his amendment, that is what he is happy with, but no, still he has to oppose it. What is happening here? It beats me. He then says: “I share the goal with Deputy Gorst of slowly increasing the minimum wage, but I am not going to support this particular way of doing it.” What can that be about? I very rarely agree with my colleagues alongside me when they say: “They vote against it because you are bringing it, Deputy Southern” but this time it certainly seems to me that that might be the case.

[11:45]

If anybody else had brought this, perhaps it might have got a warmer reaction. Now, I made the mistake - and it is always a mistake - to say: “I think this is a very straightforward and simple proposition.” I still believe it is, and it is one which contains no danger. It is aspirational. It endorses the approach taken by the Employment Forum and they have already said they wish to aim for, and it makes the political statement from this House that it is prepared to do something towards making us a more equal, a more fair society. Please endorse this proposition as amended.

**The Bailiff:**

Is the appel asked for? The appel is asked for then in relation to the proposition of Deputy Southern, project 26. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 32</b>		<b>CONTRE: 14</b>		<b>ABSTAIN: 0</b>
Senator P.F.C. Ozouf		Senator T.A. Le Sueur		
Senator T.J. Le Main		Senator P.F. Routier		
Senator A. Breckon		Senator B.E. Shenton		
Senator B.I. Le Marquand		Senator J.L. Perchard		
Connétable of St. Helier		Senator S.C. Ferguson		
Connétable of Trinity		Senator A.J.D. Maclean		
Connétable of St. John		Connétable of Grouville		
Connétable of St. Saviour		Connétable of St. Brelade		
Connétable of St. Lawrence		Connétable of St. Clement		
Deputy R.C. Duhamel (S)		Connétable of St. Peter		
Deputy of St. Martin		Connétable of St. Mary		
Deputy R.G. Le Hérisssier (S)		Deputy J.A.N. Le Fondré (L)		
Deputy J.B. Fox (H)		Deputy A.E. Jeune (B)		
Deputy J.A. Martin (H)		Deputy E.J. Noel (L)		
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
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 of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Bailiff:**

Very well, the next matter on the Order Paper is P. 27 ...

**Male Speaker:**

We had an abstention, did we? I am sorry. We had an abstention?

**The Bailiff:**

No, there is no abstention. No abstention, I am afraid, not recorded.

**3. Review of Bicycle Laws (P.27/2010)**

**The Bailiff:**

The next matter on the Order Paper is P.27 Review of Bicycle Laws lodged by the Deputy of St. John 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 ...

**The Bailiff:**

Could we have silence please while the proposition is read?

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to request the Minister for Transport and Technical Services; (a) to review and update the Road Traffic (Jersey) Law 1956, as amended, and any other relevant legislation in relation to the riding of pedal cycles on the Island's roads or cycle tracks; and (b) to review the need for pedal cycle registration and to report back to the States within 6 months with a proposition if appropriate to introduce some registration.

**3.1 The Deputy of St. John:**

We have seen a piecemeal approach to bicycle legislation in adopting the cycle helmet law but what is required is a full review of this law which is some 50 plus years old in many parts. The purpose of asking for the review is to bring it up to date for 2011 and beyond, whereby any new transport strategy will bring in the appropriate laws. Not do as happened when the Licensing Law was amended some years ago to allow licensed premises to remain open longer yet nothing was done to get people home when these premises called time and the taxis and cabs could not cope and they still cannot cope. I am pre-empting a problem where we are encouraging an increase of 80 per cent of people to move from cars to cycles by 2015 and yet we do not supply a means of controlling any additional numbers of cycles on our roads. Given that currently some cyclists think they are the king of the road and of the footpath. Day and night some lycra-clad members of the cycling fraternity are totally inconsiderate to other road and footpath users and they give the finger to others when comments are passed. Others cycle against the traffic as happened to me this morning: I was driving up near the town church when a cyclist came in the middle of the road round the bend and confronted me and it was a bit of a shock. They cycle on the footpaths and pedestrians are caught

up in the mayhem that goes with them when they are cycling through the precinct. At night they cycle without lights or fluorescent clothing. How many have been brought to book? Very few. Why? Because we have got no way of identifying them. In other parts of the world a licensing system is in place, parts of America and Tonga, Switzerland, and our own little sister island of Sark. We, ourselves, had number plates on bicycles until the early 1970s. I do not necessarily need for the Island to go down the full extent of putting in place an annual fee but all that is required in the first instance, I would say, is a registration at the time of purchase or when a bicycle changes ownership. Something simple and effective. A metal number plate that can be spotted easily. There are a number of examples that can be found on the internet. Effective lights on a cycle should be mandatory like the brakes are. Yet I see cyclists at night with no lights. I saw a cyclist early one morning when we had snow on the ground after a vehicle blew his horn at the cyclist he received a finger from him. He was cycling in the snow and ice and it was an accident waiting to happen. Who would have picked up the bill? You and I through our social security if the cyclist had been hurt. We have no way of identifying these people and something needs to be done. Since putting my proposition forward I have received calls and comments from a host of different people. In fact the vast majority are in favour of bringing some sense to bicycle riding on footpaths or without lights and have given some good reasons like children being caught one side of the pavement and parents on the other with a cyclist passing between the 2. Do all cycles not have a bell? No, they do not and there is no way of warning people if they have not. Other people have been leaving their front door, which give out on to the footpath, only to be confronted by a cyclist when there is an empty road alongside. The most common comment is at night, without lights, that is the biggest problem. All well and good in town where you have street lighting, but in the country, and I cycle a fair amount at night in St. John where we do not have street lighting, and from time to time I am overtaken by this shadow if the moon is up, I thought: "Wow, somebody has just overtaken me on a pushbike, obviously a much faster machine than the one I am pedalling" and I thought: "Wow, this is not on, no lights", and from time to time we find one of these people over the hedge or into a hedge. A number of people think that the review is not necessary and that people should know better and I have been taken to task by a number of members of the public and had my ear bent for up to 10 minutes because he believed that this review was not necessary. He believes that we are wasting States time in debating it. At the end of the time we agreed to differ and we went our different ways. That said, others saw the benefit of the review in the cycling law and one or 2 even suggested the law on vehicles parked on roads without lights at night and the size of tractors should be reviewed, but that is for another day. But now as the States have adopted plans for a new cycle track from the east to town, we can expect more cycle traffic and this needs to be reviewed. Given that T.T.S. (Transport and Technological Services) have Driving and Vehicle Standards and could undertake this review and possibly others, so that it dovetails with the traffic and transport strategy - and this may cause a slight delay on its delivery of the strategy, then so be it as it is already, I believe, running somewhat late. I am a cyclist and I do not wish to put more bureaucracy into place but believe this law needs to be reviewed and that it is at the right time for it to be undertaken. I note the Minister in his comment sheet, is setting up a cycle strategy group and I presume this is in response to my report and proposition given that it came in in March. I also note the Minister's comments that in part this will fulfil some of the proposition. I am pleased to note that as of yesterday I had an email from the Minister stating that he in fact would now be supporting this proposition so I in fact have reduced the 15 page speech that I had down to 7. I sincerely hope that within the strategy group the Minister will choose people who are open-minded and will look at all aspects of cycling. Not be, as I heard on the replay on Sunday mornings phone-in by the 2 States Members who were on the phone in programme, they had views that were set in stone and that to me was ... I am a bit concerned that if these Members are part of the review the review will be dead before it starts and I think we need people on that review panel who will look at all aspects with an open mind. At the moment we spend some £4.5 million a year supporting our bus service and the bus strategy is hoping to get in another 15 per cent more people on the buses which equates to some 300 people. To fund any cycle review I believe money could come from the

cycle strategy review because the 80 per cent of additional cyclists that the T.T.S. are hoping to get off or out of their cars between now and 2015 would be a big saving to this Island in a number of ways, whether it is on wear and tear on the roads, whether it is on health and therefore it can be funded from that. I will not say a great deal more because I am sure there will be plenty said that I will have to sweep-up with at the end of this debate, but I would just ask Members to give serious consideration. I would like to thank the Connétables for their comments because they in fact are supportive in their comment sheet and therefore I would make the proposition.

**The Bailiff:**

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

**3.1.1 Connétable M.K. Jackson of St. Brelade:**

I have already agreed to establish a cycling strategy group to consider all matters to do with cycling, in fact as a result of questions asked in the States by the Connétable of St. Lawrence. Members already invited to join the group include the Connétable of St. Lawrence, Deputies Power, Le Claire and Wimberley and it will be chaired by Deputy Lewis. In respect of part (a) of the proposition, the Highway Code was revised and adopted in 2008, the relevant sections of the Highway Code supported by our current legislation provide sufficient rules and guidance for cyclists to circulate on our roads and cycle tracks in safety and with consideration for other road users. The strategy group can review this code in supporting legislation and recommend any changes that would improve matters. In the interim, however, there may be merit in mounting a publicity campaign in conjunction with the Road Safety Panel to highlight the importance that cyclists and all road users comply with the Highway Code. The strategy group can also consider the merits of part (b) introducing a bicycle registration scheme and while my comment lays out various reasons why intuitively I do not support cycle registration, I think it appropriate to give the cycle group the mandate to consider the matters independently and come up with the recommendations they see fit. I conclude by saying, contrary to my printed comment, that I shall support the Deputy's proposition in the interests of the cyclists in Jersey and the affected public, notwithstanding that I am always keen to support the Environmental Scrutiny Panel Chairman where possible in his endeavours and aspirations, where appropriate. Thank you.

**The Bailiff:**

Does any other Member wish to speak?

[12:00]

**Deputy R.G. Le Hérisier:**

Just on a point of clarification, I was a bit worried when the Deputy mentioned that, I think, he was on his motorcycle in the town church and he was confronted ... I thought that was wholly devoted to holy parking and I do find it rather strange that he was in what some people regard as a pedestrian area.

**The Deputy of St. John:**

Correction, on the road outside the town church.

**3.1.2 Deputy R.G. Le Hérisier:**

Thank you. My view is that this is misplaced. We did support helmets, I did support it and earned the eternal wrath of the Deputy of St. Mary, but having said that, I think he and ... on the Talk-back programme where they managed against all the rules of debating to keep a debate going on the subject of cycling for 2 hours - a remarkable record which could well enter the Guinness Book of Records. I would say that I think the Deputy of St. Mary and indeed of St. Brelade No. 1, I think they have very good points in that the issue is to support the culture of cycling and this is one of the issues where I have received considerable negative feedback from the community. Most people are



saying: “Look, you are stretching the bounds of credulity already in terms of the bureaucratic controls, in terms of your inability to focus on serious issues in this Assembly, what on earth are you doing now?” Rather like the constituent who approached the Deputy: “What on earth are you doing now with this?” By all means, you know, you spent a lot of time on helmets, okay, we reached a decision but there are other mechanisms by which this can be dealt with. Yes, there is intense annoyance at that small group of people who create cycling anarchy, so to speak, through the streets of town, go against the one-way systems and so forth, but can there not - and here we call upon the Minister of Home Affairs who I know has a lot of time to study these matters - be some intense policing of that group in order that the message gets through? Because they are creating a disproportionate menace on the streets, they are worrying people and it is one of those classic issues where, and you see it in the British general elections where British crime figures are tumbling down but yet the annoyance of crime to people on housing estates or be it on pedestrian precincts is going up and up and it is this sort of dissonance that is occurring that really sends people, well almost around the bend, if I may use the phrase. So I think this is very misplaced. I think people are fed up, including myself, and I feel a certain guilt about this. I think they are fed up with the bureaucracy and they are fed up with the fact that we have mechanisms to deal with this, why are we, as an Assembly, spending hours on these issues when people see the economic situation deteriorating by the day and so forth? I do not doubt the Deputy of St. John is very well motivated and frustrated but I would ask him could he please withdraw this proposition so we can attend to other more pressing and important issues?

### **3.1.3 Senator P.F.C. Ozouf:**

Yesterday the Deputy of St. John was giving the Minister for Treasury and Resources a mauling in relation to the increased number of employees in the States. I think that he is not a fan of red tape generally. If there was a bicycle registration law with the attendant department of bicycle affairs and registration then it would be a right candidate for red tape elimination. It would be a right candidate for C.S.R. (Comprehensive Spending Review) cuts. I cannot help but think that the world has gone completely mad in setting up a department for registering 20,000 or 30,000 bicycles. It is completely bananas and I agree with Deputy Le Hérissier, who has come off the fence on a rare occasion **[Laughter]** It is a welcome move for certainty and I think he is absolutely right. If we are going to spend public money on bicycle matters and improving the lot of all road users and increasing the number of bicycle users in Jersey, then really we need to direct our valued Transport and Technical Services officers to better endeavours. They should be working on the eastern cycle track. They should be working on a bike hiring scheme such as exists in Barcelona and Paris where you can swipe a credit card at one end of the western cycle track and ride a bicycle into town. That is where efforts should be made in bicycles, not, if I may say, a crazy bureaucratic registration scheme for bicycles. I am not going to support this and I hope everybody else does not either.

### **3.1.4 Deputy S. Power:**

Yes, I think the Deputy of St. Mary and I on Sunday responded to the calls to the programme and I think it was quite clear that the producer of the programme had to fence some phone calls that did come in that had nothing to do with cycling, but we did exhaust the subject and we survived 2 hours of live radio on bicycles. I agree with Deputy Le Hérissier and I have to endorse what the Minister for Treasury and Resources has said, to face the prospect of bringing in red tape, costs, administration, to be sending out the bicycling Taliban to chase up people who have got bicycles hidden in their garages and threatening them with all sorts of magistrates court things would be simply insane. I was worried about the ... the Deputy of St. John referred to Talk-back on Sunday in that we had fixed positions. I absolutely agree with my vote on cycle helmets some short weeks ago and I absolutely agree with the Deputy of St. Mary's views on that because I voted against both parts of that. But what worried me about the Deputy of St. John's speech is he was dealing all the time with the exception. He was dealing all the time with people who cycle in snow, he was

dealing all the time with people who do not have lights, people who do not have bells and the people who are the irritants, the ones that he referred to. I was coming to the Assembly yesterday, coming through the town church, walking - before I get myself into any trouble - and a cyclist came down Hill Street and turned right into Church Street and zoomed down into Library Place against the flow of traffic. These are the kind of people that we are all aware of, but we do not legislate for the masses if a tiny minority cause problems. I think the Deputy of St. John has got that aspect of it wrong. I spoke yesterday to a number of people about this and I have been asked now by the Minister for Transport and Technical Services to come on this review of cycling. I was persuaded to do so by the Constable of St. Lawrence, I am happy to do that under the chairmanship of Deputy Lewis and let us see where we go. But we definitely do not need to legislate for ... if there are thousands of commuters on bikes coming into the middle of St. Helier on a morning and going back out in the evening, we are dealing with very small numbers who are an irritant. Let us just keep it in perspective. It is up to the States of Jersey Police - it is an operational matter - it is up to them to get one of their P.C.s (Police Constables) out on a bike and start nailing these people, these idiots who do the kind of irritating things that were all there. It is a matter of... I have been accused of using the word commonsense 11 times on Sunday. It is a matter of commonsense. It is not a matter of legislating everything out of existence. So I am happy to go on to this panel and I am happy to support the proposition, can we get on with it?

### **3.1.5 The Deputy of St. Mary:**

If the proposer would give an indication that he would withdraw this in line with Deputy Le Hérissier's suggestion, then obviously the House would be spared my speech.

### **The Deputy of St. John:**

I am not withdrawing.

### **The Bailiff:**

Not even in the face of such a threat? **[Laughter]**

### **The Deputy of St. Mary:**

Well, how unfortunate, but we all now know where the blame lies. I do hope that this debate does not go down the route of: "I do not like cyclists", and I just hope that we do not go there. The T.T.S. comments were ignored in the course of the cycle helmet debate and I hope that we do not go into: "Let us ignore T.T.S." with this debate because what they say is quite correct. They have put it in perspective. This whole debate must be in the context of promoting cycling, of building a cycling culture. I do not have any problem with paragraph (a) and I hope we are going to take them separately, clearly the cycle review group must look at the rules that currently govern cycling and see if they need improving and if so how? By the way, my views are not set in stone, they very rarely are and they are always subject to new evidence or indeed evidence. But you do need on a group like that, some degree of expertise and some degree of commitment and I do have both so I am quite happy to have been asked to be on that group and very pleased. On the issue of ... I will not say some things that have been said already, but on the issue of delinquency and bad cyclists which is clearly the sort of big bugbear, I think that there is something that needs to be considered when we are thinking about this, where does the problem lie and to what extent is it a cycle-specific issue and to what extent is it people being delinquent, doing bad things and in this case on bikes but it could very well be in some other context? If we were in any other situation we would think: "How have we got here? How have we got to the guy I saw yesterday..." A similar thing. Not cycling through the town church but anyway. You know, why do people behave like this? There are a couple of reasons that I have come up with. One is that cycling traditionally in Jersey has not been taken seriously and I will give some pointed examples of that in a moment. But the lack of provision and the sort of almost callous way that in some areas cycling has been treated, I respect the fact we have the cycle network, I respect the improvements that have been made, but as I say, I

will point out that some of the provision does leave a lot to be desired and cyclists get that message that they ... well, they get a mixed message now, they get a message they are being provided for and that there is a move to encourage them but also there is a kind of historic failure to allocate enough road space. The other thing is the generational thing, that in Jersey we seem to have lost a generation so that learning good cycling habits from your parents just does not happen to the same extent it would in Germany or Holland. We see this over and over again in different ways, we see bikes ... well, I see bikes being left outside in the rain, and therefore the gears are shot and the chain is rusty. There is not the encouragement of good habits, there is not the learning that should happen from mother's knee and the attitude that a bike is a cheap thing that you buy as cheaply as possible for your children and it is a sort of toy. So we do have problems that are really systemic and the group will have to look at how we can deal with that problem of delinquency and bad cycling. But whether registration helps with that, I somehow doubt, but as I say I am open to persuasion. It really comes into the context of road safety and road safety goes far, far beyond registration, we need to look at speed, we need to look at facilities and we need to look at proper rules. How do we create a good environment for cycling? I would just give some examples of how the Government has made errors in this area. So if we are going to blame bad cyclists for creating danger and creating problems, then I think we have to share some of the blame ourselves and that is what the cycle group will have to address, or one of the issues they will have to address. Just a few examples, we have just put a new cycle track from the airport to Les Quennevais, along past the football pitch there. That cycle track crosses 2 roads at least, it crosses one going into the airport, I think it is Beauport Aviation anyway there is an entrance into the service side of the airport and there is Mont a la Brune, that entrance there which is a road crossing the cycle track. There are no rules governing what happens when a car or motor vehicle wishes to turn into one of those 2 entrances. Now, there is an immediate conflict and an immediate danger because a visiting cyclist - and we have plenty of them, from countries like Holland and Germany - will assume that they have priority. Now there is, as far as I know, nothing to say that they have priority, I do not know whether they do or not, but I suspect they do not. I suspect the motorist would think that because there is no markings and so on that they have priority. So we have created a conflict there. In Oxford Road, there is a contra-flow for cyclists and the engineering has been done to make sure that they are right on to the left when they cross for instance, I think, Stopford Road and St. Mark's Road, they are a little ways of them to get across right on the left but there is no signing the other way.

[12:15]

There is nothing to tell motorists going into Oxford Road at Gas Place that this is a place where they will meet oncoming cyclists and that is an extraordinary state of affairs, it has existed for quite a while and we have designed in danger as an authority. There is a green marking on Hill Street - just outside this building in fact, just there, in Hill Street, behind the States Building - which is quite bizarrely on the right hand side so that a cyclist who would normally be on the left would, at the traffic lights, seeing that green marking and an arrow saying: "Cyclists" on the right, would then think that they now have to do the unusual thing of going to the right-hand side of a one way road to carry on down Hill Street. It is bizarre. It has not been thought out and again it has created danger. My last example is Pont Marquet, which is the most serious. Where the danger road goes across the cycle track at Pont Marquet there is a big sign on the road going westwards, saying "Accident Black Spot 20." Then if you are driving, you go down into the dip and up the other side, you still do not realise there is a cycle track there until you see the sign saying: "Cycles Crossing." But that could be designed-out, in engineering terms, by having a build-out - a nib - protecting the cyclists, giving better visibility around the blind corner. That was proposed by, I think, T.T.S. and it got lost in the sort of government versus Parish sand bank, where so many things get lost, and it did not happen. So that danger is still there and every cyclist who goes up the railway path towards

Corbière is in danger at that junction and we have failed to do anything about it. So those are the sorts of things.

**The Connétable of St. Brelade:**

Could the Deputy give way briefly? Just to clarify that point. It is not a Parish issue, because it is not Parish property. But I think the Deputy must be aware that there are emergency service vehicle issues in those sorts of areas as well to consider.

**The Deputy of St. Mary:**

I take that point. I followed that issue quite closely when I was proprietor of a cycle hire firm and obviously I had to warn personally every single person who was going to ride up there: “The first junction is dangerous and you have to be careful,” and so on. But others, of course, would not get that personal warning. Of course emergency vehicles can go, even if it was made one-way at that point, in order to slow down the traffic, so that there is no possibility of a serious accident, which there definitely is now, that could be designed-out and we have not done it. So there are issues of how we create safe cycling in Jersey. I hope it is in that spirit and in the spirit of building a cycling culture that we do all support (a). But when it comes to registration, well, I do have a view at the moment. I do not think I will comment in detail about it. I was tempted to. But some of the appendices are quite odd. But I will refrain from commenting and simply vote against it, because I just think as other speakers have said that it is a bit of a nonsense. But I remain to be convinced that that is the only way we can deal with the problems which registration is designed to address.

**3.1.6 Senator J.L. Perchard:**

I think the Deputy of St. John has got this one wrong and I believe, like all other speakers except the Deputy himself, that this is the last thing that we want at this time, more red tape and bureaucracy. I am just wondering if the Deputy does feel we need to licence all wheeled vehicles, perhaps we need to go into the supermarket and look at the supermarket trolley and the abuse there, or the danger of baby buggies. There are even calls, I understand, now for the operators of disability scooters to have to pass a test and be licensed. What about skateboards and roller blades? At what point do we allow people to operate freely? We need to encourage bicycle use, not to restrict it. We need to encourage people to get out on their bikes, to get fit and support, as Deputy Wimberley so enthusiastically advises us regularly, the infrastructure to allow proper bicycle use and not make it more difficult. We also need to support the police in upholding the Road Traffic Law, of course. It was as the Deputy of St. John spoke that I could not help but imagine that moment at night in the moonlight when he was cycling home, by a faster model of cycle (or more likely a faster model of cyclist) [Laughter] and the Deputy looking through the dark as best he could with his light on his bicycle at the number plate on the faster cycle and not being able to see it and shouting to the chap, the cyclist: “Hey, what is your registration number?” The chap shouting back: “I have not got one” as he disappeared into the dark. No, this is a nonsense. I understand the Deputy has highlighted the importance of encouraging cycle use and then upholding the law and I look forward to the Assistant Minister for Transport and Technical Services and his group addressing this in the near future and reporting back with something positive that will enable us all to get out on our bikes and join the Deputy of St. John.

**3.1.7 Deputy M. Tadier:**

I was dismayed when I saw this proposition. Somebody on my Facebook wall first of all quoted it, they said: “Do you know this thing that is going on about bicycles?” What I am going to do is I will read that out shortly. Because it is not about us in here pontificating about people’s civil liberties and rights, it does have an affect on people concretely and it is something that people do care about. It is not always the case that people will contact you without being solicited, but this, as we have heard, is an issue just like that. I will read out the first bit. It talks about this brilliant idea - obviously ironic - to charge a £50 registration fee to cycle owners. “In an age where child

obesity is common, the carbon footprint all important, use of cars discouraged and car parking fees at all time highs, it amazes me that a bright spark thought up this idea which will more than likely discourage even more people from taking the healthy option and using their bicycle. The current environment is difficult enough without adding more expense to the family household. On the positive side, I guess, it would create a few more jobs to deal with yet more unnecessary paperwork and administration. Rant over” it says at the bottom. This is a guy who is probably about 35, whose parents live in my constituency. Another few comments from an avid cyclist who does use the cycle track around Les Quennevais has given us a few more things to think of. “It will cost a lot to administer the scheme. What about people with several bikes? Do they have to register all of their bikes or do they just have to register one? Would they have to transfer the licence from one bike to another? What if you borrow a bike? What will happen to people who do not register their bikes, will they get prosecuted? Do the police not have enough to do already? Unless the licence is very large, too large to be practical, it will not be possible for people to see enough to take note of the number and so complain if a cyclist is committing an offence. As we know, bicycles are very thin, they are not like a car where you can stretch it right across the bumper or the back, it would have to be very small and it is not really practical. People who cycle through red lights and on pavements are the least likely to get their bikes registered, so having a registration scheme will not have much impact on them.” One of my own comments is, I just popped out for a comfort break, but I heard on the internal radio system that the Deputy was talking about people cycling at night. Now, presumably if you are cycling at night, does that mean that you would have to have a light on your registration plate? So if you are cycling without lights you would at least have to make sure that your registration plate is illuminated so that anybody who wants to report you can do that. I think, obviously, that would not enhance anything. I know we are not at the point yet of discussing registration plates, but the reason I am bring these points up is that there is no point in commissioning a review of something that you do not want to do. We only really want to commit to reviews, and I suggest there are a lot, that are more important than this one. Also, looking at the report, I think we have to commend the Minister for Transport and Technical Services. It is a very thorough report. It is very balanced, I think. It does come up with the pros and the cons. It realises that there are more cons than there are pros. I would like to hear from the Comité des Connétables, there are not too many of them sitting here - I think there are 4 - because they have issued comments. I was quite fascinated that of all of them ... I think the Deputy of St. John gave us 19 lines to try and convince us why we should vote and then just attached lots of different appendices, which I think do not seem to be that relevant at this stage. The Comité des Connétables have contributed about 12 lines, I think, which starts off by saying: “The Comité supports this proposition.” But then it goes on to say: “We would like to know what the purpose of a cycle registration scheme is.” So it must be clarified. They are also worried about it not being overly bureaucratic. It seems very strange to endorse it off the cuff, so to speak, at the very initial part and then say: “But we do not really know what the Deputy of St. John is asking for here.” Whereas, in stark contrast, we have a very thorough document from the department and I think that is to be encouraged. Lastly, as has been said, we need to embrace a slightly more liberal approach here. We know that cars, pedestrians, cyclists, roller skaters and mobility users of scooters all need to co-exist together and generally I think that is very possible. It needs a commonsense approach on all sides. It does not need excessive legislation. I think commonsense does need to prevail in the sense of being legalistic. For example, of course cyclists should not cycle down one way streets, because it is dangerous. But if it is at night time and there is nobody around - I am not advocating this - but in a practical sense, what is the point in being too heavy-handed. I think we need to have a commonsense approach. I would say we do not need this. It is bureaucratic. It smacks of the nanny state, which I think we are all trying to avoid. I think we need to kick this into touch right now. Again, I give my full support to cycling and I congratulate the Minister for T.T.S. I think he is doing the right thing in this instance.

### **3.1.8 The Deputy of St. Martin:**

I think, not that I am going to come to the defence of the Deputy of St. John because he is a big boy and can take care of himself, but I do think people have been rather unkind to him. If one looks at the proposition, it is asking for reviews. It is not saying that we have got to have these things. I think if Members would have read what was on the proposition, it would make sense. We need not have spent all this time talking about it. Possibly the one thing the Deputy of St. John may have over-egged the issue about is the registration, but he is not saying we should have that. He is making it clear we should review it. In actual fact, if one looks to see when he lodged it, he lodged his proposition on the 9th March and then on the 9th April, one full month later, T.T.S. responds to it and says it does not support it. However, it says it is going to set up its own review board. So I do not really know why T.T.S. could not have said: "Well, we are going to support it because we will assist the Deputy of St. John." To me it is a nonsense. So we cannot vote against this if the T.T.S. are going to do it. So to my mind it makes sense, just to vote on this, approve on this, because really whatever happens T.T.S. are going to do it anyway. They have obviously got to give consideration to registration, but I would have thought it would have made sense to look at the whole issue. So what I would ask Members is can we get on with the vote? I would certainly say support what the Deputy of St. John is asking for, because T.T.S. are going to carry it out anyway.

### **3.1.9 Deputy K.C. Lewis of St. Saviour:**

I am the Assistant Minister for Transport and Technical Services, and I will be supporting the proposition. As the Deputy of St. Martin pointed out, the vote is just to look at it, it is not voting for registration. It is just to look at the whole issue and the review and update the Road Traffic (Jersey) Law 1956. I would be more than happy to do that. There are a few issues. If you speak to anyone in the street at the moment there are a few rogue cyclists, but there are enough to cause a nuisance. I had one about 3½ weeks ago, walking into town at the top end just outside Howard Davis Park, I was crossing the pelican crossing. I looked left, looked right, the green man came on, I started walking across the road and I was jumping back on my heels as I nearly got hit by a cyclist. I remonstrated with the cyclist, who pulled over the left and we had a little chat. He said: "Well, I did not hear the beeper going so I just went through."

[12:30]

I pointed out that when you have a double-pelican crossing there are no beepers, because if you have a double pelican-crossing, a person who is partially sighted may confuse the beeper coming from his left or right on the other crossing. So as you look at the wait sign, which is illuminated, put your hand underneath and there is something called a tactile there, a little cone shaped instrument that will rotate when it is safe to cross the road. I pointed this out to the gentleman. He apologised and went on his way. But there are several issues that do need seeing to. Children riding unsafe bicycles, for instance; people riding the wrong way up one way streets; there are a whole raft on issues that I would be delighted to look at. I must say as of yesterday I am, what you could say, a born-again cyclist. I got on a bike for the first time in about 25 years and I did not fall off. **[Approbation]** I hope to be cycling more in the future. I will be supporting the proposition. Thank you.

### **3.1.10 Deputy J.B. Fox of St. Helier:**

I will be supporting this proposition. I originally volunteered to be on this strategy group. But I was very concerned that the 8-page document put in by T.T.S. had already made up their mind of where they were going and what decisions they were going to make, which made it rather a farce to sit on something when you are supposed to go in with an open mind. I do have a lot of experience. The Crime Prevention Panel was asked by a previous Defence Committee to look at the whole question. They had already done all this work. It went to the Defence Committee. It was the only time on record that the majority of the Defence Committee agreed to it, but they decided not to go ahead with it. Unfortunately I tried to retrieve the documents and all the information that was

contained in that from my successors at the Police Headquarters, but over the ensuing years they have been weeding out their records and this lovely big file full of all the information, including the for and against and all the people that had been interviewed from the various cycling organisations to types of number plates, and all sorts of arguments to and for, are now not available, although much of it is in my head and could be useful. I have a feeling that we need to have a broader representation of people visiting this strategy group, because we are no longer a committee system where you only look at the department you are responsible for, i.e. T.T.S., Home Affairs, *et cetera*. It should be looking at the whole of the subject, including the Parish officials and the Parish Deputies. We have heard some of the opinions today from individuals that will now be sitting on this strategy group, who clearly have their own agendas in mind. What I hope is that they will ask the others to come in so that the agendas are broadened. Personally I think that the chair should not be a representative of one department, I think it should be from the Connétables, like occurred on the speeding review, which used all the facilities available, commonsense reigned, a report went in, but we are still waiting for the results of that review to be implemented and brought back to the States. I think that is all I need to say at this time. Thank you.

**The Deputy of St. Mary:**

On a point of clarification could I ask the speaker something which I did not understand where, as I heard it, he said that the majority of the Defence Committee agreed with work of the group that recommended, I think, registration and then decided not to go ahead with it. I do not understand how that could be the case.

**Deputy J.B. Fox:**

No, I did not. I was talking about the report, the whole report. Registration was just one small aspect of a whole report. The majority at that meeting of the Defence Committee agreed and it was a majority vote, but then subsequent to that they decided not to put it out, i.e. to the States or wherever, for reasons I do not know why. But this is not about specifics, i.e. cycle registration. It deals with much broader aspects. Cycle registration was in there, obviously. Thank you.

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

May I ask for a point of clarification from the Minister for T.T.S.? Could I just ask, when did the Minister for T.T.S. make the decision to have a review of the cycle law? Thank you.

**The Connétable of St. Brelade:**

It was prior to the lodging of the Deputy's proposition, as a result of questions asked in the States by the Constable of St. Lawrence 2 or 3 weeks prior. I do not have the date to hand.

**3.1.11 Senator B.I. Le Marquand:**

My position is I feel able to support Part (a) of the proposition, but I am not so happy with Part (b), because it singles out pedal-cycle registration for special treatment. I have grave concerns that that will achieve what the Deputy of St. John hopes it will achieve, for reasons I will explain later. I think that we have succeeded in getting ourselves in a bit of a muddle generally in relation to the whole area of cycling. We clearly want, as States of Jersey, to encourage cycling for fitness reasons, for air pollution reasons - particularly in St. Helier - and for carbon emission reasons. Yet in St. Helier we have created a one way system which requires cyclists at times to go all the way around the houses for very long distances in order to get where they want to go. Now, I am not condoning, in any way, the breaking of the law, but if we create such a system then we must not be surprised if there will be people who will be tempted to take short cuts and in particular, you can see people coming down the Snow Hill direction have to go way, way round in order to end up in Broad Street or wherever they want to go. I think we have contributed to our own problems in relation to this. I do believe that we do need to have a review. There are places, as was pointed out on the Talk-back programme recently, where cyclists regularly mix together with pedestrians. Yet in Jersey as the law exists, as I understand it - I am going from my memory and have not checked it

this morning - it is an offence to have any kind of vehicle whether it is powered or not powered on a pavement, pedestrian area or walkway; completely forbidden at the moment. I think that needs to be reviewed, to see whether there are places where the 2 could mix together properly and so on and so forth. So I support, very much, Part (a). In relation to policing, I feel compelled to remind Members of the difficulties that we currently face for financial reasons, which are not going to get any better as a result of the process of the comprehensive spending review. We are currently 14 police officers down. We are not going to be able to start the next batch until September. That means that they will not have even completed their 6 month preliminary training until almost 12 months from now, by which stage we will probably be of the order of 25 down. I have received a paper very recently on policing numbers, which was very helpful. It explained to me issues which I already understood, but in more detail, such as the pressures on the Public Protection Unit mean that a small department with 5 staff has now gone up to being a department of something like 13 or 14 people, in response simply to an increase by 2½ times in a number of referrals of cases of children. It is protection of children, primarily, and other vulnerable adults that they deal with. At the same time, we clearly are understaffed in areas such as the Financial Crimes Unit. We have major investigations going on and they are not going on fast enough, because we simply do not have enough people. I will not carry on, because I do not want to cause any glass eyes to start weeping or whatever, as was mentioned before, but you must understand the difficulties that we face. Having said that, the police are quite clear - I have raised this with them before, I will raise this again with the Acting Police Chief - that if there are specific places where there are offences regularly being taken place, if people will notify them of those they will put police officers there in order to try to deal with the situation. But you must understand that we are facing a situation in which it is very difficult to have sufficient manpower available to deal with relatively minor offences. That is the reality that I face and the police force face on a daily basis. Having said that, I want to come very briefly and explain why I have difficulties with pedal-cycle registration as a concept. I understand what the Deputy of St. John is wanting to achieve. He wants to achieve a situation in which people committing offences can be identified by virtue of the number plate on the bicycle which then allows you to look up the registration process. Unfortunately, I do not think this will work, simply for the reason raised by, I believe, the Deputy Tadier, the size of the plate. You can only have a small plate on a bicycle unless you can have some great monstrosity which goes right along both sides. Frankly, if a cyclist is going past you at speed so you cannot cause them to stop in order to remonstrate with them or whatever, a plate is going to be of no use whatever in this. So for that reason, I will be supporting (a), but do not feel able to support (b), which singles out a particular issue which I do not think it is providing the right solution for. Thank you.

**The Bailiff:**

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

**3.1.12 The Deputy of St. John:**

Quite simple, I think you will probably read it across the Chamber, is a review is all that I am asking for; a review, no more, no less. I will not say more than that. It has all been said. Some of it, I hope in jest, because everything in this Chamber, as far as I am concerned, is worth debating, whether you think it is not important to yourselves, it is important to other people in this Island. I would not have raised it if it had not been important. A review is going to happen. We know that. So I am asking that in that review we look at all aspects of cycling, including bicycle registration. With that, I make the proposition and ask for the appel.

**The Bailiff:**

Deputy, do you wish the vote to be taken separately on (a) and (b) or together?

**The Deputy of St. John:**



I will take it as one, thank you. Sorry, if Members want to do it in 2, I do not mind. Do it in 2, Sir.

**The Bailiff:**

In 2. Very well. So the matter is going to be voted on separately. The first matter before the Assembly is paragraph (a) and I invite Members to return to their seats. The Greffier will open the voting.

<b>POUR: 32</b>		<b>CONTRE: 6</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy S. Pitman (H)		
Senator P.F.C. Ozouf		Deputy A.E. Jeune (B)		
Senator B.E. Shenton		Deputy T.M. Pitman (H)		
Senator J.L. Perchard		Deputy E.J. Noel (L)		
Senator A. Breckon		Deputy T.A. Vallois (S)		
Senator S.C. Ferguson		Deputy D.J. De Sousa (H)		
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. Saviour				
Connétable of St. Clement				
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 J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy of St. Mary				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				

**The Bailiff:**

Very well. The Greffier will reset the machine and when ready Members will now vote on paragraph (b). The Greffier will open the voting.

<b>POUR: 16</b>		<b>CONTRE: 23</b>		<b>ABSTAIN: 0</b>
Senator A. Breckon		Senator P.F. Routier		
Connétable of Trinity		Senator P.F.C. Ozouf		
Connétable of Grouville		Senator B.E. Shenton		
Connétable of St. Brelade		Senator J.L. Perchard		
Connétable of St. Saviour		Senator S.C. Ferguson		
Connétable of St. Clement		Senator A.J.D. Maclean		
Connétable of St. Lawrence		Senator B.I. Le Marquand		

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

[12:45]

## **LUNCHEON ADJOURNMENT PROPOSED**

### **The Bailiff:**

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

## **LUNCHEON ADJOURNMENT**

[14:15]

### **4. Establishment of a regulatory and licensing regime for e-gaming for Jersey (P.28/2010)**

#### **The Greffier of the States (in the Chair):**

The next item of business is the proposition of the Minister for Economic Development on the establishment of a regulatory and licensing regime for e-gaming in Jersey. 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 request the Minister for Economic Development to make provision for the regulation and licensing of e-gaming within the Draft Gambling (Jersey) Law 200-.

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

In December 2009 I gave an undertaking to seek the approval of this Assembly before including a full e-gaming regime within our draft modernisation of the gambling legislation. Modernisation of our gambling legislation is long overdue. I believe that the provision for the licensing and regulation of e-gaming should be included within it. Today if Members support this proposition then a provision to allow e-gaming will be included and Members will then have a further opportunity to debate the entire gambling legislation that I will present later this year. While previous Assemblies agreed to support draft e-gaming legislation in 2005, gaming is an emotive subject. It is right that the decision of the previous Assembly should be reaffirmed by this current house. Some Members have concerns regarding reputational risk associated with licensing e-gaming. The reality is that Alderney, Gibraltar, Great Britain, the Isle of Man and indeed many others have not seen any reputational impact whatsoever. Indeed, it is the strength of their regulation in all areas of their economy that sets them apart as business centres used by financial services companies. Jersey is virtually the only jurisdiction in the Western World not to have e-

gaming legislation. The e-gaming industry is mature and it is respectable. Just as the High Street retailers have gone on line, so have the bookmakers and blue chips, including well-known brands, such as Virgin, now offer gaming as part of their leisure and entertainment operations. These blue chip companies make millions of pounds worth of investment as part of a global business strategy. This Assembly has agreed the importance of diversifying our economy. Can we really afford to say that Jersey is not open to business and in particular not open to a multi-million pound e-gaming business such as this? There are Members who, on moral or ethical grounds, disapprove of gambling. I understand and respect their views. However, what I hope Members will appreciate is that gaming is a pastime sensibly and responsibly enjoyed by the vast majority. Furthermore, e-gaming - a relatively recent innovation in itself - is here to stay and is currently totally unregulated in our Island. In the recent debate that approved the establishment of the Jersey Gambling Commission, Members agreed with my policy that one of the Commission's key roles needs to be social responsibility and safeguarding the young and the vulnerable. Jersey, as a member of the Gaming Regulators European Forum, has played an instrumental role in designing identification tools for problem gamblers. Social responsibility has a cost which must and will be paid for by the industry through a contribution to a social responsibility fund. It is vital that we get a contribution from all areas of the gambling industry, including e-gaming, to the social responsibility fund for the provision of services for education, treatment and research. We can only do this if e-gaming is regulated in Jersey. If it is not, our traditional gambling industry - the bookmakers - would in effect be expected to pay the social costs that should also be borne by e-gaming companies. Clearly, this is completely unfair. Social responsibility is a vital element of gambling legislation and Jersey is among the few jurisdictions to have made the imposition of a levy, a statutory option, should the industry in all forms be less than forthcoming in donations to the social responsibility fund. I have to say I have no reason to believe that that would in fact be the case. In addition to comprehensive social responsibility provisions, if e-gaming regulation is approved and this in-principle proposition is just the first small step then a broad range of additional safeguards, checks and balances and risk strategies will be fully and appropriately implemented. The shadow gambling commission liaised fully with the Jersey Financial Services Commission to identify requirements necessary to protect the Island from being used in a manner contrary to intended best practice. Anti-money laundering provisions have already been approved by the Assembly prior to the visit of the I.M.F. (International Monetary Fund) during 2008. Amendments to both the Money Laundering and Proceeds of Crime legislation identified bankers games, the business of operating virtual gaming and spending thresholds, which would trigger enhanced due diligence by the Gambling Commission. Player tracking tools are used by operators to detect unusual play that may give rise to suspicions under anti-money laundering requirements or might indicate potential erratic behaviour that may indicate a client has a gambling problem. These products are utilised by all e-gaming companies and regulators across the world. If e-gaming is approved and therefore regulated in Jersey they would be deployed here as well. We need them and we need them now. An additional layer of protection is used as the Commission will also undertake mystery shopping from time to time to ensure that standards demanded from e-gaming licence holders are satisfactory and indeed in place. The core of this proposition is to introduce a regulated regime for e-gaming in Jersey that will enhance the level of protection paid for by the industry for Islanders who, at present, are able to freely bet on the internet with absolutely no protection. Surely, this is the right thing to do. I am now going to turn to the broader economic advantages associated with this particular industry; genuine diversification and enhanced communications. Contrary to what many think and wish for, there is no magic bullet that will diversify our economy. No single sector that will provide the infamous fourth leg to our economy. But there are some sectors which have greater potential to make an economic contribution and e-gaming is definitely one of those. E-gaming can offer genuine economic diversification through high value, low footprint businesses, attracted to the high regulatory standards of Jersey, who operate in a rapidly growing sector. If we wish to help diversify our economy this is quite simply a must have. Just look at Alderney and the Isle of Man, both have seen huge direct and indirect economic benefit from the e-gaming sector. I

would now like to turn to the indirect benefits. This really is a particularly important area. It has been estimated by industry sources that just 2 of the Alderney licensees utilise more bandwidth through Guernsey than the entire Jersey bandwidth usage. That is from all sectors of our economy. This clearly demonstrates the volumes that are being driven by e-gaming. Just 2 e-gaming companies, licensed in Alderney, have greater bandwidth than the entire Jersey business community. It is quite staggering. Guernsey can also take advantage of increased broadband bandwidth paid for by investment that is driven quite simply from this particular industry. This also provides much higher specification content and systems to people's homes. Because of the volume driven by the e-gaming industry, Guernsey is currently significantly better placed to develop in the digital age than we here in Jersey. It cannot be doubted that there is a growing reliance on e-commerce and the enormous range of businesses it encompasses through digital communications. In order to ensure that Jersey is an effective e-commerce jurisdiction, the Island must constantly reinvest in new technology and infrastructure. In Alderney and Guernsey the development of e-gaming has created a massive increase in demand for communications bandwidth. This has driven 10s of millions of private sector infrastructure investment that has provided an increased level of service at no cost to the tax payer. In Guernsey, a recently announced £250 million private investment is being made at Saltpans to further develop their e-commerce base driven by higher levels of connectivity, again as a direct result of e-commerce and e-gaming. Only through the introduction of e-gaming can Jersey hope to realise the same benefits and the same level of investment. Is there another sector that could have the same level of impact? No. We have looked. So let us be clear. Without the massive volume driven by e-gaming or business heavily reliant on connectivity, Jersey will stay where it is or be forced to subsidise its connectivity costs from general taxation. Something that, in the current climate, is inconceivable. Not just inconceivable, totally unaffordable. Sadly, to remain competitive as an e-commerce jurisdiction, the costs of bandwidth are not the only costs. Jersey would need to invest to match the data centre infrastructure in Guernsey, which will continue to grow in size and expertise with the growth of e-gaming. Today, we are losing business to Guernsey; Jersey companies that are developing data centres in Guernsey, because it is cheaper and more cost effective to do so. Other e-commerce jurisdictions will continue to see their connectivity and investment costs fall as e-gaming companies and their massive purchasing power make their systems ever more efficient. In short there is no way the Jersey tax payer can or indeed should match the scale, volume and efficiency of production that is produced by e-gaming companies. In summary, the development of e-gaming in Jersey will have at its core the issue of social responsibility. A fact that is also essential to the reputation of the many mainly international companies that offer e-gaming services and would seek to come here. Funding to discharge the Gambling Commission's social responsibility element will be provided from licensing revenue and a social responsibility levy or a voluntary contribution will be imposed on such companies holding e-gaming licenses. E-gaming is a significant economic opportunity to develop the Island's e-commerce industry and would deliver genuine economic diversification demanded by Amendment 10 in the States Strategic Plan. A world class communications infrastructure is a vital component in Jersey's future economic prosperity. By giving the green light to include a provision for e-gaming within the new gambling legislation it would allow us properly regulate the e-gaming industry. It is important that we can regulate e-gaming, an activity that is already happening in homes across Jersey and it is, as I have already said, unregulated. We cannot stop it, it is available and it is here now. It is estimated that more than 5,000 people in Jersey already use e-gaming sites. Those who oppose e-gaming on moral or ethical grounds - and I understand, as I have said, the reasoning - will not in fact be helping anybody by ignoring it. The only way to help the young, the vulnerable and the small minority who have a gambling addiction is to support the introduction of this particular legislation in due course.

[14:30]

E-gaming will drive economic diversification, as I have already pointed out. It is by far the biggest e-commerce opportunity for Jersey in more than a generation. It will help to create jobs and it will generate millions of pounds of revenue from licence fees. Make no mistake, we have almost lost this opportunity, this is probably the last chance. Finally, one of the biggest and most significant opportunities and indeed threats about e-gaming is what it means to the rest of the economy and to businesses and to Islanders as a whole. I would like to close by leaving Members with one particularly compelling statistic to illustrate the point. In 2005 Jersey had slightly greater connectivity than Guernsey. Today, driven solely by the huge volumes of traffic through e-gaming, Guernsey is now 5 times faster and the gap is widening every day. We are simply being left behind. Our key industries, like finance, will become increasingly uncompetitive. I urge Members to allow us to include e-gaming in the modernisation of our gambling legislation. In my opinion, including e-gaming is not just important, it is absolutely essential. I hope Members will support it. Thank you.

**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 The Deputy of St. Mary:**

That is quite surprising, is it not? Unless people are playing games that nobody thinks this is important enough to speak on. I do think it would be extraordinary if this passes without debate or indeed got rejected without debate. My guess is that the starting point of many Members with this debate is that we need the revenue, we need the diversification, we need the bandwidth, which we do not want to pay for, and accepting this proposition is a necessary evil. I think that possibly would be some, if not many, Members' starting point. But, we are moral beings and there are judgments to be made about how you make a living. We represent, not cows and magpies, but human beings who have moral sense. We cannot leave our morality at the door. I have to say this proposition makes me uneasy. I assume that government does have responsibility. Does anything go? Are there no limits on pornography? On advertising? Is government's role to protect the vulnerable? In an ideal world there are no vulnerable people. There are people who can make their own decisions, get it right - more or less - and get through without making catastrophic mistakes that damage them. In an ideal world there are no predators who will take advantage of the vulnerable people, whether the predators are individuals or corporations. But we do not live in an ideal world, which is, I suppose, why we sit here. The damage is real. I think, again, it is slid over by the proposition which does not state anywhere the damage. They refer to the moral concerns of some, but they do not tell us what the damage might be. I hope that others in the debate will have experience of problem gambling; probably not, but will have met people or constituents who do. I do not, so, I will quote from a briefing that the churches have issued. They simply list some of the problems that arise from this sector. We cannot really nod this through without considering the implications. "There are hundreds of thousands in the U.K. whose lives are negatively affected by gambling. There are the problem gamblers themselves, whose experiences range in severity, but can lead to physical illness, depression, aggressive behaviour, deceit, family breakdown, criminal activity, loss of employment and in extreme cases even suicide. Then there are all those whose lives are affected as a result. Families, friends, employers, the list goes on. While many people who gamble do so without experiencing problems, for a significant number of people gambling is life-destroying." That is just a summary of the experiences of the 280,000-odd people who are problem gamblers in the U.K. alone. Most economic activities produce value, but I struggle to find what the value of e-gaming is, except that it takes money from a lot of people and transfers it into the pockets of a corporation. Now I deliberately said e-gaming not gambling as a whole, because some types of gambling, whether it be bingo or going down to the local bookie and sitting there and betting on the horses or whatever, do have a social element. They do have a positive element mixed in with the gambling. But e-gaming delivers harm, inevitably. An industry that produces harm as an inevitable by-product and precious little value, I am not sure that is an industry, as an

Island, we want to say: “Yes, we welcome you. We want you to come here and we will regulate you and so on.” Because that is what this proposition is about. In fact it is an in-principle debate. I think the Minister was being a little bit disingenuous when he said this is only an in-principle debate. This is the debate about whether the Island becomes an e-gaming centre. So let us not make any bones about that. There is an inherent contradiction right at the heart of this proposition. The Minister accepts that e-gaming is harmful, so we must protect our residents and we must have a sector so that we can regulate it better. He rejects prohibition, which I would also, of course, because if it is in the open you can regulate it better. So it is harmful and we are going to regulate it and we are going to have an industry so that we can regulate it. Also, we are going to promote it, by setting Jersey up as a gambling host jurisdiction. It is quite clear if you read their chart and their figures on page 6 that this is a growing sector. E-gaming has gone up 7½ times in the last 10 years. That is an astonishing growth rate; 7½ times. Jersey, says the Minister for Economic Development: “should get in there and have a share of the cake.” The cake is going to go on increasing in size, albeit at a slightly slower rate of increase, they predict, and as it grows so does the harm increase. So we are going to promote something that creates harm. Why do we not get into promoting cigarettes? It is a funny logic this, you know, that we can protect our residents and at the same time set up something that inevitably will grow, grow the market as a whole, and cause damage and harm elsewhere. That is why I am uneasy about this. It is also an easy proposition. There are lots of slid-over arguments in this proposition that do not quite stack-up. The first thing I want to point out under the heading of ‘Easy’, is it is too easy. It is something for nothing. The States have not got a good track record on something for nothing. The Waterfront; I remember going back quite a bit in my J.E.P. reading of what Senator Walker said that one underlying principle of our development of the Waterfront was that it would not cost the tax payer a penny. Look where we are with the Waterfront. It is not a very good example of something for nothing. Well, it shows what you get if you go down that route. The second example is the town park. I well remember the Minister for Planning coming to the Scrutiny Environment Panel with the Hopkins Masterplan draft, marked ‘Confidential’ and showing it to us. Summarising the thing in 2 sentences he said, about the Gas Place solution in the Hopkins Masterplan, that it was a wonderful scheme - Gas Place - and it was really, really lovely. The second sentence immediately after that was: “And it will not cost anything.” I just thought, yes, that is the selling line that it will not cost anything, and we will just have to swallow the fact that it is not what people want. So, again, we are offered something for nothing. This proposition is a something for nothing proposition. The harm will be somewhere else, we will not see it, some of the benefits are illusory, but at least we will get the bandwidth for nothing. So, I just put that in Members’ minds, something for nothing. The second point I want to raise, is protect residents. Now, as far as I can see, this is a complete red herring. The Minister said in his opening speech that the residents of the Island can bet now on the internet with absolutely no protection. It is very curious because that is the theme of selling this e-gaming regulation and therefore enabling companies to come in and use Jersey as a platform, is largely sold on this concept and it comes up again and again. Right at the end on page 23 in the summary: “Any suggestion we do not move to regulate e-gaming in Jersey runs the risk of ignoring a basic reality. We are powerless to prevent Jersey residents partaking of e-gaming through the internet. Reversing the States’ decision of P.62/2004 would leave e-gaming unregulated in Jersey and render vulnerable local residents, whom might have already developed an unhealthy attachment to e-gaming, unprotected.” That phrase or something like it occurs again and again in the report. But what difference will it make if we have our own e-gaming sector, which is regulated within Jersey. So that if you are one of the roughly 6,000 people in Jersey who gamble on the internet, they will be protected only if they chose to gamble on these new sites that will be based in Jersey. But of course they have an open choice when they go googling. First of all they are likely to go to where they gamble already and secondly there is absolutely no guarantee that they will end up on a Jersey site. In fact, if the Jersey sites are highly regulated and appear to offer less beneficial ... So, Islanders gambling on the internet need protection and therefore we need to have our own e-gaming industry and then we would have a regulated sector. It just does not make sense. As I say, it is said

repeatedly in the document, but it just does not follow. The third point I want to make is sustainable economic future.

[14:45]

We are promised this as a result of e-gaming, that Jersey will have a sustainable economic future. The problem with Jersey is that we have a disadvantage in that we are an island. We try to overcome this, but there is a very curious bit in their report about the sustainable economic future, because they say that e-commerce, which would be enabled or encouraged by the extra bandwidth, is by definition a low carbon sector that trades through the World Wide Web, has virtually no transportation component and allows Jersey to access the international marketplace. Well, I am sorry that is jiggery-pokery because if a transaction goes through a Jersey server and then results in a piece of something or other, going from Germany to Jersey, or to England, or something going from the U.S. to China, or *vice versa*, because the initial transaction was posted in Jersey you have not saved any of the carbon footprint. You have not done anything to mitigate that. You simply allowed that transaction to take place. So, I really do not see this low carbon argument at all. Why would these e-commerce companies locate here? In fact, why would the gambling companies locate here? I do have this question always at the back of my mind that we are hitching our chariot to a star that is being shot at all the time and that is our tax status. I cannot see that this is a sustainable way to go to think that e-commerce enabling transactions through the web is going to be sustainable if at the heart of it is tax benefit because the U.K. parties are all now saying - with possibly the exception of the Conservatives - that they are going to close down on tax avoidance and tax evasion. So, I really cannot see that this is a sustainable model to go in this direction. The report even goes so far as to make an extraordinary claim, that if we improve our communications costs we will add value to all of the Island's existing industry sectors. Well, I do not know, but I just went up Colomberie and I went past the hairdressers and I looked at Trek Plus and I went in and had a sandwich and a soup at Jersey Pottery and I cannot imagine any of those being affected in any which way by this. There will be some benefit to some companies but let us not over-egg the pudding and pretend that this is, in the Minister's words: "A magic bullet." So, I just wanted to reduce a bit of the hype around this before coming to the moral question and again the report and proposition is too easy. It really is too easy. They say that the vast majority gamble and it is a minority who get into trouble and that is, by indication, sad. Well, yes, and they write on page 13: "While positions are adopted on moral or ethical grounds in the belief that gambling is harmful or sinful or both there remains, as there always will remain, a proportion of society that will gamble responsibly and a small minority that will not. There is no doubt that society has changed and that the majority of people gamble responsibly and consider gambling a harmless entertainment." Well, that sounds so easy but it is not quite the full picture. First of all, the last phrase in there: "Consider gambling harmless." That is simply not true. The Gambling Commission in their survey on gambling prevalence in 2007 say that public opinion ... and I have lost the quotation because it has fallen down, but I will remember what they say roughly. That the majority opinion is that gambling is not beneficial to the individual or to society and should not be encouraged. That is what public opinion says and that is quite a way different from what the Minister says that people think; that they consider gambling harmless. Before reading the proposition in detail and doing my research I just thought around gambling a little bit and I had a basic feeling, which was fairly obvious, that there are many, many different kinds of gambling and they must pose different risks and I thought bingo, the raffle - the wonderful raffle - where my wife and daughter bought a ticket and we won a holiday in Mauritius. **[Members: Oh!]** Well, I thought that would wake people up. So, you see a little flutter is sometimes a very worthwhile thing to do, but that has not turned my family into a raffle junkie family, buying hundreds of raffle tickets at every opportunity in order to possibly get another holiday in somewhere far away. That is the difference, is it not? The raffle is a donation and you might win something incidentally. A flutter on the Grand National; that again is a national institution and I do not think people are going to be hooked by that and even going down to the

betting shop is different in feel from e-gaming, which is what we are talking about. There is a difference between different kinds of gambling and my hunches were confirmed by the briefing that the churches have put out on gambling. It is quite an authoritative briefing right across the spectrum, but it is just a handy resource for an analytical look at what gambling is and does. Right at the beginning they make this distinction between different kinds of gambling: "Gambling which is continuous, repetitive, has no distractions or interactions with other people, has a short gap between stake and results and conditions of high excitement during the gap is more dangerous as these conditions make it more likely for someone to develop a gambling problem. Examples include playing on fruit machines or online poker. These forms of gambling are known as hard." Then they make the distinction between hard gambling and soft gambling. So, there is a difference and what we are talking about here is turning Jersey into a centre of what they term hard gambling; the kind that is more likely to be addictive, is more likely to lead to people developing into problem gamblers. Now, another little point where they slide over slightly the scale of the moral issue, although they say that they deal with it and they do indeed write paragraphs about the moral issues, but they are not quite up front really, I do not think; 0.6 per cent is the figure they give for the number of problem gamblers and 0.6 per cent does not sound that bad, does it? Now, in fact for a start it is not 0.6 per cent or rather it is, if you include those who take part in the national lottery (0.6 per cent is a U.K. figure). Now, if you exclude people who take part in the national lottery, which I think is a bit of a special case, then it doubles to 1.3 per cent. So, already you have a different take on the incidence of problem gamblers. It gets it above that magic 1 per cent, which does not sound too good but it still sounds like not much, but if they are given a number of how many people are affected then that would be different, would it not? It is 284,000 and that is from the Gambling Commission's own survey. I have looked at their summary and they go into quite some detail about the robustness of the data collection and so on, so I think that is a reliable figure. So, it is well over 250,000. It does not sound the same, does it, as 0.6 per cent? As I say, the proposition is too easy. Their model is that everybody can gamble responsibly and that some people fall by the wayside and that nothing can be done and what they are doing will not lead to more gambling, which is very strange. On page 10: "There is no doubt that a minority of people are predisposed to addictions of all types and there is no likelihood of this ever changing." In other words, this is a fixed sum: "Policy does not affect how many people become problem gamblers. It is important, however, to keep in mind that the introduction of e-gaming licensing is not first and foremost about introducing more gambling" but of course it is about introducing more gambling because otherwise we would not do it. When the Minister says that 2 firms in Alderney use the same bandwidth as the whole of Jersey combined he is showing the scale of the usage that will come, if we go down this route. So, there are 2 things buried in that little quote; nothing can be done, and we are not trying to make more gambling. Well, neither of them are true and the Royal College Psychiatrists in their submission to a gambling consultation in the U.K. point out that there are 2 models of thinking about gambling and how people become problem gamblers, or excessive gamblers. There is the disease model, which is that gambling, excessive gambling, or addictive behaviour as a pathology, you get casualties and then they go off for treatment and that is a social obligation of the industry and it is all very sad, but there is not much you can do about it. That is one model and the other model is the habit model; that excessive gambling is learnt, it is absorbed and therefore the incidence depends on the policy and it depends on the framework. They say that the weight of the evidence is on the side of the second theory, that it is habitual and therefore that promoting gambling will lead to more problem gambling. Incidentally, they point out that the U.K. is the only country which allows children to have access to gambling and they recommend that children should not have access to things like fruit machines in any venue. So, they recognise the dangers of starting, the dangers of habituating this behaviour. So, we have a proposition which is too easy. Something for nothing, protects residents, which it does not, sustainable economic future, overstated, dubious, not future-proof. We know we are under pressure. Even the finance industry, let alone hosting businesses that are quite possibly moving here for tax reasons and how long that can be sustainable, I do not know and the moral questions which are slid over, not stated correctly,



the full scale is glossed and we are not told about the possible damage. Now, if we were told those things then at least we could make an informed decision. Now, one point that Economic Development put forward as showing that everything is going to be okay is that the corporations who we would be dealing with are responsible corporations with corporate governance and ethics, and I had to smile when I read that and this comes under the heading of sleazy, uneasy, easy, sleazy. Because how does corporate capitalism work? Does it really work in a way that balances the environment, the interests of people and the interests of the shareholders? Well, no, it does not. It is built in that their object is to maximise profit and sometimes it takes corporations far away from the straight and narrow and I have a little list here of corporations who have made names for themselves: Enron, Enron's auditors who certified that Enron's business dealings were okay, Monsanto, Nestlé with the baby milk, British Aerospace, bribery, palm oil, capitalism mobilising the destruction of rainforests and turning it into palm oil so we can have it in our shampoos and so it goes on.

[15:00]

The list of social responsibility is not too bright. The Minister, to his credit, lists how these companies will mitigate the harm and does list some quite impressive measures whereby modern e-gaming companies look at the harm, try to limit ... know the age of the person who is gambling, limit the harm, track the number of bets and so on and it is indeed impressive but there are several problems; one is that e-gaming is inherently dangerous, as I have pointed out. The second point is that the warnings I think he alludes to that you can do online, warning to gamblers, in fact the Royal College of Psychiatry point out that those warnings themselves can be part of a promotional strategy. That the warning tells the person gambling that they are being risky so it is part of the bundle which they are using to build a certain image. The third point is that they are in this to make money and there is a problem here. If you are a corporation and you are doing something that creates value, like building forklift trucks, then that is the sort of reasonable thing to do, but the problem here is that you are in an industry which has an inevitable by-product that creates harm and does not deliver much value. I am reminded of the problems around drinking in town where the idea is that the bars do not serve alcohol to people who are already past it, already intoxicated, but they do. It is supposed to be self-regulated, self-policing, but there are enough bad apples to create quite a bit of damage on our streets at weekends and there is this pressure to make money, to sell the extra pint, and in this context to make sure that that gambler keeps gambling because that is the aim of the business, to take their money off them and the last point is that there is always downward pressure on regulation. The Minister is quite explicit about this: "The Commission intend to take an extremely cautious approach to the size of the cost of the organisation in order to achieve a balance whereby costs to the industry are kept at a reasonable level when balanced against the workload and productivity that the industry will naturally demand." So, there is a pressure, is there not? Because we are a jurisdiction among jurisdictions and so our regulation has to be compared to other regulation and so there is always this downward pressure implicit in the structure and I want to bring Members' attention to a point made by a member of Jersey Finance Limited. The Economic Scrutiny Panel asked Jersey Finance to comment on this proposal and they did a quick survey of their members and one of them obviously gave quite a full response and I quote from part of that: "A major issue in the gambling sector has been the extent of bureaucracy and testing processes once the initial licence has been granted, i.e. for changes to games or new games. Jersey will have to make sure they get the balance right between too much bureaucracy and too light touch. It will be crucial to have a stable regime. It is unlikely to change the goalposts." So, again, confirmation that this is an issue. How far do you go in regulating? The pressure is always to reduce the costs.

**Connétable L. Norman of St. Clement:**

For clarity, Sir, I wonder if the Deputy could tell us what proportion of Jersey Finance members indicated support for the Minister's proposition.

**The Deputy of St. Mary:**

Yes, gladly. I mean, I was not doing a vox pop, I was just quoting one person. It was quite a small response, understandably, because I think the timescale was quite short.

**The Connétable of St. Clement:**

It was a 90 per cent support, if it will save time.

**The Deputy of St. Mary:**

So, you have read the letter.

**The Connétable of St. Clement:**

Ten respondents.

**The Deputy of St. Mary:**

Ten respondents; 8 in favour, one against, and one ... sorry, I cannot find the other one. One wanted more information. So, in conclusion, I find this profoundly depressing that Jersey is asked to, or feels, if we do vote for this ... I could do a Terry Le Main here and ...

**The Bailiff:**

Senator Le Main.

**The Deputy of St. Mary:**

I beg your pardon. It sounds so much nicer, but anyway. **[Interruption]** I did not quite catch that. I could do a Senator Le Main and ring the praises of our beautiful Island and of the fact that there is always something on, which visitors comment on; the extent of our heritage and so on. What matters is that we make an honest living and that we feel good about ourselves and as legislators we have that responsibility, so I am just making sure that we are fully aware of this trade-off. The bigger bandwidth versus exporting harm and the Minister does mention that as an issue, of exporting harm, and by the way any amount of regulation here is not going to help the damaged gambler somewhere else in the world. They are not going to get any support from us and the advantages. So, there is a trade-off between pragmatism and morality. There is one argument that I have some time for which is that if gambling is well-regulated here and we take market share then we take gambling away from possibly a worse-regulated jurisdiction where the cowboys are more in evidence and this argument is put even in the church briefing which I have referred to. They do say that there is a case for saying that if the U.K. (because they are in a U.K. context) starts online gambling and regulates and so on that that might be better than people going on e-gaming in worse-regulated jurisdictions. Now, I think they have a point there, but maybe we should leave this to the big boys who do have the resources to not only regulate their own industry effectively, as the U.K. does, but also to exclude access and advertising from the real rogues. So, I do not think that argument entirely stacks-up. When we, Jersey, host a new jurisdiction, become a new e-gaming jurisdiction, we do increase the global quantity of e-gaming. We will increase the global quantity of marketing and the global reach of this industry and therefore we will increase the amount of problems due to this industry. I just ask Members to imagine the sort of slogan going out on Jersey.com, a banner headline flashing as you go on to your Jersey.com website saying: "Jersey, the world's most responsible gambling jurisdiction." I am not sure that is where we should go. I would remind Members that we have consistently voted against a casino in the Island and what this proposition is, or rather opens the door to, is far, far bigger in its effects and its scale and its reach than any casino. All the risks are there only multiplied many, many times over.

**4.1.2 Deputy S. Power:**

I think I need cheering up after that last speech. I was sliding down in my seat. I want to come back to Senator Maclean's speech because I thought he made a very coherent speech. He painted a very clear picture. One of the drivers for this is the fact that our I.T. (Information Technology) and our information system technology is now way behind the smallest Channel Island. The fact that 2 companies in Alderney have got more speed broadband width than the whole of Jersey combined and I think we have to be cognisant of the fact that information technology, over the last not just 5 years or 10 years but over the last 30 or 40 years, has become a dramatic part of our lives and I will give a couple of examples. I will give these examples in the context of gambling. If we go back 40 years ago most gambling was paper gambling. It was simple stuff like a raffle ticket. The Deputy of St. Peter has been hustling these the last 2 days in the coffee room. We did a very simple form of gambling; it was gambling in a bookie's, it was gambling for a charity, and all of us have spent small sums of money over long periods of time buying raffle tickets for some charitable function or other, normally in small quantities and it can be as big as £1,000. As we know in local charities here when you buy a ticket for £1,000 and you can win a much larger amount of money and some of that is syndicated, but some people do spend £1,000 when they cannot afford it. I remember the church hall bingo and the church hall fundraising in Limerick in the 1960s and 1970s and in actual fact bingo on a Wednesday night was the highlight of our social life where you went to a church hall, whether it was the Franciscans, or the Augustinians, or the Jesuits and you had a night out for 50 pence or £1. It was enhanced by the fact that the girls from the Salesian convent were there as well, but we did go [Aside] That is called gambling as well! But what I am trying to say is that is a simple form of gambling and information transfer technology has evolved over the last 20 or 30 years and today we are in a situation where we can place a bet on the Aintree, or we can go to a local bookie or we can go online and do it, and I think the point of this whole report and proposition today is that online e-gaming has now arrived and it has not evolved on this Island, it has evolved elsewhere and we either go with it or we get left behind. Some of us were at a briefing at lunchtime from the head of Jersey's I.T. and a question was asked: "Are we better off now than we were 20 years ago when we did everything by paper, or we did everything with the old Amstrads or the old MS-DOS?" The answer is that we are better off, but also we have had to move with the times. We cannot stay where we were with the old green screens and MS-DOS and all that kind of thing. We have to move on. Senator Maclean in this proposition is presenting to us today that we have a simple choice in this Chamber; we either move on with the technology that has been presented and offered to us, or we stay and try and fund it ourselves through tax revenues and taxes raised locally. Irrespective of some of the arguments that the Deputy of St. Mary made online gambling, e-gambling and the whole area of this has arrived in Jersey, you can bet in any part of the world from your own internet access on the Island. So, the justification for this is that, in my view, it has been made by the report and proposition. I believe it is fairly clear. Part of this is enabling development for broadband and bandwidth for the Island but I think we do have to move on with the times and I do not have any moral problem with this. I was brought up in the west of Ireland, I have seen what gambling in a limited scale has done. There is always going to be a small minority of people who do become dependent on gambling and can ruin their lives, likewise the same thing will apply to alcohol, the same thing will apply to drugs and, as we have heard recently, addiction to painkillers and things like that. There is always going to be a minority of the human race who cannot cope and that is where the safety net comes in. So, I will be supporting this report and proposition.

[15:15]

#### **4.1.3 Deputy M. Tadier:**

These kinds of propositions are always riddled with contradictions. I am not criticising the proposition itself, but these are really big concepts and it is very difficult for us to get our heads around them, myself included. What always makes me laugh is when we talk about regulation on the one hand and then we are promoting the liberal argument on the other, which is kind of what you have to. I did chuckle to myself when I think about the idea that you are not allowed to be

drunk in a pub. I think the Deputy of St. Mary alluded to that. It always makes me think that saying you should not be drunk in a pub is like saying you should not be able to sweat in a sauna. People go to pubs to get drunk. People go into a sauna because they sweat. **[Interruption]** I think the point is you would be hard pressed to find a bartender who would say: "You cannot have any more drinks. I think you have had a pint and the alcohol is starting to kick-in and you are starting to get slightly inebriated." Whether that is tipsy or completely paralytic and that is the same with smoking and that is the same with gambling as well. So, that is just an observation, by the way, and maybe you can use that as an anecdote at some dinner party. I have a question here and I think there is an error. We are told that by entering the market Jersey will drive economic benefits while increasing protection for residents because companies licensed in Jersey will have to conform to the licensing principles. I think it has been raised already but I do not think it provides any more protection for gamblers who use online facilities in Jersey because there is no way to ensure that the gamblers who are using the online provisions in Jersey will necessarily be using sites which are licensed in Jersey. I think it provides a general benefit for anybody who uses Jersey sites but unless we are going to say that only Jersey people should use Jersey sites ... maybe we should do that in the same way that we promote buying local and using local currency, but again that would be very hard to do. It is *non-sequitur*; it does not follow that residents are going to be better protected. It is only if we can guarantee that right across the board that the same regulation will be applied to all sites. It could be argued that the least-regulated sites are maybe the ones that are able to offer better profitability, but I am not completely sure about that. I do not want to moralise about gambling: I do not necessarily have a problem with gambling in itself. I think that people should be big enough to know what they are doing, but there is a difference between buying raffle tickets and gambling in other ways. Largely I think if you buy a raffle ticket you know that you are just effectively making a donation to a charity. You know that the prize you are getting back, or even if it is a monetary prize in the terms of hospice, you know that what you are buying does not represent what you are likely to get back as a return. So, I think with the case of hospice I always thought it was £300 a ticket but anyway it is irrelevant. I think the expectation is about £100 in return. So, you may as well just donate £200 to hospice. It is exactly the same but then obviously buying the ticket makes it slightly more interesting because there is always a chance that you will win. I think people realise that the difference with a lot of forms of gambling, whether it be online or in a bookies, is that the odds are not always that tangible. When you put a bet on a horse at 6 to one and there were 10 horses you do not know what the actual odds are that you are getting so this is why online gambling is a lot more complex. There will be Members in the Assembly who quite rightly, I think, have ethical issues with gambling, either for personal or for religious reasons. I know that Jersey has a long Methodist tradition, as long as a Protestant and Catholic tradition. I think the reassurances we have been given so far by the Minister do tend to brush aside the issue too quickly. I know that a lot of people do feel strongly about it and it is quite an interesting intellectual exercise if we substituted the word "e-gaming" for something else, which you may also have strong views about. Two things which perhaps spring to mind most readily would be the arms trade and I am not comparing the 2 by any means, but I am saying that is certainly something which I have an issue with. If you substituted that word for the arms trade or let us say something which is also illegal and perhaps more tangible, pornography, and you said: "In Jersey people can already access this kind of material online." The whole thing that I find particularly interesting is this idea that we have to look after the people for whom gambling or pornography is a problem, if we are taking the extension. We are saying because at the moment there are people who have a problem with gambling but we cannot afford to set up any help for them, we have to introduce and endorse and regulate and license e-gaming to deal with that. Can you imagine if the same thing were to be said for porn addicts? People who have problems with that kind of thing on the internet. They are saying: "Well, we know that there are probably, let us say, 500 people in Jersey who have said they have problems with it" and the Department for Health say: "We cannot afford to give these people therapy, so what we are going to have to do is license the hosting of these kind of sites in Jersey so that we can make money to pay for these people to be put through therapy." I mean, it is a

complete nonsense. Surely if people need therapy already there should be provisions for them to have that. We should not be told in this very perverse way that we need to set up this in order to perpetuate the problem for other people around the rest of the world. The real reason I cannot support this, as I have said, is not one on ethical grounds as a man who likes a flutter, but I would say when I do flutter I do not do it online. I do it either in a casino - you do get the social benefit - or in a bookies but that is not very often that I would do that either. The point is that does have a tangible benefit for jobs in Jersey. We know that if you had a casino - and even the idea of a casino as has been said, completely gets rejected every time - that would create jobs in Jersey. It would have a benefit for tourism in Jersey. E-commerce and e-gaming in the tangible sense does not have any real productivity, although it may generate big bucks for somebody somewhere. This is the real issue I have with it is because it is people at the bottom supporting the people at the top and once again Jersey is just being used in a cynical way by corporations and its laws are being tailored for corporations rather than for individuals. It is probably interesting to know that poor people either do their gambling online or in betting shops. The wealthy do theirs on the stock market but in fact they can usually choose the better options and they know where they are going to make their money. So, the reason I cannot support this, I do not think, is because, Mr. Minister, I do not like the model into which you have bought. I do not like the way that people from the bottom are always supporting people at the top and Jersey always finds itself in the middle of promoting this kind of reverse trickle down. I cannot support that. I think we need to look for real diversification in the sense of getting back to agrarian values, looking at tourism and creating things in Jersey that are of some tangible benefits to people of the Island.

#### **4.1.4 Senator T.J. Le Main:**

I was Gambling Control President years ago for quite a number of years and I have a fairly good knowledge of the gaming industry having visited not only on behalf of the Jersey Gambling Control Committee but otherwise looking at gambling and casinos and all kinds of issues. For a number of years I have been quite opposed and worried about e-gaming whereby people could from their own homes, currently as they do now, game and gamble with credit cards online. A few months ago, after having spoken to many associated businesses on the issues of how the online gaming industry had progressed, it came to me that listening to people we were falling behind in many areas where we could honestly diversify our economy in as much without having to employ loads and loads of immigrants and migrants and bringing in people. The gaming industry, in my view, has an opportunity here to provide diversification. The Council of Ministers will know that when this was being proposed I was totally opposed in the Council of Ministers and I think that the Minister will probably say that he felt that he was going to have a great difficulty in persuading me in the best interests of the community that I should reconsider and listen to businesses and in particular the finance industry. Subsequent to that I have made it my business to speak to several people, as I say, and I was so impressed with what I learnt over the last few months that Members will remember I invited a person from a major company in the Island to make a presentation to Members. I was of the opinion that any new legislation to modernise Jersey's gaming rules, and as I say in particular to allow internet gambling in Jersey, would only encourage people to gamble more. I really felt and believed that. At that time I also believed that internet gambling was responsible for an increasing problem in gambling generally on a global scale which does cause hardship to many families with limited ability to control their finances and I have to say that was the main reason for my opposition. So, shortly before the States debate last November that approved the appointment of the Jersey Gaming Commission, as I say, I agreed to help local representatives of the Jersey Internet Services business community to address myself and any other States Member who wanted more information regarding the economic implications of internet gambling to Jersey. About 20 States Members attended a presentation at St. Paul's Centre and it is fair to say that I, and I believe other Members there, came to realise that this was not a simple issue as some of us had previously thought. What I heard that day regarding the economic and social implications to Jersey did much to change my views on this subject. I came to realise that Jersey's

strong position and reputation, worldwide reputation, in providing financial services could be seriously diminished as a competitive jurisdiction like the Isle of Man and Guernsey. Many now up and coming third world countries in the world have embraced internet gambling and are now able to exploit tremendous savings in internet transport costs due to the disproportionate demands for internet services from the e-gaming industry. I realise that if Jersey misses this opportunity, and this is only a few months ago after changing my mind, it may never be able to exploit future e-commerce economic opportunities as it would lack the economies of scale to be competitive. This in turn would not only completely undermine Jersey's economic diversification strategy but also risk making the Island too expensive for our traditional economic mainstay - financial services. By the end of the presentation it was obvious that opportunities for economic diversification do not present themselves very often and we need to be agile to respond to them when they do.

[15:30]

E-gaming is not reliant on the financial services industry and so spreads our risk and starts the process of creating a more balanced economy. Because e-gaming would be an export activity it would reduce the import costs of internet services that the Island has to have to support new internet-based residential entertainment and education services. So, these are the areas where Jersey already lags behind Guernsey, for example, and as I said before, where I.T. is way behind, and the bandwidth *et cetera* is way behind, most of the world's up and coming third world or new countries. So, my change of heart was reinforced when I later listened to Graham White, our new gambling regulator, a man of considerable experience in this field, explained how despite the enormous growth of e-gaming over the last 10 years the incidence of problem gambling in the U.K. has not increased at all during the same period. The actual proportion of all problem gambling has remained at a half of one per cent and the proportion attributable to online internet gambling is a figure 15 times smaller, or to put it another way equals 0.04 per cent. This has been achieved in the U.K. through improved regulation. Since that presentation in November we have heard recently that Guernsey, exploiting its early leading e-gaming, has announced a £250 million e-commerce park to consolidate its credentials as a trusted centre for this type of business. We have also heard a well-respected retired banker and former Commissioner of the J.F.S.C. (Jersey Financial Services Commission) John Brisbane, address a business audience saying that Jersey's financial services industry has almost certainly peaked and that the Island has to come to terms with managing an industry in decline, like tourism and agriculture. He strongly urged diversification while we can. I have now come to the conclusion, after all my reservations - and including my wife's grave reservations by the way - that I will now support this proposition as I believe it is in the best interests of the community, as I believe that a well-regulated e-gaming regime in Jersey will play a vital role in maintaining our competitive position in the world. Jersey is now top class, premiere division, one of the best places that provides financial services in the world, a trusted jurisdiction with a great support of regulation and judiciary behind it. The digital economy is the basis of new economic opportunities and diversification for the Island. Reducing our reliance on financial services will offer a greater range of job options for Islanders. I am satisfied, truly satisfied now, as I have truly spoken to many people in the finance services industry and generally other providers, that a well-regulated e-gaming regime will be to the benefit of Islanders who may wish to gamble online, but also to provide other services. Many of course already do so and possibly with minimal protection. Lastly, considering my initial concerns around the social implication of problem gambling I am reassured again that legal properly regulated e-gaming has a small and manageable social impact and the benefits of this type of activity far outweigh the risks. I often come to this Assembly determined that I have made up my mind one way or another - sometimes when I have read and listened to various bodies or various politicians or discussions - but often I am persuaded. I was persuaded this morning by Deputy Southern and he is aided and abetted by the Minister for Social Security and I was persuaded this morning with some of the excellent speeches from Members from across my side of the Chamber and I changed my mind. I came to the Chamber this

morning with the view that I was worried and I did not have the assurances. I changed my mind and I have changed my mind on this. I was very much opposed to this online gambling situation but I believe with the proper regulation in place, with proper help and assistance, and with the opportunities that are going to be absolutely crucial to diversification, crucial to the future employment of the many young people that are now coming out of colleges and schools and Highlands with I.T. qualifications, that this will give real opportunity for our future generations. My father used to say when there was anything new that ever came out: "Never be the first, but never be the last when you do something." The first one sometimes gets teething problems but by gosh the teething problems have been ironed out and I believe that if we lag any further and we do not move with the times that we are going to be left far behind and the opportunities for some of ... in fact the worry that I have is that there are some businesses in Jersey currently that cannot increase their business because of the lack of bandwidth and other issues relating to this. I am afraid we could be in a position where some of these companies will seek to go elsewhere to take their business. I know of one large company who are at their maximum at the moment; they want to employ, they want to expand and they cannot because they do not have the ability to do so and I am afraid that we will see some huge losses in the I.T. industry if we do not meet the needs of these people. I urge Members in the best interests ... and as I say there was no one more than I that was opposed to the issues of online gambling. I now urge Members to consider the overall implications and the benefits for this Island.

#### **4.1.5 Deputy J.A. Martin:**

This time I am very pleased to follow Senator Le Main and I would like to thank him for arranging that very first meeting at St. Paul's which did open my eyes and I had lots of questions about e-gaming and lots of the concerns were answered then, and if not answered then they were answered by the new Commissioner on a second meeting, which again was very badly attended by States Members. Last Friday I think again we were 5 States Members and the 5 that had all been to the other 2 presentations. So, to that I took an interest in this and been open minded ... until I saw that first presentation at St. Pauls and I thought: "Oh, my God, how has Jersey got this far behind?" We all agreed on Zero/Ten because we were in competition with the Isle of Man and Guernsey and we said to everybody: "We have to have a level playing field; go out there and get the business" but not on this. The majority of the people who want the business, their hand is up their back. We do not have what Guernsey, the Isle of Man and Alderney have. I listened to the speech of the Deputy of St. Mary. The Deputy of St. Mary is obviously against e-gaming and he thinks if we do not introduce this it is not going to happen. He said that e-gaming is on the up. It may well be on the up but other forms of gambling are going down. Many bingo halls in the U.K. have closed because of the smoking ban. People are doing it online. Younger people do most things online and if they are going to be gamblers they will do that online. His argument about moving ... just because it can get faster ... he said carbon footprint, does he not understand that T.V. (television), Telecoms, gaming and even banking is virtual? It goes down ... there are no goods being moved; it is virtual. There are no things going around the world and let me elaborate on that for a minute. We have a big fulfilment industry here. At the moment they ... I had this discussion and if I could patent it because I know it will happen, within 10 or 15 years if one of our big online fulfilment industries are still here, do you think they are going to be posting out games and D.V.D.s (Digitally Variable Discs)? No, they are not. I found out something the other weekend. My friend watching T.V. - past shows, computer connected to the T.V. - all he got ... and it cost nothing, a massive screen. You just dial up play ... sorry, you dial up the fulfilment company, you pick your T.V. movie - not like Sky where you have a choice of 8, you have a choice of thousands - you upload them to your computer, it goes down the megabyte line and it should be 25 megabytes we are told today, and then in the days to come we will need even bigger. You upload it, you watch, or you play your game. You do not buy, and the next day you do whatever. This is where the future is going and my last one there was banking. They are not shoving pound notes down the line; they are moving money around the world fast and we are the slowest at the moment in the Channel Islands and in

the Isle of Man to do it. It says here on page 7 we are 30 per cent dearer on our Telecoms charges than Isle of Man, Guernsey and Alderney. It is absolutely amazing. It is amazing that we do not have more people ... and this is in, as we are already told, a declining finance industry. Now, there may be things coming down the line but they will not be coming down our 2 megabyte line; they will be going down somebody's 25 megabyte line. The Deputy of St. Mary always likes to do his research and he said: "It is 0.6 per cent from the Gambling Commission" but they include the national lottery and he makes that sound innocent because he is thinking that people play the national lottery once a week, their pound, lucky dip, or they have their 6 numbers, but it is not. They go in there for their 25 £50,000 scratch cards and they spend and they spend and they spend and these are in these figures. Yes, of course they are. I mean, he said people might not have a problem with gambling. I have a problem with gambling. I cannot pick a winner. It is very, very hard. **[Laughter]** The best one I heard and I felt so sorry, he said: "You know, we have problem gamblers", we have problem drinkers, we have problem this, but the worst story, it was in one of the national Sundays a few months back: "Winning the lottery ruined my life" and they had about 15 stories. I thought: "Well, come on, mate, give it to me. Ruined your life? I am sorry." This is where you can make any argument count but the best picture down at St. Paul's that day, and I might have offended the Constable of St. Ouen, there could have been road in St. Mary ... but for anybody like me who does not understand the full impact of a megabyte, and I am saying that very carefully, they had the picture of the dirt road and the M21, all those lanes. Yes, it is bringing in, but we are going out. The Deputy of St. Mary is also worried about: "Well, if we regulate here, it does not stop Jersey people gambling online anywhere else." No, but like - and let us hope - our finance industry and like worldwide, once you have good regulation people who gamble are not stupid, they will only be burnt once. When they win 1,000 or 10,000 Abu Dhabi and they do not get it, they will not gamble again. They will gamble where they are regulated and then they have someone to complain to and they get their money. It is as simple as that and this is what we do not have. If the Deputy of St. Mary ... and I know he is sort of around my age group, but this is for the future. The future is online and a lot of it will be virtual. We are so far behind it is unbelievable.

[14:45]

Deputy De Sousa asked a question on Friday: "Have we missed the boat?" I would say no because there is still a lot of capacity out there but today is ... if you have morals that is fair enough, but do not impose your morals on the future. I certainly think that we will always have problems with gambling and drinking and everything else. The argument today is not about stopping it. They said 6,000, I think, people already do it in Jersey. I cannot quantify that. It might be 10,000 or it might be 5,000 but we are not regulated. So, as I say, I did ... we have got the argument about a casino. But the days of the casino have gone now. We have not got the visitors here. The locals do not really want it. So what you do you gamble on line. You can gamble on telly, on Channel 5 between 12.00 a.m. and 4.00 a.m. every night, on poker. You can do it. **[Laughter]** I mean, I do not understand it but you can do it. **[Laughter]** But if you think the Deputy .... **[Interruption]** Well no, I do not like Channel 5 because it stops at 12.00 a.m. because it goes to poker. But what I am saying is it is there. To think that today ... I will ... because I think it has mainly been said ... as I say I just cannot emphasise it enough, we cannot compete on a level playing field with the big other 2 players offshore in this market. We are being left behind. I mean not me. It does not matter to me. I hear other States Members saying: "Oh this is taking so long to get on line" and I am like: "Well, I just turn it on and try and get on" and I will go away and make a cup of tea. Well that is no big deal for me, but if I was trying to get there before a competitor or I was trying to get to a company, and I was trying to dial up 2 and can get one in Guernsey within in ... I got to the one in Jersey, still trying to connect, I am going to do the business where I get it. So I am very sorry, to me it is straightforward. We have missed a trick for 5 years. Guernsey started in 2005 and they have expanded and expanded. Regulation is the name of the game and, again, I would like to thank Senator Le Main for being open-minded, to listening to the arguments and thinking of the future.



We have seen what it has changed in the last 10 years, wait for the next 20. As Deputy Southern said: “Will I still be here?” Well probably, if it is not me it will probably be a virtual me. **[Approval]**

#### **4.1.6 Deputy A.E. Pryke of Trinity:**

I am coming at it at a slightly different angle. **[Laughter]** I find I am in a very difficult position because I want to support the Minister of Economic Development. He is a good fellow Minister and I want to do that, but I come from a different kind of ethical and moral point with the effect of problem gambling on family life, the financial pressures that are built-up. As we know, it does put pressure on family and colleagues and it could lead to both health and mental problems. As has been said before gambling, whatever type - if it is soft or the hard gambling - is a game of chance and there are both winners but many more losers. We are being asked to promote e-gambling and, while I appreciate and understand for most people soft gambling can be seen as a part of social activity, but for others it does cause many problems. So my dilemma is by promoting e-gambling but in also acknowledging that it can damage family life, is it double standards? The U.K. Government has been working to try and set up an international standards of regulation for e-gambling and with remote operators of which I assume we would become one of them. If the U.K. is successful in this - I ask the Minister if he could answer in his response - if this proposition is approved would we sign-up to the identical standards? If we did, would the Minister need to come back to this Assembly for that approval or would it be built into any agreement with any company? As I understand it, there is a proportion and I hope it is quite a small proportion - but nevertheless it is there - of gamblers who become problem gamblers and I am concerned about that. We could be seen to be giving the perception that we are liberating one area of life but cracking down on other areas of life, as has been said on smoking and alcohol. Is this double-standards? I hope in the summing up that the Minister can respond to that. Thank you.

#### **The Greffier of the States (in the Chair):**

Does anyone wish to speak? Senator Le Marquand.

#### **4.1.7 Senator B.I. Le Marquand:**

If we approve this proposition today, then there is no question that - no matter how well regulated e-gaming may be - it will cause damage to vulnerable individuals. My own opinion on this is coloured by my own experience, both as an advocate and as a judge, in either defending people who had gambling addictions and who got into trouble with the courts, or in judging them. Frankly, there are such individuals and there is no doubt that if we promote this kind of activity then we will be directly responsible for individuals who will get into serious trouble with their finances, and their family life and so on will be damaged. I used to say - and I think I said this already in the House once before, but it probably bears repeating - to people with difficulties like this, if they went hypothetically to a bookmaker, the bookmaker paid salaries, he had rent, he had electricity, light, all sorts of expenses and who paid for those? The answer is, of course, the people who gamble because there are no winners other than the people who ultimately make a profit out of this business, and that is the reality of the situation. We are not here looking at additional gambling by Jersey residents. We generally accept that we should be very careful in controlling internal gambling. We do this partly in order to avoid the sort of gambling addiction problems I have mentioned and partly in order to avoid damage to our reputation as an offshore finance centre. I believe that that latter argument was the one that won the day repeatedly in relation to the casino issue. Indeed, I believe that most of us would accept that, although gambling is a reality within society - something that people will want to do - that it is not something which we should encourage, and that is the standard which we set internally in relation to our own view of such matters. We are careful to control such matters as the maximum stakes which people can lose, *et cetera*. But in fact, what has been proposed here would be quite a different package to that because

here we are, effectively, dealing with a situation - no matter how well regulated - where there will be much higher stakes involved, much higher losses involved. We are effectively dealing with what I would call an electronic casino type of regime. Now, I have serious problems for the proposition which says that that which we would not allow to happen for local consumption - if we could prevent it - is something that we will allow to happen for outside consumption. I really struggle with that as a double-standard, one standard for us and another standard for other people. I am proud to be a Jerseyman but I am also a citizen of Planet Earth. I believe that it is right that we should have concern for other communities and people who live outside our own community. Is it right, therefore, that we have one standard for ourselves and a different standard: "It does not matter because the damage is going to be done elsewhere." I am really concerned about that approach. I am also concerned about where eventually going to end up because there is a choice. There is a moral issue here. The moral issue which I am putting forward is not the moral issue of gambling, *per se*, it is a moral issue as to whether it is right to make profit at the expense of other people, whether it is right to advance our own bandwidth capacity at the expense of people in other jurisdictions. That is the issue as far as I am concerned. There is a secondary issue, and I am interested in the response of the finance industry people - I am told 90 per cent were in favour, the Constable of St. Clements has said that today - because I see a potential reputational problem here. Perhaps I am naive about this. If Jersey were to become a major e-gaming centre, then how is that likely to be viewed reputationally by potential investors? Is the mix a good mix: gaming and the finance sector? I question that. Secondly, there is a risk of conflict with other jurisdictions. There are certain jurisdictions who have made the decision that they will try to block e-gaming and they will do that by criminalising those who provide the means of access into their jurisdiction. Are we going to find ourselves in conflict with other jurisdictions who may take the view that they should do that for whatever reason? That is the issue I think that I would invite the Minister to respond to in his closing reply. Finally, I want to deal with this particular issue to do with bandwidth. I accept that we are behind but if Members would care to turn to page 7 of the report and to the section which is referred to as scenario one. You will see there are some very interesting figures there in relation to changes in bandwidth. In 2005, only 5 years ago, Jersey had 400 megabytes per second and Guernsey 350. We now have 2 gigabytes per second. Now if my mathematics is right - and I understand the difference between a megabyte and a gigabyte - that means that in 5 years we have had a 5-fold increase in the capacity, the speed, and that is without requiring the extra volumes which are produced by e-gaming. This is being sold to us, to a great extent, upon the basis if we do not do this somehow we will always be behind. But technology always moves forward. Technology always moves forward. There will always be improvements in speed and capacity and so on. I would question whether we would not see such improvements in any eventuality. Perhaps a little bit slower and whether that in itself is a sufficient justification for the situation we find ourselves in of double-standards between what we do internally and what we would allow to happen outside. At the end of the day, it is a matter for individuals to decide but, in my view, I cannot support this proposition.

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

Does any other Member wish to speak?

**4.1.8 Deputy M.R. Higgins:**

The main argument being put forward for e-gaming is it will provide Jersey with much needed bandwidth, bandwidth which we will not have to pay for. But I would like to know how much of the existing bandwidth in Jersey is being utilised. Sorry, in fact I am going to start again - wrong page. **[Laughter]** The Minister says that this was the best opportunity for a decade to develop e-commerce and that we missed the boat last time. However, I remember very well e-commerce proposals last time and the amount of money that was thrown at it, and the amount of money that was obtained by the Education Department which was, believe it or not, the prime beneficiary of all that money that was being thrown at e-commerce, because they were the only ones who had their

act together and they used the money to secure finance for laptops for primary children for teachers. So therefore, the last opportunity was illusory. It was hyped-up out of all proportion as a pillar, a new pillar to our economy, when in fact it was simply just another channel of distribution. I suspect that the Minister and the businessmen promoting it are over-hyping e-gaming and that the benefits will also be illusory, but that the problems that we will face will also be very real. Now, going back to what I was saying, the main argument being put forward for e-gaming is that it will provide Jersey with much needed bandwidth, bandwidth which we will not have to pay for. But I would like to know how much of the existing bandwidth is being utilised; also, whether the Minister is also considering allowing pornographers to operate from the Island, as pornographic sites - according to all online statistics - are the most viewed sites on the Internet. Just think of the bandwidth that we can create if we did, but also consider the evils associated with this industry, child pornography, people trafficking, exploitation and some gross indecency. I would also like to know, other than bandwidth, what other advantages there are. What contribution to the Island's coffers from these overseas companies are we going to receive in light of the Zero/Ten taxation?

[16:00]

How many additional jobs are going to be created? Remember, it is electronic, it is digital. Most of the stuff is done by machines, not people. What is he also going to have to offer the well-established firms operating currently in other jurisdictions to relocate to Jersey? Many of these companies are well-established. They will only come here if they are offered inducements. I would also like to know what the likely effect of gambling is on the Island's reputation. What ammunition is going to be given to our existing critics? Online gambling is largely illegal in the United States, for example, and they do everything they can to prosecute some of the providers. I would like to know how it is going to protect Jersey residents because most of our residents use offshore suppliers who are not subject to our regulations or control. How will we help the people overseas using Jersey-based operators? How do we know or be able to identify them or to help them? One of the problems I have had with the finance industry over the years has been the constant race for the bottom in standards, as one finance centre has adopted a lighter touch than its competitors in order to gain a competitive advantage. In other words, the finance industry globally has engaged in a downward spiral to the bottom, a race for the lowest possible standard. I fear that if we enter this new field we will engage in a similar downward spiral that will neither benefit Jersey nor its people. I will not be voting for this proposition.

#### **4.1.9 The Very Reverend R.F. Key, B.A., The Dean of Jersey:**

One or 2 Members were asking if there are any moral points that might be worth making. I listened to some of the speeches in my study at home, as well as those I caught up on since coming back to the House. It does seem to me that there are various arguments running here which have some moral presuppositions, and whichever way Members vote - and I certainly have no intention of pointing in either direction - it is important to make the decision for the right reasons, it seems to me. For example, the argument there is a market out there so we must have a slice of it, simply will not do, unless we are going to get into the prostitution racket and every other muck market that is out there that we could have a slice of. So that will not wash. It also seems to me that we need to take very seriously that for some people gambling is a problem. I confess it is not a problem for me. I have lots of things that are problems but gambling is not. I was taught many years ago as a child that if you want to see who wins in the gambling industry: go and stand outside any bookmaker and watch who cycles away on a bicycle and who drives away on a Rolls Royce and it is the bookie that has the Rolls. The National Lottery in the U.K. was described by the then Director of the Institute of Fiscal Studies as being the best way of redistributing income from the poor to the rich since King John and the Sheriff of Nottingham. I do think we have to look at how we protect the vulnerable. I was always struck when Deputy Martin speaks. I love the speeches, and the closing comments she made about: "Do not force your morals on everyone else" of course

it is quite right, and it is a double-edged sword because if Members vote for this that is a moral judgment. It will be drawing lines in different moral places but it is still a moral judgment which then applies to the whole community. So what would I be asking Members to look at? Well, I think there are parallels. We do not say on many areas of life because some people will be very adversely affected by this because they cannot cope, we will therefore outlaw the whole practice. If we did that we would be back in the prohibition era and we would be saying: "Because alcohol is a problem for some people we will simply outlaw the whole thing." It seems to me that does not work as a moral judgment either. So where do I come down? I come down on looking to the Minister to convince the House that the regulation really will work by way of protecting the vulnerable. Now I know nothing about regulating the gambling industry, so I do not have any views on what that might be, but I do have a very simple parallel. As I understand it, in our regulation of the consumption of alcohol, if I go into a pub and order a couple of pints of real ale, that is absolutely fine. If I stagger into a pub and order my tenth pint of real ale and am clearly intoxicated, it is no defence for the licensee to say: "It was your judgment, your moral responsibility." As I understand it, it is an offence to serve alcohol to somebody who is already intoxicated. It seems to me that that is the parallel of what we do with an issue where some people cannot cope, where for many people it is a harmless enjoyment. So I am looking to see where the parallel regulation and protection of the vulnerable might come from. It is something we do in a worldwide context in other areas. We now demand of our coffee growers and our chocolate manufacturers that they do not destroy the lives of others by their own rampant profiteering. It seems to me that if we are to go down this route - and I would certainly make no judgment on whether that is a good or a bad thing - it does seem to me that the priority would be the protection of the vulnerable. Earlier today my wife bought a guest bed on line for our little house in Somerset and the credit card company worked out that I do not usually in the same week take out a small mortgage to have a crown on a tooth and at the same time buy a guest bed. So to protect me I was rung up by the automated fraud line. Could I confirm that these last 5 transactions really were me? I pressed the appropriate button and all is well. It does seem to me that it cannot be beyond the wit of mankind that can devise a way of protecting me from fraud with my Visa card to come up with a way that protects the most vulnerable from their own addiction, and that is what we are talking about. So it may well be that this is a thoroughly good commercial thing to do and I certainly make no moral judgments about gambling, *per se*. My concern is: I look for the Minister in his response to tell us how clearly the vulnerable will be protected. That seems to me one of the main duties of any legislature.

**Deputy M. Tadier:**

I just ask a point of clarification from the Dean. I thought that was a very useful speech. Is he suggesting then that, for example, the actual hosting company should phone up the gamblers when they have lost too much money in a particular week and say: "I am afraid you have lost £1,000 you clearly cannot afford to do this"?

**The Dean of Jersey**

The Deputy I think credits me with more technological nous than I possess. If I am to be honest with Members, in a perfect world - and if it is technologically possible - I think that is exactly what I would do because that is the parallel with the publican: "You cannot afford this tenth pint because you will go home and potentially mistreat your wife or your children, so I am not serving you." It seems to me that there is a moral responsibility on those who take money from people to do that in a responsible way. That is a personal opinion. I am certainly not ramming it down anybody else's throat.

**4.1.10 Senator A. Breckon:**

A Member mentioned earlier - I forget who it was - the issue had been around since about 2005. I remember as a member of the Gambling Control Committee - probably in 2001/2002 - that this was

a real issue then. It was an emerging issue. Something that somebody else has touched on is: what is the reputation of a finance centre also hosting gaming business? That was tested at the time with the then Finance and Economics Committee and the finance industry were consulted and generally the view was that it was not an issue. It was not an issue because at the time the U.K. Government had a 7 per cent levy on a number of gaming activities and the operators were looking for offshore jurisdictions and found them, but not here I might say. But they were at the time looking for offshore as a reason for that. The other thing Deputy Martin mentioned something on Channel 5 about people playing poker or cards or whatever it was, but I - as I usually do - fell asleep watching the telly the other night and when I woke up they were playing bingo on T.V. and it was a game that looked a bit boring to me, but on the titles that were run underneath: "This operation was licensed in Alderney" and I think it was on ITV it was playing - it was probably after midnight - but it was regulated and licensed in Alderney. Alderney, I should say, from the early 2000s were one of the offshore jurisdictions that benefited significantly from this, but - and I am sure the Minister will confirm - they had a very forceful Commission that were regulating that we learnt from here when we were looking as to how we might regulate the industry. But I know also that the Isle of Man and Gibraltar are also in this business and have 3, 4, 5 years' start on us on that. So are we behind? The answer is: yes. Is it too late to set up business here and get some benefit in a well regulated way? Then the answer to that is probably yes as well, but then it is up to Members to decide for whatever reason. But the fact is - what Members should be aware of is - this is happening every minute, every hour, every day. It is something - and I know at the time the Gambling Control Committee - it is something that we could not regulate at all because if you have Sky T.V., a remote control and a bank card you can get a bet on on golf, rugby, the Lib Dems (Liberal Democrats) to win the next election, virtually whatever you want. You can do that now without a computer. You can do it with a television. That is where we were, and then - and something the Minister will have to address at some time in the future - when we looked at the gambling law and regulations they were virtually useless. We cannot regulate this industry at all. So what do we do? Do we ignore it? Well, it did not go away and it is a billion dollar business and expanding. This is the thing. We have already agreed that if you look at the front-end, the front-end is accessible to virtually anybody with a television or remote control or whatever else. Computers also, you can access that and you can do this within minutes. So if you want to, if you want to bet on the Lib Dems to do that, somebody mentioned Google stuff, you could do that and something would point you in that direction. That is fact. The other thing we have agreed is to provide technology backup. We have got that available. In the Island already there is a big internet company that sells D.V.D.s and C.D.s (Compact Discs) and other stuff, a world leader in the market. But a lot of their technology and backup is here and has been operated and there are others as well. We do have a first class service here that has served some people in those industries very well. But we agreed - I think about 2 or 3 years ago - to host backup services for others who might be operating in that, and I have seen the operation up next to the J.E.C. (Jersey Electric Company) and it is a virtual guaranteed power supply. It is a battery backup. There is a standby generator and it means that this thing operates virtually and it is guaranteed. If you are into technology in any way you do not want a power failure. If your systems go down that is it, you do not want to lose whatever the business is, whether you are selling shirts or whatever it may be. So the question now for Members is: do we allow the set-up of companies to operate from here? They would trade ... and for many years we have been saying: "We need to diversify the economy. We need to do something that brings in revenue, that replaces some of the things we have lost." We had revenue from perhaps tourism and agriculture, and with the technology I think that the benefit is: it is not churning out smoke, it is not putting too much strain on the infrastructure and - as others have said - it is providing some benefits to the infrastructure.

[16:15]

So there is the need for the diversification and there is - as has been demonstrated - associated benefits for that. The Minister has said we have a shadow Gambling Commission in place who will do the job. They will make sure that anybody who is licensed complies with things, something that the Dean has touched on. I think you can put checks and balances in systems, safety features in that protect vulnerable people that do checks to make sure that people are not under 18 or 21 or 25, whatever levels they are set at. They can also put in stake levels that protect people as well, and over activity or suspicious activity. There is cut-off points and all that. So I believe that already within regulated systems these things would be adoptable and adaptable to what we might be doing. But I would ask Members to bear in mind: this is the real world. This business is going on. So we can reject this out of hand but, having said that - although it might be uncomfortable for some - it is a business opportunity that complies with a lot of what we have been saying in policy and resources things from years ago, strategic plans. It is about diversity. It is about non-polluting stuff and with the appropriate checks and balances I believe it is something we should support. I say that because I had some frustrations years ago on this Gambling Control Committee - of which the Constable of St. Clement was a member, Senator Le Main was a member - that remain. We were frustrated at the time because there were some opportunities here at the time in a limited way but unfortunately it did not happen. I mean we were nowhere near getting the regulations, the licensing, the law drafting, they were all miles away, and I think this has come a long way since then. But it has taken 9 or 10 years to do that and I think today is an opportunity to support that and Members - when the Minister comes back with more detailed proposals - that would be the time to question if there are concerns that Members have, if there are further safeguards they want, as they say: "The devil would be in the detail." For that reason I have no hesitation in supporting this.

#### **4.1.11 Deputy I.J. Gorst:**

It is not often that we in this Assembly have an opportunity to look to the future and to consider the bigger picture, almost to consider vision. We are often scrabbling around on the ground looking at detail, but today the Minister for Economic Development has given us just such an opportunity. Where is it that we see Jersey in the future? Many Members have spoken many times, in this Assembly or on many an election platform, about the need to diversify. We have seen diversification within the finance industry. Some would agree that that was a good thing. Others would doubt that. But I think most Members in their heart of hearts believe that we ought to be seeking diversification. I suppose the problems arise when we cast our eyes around to see what industry would be suitable for Jersey, what areas are suitable for us to diversify into. The Minister for Economic Development is proposing today that bringing forward legislation which would enable internet gambling operators within Jersey is a suitable area of diversification for us. Many speeches have got into the rights and wrongs, the morality or not of gambling itself. We have been told that gambling takes place, that members within our community avail themselves of gambling on the Internet, and that I do not doubt. I am absolutely certain that that takes place. For even when I am on the Internet occasionally various things flip-up and try and encourage me to gamble. I am pleased to say that so far I have managed to resist that temptation on the Internet. But to me it is this question of vision. Do we really want our next pillar - the fourth leg of our economy - to be internet gambling? Some Members might say yes, they are perfectly happy for that to be the case. I am afraid that I am not. Gambling - whether it be right or wrong - is about trying to get something for nothing. That is not something that we, I believe as an Assembly, should be promoting. We have a duty perhaps to look to the greater good and to recognise that we want to encourage, not only ourselves but our citizens around the value of hard work, around the values of self-achievement and encouraging each one of us to take our role and our place within our community and not just to believe in the magic tomorrow that there will be something over the rainbow. Because, yes, we believe that there is and there can be a better future, but that better future for each one of us will only come through us putting in hard work, through us seeing a more cohesive community and working together for the good of every member of our community, not with some vague win on the Internet. I am not saying that e-commerce and the advancements of

technology are not coming. Of course they are coming. I for one welcome them but I ask Members if they would ask themselves: is this the future that they want to see for Jersey and I hope that they might be able to say no to that. What are the reasons than that the Minister for Economic Development is bringing forward that he believes that this is something that we should be doing in Jersey? Well, if we cut right to the chase I believe that there are 2 main reasons: firstly, it is that we will have increased bandwidth and I am absolutely certain that we need that. It is a priority. The finance industry, which is our main industry, requires increased bandwidth and we in this Assembly do have a responsibility to ensure that we have that increased bandwidth. I am just not of the opinion that the price that we are proposing today is the one that is worth paying. I believe - and I was convinced when we had the debate about Jersey Telecom - that the main reason that we ought to retain ownership of our own telecoms company was for this very reason, that we needed to ensure that we had appropriate infrastructure and that we had appropriate bandwidth, and I believe that that is why we retained control of that company. If I was misled or labouring under a misapprehension then I am afraid I see very little reason for us retaining that ownership. We are told that we can achieve this increased bandwidth and it is free, it is not going to cost us anything because the operators that come to Jersey - who will be operating these internet gambling houses/sites in Jersey - will put in the investment and will therefore provide it free. There is no such thing as a free lunch, someone somewhere always pays. If we approve this today someone will pay, it will just be that we here in this Assembly and, unfortunately, on this Island will not see the consequences and will not see the people who are paying. It will be a case of out of sight out of mind and I do not believe that that is appropriate. The Minister for Economic Development also said that it was a jolly good thing because it would put money into the social responsibility fund to help with problem gamblers in Jersey. That would be a positive step forward. There is no doubt that there is a need for an appropriately funded social responsibility fund. That is part of the remit of the Commission that we in this Assembly approved - I cannot remember whether it was this year or last year, one day seems to roll into another. But it is not necessary, in my opinion, to have internet gambling operators on the Island in order to put money into that social responsibility fund. We have a gambling industry here. We were told that the Commission that we approved was appropriate for the existing industry in Jersey and therefore if it is appropriate - and part of their remit is the social responsibility fund - then the current gambling operation in Jersey should be obligated to put money into that fund to help those who do struggle with gambling. I recognise that perhaps I am fighting a losing battle today. I would just say one thing: unfortunately Senator Le Main has now left the Assembly, but he gave us quite a moving story about how he changed his mind. I am afraid from what Senator Le Main told us yesterday, I would not be convinced about his changing of his mind. I hope that we can stop thinking about the small detailed issues, we can look to the future, try and consider the vision of a Jersey that we want to see in the future and ask ourselves: "Is that vision one which includes - as a main sector in its economy - gambling and internet gambling at that?" I hope that Members might be able to answer no to that and therefore reject this proposition today. Thank you.

#### **4.1.12 Deputy J.A.N. Le Fondré:**

I think it has been quite an interesting debate, fairly wide-ranging. I was particularly struck by the comments from Senator Breckon and also Deputy Martin. I am going to take a very, very simple approach on this or try to anyway. This is not increasing the product or the gambling product available to Islanders as far as I am concerned. As we have said - time and time again - you can go on line now and gamble. To me that is a fairly important crux of the argument there. What really did strike me when I first attended a briefing on the matter, was the infrastructure costs, and the impact on the wider economy, particularly in relation to our comparisons to Guernsey and Alderney and I think even Gibraltar, and there is a comment in this report about Guernsey having more I.P. (internet provider) connectivity than South Africa and I found that staggering. That really puts that into context as to where we stand in comparison to Guernsey. What I would also say is that I also listened quite carefully to the speech by the Dean and I would endorse his comments in respect of

safeguarding the vulnerable. I think everyone in this Assembly would agree with those comments. I will say I took a significant degree of encouragement from pages 16 to 18 of the proposition, of the report, which covered certain of the safeguards and which does include, for example, player tracking tools which, according to the report, can monitor various things which can indicate erratic behaviour characteristic of a gambling problem. So at the very least those issues at the higher level are certainly being considered. So from that point of view it is a slightly simplistic approach and I rather felt that the issues had been covered that the benefit to the Island was significant and on that basis I will be supporting the proposition.

#### **4.1.13 Deputy R.G. Le Hérisier:**

Having heard from the Minister for fun and enjoyment, Deputy Gorst, **[Laughter]** I really had lost the will to win and in a way that sums up ... I am quite puritanical in my attitude to these matters. I do not particularly practice any of them, but oddly enough I have got no problem within the right constrictions of other people doing so. It strikes me we all struggle with these moral ambiguities and I think Deputy Gorst has to struggle with the moral ambiguity of the finance industry.

[16:30]

The same goes for Senator Le Marquand. The emphasis seems always from this puritanical point of view to try and control individuals' behaviour, to try and remove joy and enjoyment from their lives. Now we can take the Deputy Tadier view that religion is the opium of the people or gambling is the opium of the people and that we live in a society where we are all ciphers and we are all being manipulated by big corporate entities and have not really found the way to happiness and so forth. **[Laughter]** No, I will not take any interruptions.

#### **The Greffier of the States (in the Chair):**

The Deputy is not giving way.

#### **Deputy R.G. Le Hérisier:**

We could take that view but it does strike me: here we are we are trying to take away what for a lot of people is a little joy and an enjoyment in their life and we are trying to regulate them and to tell them: "This is the way you should live your life." I would prefer a more pragmatic solution where we say: "Look, people do enjoy these things. Taken to excess it is crazy. It leads to all sorts of social problems. Let us put controls. Let us put social structures in place which, hopefully, can deal with that." That would tend to be my view. I think the Minister has made a major error in trying to sell it on the back of the benefits of bandwidth and saying that Jersey people and not the people in the cyber space generally will get social support. I think he made a major error. It would have been much better to have said: "Look we have got this issue. The internet has liberalised gambling as it has liberalised for good and for bad - as Senator Breckon said - so many things. We struggle with Citizens Media in this House, for example. It has liberalised the world in that sense and we have somehow got to work with it and see what solution we can bring to bear." I would have much preferred had he adopted that approach, rather than piggybacked on an economic argument with a social issue. I think it would have been better. I think the end result will essentially be the same so I have no major problem. But I am getting tired of people telling people how to live their lives, applying very rigorous moral precepts to individuals, but not applying these precepts to the corporate world in which they move. You cannot live this schizophrenic kind of existence. So as far as I am concerned I will support it. I think the Minister made a tactical error but generally I will support it.

#### **4.1.14 Deputy A.E. Jeune:**

I think I am correct in saying that you may recall when you were in the chair last year you suggested to me that 6 may not have been my lucky number. Well, I am very pleased to say that as



it happens the horse I backed in the National this year was number 6 **[Laughter]** and it won. But having said that I would also ... so I do enjoy a flutter and I have said I think in this House before that no bookie would ever make any money out of me. But I would also welcome faster bandwidths because I get very frustrated at the speeds we currently get. I also went to the presentations that the Economic Development put on - certainly 2 - not the last one because I had been to the previous 2, the second of which the Gambling Commissioners were in attendance, and I have to say I was most reassured by what I heard from them. As some of my colleagues will say in a previous life - and in mine as a psychiatric nurse - I saw the havoc that addiction of the various types could have on people's lives. But as the Dean pointed out, what do we do? Do we then because some people are addicted have prohibition for everybody else? I am concerned that we may have already missed the boat, but it should not stop us running to see whether in fact it has departed. Deputy Martin suggested that we are the slowest. Now there is a surprise. I urge Members to get on with things and support this proposition. The proposition is not promoting gambling. As I see it, it is about regulating gambling.

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

Does any other Member wish to speak?

**4.1.15 Deputy T.A. Vallois of St. Saviour:**

I will just be quick. It is just something that Deputy Gorst mentioned with regards to how we want to see the future of Jersey. The way I would like to see the future of Jersey would be detrimental to many, unfortunately, because we have this massive reliance on the finance industry which, whether he likes it or not, does have social consequences. We have seen money laundering, terrorism, fraud, *et cetera*, which is regulated through regulations adopted by the Minister for Economic Development and by this House. E-gaming would be the same situation. I am not saying I endorse gambling. I am not a gambler and I can honestly say I have only ever put one bet on in my life. However, **[Laughter]** no, I did not win. I just know that I am a very unlucky person. I would like to point out the Minister for Economic Development in his proposition and report he mentions only one specific area of the Strategic Plan. I would like to think that although not all Ministers do it, but there is a large amount of the Strategic Plan which would apply to adopting the regulations when they eventually do come to the House if this was to be adopted. There is one in particular that stands out, was a responsible jurisdiction committed to international standards? Now as I understand it, there is an actual United Nations group who have a social responsibility for e-commerce/e-gambling, which I believe the E.U. have considered looking at signing-up to for social responsibilities. Unfortunately, yes, we are very behind, but that is nothing new with Jersey. We tend to go beyond our times. But I am thinking of the younger generation and my generation who I feel to a certain extent have been failed. We will have to reap consequences of certain policies that have been adopted and I would like to think this is one way of diversifying our economy. However, I will not stop there. I will continue challenging the Minister for Economic Development to ensure we bring in more diversification than just e-commerce. It does not end here. It carries on and therefore I will be supporting this proposition.

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

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

**4.1.16 Senator A.J.H. Maclean:**

I feel quite exhausted after that. **[Laughter]** It is hard to know in some respects where to go. The debate has been wide-ranging. It seems a long time ago the Deputy of St. Mary rose to his feet when it **[Laughter]** appeared that the debate was going to be relatively short until I saw him rise. He covered some interesting grounds and I would say that other Members have done similar things. We got mired in pornography and oil pollution and arms dealing and all sorts of slightly erroneous and irrelevant topics. The Deputy of St. Mary did, however, raise the point about the fact, in his

opinion the proposition does not deal with the issue of damage that is caused by e-gaming or I think he was probably referring to gambling generally. He did make loose reference to the U.K. prevalence study which was in 2007. What he did not do was put a reasonable context into it. So I would just quickly mention for Members that that particular study did show that the level of problem gambling in the U.K. was the same in 2007 as it was in 1999. There was no change, 0.6 per cent. Interestingly despite - and this has been mentioned - the fairly explosive growth of e-gaming in recent years, it is interesting to note that the level of problem gambling has not increased in that period at all. In fact, of the 0.6 per cent of problem gamblers in the U.K. just 7.5 per cent of that 0.6 per cent - a tiny fraction - are due to the e-gaming industry, as identified in the U.K. prevalent study. The Deputy of St. Mary also raised the point about the value of e-gaming. There are a number of studies that identify value with regard to economies in e-gaming, we circulated the KPMG report and in there - Members will have seen a copy - it does identify that of every £1 spent on e-gaming it generates £2.50 through the economy. There are a number of other studies. I think it is pretty clear of the economic value of e-gaming. But this is very much about balance. It is about economic value. It is also about responsibility and that is why the social responsibility fund has been mentioned on numerous occasions, and I will come back to that if I may in a moment. The Deputy of St. Mary talked about something for nothing. That I am afraid... I am delighted he has returned to the Chamber seeing I am talking about him. Something for nothing is not what we have here at all. My department and the States themselves have invested quite a bit of money in trying to not only develop the sector but also ensure that it is properly regulated. We have introduced - Members supported, and I am delighted they did - the Gambling Commission that we introduced last year. There has been also significant private sector investment related to the gambling industry and that is a good thing and something I would like to see further developed. But it is important ... the Deputy of St. Mary talked about protecting residents and how the report that we issued talked a lot about protection, his view was that that was a red herring. I can say to Members that it is not a red herring, it is absolutely core to everything that we are doing with regard to gambling, the existing gambling industry we have got, the wish we have to modernise our gambling legislation which I am personally horrified dates back to the 1960s, most of the legislation, and it is not in any shape or form fit for purpose. It is not fit for purpose in this modern age where - as I have already mentioned and Members are well aware - e-gaming is already occurring. Members will be aware that residents in Jersey, it is estimated about 5,000 currently, are using e-gaming sites and we have no way of protecting those individuals as we stand at the moment. I am delighted - just finally closing on the Deputy of St. Mary - that he went all over the place, he did let on the he likes a flutter and I was delighted he is so successful in that particular activity. The Deputy finally talked about Jersey Finance and in fact alluded in part to the Jersey Financial Services Commission, both of which were contacted by the Economic Affairs Scrutiny Panel. I am delighted they did that. They were clearly doing their job to make certain that reputational issues were covered. The response from Jersey Finance was relatively small. There were 10 respondents, 90 per cent were in favour, but those against or the one against was basically on moral grounds and I understand why that was the case.

**The Deputy of St. Mary:**

I correct that statement.

**Senator A.J.H. Maclean:**

I am not giving way if you do not mind.

**The Deputy of St. Mary:**

It was 80 per cent.

**Senator A.J.H. Maclean:**

80 per cent. In fact there were 10 respondents, one was against, one was neutral, to be absolutely accurate. The Jersey Financial Services Commission were also written to by the Economic Affairs Scrutiny Panel and rightly so. Their position on this - as Members would expect - is broadly neutral. Their biggest concern is that it is properly regulated, as indeed is the case with Members, and it certainly is a clear priority from my point of view. The Deputy did also talk about the church letter that came around. Interestingly, both the church and indeed the Dean who spoke, talked about regulation and the importance of good quality regulation and I fully, fully endorse that. I would like to thank all Members. I am not going to go through - and I am sure you will be delighted - all Members' comments. **[Approbation]** I am not going to mention those that have been supportive in any event, but I will just pick a couple of points out, if I may, of others who spoke. Senator Le Main was interesting. I have never known anybody be so opposed and move so dramatically in the opposite direction. I thank him for that. His change of heart, his change of mind, was based on the facts and I think that is why it is so particularly relevant. He was completely opposed on moral grounds for very good reasons, and I understood that, and I do understand the opposition, but he also was prepared to listen to the arguments and listen to the facts and he changed his mind based on that. I particularly enjoyed - as I think Members did - Deputy Martin's speech. I will just pick one thing out of it. When she said that she does not like gambling, I was worried where she was going, because she cannot pick a winner. Well I am delighted that she has chosen to pick a winner in this ... well I hope she has picked a winner in this particular instance. **[Members: Oh!]** It is yet to be seen if she can turn her luck. The Deputy of Trinity, I respect and understand her views on the both, as she put it, ethical and moral grounds. I hope I can reassure her in some respects. I accept I probably I will not change her vote but nevertheless she should know that I attended a conference, an international conference, in Ascot a few years ago which was hosted by the U.K. Government, it was a point that she raised, she wants to know if our standards are going to match that of the U.K. We are already working with the U.K. to develop the highest quality of standards in this particular area. The international conference that I attended was attended by quite a number of countries from around the world that were either partaking of e-gaming or were thinking of doing so. A communiqué which centred on ensuring that the young, the vulnerable, were properly looked after and that the industry was going to be fairly regulated throughout the entire international arena. So, yes, we have signed-up for that. Parity with the U.K. legislation, as far as I am concerned, is something that we strive towards. Graham White who is the chairman of our Gambling Commission has, as Members will be aware, the highest credentials. He has worked in the regulation of gambling for the best part of 20 or 25 years and he has been working with various gaming regulatory bodies to ensure that the policies that we adopt are appropriate and robust. Senator Le Marquand raised the issue of reputation and he is right to do so. But, again, we have consulted with Jersey Finance and Jersey Financial Services Commission. The key is regulation and we also need to look at other places in the world where e-gaming is already occurring. Jersey is about one of those places that does not have e-gaming legislation at the moment yet there are other financial services centres, key ones, the City of London, Guernsey, the Isle of Man, and many others who allow e-gaming and they have not seen any damage to their financial services industry. The key is quality regulation. Senator Le Marquand also talked about double-standards, how we are concerned about looking after our local residents and we do not really worry too much about what is happening outside of our shores. Well, that is not true at all. Again, it comes back to the key of regulation. We have and will have the highest quality of regulation in this particular area. That will help to protect people outside of this Island, and that is exactly as it should be. He touched on bandwidth, suggesting that it was not such an issue and, in fact, we have seen tremendous growth anyway in the size of bandwidth. Well, yes, we have but the key is Guernsey, with e-gaming, has seen 5 times greater and that is continuing to grow. We cannot be left behind as we are beginning to be. Deputy Higgins, a couple of points. He touched on the tax issue. I think he was talking about Zero/Ten. Of course if we have these international companies setting up in Jersey how are we going to get some revenue out of it? The answer is licence fees. It will not be down to taxation. Obviously if there are employees locally there will be

tax but the companies that set up here will be licensed and they will pay a licence fee for so doing. We can see in Alderney licence fees are generating something like well in excess of £4 million from the licence fees they have got. It is lucrative. He talked about lots of additional jobs. Well, the advantage and attraction of this business is that it is generally a high value business but a low footprint and I think that is something that we need to continue to focus on.

**Deputy M.R. Higgins:**

Sorry, if I can just correct that, I was saying that there would be very few jobs because of the nature of the industry.

**Senator A.J.H. Maclean:**

Fine. Deputy Higgins finally also was the driver behind the desire as Chairman of the Economic Affairs Scrutiny Panel for diversification, and he is right. Economic Development will continue to look at all areas of opportunity for diversification. What disappointed me was what he offered in his comments. He seemed to be offering us the opportunity of porn sites and person trafficking, which I do not think is particularly beneficial. I am not giving way.

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

I think to be fair to the Deputy I do not think the Deputy was suggesting that, Minister.

**Senator A.J.H. Maclean:**

Sir, if I have misinterpreted what he was saying then I clearly apologise for that. I see the Dean ... and I am just going to comment very briefly on his area of concern. It was understandable. He quite understandably was not coming down on either side but I can understand his concern for effective regulation. We have a Gambling Commission; we have given the Gambling Commission the power under the law to deal with social and moral issues for the protection of the young and the vulnerable. The mere fact that if this eventually goes through as part of the modernisation of our gambling legislation that is a time when we can regulate it properly. At the moment we cannot. We have thousands of people in this Island, let alone people abroad, who are using e-gaming sites. There are many tools available which we can use. There are playing tracking tools which can pick up erratic behaviour. An interesting point, international companies of repute who would want to come to Jersey, the reason they want to come here is because of our regulation. It is not about tax and other issues, it is specifically because of the reputation that we have. They want to be in a well-regulated, highly-regulated environment. It is good for them. They also do not want problem gamblers, it is bad for their reputation. That is why they take on and utilise these tracking tools and they do all they can. There are areas of age verification tools, filtering servers, player protection methods, there is operators direct ... the operators of these sites do direct problem gamblers towards professional organisations for help. It is in their interests and they do it, and there are examples around the world where we can see that time and time again. Deputy Gorst was interesting in his comments. I understand his moral and ethical views on gambling and I respect those, as I do with others who hold similar views. Deputy Gorst, though, is in a slightly difficult position because he does understand the need for bandwidth, he understands the importance of that from the business community, particularly the finance industry and his comments about Jersey Telecom, hoping that they would deliver it, were particularly interesting because there is a lot Jersey Telecom can do, what they cannot do is deliver the sort of volume that an e-gaming organisation can. It just does not happen. Unfortunately, it is just not feasible. As much as we would like to look for alternatives, there are not any that can do that type of level. Deputy Le Hérissier, I am not going to be too hard on him because he says he is voting in support so I do not want to lose his vote but I think he was a little unfair with the comments he made. He in particular suggested that I made an error in trying to sell this purely on the bandwidth. I had hoped in my opening speech that I had made it clear that it was about balance. I spent quite a long time talking about the social issues, the social responsibility fund, the need to cover and ensure that we had proper and sound regulation,

the Gambling Commission we had introduced and so on. Also the fact that we have e-gaming in the Island whether we like it or not. People are doing it, it is happening. I thought I had covered all these. Bandwidth is important but it is just part of the story, together with economic diversification and the revenues that this particular industry can offer. I thought I had covered all those but clearly he had picked and thought I was emphasising too much on bandwidth. It is important but it is part of an overall package. Deputy Vallois, yes, economic diversification is important. We will continue to look for other areas. I did pick out of the strategic plan one key point, it is in some respects horses for courses, that did seem to be the most appropriate one that we picked out on. I am not going to go on any longer **[Approbation]** I appreciate ... I hope that is support from Members, not just for me to sit down but also support in the debate itself. This is important, this debate is just a steer for me and my department to include e-gaming within the modernisation of the gambling legislation. There is a further chance for Members when we come to the detail, when we bring this back later in the year for them to look in more detail. That is as it should be. I believe this is essential for Jersey for all the reasons that we have discussed, many of which Members appreciate and I would hope that Member will support this and give us a steer. It is important at this particular time, supporting this and moving forward with an e-gaming regime - and I will leave you with this one thought - is not going to deliver one more gambler. It is not going to deliver one more gambler by introducing this at some point later in the year if that indeed is what the Assembly chooses to do. But it is important for proper regulation to make sure the vulnerable and the young are looked after and to ensure we have proper economic diversification. I will close and maintain the proposition.

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

You wish for appel, I assume, Minister? Very well, the vote is for or against the proposition of the Minister. If Members are in their designated seats the Greffier will open the voting.

<b>POUR: 40</b>		<b>CONTRE: 9</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Senator B.I. Le Marquand		
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf		Deputy J.A. Hilton (H)		
Senator T.J. Le Main		Deputy of Trinity		
Senator B.E. Shenton		Deputy I.J. Gorst (C)		
Senator F.E. Cohen		Deputy M. Tadier (B)		
Senator J.L. Perchard		Deputy of St. Mary		
Senator A. Breckon		Deputy M.R. Higgins (H)		
Senator S.C. Ferguson		Deputy J.M. Maçon (S)		
Senator A.J.D. Maclean				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
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 J.A. Martin (H)				
Deputy of St. Ouen				

Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A.N. Le Fondré (L)				
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 E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				

## **5. Draft Gender Recognition (Jersey) Law 2010 (Appointed Day) Act 201- (P.37/2010)**

### **The Greffier of the States (in the Chair):**

Very well, we come now to the draft Gender Recognition (Jersey) Law 2001 Appointed Day Act and I will ask the Greffier to read the Act.

### **The Deputy Greffier of the States:**

The Draft Gender Recognition (Jersey) Law 2010 (Appointed Day) Act. The States, in pursuance of Article 23 of the Gender Recognition (Jersey) Law 2010, have made the following Act.

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

One of the first pieces of legislation which the new House passed just over a year ago was the Gender Recognition (Jersey) Law. That Law has now been registered with the Privy Council and has been registered with the Royal Court. It remains for us now to bring it into force. The Appointed Day Act will bring it into force one month after today, after the Act has been made. I propose the Act.

### **The Greffier of the States (in the Chair):**

Is the Act seconded? [**Seconded**] Does any Member wish to speak on the draft Act? If not, I put the Act. Those Members in favour of adopting it kindly show. Any against? The Act is adopted.

## **6. Jersey Financial Services Commission: appointment of Commissioner (P.41/2010)**

### **The Bailiff:**

We come now to the Jersey Financial Services Commission: appointment of Commissioner. This is a matter that the law requires is dealt with in camera but I will firstly ask the Greffier to read the proposition in public assembly.

### **The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion in pursuance of Article 3 of the Financial Services Commission (Jersey) Law 1998 to appoint Lord Eatwell of Stratton St. Margaret as a Commissioner of the Jersey Financial Services Commission with effect from the day after the States debate for a period of 3 years.

### **The Bailiff:**

In accordance with the law I ask the media and those in the gallery to withdraw and for the radio transmission to cease.

[16:58]

**(Debate continued in camera)**

[17:12]

**The Bailiff:**

Very well for the benefit of those outside the Chamber, the Deputy of St. John during the debate on the appointment of a commissioner of the Financial Services Commission has made the proposition which has been duly seconded that the Assembly move to the next item of business. I have allowed that proposition. It is therefore for the Assembly to vote on it. Do you wish the appel, Deputy? The appel is called for. I will ask the Greffier to open the voting.

<b>POUR: 15</b>		<b>CONTRE: 31</b>		<b>ABSTAIN: 0</b>
Senator A. Breckon		Senator T.A. Le Sueur		
Connétable of Grouville		Senator P.F. Routier		
Connétable of St. John		Senator P.F.C. Ozouf		
Connétable of St. Saviour		Senator T.J. Le Main		
Connétable of St. Mary		Senator B.E. Shenton		
Deputy R.C. Duhamel (S)		Senator J.L. Perchard		
Deputy of St. Martin		Senator S.C. Ferguson		
Deputy of Grouville		Senator A.J.D. Maclean		
Deputy S. Pitman (H)		Senator B.I. Le Marquand		
Deputy of St. John		Connétable of St. Ouen		
Deputy M. Tadier (B)		Connétable of St. Helier		
Deputy of St. Mary		Connétable of Trinity		
Deputy M.R. Higgins (H)		Connétable of St. Brelade		
Deputy D.J. De Sousa (H)		Connétable of St. Clement		
Deputy J.M. Maçon (S)		Connétable of St. Lawrence		
		Deputy R.G. Le Hérisssier (S)		
		Deputy J.B. Fox (H)		
		Deputy J.A. Martin (H)		
		Deputy of St. Ouen		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy A.K.F. Green (H)		

**The Bailiff:**

Very well the debate accordingly continues, I must again ask those in the galley to withdraw.

[17:14]

**(Debate continued in camera)**

[17:25]

**The Bailiff:**

Very well. Well, once again we must vote in the public Assembly and the usher has gone to ask the public to return. If it does assist members while we are waiting to take the vote I could perhaps remind Members from the Chair that one or 2 months ago the Assembly did of course agree to amendment these sort of procedures and matters are now in train so those who have called for change have of course perhaps overlooked that the Assembly has already agreed to change.

**Deputy M. Tadier:**

Can I ask, where are we with that then? Why has it not been effected?

**The Bailiff:**

It requires obviously the legislation to be drafted and I understand it is with the Law Draftsmen at the moment. It will come forward in due course. Very well, the vote is for or against the proposition of the Minister. Is the appeal called for or standing vote? Yes, appel is called for. Very well, if Members are in their seats the Greffier will open the voting.

<b>POUR: 40</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 1</b>
Senator T.A. Le Sueur		Deputy of St. Martin		Senator S.C. Ferguson
Senator P.F. Routier		Deputy S. Pitman (H)		
Senator P.F.C. Ozouf		Deputy of St. John		
Senator T.J. Le Main		Deputy J.M. Maçon (S)		
Senator J.L. Perchard				
Senator A. Breckon				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy 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.J. De Sousa (H)				

## **7. Jersey Competition Regulatory Authority: appointment of Chairman (P.43/2010)**

### **The Bailiff:**

Very well, we come finally in public business the Jersey Competition Regulatory Authority, appointment of chairman. This is a matter that the legislation does not require to be held in camera and the Greffier will read the proposition.

### **The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion in accordance with Article 3(1)(a) of the Competition Regulatory Authority (Jersey) Law 2001, to appoint Mr. Mark Boleat as a member and non-executive Chairman of the Jersey Competition Regulatory Authority for a period of 3 years with effect from the date of States approval.

### **7.1 Senator A.J.H. Maclean (The Minister for Economic Development):**

Thank you. Jersey is a strong and vibrant economy and the Chair of the J.C.R.A. (Jersey Competition Regulatory Authority) fulfils a number of important functions, encouraging competition and efficiency, providing guidance and advice to the Minister, States Members and to business, and undertaking an ambassadorial role in representing the Island overseas. The role of the J.C.R.A. is thus a dynamic and evolving one and it is vital that the new chairman continues to build upon the important legacy of the former chairman, the Rt. Hon Lord Kingsland. In the field of competition law and across its regulated sectors, the J.C.R.A.'s primary mission is to promote consumer welfare in a way that encourages lower prices, greater choice and innovation in the goods and service available in Jersey. But the J.C.R.A. must also show it itself to be pro-business and capable of innovation and adaption to the needs of a fast changing and evolving economy. This is a vital function that the new chair of the J.C.R.A. must face and which will present their greatest challenge. As the Minister with the greatest responsibility for the management of the local economy, I believe that the new chair must bring an understanding of scale and proportionality while pursuing the authority's core objective. A partnership approach based on clear understanding of the needs of business, as well as those of consumers, will provide a lasting legacy and allow the authority to continue to serve the needs of the wider Island economy. I believe that in Mark Boleat we have such a chairman. As Members are no doubt aware the sad and untimely death of Lord Kingsland last year has left the J.C.R.A. without a chairman for some months while a recruitment exercise was undertaken to find a successor. I am pleased to report that the vacancy attracted a very high calibre response and that the recruitment panel has recommended Mr. Mark Boleat as the best candidate for the post. The panel was undertaken according to the Appointment Commission's guidelines. Under Article 31(a) of the Competition Regulatory Authority (Jersey) Law 2001 it is for the States to appoint one member of the authority as chairman upon the recommendation of the Minister for Economic Development and I would urge Members to approve this appointment of Mark Boleat as chairman of the authority. If the Assembly agree, the appointment would take immediate effect and would be for a period of 3 years.

[15:30]

The Chairman would be expected to undertake a minimum of 24 days per annum at a total remuneration of £42,249, to be paid jointly from the department's Competition Law grant and the J.C.R.A.'s own funds. It is important I think to note that this figure has not changed since a moratorium was introduced in 2008. Members will note from the C.V. (curriculum vitae) attached to the report and proposition that the proposed chairman is of an exceptional quality whose relevant expertise in economic, legal and regulatory matters, coupled with his strengths in leadership and

consumer issues will bring immediate benefits to the authority. Of particular note, and what differentiates this candidate from the previous incumbents is that he has a professional regulatory background rather than being a competition lawyer, and I think vitally at this juncture he is a Jerseyman. As such he understands the Jersey economy and the Jersey way of life. He will not readily agree large state solutions to local problems and he will, I am sure, challenge the accusations of levels of bureaucracy and inflexibility that the J.C.R.A. has sometimes, perhaps unfairly, been accused of. In short, he is an excellent successor to Lord Kingsland. The J.C.R.A. is at an important crossroads in its development. Jersey's economy is becoming more pressured and the need to ensure competitiveness and innovation by opening up business previously reserved for the public sector will continue. As an economist with enormous experience, this appointment will stand the J.C.R.A. in good stead as they move forward. I therefore commend the appointment of Mark Boleat to the Assembly.

**The Bailiff:**

Is the proposition seconded? [**Seconded**] Deputy Le Hérissier.

**Deputy R.G. Le Hérissier:**

I think the Minister forgot one other fact which I think Deputy Hill will mention. He is of course a St. Martinais.

**7.1.1 Senator S.C. Ferguson:**

Yes, without wishing to turn the knife in the wound, we have a highly qualified, highly intelligent and competent gentleman who has been brought to us to ratify the appointment and this is another example of the calibre of recruitment we can get with an open appointment. [**Approbation**]

**7.1.2 The Deputy of St. Martin:**

Yes, I would like to endorse what Senator Ferguson had to say. In fact, just to remind the Senator, we normally call him Boleat and he is also a graduate from Poplar Avenue as indeed are Deputy Le Hérissier and I. So he comes with strong recommendation. Again, we have got to endorse the way it is done. This is how an appointment should be made. Open competition, selection in the open and we get a decent ... in fact we do not get a decent candidate, we have got an excellent candidate and I will certainly endorse the appointment.

**7.1.3 Deputy M. Tadier:**

You would imagine that if you cannot get an open selection process and a competitive one for the J.C.R.A. then you would not have much luck with anything else. It is good to know that he is a Jerseyman. I would like to know how many generations, hopefully he is a pure blood. Presumably he can pronounce his own name being a Jerseyman, which is also going to be useful when he is talking on the phone. I am not going to be supporting this appointment unfortunately, and it is nothing to do with the gentlemen in question, I am sure he is very well qualified. The point is we were told by the Minister that he is going to be continuing in the same fashion of the previous chairman and my objection is that I do not like the way that J.C.R.A. is going at the moment. I do not think that they take into account the fact that we live in a small Island when they try and apply their models of competition from elsewhere, which may well work elsewhere. They do not realise that there are going to be unintended consequences or maybe they do know that there are going to be consequences of their actions, such as with the Jersey Post which is happening at the moment, completely cannot understand why the J.C.R.A. are advocating any kind of competition in that area. So in that sense I have to vote against because I have been told by the Minister that he is going to be continuing in exactly the same idiom as his predecessor and I do not think that is the direction we want to be going in.

**7.1.4 The Connétable of St. Brelade:**

While I have nothing against Mark Boleat and his qualifications for the position, would the Minister just confirm that, in view of the fact that the J.C.R.A. has been running for considerable time without a chairman, the position is necessary.

**7.1.5 Senator P.F.C. Ozouf:**

I rise to encourage Deputy Tadier to reconsider his vote against. I do not know whether or not Deputy Tadier has ever taken the opportunity of going to the J.C.R.A. and meeting with the board of the authority or whether or not he has ever read the J.C.R.A. Law or the Competition Law which the authority is there to oversee. I will give way.

**Deputy M. Tadier:**

Seeing the Minister is asking me a question, yes, I have. I did, I think, about a year ago go and see Chuck Webb and we had a very good conversation. I found him to be very polite and I think the issue we talked about, if I can recall, may have been Condor because I was getting a lot of complaints from people about the monopoly of Condor.

**The Bailiff:**

I think you have answered the question.

**Senator P.F.C. Ozouf:**

So even more reason to ask if Deputy Tadier would reconsider. Because if he would have read the Competition Law and indeed the 2 regulatory laws, the Jersey Telecom Law and the Jersey Post Law, he will know what the guidance of this Assembly has been to the J.C.R.A. in carrying out their duties. If this Assembly wants to change those arrangements then it is up to this Assembly to say that they should not be, for example, promoting competition or regulating in a certain way. I also, if I may, take issue with the Deputy in casting aspersions on the former chairman, the late Lord Kingsland in the manner in which he discharged his functions as Chairman of the J.C.R.A. I believe that he discharged those functions ...

**Deputy M. Tadier:**

Sir, I have to object on a point of order. I do not think at any time I cast aspersions on the chairman. As the Senator has just said, he was carrying his job as charged by the House but all I am saying is that if this current chairman is also going to be doing the same job as the last chairman then I cannot support him and I will be registering my vote on that basis. It is not casting aspersions so I would ask the Senator to take that back.

**Senator P.F.C. Ozouf:**

I do believe it was unfortunate if any aspersion could potentially be drawn from what the Deputy said.

**Deputy M. Tadier:**

That is not an apology. I think it is ...

**Senator P.F.C. Ozouf:**

I move on then.

**Deputy M. Tadier:**

It is unfortunate the Senator is casting aspersions.

**The Bailiff:**

I think you should withdraw the ...

**Senator P.F.C. Ozouf:**

I withdraw any suggestion the point was unfortunately made. Sorry. I am withdrawing, yes. I apologise. I just would say that the J.C.R.A. does have a really important task ahead of it in terms of discharging the regulatory functions and clarifying some of the issues to do with Jersey Post and Jersey Telecom and I think that Mr. Boleat will bring a fresh approach to the Commission in terms of a real experience in consumer affairs which perhaps the commission has not had but which Mr. Boleat does and I urge the Assembly, all Members of the Assembly, to support the nomination.

**The Bailiff:**

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

**7.1.6 Senator A.J.H. Maclean:**

It is clear from my earlier comments that my pronunciation of the candidate's name was not quite what it should be. I have never been particularly good at pronunciation on names and I do apologise to the gentleman in question for not pronouncing his name correctly. The other comments I will make, I would just like to quickly thank Senator Ferguson and the Deputy of St. Martin for their comments and support of both the process and indeed the quality of the candidate. I am, indeed, also enthusiastic about the high level of quality candidate that we have managed to attract to chair the J.C.R.A. The level of candidates that came forward for this post and the quality was absolutely exceptional and I am confident that he will be a very, very good chairman for this important body. The only other comments I would make, Deputy Tadier should just bear in mind that this particular gentleman is a Jerseyman and as the new chairman I have no doubt that he will be his own man and he will preside over the activities of the J.C.R.A. in an appropriate fashion, he understands the Jersey economy, he understands the Jersey way of life and as I think I said in my comments, he will not agree, for example, large state solutions to local problems. He is the right man at the right time and I think he will do an excellent job. Finally the Constable of St. Brelade asked a question as to whether we need a chairman having had the J.C.R.A. operating without for a period. We have to have a set number and an appropriate and well qualified chair is essential for appropriate leadership of the J.C.R.A., particularly at this time in its evolution. I maintain the proposition.

**The Bailiff:**

I put the proposition. Those Members in favour of adopting it, kindly show. The appel is called for. Very well, if Members are in their seats the appel is called for and the Greffier will open the voting.

<b>POUR: 45</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy M. Tadier (B)		
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
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. Clement				
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 St. Ouen				
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 A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				

## ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

### The Bailiff:

We come finally to the arrangement of public business for future meetings. I call on the Chairman of P.P.C.

### 8. Connétable J. Gallichan of St. Mary (Chairman of Privileges and Procedures Committee):

The arrangement of future business is largely as per the lavender sheet. I am aware that one or 2 Members may have something to add but the situation as I understand it at present for 11th May sitting there is the addition of P.44 - the Jersey Competition and Regulatory Authority proposal to grant a postal operator's licence in the name of Deputy Southern, which was moved from today. Also the last item listed for that day, P.49 - Samarès Nursery site, St. Clement: removal from draft Island Plan - petition will be moved to 6th July. Also if I could draw Members attention to the sitting planned for 14th September. It is intended that that sitting will be dedicated to the Annual Business Plan and to give certainty to Members and to allow for proper planning I would like to move that the business on that day is moved to the afternoon of the previous day, Monday, 13th September, an afternoon sitting starting at 2.15 p.m. so that the normal formalities of questions, *et cetera*, can be dealt with in advance of the business plan. I would like to put that down now so that Members can note it in their diaries and we have certainty for that.

### The Bailiff:

Thank you, Chairman.

### 8.1 Deputy M.R. Higgins:

Again, Operation Blast, I have forgotten the P number. I have been informed by the Minister for Home Affairs that he will not be getting the *Wiltshire Report* until at least 7th May, he will not then be in an immediate position to provide us with that information and therefore this proposition is

going to run out of time again and I am planning on resubmitting it. There is no point in us having it on the agenda when we need the information contained that report. So I shall resubmit the proposition and as soon as we have the information from the Minister we will debate it.

**The Bailiff:**

That will be formally withdrawn, Deputy; P.197 the first item on the list for 11th May. Very well.

**8.2 Senator B.I. Le Marquand:**

Can I just clarify it is not in fact the report on 7th May, I may get the report before 7th May but it is all the accompanying documents I have been told I am receiving.

**8.3 The Connétable of St. Helier:**

I wonder if I could seek to use up the space vacated by Deputy Higgins. As Members will know I was seeking a debate on P.42 on the Millennium Town Park at the current sitting but the Council of the Ministers asked me to defer it for 3 weeks to give them time to prepare reports. I would like to ask the States approval to make it the first item of business on 11th May.

**The Bailiff:**

Do you wish to address the same issue, Deputy Duhamel?

**8.4 Deputy R.C. Duhamel of St. Saviour:**

Yes, similar issue. There are a number of items set down which do cut across the remit for Planning and Environment. As Members will know that there are 4 Members who have been elected to attend a C.P.A. (Commonwealth Parliamentary Association) conference during the week of 11th May and we will not be in the States Chamber. I wonder if Members would consider a proposition to move forward the Millennium Town Park - P.42 - proposal by the Constable of St. Helier to the meeting on 25th April instead?

**The Bailiff:**

It is a matter for the Assembly.

**The Connétable of St. Helier:**

Yes it is moving back and I will off Island at my son's graduation on 25th May so I would be unable to bring the proposition on that date, it would have to be moved therefore back to 8th June and I would submit that the matter is an urgent matter because I want to see the work start and we will have the outline of the Hopkins proposals, we have been told by the Minister for Planning and Environment by 11th May.

**The Bailiff:**

It is a matter for the Assembly, Deputy.

**Deputy R.C. Duhamel:**

Can I press the issue to a vote, please, Sir?

**The Bailiff:**

The Constable himself has explained he has difficulty with 25th May, are you pushing the matter to 8th June.

**Deputy R.C. Duhamel:**

In that case 8th June, yes.

**Senator P.F.C. Ozouf:**

May I just ask a point of clarification on the same issue? It is a shame that Deputy Duhamel will not be here but is it not possible ... there is going to be more than one or 2 days business here. There is quite a lot of controversial matters before the Assembly. Is it not possible to find a solution whereby it is at the bottom of the agenda when those Members are back? Is it certain that we are going to finish the business on 11th, 12th or 13th, has any consideration been given to that?

**Deputy R.C. Duhamel:**

The arrangements are that those 4 Members who had been elected to attend the conference will be away for the whole week. I am quite happy to come back to the Island for the debate if there was some certainty as to the date of the debate but obviously there would be a huge uncertainty to it. Likewise, Members must realise that although the *Hopkins Report* has been mooted to be available on 11th May, Members will not have had the chance to read the contents and yet be expected to debate material considerations within that report in the light of the Constable's proposition.

**The Bailiff:**

So you are formally proposing, Deputy, that P.42 be moved to 8th June?

**Deputy R.C. Duhamel:**

If the Constable is unavailable to have the debate on 25th May or some other date after that, yes, then I would.

**The Bailiff:**

Is that proposition seconded? [**Seconded**] Yes, Deputy Martin, you wish to address that point?

**8.5 Deputy J.A. Martin:**

Yes, I do. We met with the Constable of St. Helier after meeting with the Council of Ministers, probably against the advice of his Deputies, but the Constable being a more measured man than myself - and he is as man as well - agreed to the Council of Ministers. Deputy Duhamel is out of the Island and he has already told us which way he is going to vote. Unfortunately he thinks he has a contribution. If he really wants to be at the debate ... we cannot go back to June, we will be exactly where we are, the town park will not ... we want a decision, we want a steer, are we being supported and what sort of park. I am sorry, I really think if the Council of Ministers support this to go back to June that you will lose so much trust from Back Benchers who have been asked to move and have done it and I think it should be taken as the first item.

**The Bailiff:**

Let us come back to that one, Deputy.

**Deputy J.A. Martin:**

Okay, but I really feel that we have moved.

**8.6 Senator T.A. Le Sueur:**

I agree that it is probably at this stage premature to take the decision suggested by Deputy Duhamel. Certainly the Council of Ministers are likely to bring an amendment to P.42 and that will be lodged certainly after the Council of Ministers have met and discussed it but within the appropriate period. Depending on the wording of that amendment and the Masterplan, it may well be that at the date of sitting Members would then consider that it would be too premature to debate it. I think at this stage we cannot really make up our minds.

**8.7 The Deputy of St. John:**

I was listening to what the Constable said, he would be out of the Island on 25th May but I presume it would be running over until 26th May, why can he not have it at the end of the agenda for 26th

May and we can at least get the business done that date. It means he may have to cut his holiday short.

**The Connétable of St. Helier:**

My son is graduating from a university in America on 25th May. [Laughter]

**The Deputy of St. John:**

I now understand, thank you.

**The Deputy of St. Martin:**

I could not quite hear whether this is right or not but did I hear the Chairman of P.P.C. saying we were asked to meet on Monday, 10th May?

**The Bailiff:**

No, 10th September.

**The Deputy of St. Martin:**

That is fine, thank you.

**The Bailiff:**

Very well, let us put this to the vote, Deputy Duhamel has proposed that the matter be moved to 8th June. The appel is called for. If you wish to move you vote pour, if you do not vote contre and the Greffier will open the voting.

<b>POUR: 9</b>		<b>CONTRE: 36</b>		<b>ABSTAIN: 0</b>
Senator T.J. Le Main		Senator T.A. Le Sueur		
Deputy R.C. Duhamel (S)		Senator P.F. Routier		
Deputy of St. Martin		Senator P.F.C. Ozouf		
Deputy J.B. Fox (H)		Senator B.E. Shenton		
Deputy J.A.N. Le Fondré (L)		Senator J.L. Perchard		
Deputy S.S.P.A. Power (B)		Senator A. Breckon		
Deputy of St. John		Senator S.C. Ferguson		
Deputy A.E. Jeune (B)		Senator A.J.D. Maclean		
Deputy A.T. Dupré (C)		Senator B.I. Le Marquand		
		Connétable of St. Ouen		
		Connétable of St. Helier		
		Connétable of Trinity		
		Connétable of St. Brelade		
		Connétable of St. John		
		Connétable of St. Saviour		
		Connétable of St. Clement		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy R.G. Le Hérisssier (S)		
		Deputy J.A. Martin (H)		
		Deputy G.P. Southern (H)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy of Trinity		
		Deputy S. Pitman (H)		
		Deputy K.C. Lewis (S)		
		Deputy of St. Mary		



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

**The Bailiff:**

Very well, now you have made the request, Constable, that the matter be taken as the first item. Are Members content to take this as the first item on 11th May?

**8.8 Senator T.A. Le Sueur:**

I do think that if we have only just received the North of Town Master Plan at a fairly late stage then the longer that Members have to consider that before the debate the better and I would have thought an extra day or 2 is not going to be that critical. I think it should keep its place in the sequence of propositions.

**8.9 Senator S.C. Ferguson:**

I would just comment that I have ... we are waiting for the *Hopkins* draft, people seem to be a great deal more optimistic than I that the architects' papers will be delivered on time, therefore I would perhaps let it stay in its place on the Order Paper.

**The Bailiff:**

If I could just ask, Constable, if you wish to maintain this? Is there a particular reason you wish to be taking this first item, it is an unusual request to make in some ways?

**The Connétable of St. Helier:**

I just think because I deferred it from this sitting, Sir, and it is an important matter. It could take a whole day's debate and Members who are not here can always leave their ring binders of course.

**The Bailiff:**

Very well, the Constable has proposed this. Those in favour of taking it as first item, kindly show. The appel. The vote is to take it as the first item of business, the Greffier will open the voting.

<b>POUR: 21</b>	<b>CONTRE: 22</b>	<b>ABSTAIN: 0</b>
Senator B.E. Shenton	Senator T.A. Le Sueur	
Senator A. Breckon	Senator P.F.C. Ozouf	
Senator S.C. Ferguson	Senator J.L. Perchard	
Senator A.J.D. Maclean	Senator B.I. Le Marquand	
Connétable of St. Helier	Connétable of St. Ouen	
Connétable of Trinity	Connétable of St. Brelade	
Connétable of St. John	Connétable of St. Saviour	
Deputy of St. Martin	Connétable of St. Clement	
Deputy R.G. Le Hérisssier (S)	Connétable of St. Lawrence	
Deputy J.A. Martin (H)	Connétable of St. Mary	
Deputy G.P. Southern (H)	Deputy R.C. Duhamel (S)	
Deputy of St. Ouen	Deputy J.B. Fox (H)	
Deputy of Grouville	Deputy J.A.N. Le Fondré (L)	
Deputy of St. Peter	Deputy of Trinity	
Deputy J.A. Hilton (H)	Deputy S.S.P.A. Power (B)	
Deputy S. Pitman (H)	Deputy K.C. Lewis (S)	
Deputy T.M. Pitman (H)	Deputy of St. John	

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

**The Bailiff:**

Very well, are there any other matters to raise on the arrangement of future business? Deputy Fox.

**Deputy J.B. Fox:**

It just goes into the amendment that I have to P.197, it will have to go together.

**The Bailiff:**

They fall together, very well. Perhaps, Chairman, the matter being raised regarding September you could perhaps email Members in case they did not catch the precise details of your point. Very well, there are no further matters, the arrangement is agreed, the meeting is closed. The Assembly will reconvene on 11th May.

[17:52]

**ADJOURNMENT**