

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 26th SEPTEMBER 2007

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

PUBLIC BUSINESS

1. Draft High Hedges (Jersey) Law (P.51/2007)

The Bailiff:

The first item on the Order Paper is the Draft High Hedges (Jersey) Law 200-, Projet 51 and I ask the Greffier to read the principles of the draft.

The Greffier of the States:

Draft High Hedges (Jersey) Law 200-, a law relating to high hedges. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

1.1 Senator F.E. Cohen (The Minister for Planning and Environment)

A good hedge can provide many benefits as a boundary feature. It can shield our homes from the worst of the weather. It can encourage wildlife and it can be an element of beauty and interest throughout the seasons in its own right, adding value to a garden and to a neighbourhood. Hedges can be relatively inexpensive to create and they can be very long-lasting. Perhaps most significantly in our small and densely populated Island they can provide our homes and gardens with both privacy and security. But just as the right hedge can be an ideal boundary by creating privacy and preventing others looking into our properties, the wrong hedge can bring problems. Hedges that are not suitable for their location and hedges that are not properly maintained can cause difficulties for neighbouring landowners. The commonest concern about high hedges is the reduction of daylight and sunlight that they can cause to a neighbour's home and garden. Where neighbours do not co-operate there is little that a person affected by a high hedge in Jersey can do. While this may not be an issue for a particularly large number of people and properties in the Island, where it does occur it can condemn those affected to a dark, dank and miserable existence. Members may have seen the photographs of some of the local examples of high hedges and the effect they can have, and in this context I would like to express my personal thanks to Deputy Ferguson, as the St. Brelade's photographs were taken by her. Much can be done to prevent this issue from occurring. Good design about which I am passionate is not just about what buildings look like but has to address issues such as the relationship between buildings and gardens. Design solutions to protect and promote privacy are important and can be achieved through the planning process. Information about the right type of hedging plant and trees is important too. But many outsize hedges are the result of mismanagement and neglect and I believe that there is a need to provide those whose homes and gardens are seriously adversely affected by high hedges - now and in the future - with some legislative framework to enable their concerns to be considered. This will ensure that there is some way for the effect of high hedges upon the reasonable enjoyment of a neighbour's home and garden to be assessed and determined. This is an issue that has been of concern for some time. My friend, Senator Le Main, has constantly championed the need for legislation to tackle this problem, and I am aware of other members who, on the basis of particular examples in their constituency, are concerned to bring this forward too. In 1999, Senator Le Main submitted a proposition to the States to bring the control of Leyland Cypress hedging within the realms of the planning legislation. The effect of this proposition which was subsequently withdrawn prompted an examination of how best to tackle this issue, having regard to existing and forthcoming legislation. The upshot of this was that a specific new law was considered necessary. Much of the work on this proposition before you was carried out by my predecessor, Senator Ozouf, before my appointment. I must thank him for all his strenuous efforts to ensure that the proposition before you came into being. Jersey has not been alone in exploring the need for this issue to be addressed. In parallel with events in the Island, the U.K. (United Kingdom) Government has introduced a new law, part of which gives local councils

powers to deal with high hedges. This is contained in Part 8 of the Anti-social Behaviour Act 2003. It is on the basis of this legislation that the proposed law for Jersey is based. The development of the draft Law in Jersey has prompted interest among those affected by high hedges and hedge owners. Consultation on the provisions of draft legislation was undertaken at the end of 2005 and the beginning of 2006. Thirty written representations were received, predominantly from those affected by high hedges offering their support for it. No objections have been received against the principle of the requirement for legislation to address this problem. Some amendments to the draft Law were made following the response to consultation. Specifically these dealt with the application of the Law to Crown land and to legal procedures. The privacy and amenity of the hedge owner are important considerations too. I would like to express my sincere thanks to both Deputy Baudains and Deputy Maclean. They have both tabled amendments that significantly improve the fairness of the proposed Law. However, they put the smooth passage of the Law before their own interests in agreeing to meet me to discuss a way of combining their concerns into a single amendment that I could propose. I am most grateful to both Deputies. I shall now give a summary of the main provisions of the Draft High Hedges (Jersey) Law. The draft Law makes provision for the Minister to determine complaints by the owners or occupiers of domestic or residential property adversely affected by evergreen hedges over two metres high. It enables a fee to be charged for this service, to be paid by the complainant. The Minister is able to reject a complaint if it is considered that insufficient effort has been made to resolve the matter amicably or if the complaint is frivolous or vexatious. The Law does not require all hedges to be reduced to or maintained to a height of two metres. If the circumstances are right it may be that a high hedge can be maintained at a height of three, six or nine metres and above without causing any problems. Each case will need to be assessed on its merits. I will publish guidelines based on those adopted in the U.K. which will indicate how hedge heights will be assessed. These will be guidelines only as I will still have to assess matters of privacy and amenity but they will help people work out for themselves what is likely to be acceptable. In determining a complaint, the Minister must take into account all relevant factors, including the privacy of the owner or occupier of the neighbouring land where the hedge is situated and the amenity of the hedge. The proposed Law should not be regarded as a hedge victim's charter. As a result of Deputy Maclean and Deputy Baudains' suggestions, my proposed amendment requires the Minister to have regard to the existing situation as regards to the existence and height of a hedge at the time that the complainant acquired an interest in the property. The Minister may, if it is determined that the circumstances justify it, issue a notice requiring the owner or occupier of the neighbouring land, where the hedge is situated, to take action to remedy the problem and to prevent it recurring. Any such notice may be enforced through criminal prosecution and/or by the Minister carrying out the work if the owner or occupier fails to do so. The Minister cannot require the hedge to be removed or reduced in height below two metres. The extent of the problem of high hedges in Jersey and the potential for complaints to be submitted as a result of the potential introduction of this Law cannot be foreseen. In England, where the legislation has been in operation for over two years, there have been fewer applications to councils than was originally envisaged. This is believed to be partly because hedge owners are dealing with their problem hedges before a formal complaint is made. In this respect, even if the Law is not being invoked it is having the desired effect of reducing the problem of high hedges without the need for formal intervention. This should be regarded as a success and I would hope that the same result could be achieved in this Island. Nevertheless, where formal complaints are made I will have no option but to charge a fee for the cost of providing this service. Without the provision of a fee to cover the cost of dealing with complaints my department will be unable to provide it. The Law enables me to set a level of fee for complaints and I will do this, and I will justify this, by reference to the work and resources required to deal with the complaint. It is the individual householders affected by high hedges who will potentially benefit from the determination of a complaint, and I believe that it is right that they should pay for this service; a service which they do not presently have access to. To summarise, I believe that the Draft High Hedges (Jersey) Law will provide a mechanism to deal with problematic high hedges where none presently exist. It will perhaps, most importantly, provide

a background against which neighbours are encouraged to resolve matters amicably between themselves. Where this cannot be achieved, it will enable a balance to be struck between the privacy of those with high hedges and the amenity of those affected by them. It is a prudential to provide relief to the few significantly blighted by this problem and to prevent the incidence of this problem in the future. It is long awaited and, in some cases, urgently required. I therefore commend the preamble to the Assembly.

The Bailiff:

The principles of the draft are proposed. Are they seconded? **[Seconded]** Does any member wish to speak on the principles?

1.1.1 Deputy G.C.L. Baudains of St. Clement:

It did occur to me a few days ago the possibility the Minister is conflicted by his own proposition because as Planning Minister it seems to me he is clearly trying to bring a 'right to light' measure to the House by shady means. I agree, however, that some hedges do cause misery to those living in their shade but on the other hand, as Environment Minister, surely he should be encouraging the growing of trees and hedges mitigating the carbon we produce in the process. I have to say in the members room next door where there are photographs of hedges they have some lovely examples there. They look quite nice. But I did also notice that there are no examples of trees in St. Clement. Indeed, Sir, I would argue that we need some high hedges in St. Clement in order to hide some of the hideous buildings we have had over the last few decades. **[Laughter]** I can think of one in particular, Sir, on the high land near Le Hocq where we need some extremely high hedges to assist us in that matter. But having said that, of course, yes, I do support this proposition. It does have my full support and it is long overdue. I remember Senator Le Main - I think, he was probably still Senator then before being Deputy - when he brought this forward, it has been a long time growing, Sir, and it is time we had it on the statute.

1.1.2 Deputy S.C. Ferguson of St. Brelade:

During the consultation period, a cost of £600 per appeal was mooted. In view of the fact that many of the complainants will be the less advantaged in the population, will the Minister endeavour to make the charge less onerous? It might also be an idea to add Leylandii to the prescribed weeds list. They are not native to the Island and are totally inappropriate to our particular environment.

1.1.3 Deputy C.J. Scott Warren of St. Saviour:

I have received many concerns from people regarding the two amendments now; I am very pleased they have been redrawn. One thing that is, in my opinion, very important is that a neighbour's garden is not totally cast in shade by a high hedge. I have also been concerned that it is the complainant who pays a fee but I do understand this complies with the U.K. legislation and I understand the reasons given, so I will certainly be supporting the proposition.

1.1.4 Deputy D.W. Mezbourian of St. Lawrence:

I understand that there will be no necessity to employ additional staff to deal with these applications. I wonder if the Minister will advise what priority these cases will receive when they are received within the Planning Department?

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

This has been a long time coming. It was while I was on the Planning Committee the time before last when this was vigorously being discussed. It is very important because it so affects people's lives. In one example at Queen's Road that I was involved in, there was one main particular tree, but fortunately there were some little ones on either side which would then cover this Law I am assured, that reached three storeys high right in the front, and a dear 93 year-old lady, I think she was, with her son had to have the light on in their lounge all day long. This is the sort of selfishness

that we had from some neighbours who refused point blank, under all sorts of reasonable requests to do something about it, and it did not even affect his view as his garden was so long it was at the bottom of the garden. Therefore, I am extremely pleased. My only concern is if you have got a victim that has no financial support whatsoever, perhaps the Minister could just give a thought to that in his answer.

1.1.6 Connétable G.W. Fisher of St. Lawrence:

I would just like to speak in support of this proposed Law. I can well recall a case in the Parish where parishioners got in touch with me and were very concerned about their garden which, quite honestly when I went to have a look at it, was totally dead. The reason for that was that there were some *Leylandii* across the road from the particular garden, but they were so high that the sun never got to the garden and nothing grew in the garden because it was effectively under these *Leylandii*. I could not do anything under the Branchage Law because the trees were more than 12 feet above the road. So, as these parishioners had complained to their neighbours, I then wrote - I had to write two letters in fact - and eventually the trees were cut and the original parishioners were then able to enjoy their garden. But I felt at the time that I was really impotent in terms of making the trees be cut and so therefore this will be a good move to have this Law in place.

1.1.7 Connétable T.J. du Feu of St. Peter:

When Deputy Ferguson raised the point about natives, there are any amount of natives that have taken root in the Island and they are here for all to see in varying heights.

1.1.8 Deputy G.W.J. de Faye of St. Helier:

I very much welcome the introduction of this new Law partly because... if I can recount to members a true story. I was approached at a public event some four years ago by a gentleman who told me about his particular neighbourly issue about a hedge between adjoining properties. Unfortunately the neighbours were unable to resolve this amicably and it went to court. He informed me, and my figures may be the odd £1,000 adrift either way, but in effect he understands that his neighbour had paid legal fees to the tune of some £5,000 and he, himself, had paid slightly more at around £7,000 to £8,000. Nevertheless, he was satisfied with the result which was that he was the successful litigant and the hedge intervening between the properties was reduced in size. But apart from noting the rather astonishing figures for legal fees, I think members should realise that this Law is going to be a real bonus for local residents caught in this position who will no longer have to pay out thousands of pounds to resolve this type of situation. So we really should welcome this. There are two aspects that I would like to take up with the Minister in terms of clarification because clearly over time he will be making decisions that will, in effect, become protocols and will set the guidelines for how the Ministerial determinations would be made. One aspect of this is a situation where somebody buys a property and presumably in the course of looking at a property will discover that they have a very large hedge already in place next to them. Now, I know that there is a certain sense among members that if you are in that position it is a case of "buyer beware". I regret I forget the original Latin, although I am sure the Bailiff would know. I have to say, I think that this is not such a simple situation and I give simply the Minister this example. If it is the case that a property became vacated for sale by a previous owner because of the problem of their neighbour having a high hedge, one that had grown over time, if we simply say "buyer beware" and therefore the new owner of the affected property loses, in some way, their rights under the Law or is disadvantaged, I think... I have just been told it is *caveat emptor* is the phrase I was seeking for "buyer beware". But if this is not approached very carefully we will have a situation where the effective sale of a property could, by virtue of itself, cement the situation of a high hedge because anyone then moving into the property will have effectively been deemed to have accepted that there is a high hedge right next door to their own property. I think that would be an unfortunate situation. Therefore I would ask the Minister to consider that position carefully. The second area where I would appreciate some clarification is that the Law does refer largely to the

hedges obstructing light. I would like to know the Minister's view on situations where high hedges obstruct a view because many properties are bought and sold on the basis of a view which is not necessarily the same thing as whether the sun comes over your yardarm at a certain time of the day or not, and whether it is, in fact, the sun that has been blocked out by a hedge or a view that has been blocked out. I think that is an important point for the Minister to clarify. Again, it will come within his determinations over time and those of future Ministers, because of course while light is important in any garden, a loss of a view can mean serious devaluation of a property with the ensuing difficulties for a property owner caught in that way. Having asked for those two aspects of clarification though, I fully support this excellent new Law which I am sure will bring respite to many local residents.

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

I welcome this proposition, Sir. I have been contacted by quite a few people by phone and by email whose homes are in shadow most of the year due to neighbour's very high hedges, forcing them to switch on lights in their houses during daylight hours and areas of the garden being permanently damp. I would like some clarification, Sir, where it says: "Draft High Hedges Law" that that does in fact include all trees. I fully support this proposition, Sir.

1.1.10 Deputy A.H. Maclean of St. Helier:

I would like to congratulate the Minister for bringing forward this much needed Law. Members will be aware that I brought an amendment to the Law when it first came out - the draft Law - and I had significant concerns to the drafting of the Law as it stood at that stage. I was particularly concerned about the effect it could have on existing homeowners should a neighbouring property change hands. I was delighted with the reaction of the Minister who invited me to his department, we had some lengthy discussions over the matter and I feel that the amended Law now meets the requirements of all concerned, both for existing homeowners and others, and hopefully will resolve any future issues. There is, without doubt - and I have had several complaints myself of people who have suffered from the miseries of high hedges - quite significant increases in size from just six feet or so up to 20 or 30 feet taking significant amount of light and enjoyment. It is an issue. This Law is greatly needed. One of the areas of concern that I had was the powers that the Law would put in the hands of the Minister. He would, at a point of the complainant not being able to resolve the issue with a neighbour, would be called upon to effectively adjudicate. I was concerned - not with the existing Minister that we have at the moment of course, as we are blessed with a Minister with a great deal of commonsense - however in the future one can never be quite so sure and in such circumstances a future Minister's interpretation of the Law could indeed have compromised the enjoyment and value of a property by a neighbour, and that was an area that I believe the amendment has now hopefully addressed. I very much hope, in particular, that this Law will act as a preventative law but, rather than anything else, I think we will see a drop-off in the need for these issues to be resolved and, indeed, I am sure the Minister will be delighted if he does not, in fact, have to adjudicate on many cases. I believe this Law will prevent such things and I believe that neighbours will hopefully arrive at fair and reasonable compromises. So, I think, in closing I would just like to once again congratulate the Minister. It is a much needed Law and I wholly support it.

1.1.11 Deputy J.J. Huet of St. Helier:

I think I would like to withdraw from this Chamber because after Deputy de Faye's comments, I did buy a property with beautiful views, it no longer has those views, and I feel that if I voted for this I would be seen to be maybe looking after my interests on it. Thank you, Sir.

The Bailiff:

That is a matter for you, Deputy.

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

I very much welcome this Law and I put a couple of words down here; deterrence and prevention, because I think this is what this Law will do. I would like to go right back, because the Minister did mention about the 1999 Statutory Nuisance Law which I brought through the States way back then. We could not cater for the high hedges at that time and I well remember that it was Deputy Le Main, then - and myself, we were on the Health Committee at the time - joining with the Deputy of Grouville, the former Deputy Imogen Nicholls, and the three of us met Planning with a view to getting this Law. In fact, we are rather disappointed it has taken that long simply because, in fact, there was a U.K. Law around at the time. But, I think, what we have got now is probably a right balance. Probably time has taken its toll obviously and we have got something now, but the concern I do have - I will be supporting it - but just getting that balance right. Are we looking at creating a precedent here where a complainant may have to pay to get a problem resolved? I accept this is going to be a lot less expensive because I accept what Deputy de Faye has said. We know of cases where it has cost people a lot of money going through the court, but I am a little bit concerned about the precedent that may well be created, and also will the charges come before the House for us to approve them before the Minister is able to lodge them?

1.1.13 Senator P.F.C. Ozouf:

I am not a lawyer or a constitutional expert but I was aware of the provisions of the Code of 1771. That as an owner of land, under certain circumstances you may serve a notice to the owner of a southerly piece of land who has mature trees obstructing your ability to grow crops in a field. When faced with this issue, as the Planning President, my first question was to ask whether or not you could amend the Code of 1771? I was told that that was not possible. Now I am fast-forwarding; this Law deals with evergreens. The Code of 1771, as I understand it, deals with fully grown trees; deciduous trees. I do not expect the Minister to be able to answer this question now but during the course of this debate perhaps the Attorney General or the Solicitor General would be able to attend the Assembly, because I would like to know - and it is a serious question - how this High Hedges Law will be able to work with the existing provisions which are still there for the Code of 1771. I know that they are probably not an often used code, maybe it is the fact that the code exists that farmers and land owners know that they can require the southerly view, the southerly aspect of a field or a piece of land to be maintained, maybe that is why it is not enforced, but I would like confirmation of how this High Hedges Law is going to work with the existing Code of 1771.

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

I fully support the Law, Sir. I would just like to ask the Minister if during his summing-up he might reflect for a moment about what is the principle behind this Law. It would seem to me, as has been mentioned, it is more than just light and peace and enjoyment of property. It hinges upon crop growth, it has an aspect in relation to view potentially, and if the principle is to introduce laws to Jersey to safeguard people's rights to views, light, the ability to grow crops, what other areas of the Planning Law need to be reviewed in order to safeguard this principle? What other measures that do not relate to high hedges need to be factored in if this principle, which we are introducing a Law to cover, is to be maintained throughout the Island?

1.1.15 Senator T.J. Le Main:

This is a great day for me today to think that at long last, nearly 25 years I have been fighting for this, and I have to say, Sir, that this problem has been a problem which has affected many, many people in this Island, mostly elderly people, I have to say. It is quite unbelievable when someone has maliciously - deliberately - caused a nuisance, planted Leylandii alongside boundaries. The health of those people affected was something that really concerned several of us, or certainly when I was on the Health Committee years ago, and continues to do so. I would say that in all the cases that I have attended - I am sure probably over 100 such cases in the last few years, including the case that Deputy Ferguson is highlighting - it has been... as I say the people affected have been affected very, very seriously healthwise. Sir, the Minister talks about unmanaged hedging. I am

talking about deliberate and malicious planting to cause nuisance to neighbours. Over the years, I have to say that the farming community have not been the culprits in this; the farming community are very, very good people working with neighbours and residents in the countryside, and I cannot recollect even one case where a *bona fide* farmer had caused a nuisance. It is absolutely people that have got no consideration for neighbours and they have a dispute over something, and they go out deliberately and do this. I welcome this legislation, and I believe, Sir, that it will really change many people's lives. Even 30 people that may have written in... I believe it affects more than that. I think knowing now there is legislation in place that it will deter them from perhaps acting in this way of causing a nuisance. Sir, I know on several occasions when I have tried to mediate between a complainant and the person who is deemed to have caused a nuisance they have laughed in my face and said: "There is nothing you can do" you know, sort of: "Get lost." I have to say, Sir, today that today is a good day for Jersey; it is a good day for all the people that are affected and I congratulate the Minister on bringing it forward and I urge members, please - for the good of this Island, for the good of the people - to support this proposition today.

1.1.16 Deputy A.D. Lewis of St. John:

I have received many calls and letters about this, perhaps because I represent a rural Parish where this situation does occur from time to time. Both from those that will be compromised by the Law and advantaged by it. In other words some were fearful of losing their much loved hedges and others were concerned about the fact that they had a hedge compromising the appreciation of their current property. So, I think, the amendment that the Minister has brought forward hopefully goes a long way to satisfying the needs of both those parties. I thank him for that and I am delighted to see the Law come forward to the House. I do, however, have a couple of questions which have been posed to me by parishioners which need to be answered, and I am sure the Minister will be able to do so in his summing-up, and that is: what exactly constitutes a hedge? Is it one, is it 2, is it three trees? Also, the type of hedge; there has been talk about deciduous and evergreen trees. Of course large trees with lots of leaves on them in summer constitutes an issue whereas in the winter less of an issue but I understand the Minister here is simply looking at conifers, and I would like some clarification on that because there will be issues in the summertime that, of course, would not exist in the wintertime. Perhaps he could clarify that. But I do believe that this hopefully is a big step forward and hopefully it will be somewhat self-regulating in that most people enjoy good neighbours, and I am sure they will be able to discuss this type of issue before calling upon the Minister to adjudicate, if indeed ever at all. So I do hope that in the spirit of good neighbourliness in Jersey, which already exists, this Law will assist that slightly but hopefully be largely self-regulating. I do congratulate the Minister for bringing it forward, and I look forward to it being in place.

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

I too would like to congratulate the Minister on bringing this Law forward. I can say that I have been on both sides of the hedge, if you like, Sir, because I have received complaints from both sides. Certainly, recently at St. Ouen, I have been dealing with a complaint of a hedge which has totally overgrown a neighbouring property and which the owner has informed me he will deal with when the Law comes in, and I hope that that will be the case. But at the same time I would like to congratulate the Minister on bringing the amendment - which we have not considered yet - which addresses the issue of a longstanding property with a longstanding hedge which has been well maintained where the neighbouring property has now been developed and those neighbours are complaining about the hedge. I believe that the amendment protects the original owner and the original hedge in a way which I think is right and proper, Sir.

1.1.18 Senator J.L. Perchard:

Just a clarification from the Minister when he replies, if I may, Sir. Why just evergreen or semi-evergreen?

The Bailiff:

Senator, that is a point of detail, if I may say so. Can we deal with that when we come to the Articles? We are debating the principles.

Senator J.L. Perchard:

Is a semi-evergreen not a contradiction in terms, Sir? [Laughter]

The Bailiff:

Probably a point of principle. I call upon the Minister to reply.

1.1.19 Senator F.E. Cohen:

Thank you to those members who have made comments. Firstly, with regard to Deputy Baudains, he raised the issue of whether there was any conflict between the position of Minister for Planning and the position of Minister for Environment in relation to this Law, and I do not see that there is. This is not a proposal to remove hedges. It is simply a proposal to mitigate the impact by limiting the height of existing hedges. I would again wish to thank him for his gracious agreement to accept by amendment and to withdraw his own, I very much appreciated that and hopefully it has ensured the smooth discussion of this proposition. Deputy Ferguson raised the issues of fees and the cost to a complainant and the question of how someone who was financially disadvantaged would be able to cover the cost. Well, firstly, the Minister has the ability to waive or reduce fees and certainly while I cannot speak for future Ministers it would certainly be my intention where there was a genuine case of hardship that I would seek to waive or reduce fees. She also raised the issue of Leyland Cypress and that they should be regarded as weeds. Well, perhaps many would agree with her in that respect. Deputy Scott Warren was concerned about the proposal within the Law that the complainant pays the fees. Well, as the U.K. Law has shown that the complainant paying the fees has resulted in a lesser number of cases being brought forward than was expected because it encourages people to amicably sort out their disputes over hedges. It also has the advantage of reducing or eliminating, to some extent, the possibility of vexatious claims. But I would say that there are real costs in administering this Law. It is not a matter of easy determination. The department will have to buy-in surveying fees, there has to be precise surveying and the services of a registered and qualified agriculturalist will also be required. So it is an expensive issue. It is not one the department will obviously seek to make a profit out of, but it is one, Sir, that the department would reasonably expect to reclaim its cost in all but exceptional circumstances, and I have outlined those. Deputy Mezbourian raised the question of what priority will these issues have within the general work of the Planning Department? Well, bearing in mind that the core work in relation to complaints, in relation to high hedges, will be bought-in services, i.e. surveying, I would expect that these matters will be dealt with reasonably speedily. I would not expect them to take any longer than a planning application of similar complexity. So, I think the answer is prompt service. Deputy Fox raised the issue of the selfishness of some people to be reasonable towards their neighbours, and, of course, this is the very basis behind this Law, to give some legal force to ensure that people are able to live peaceably and without undue burdens being placed upon them in the form of high hedges that limit their light and their ability to live reasonably with reasonable light and without damp, *et cetera*. Again, he referred to the cost to the complainant, and I have already explained the reasoning behind that. The Connétable of St. Lawrence confirmed an example of the necessity for the Law, and I am grateful to him for that. Deputy de Faye raised the issue that hopefully this will prevent the costs of private legal actions, and I think that he is right because this will enable a relatively simple and streamlined process, albeit that there is a fee to pay to deal with these often longstanding and complex neighbour disputes. He raised the important

issue of the obligation of the Minister to take into account the circumstances at the time the owner acquired an interest in the property. Now, bear in mind that the Minister's obligation under the revised proposition - the amended proposition - is to take into account both sides, both the complainant and the owner of the property. So just because a hedge was at a certain height at the time of purchase does not necessarily mean that it absolutely has to remain at that height. There is the question of reasonableness to be applied, but again that is down to the Minister to determine. He also raised the issue of a right to view. This Law is not about a right to view. This Law is specifically about a right to light and it is light that is assessed within the context of the Law. Deputy Lewis raised the question: does it include all trees? It includes evergreen and semi-evergreen trees and it includes combinations of more than two. So in order for it to be a hedge it has to be more than two and in order for the Law to have effect upon it the trees have to be evergreen or semi-evergreen. Deputy Maclean commented on the need for the Law. He has examples within his own constituency, and again I repeat the comments I made in relation to Deputy Baudains. I am most grateful to him for having the courtesy to come and see me and discuss his proposed amendment and to put the seamless passage, hopefully, of the Law before his own interests. I am most grateful to him for that. The Deputy of St. Martin was disappointed that the Law has taken a long time to come before the House. I have been pushing, I assure the Deputy, for a long time to bring this Law before the House but there were some complex issues to be resolved, not least of which was the issue of Crown land. It took some time to resolve those issues. He asked whether the House would have the opportunity of approving the fees. No, the House would not have the opportunity of approving the fees. The proposal is that the fees would be set by Order. To make it clear, I would expect to set the fees at a reasonable level, and that would be in the low hundreds of pounds. To give the Deputy some idea, the cost of surveying is likely to be in the region £200 to £300, and on top of that there will be other costs. So the total fee is likely to be in the low hundreds of pounds, although, as I have previously said, it would be my intention in cases of proven hardship to either waive the fee entirely or to reduce the fee. Senator Ozouf raised the question of how this new Law would integrate with the 1771 Code, I do not know the technical details but I am assured that legal advice has been sought on this matter and the two do work side by side. Deputy Le Claire raised the issue of the principles behind the Law, that it was to be reasonable in making people's lives bearable, effectively, and he wanted to know what other areas of the Planning Law should be reviewed to apply the same principle. I do not really have an answer to the question. It is a very interesting question, and I hope the Deputy will be prepared to give me some time to consider the matter carefully and in due course I will write to him on the matter. But it is a very interesting question. Senator Le Main said it was a great day for him. Well, I can tell you, it is a great day for me as well because I will not have to receive any more emails from him reminding me of my obligations to bring forward this Law, which I can assure members was more than weekly for the first six months after my appointment. **[Laughter]** He certainly kept me on my toes in relation to this matter and it was usually the first item on the agenda of our weekly meetings with the Chief Officer, where I said: "Can you please get this dealt with quickly so that you can get Senator Le Main off my back." But hopefully the day is here and he will be satisfied, I hope, if the Law is passed. **[Interruption]** Thank you very much. **[Laughter]** The Deputy of St. John asked what constitutes a hedge under the Law. Well, as I have said, it is evergreen or semi-evergreen. It is not deciduous. The Connétable of St. Ouen made the point that he has been on both sides of the high hedges situation and it may therefore be to him that I turn for advice on what is reasonable in the context of a high hedge. Senator Perchard raised the issue of what is semi-evergreen? Well, I do, surprisingly, know the answer to the question. It is clearly defined in *Hilliers* and all species in *Hilliers* are categorised as deciduous, evergreen or semi-evergreen, so I would refer him to that most worthwhile publication. I hope I have answered all members questions.

The Bailiff:

I put the principles of the Bill. Those members in favour of adopting them, kindly show. Those against. They are adopted. Deputy Duhamel, does the Environment Panel which to scrutinise?

Deputy R.C. Duhamel of St. Saviour (Chairman of the Environment Scrutiny Panel):

No, sir.

The Bailiff:

We come to the Articles of the Bill. Do you wish to propose them in *en bloc*, Minister?

1.2 Senator F.E. Cohen:

I would like to propose the Articles *en bloc* and I would seek leave to propose them as amended.

The Bailiff:

Are members content to take all the Articles together? The Articles of the Bill together with the second amendment of the Minister to Article six of the draft are proposed. Do you wish to speak to them?

Senator F.E. Cohen:

I think it may be worthwhile if I ran through the Articles, if you would agree, Sir. I will deal with this as quickly as possible. Articles 1 to five deal with specific definition. Article 1 provides special meanings; Article two defines domestic property; Article 3, residential property; Article 4, what is a high hedge; and Article 5, complaints. Article 6, which is the Article that has been amended seeks to set out what the Minister must do on receipt of a complaint and sets out the issues he must balance. Article seven sets out what the Minister must do if the Minister determines that the allegation in the complaint is justified, in particular it requires that the Minister must issue a remedial notice specifying what must be done to the hedge. Article 8 allows a person authorised by the Minister to enter land to seek a complaint or to check if required work has been carried out. Article 9 allows the Minister to withdraw remedial notice and, if appropriate, to issue an amended one. Article 10 makes it an offence not to comply with the requirements of a remedial notice. Article 11 allows the Minister to undertake what is required to be done by virtue of a remedial notice if the person upon whose land the hedge is growing fails to do so. The Minister's costs of doing so can be recovered from that person. Article 12 provides for appeals against the determination by the Minister that a hedge is not causing problems. The appeal is to the Royal Court. Article 13 provides in the same way for appeals against the determination by the Minister that a hedge is causing problems. Article 14 will allow a person to be represented at an appeal before the Royal Court by a person who need not be legally qualified. Article 15 provides that where the action required to be taken by remedial notice would require permission under another law. That permission is to be taken to have been granted so long as the conditions of the notice are complied with. Article 16 requires the Minister to keep a register of remedial notices that are enforced so that a subsequent owner of land on which a hedge is growing may know if he or she has any responsibility in respect of the hedge by virtue of a remedial notice. Article 17 places conditions on the entry to land in accordance with the Law. Article 18 sets out the responsibility of directors and others where a company is guilty of an offence under the Law. Article 19 requires complaints and other documents mentioned in the Law to be in writing and provides how their contents may be made known to people affected by them. Article 20 allows the States by Regulations to amend the scope of the Law. Article 21 applies the Law to the Crown and to Crown land so that a complaint may be made by or against the Crown in respect of a hedge, however, as is usual, nothing in the Law renders the Crown liable to prosecution for an offence under the Law. Article 22 provides how the Law may be cited and for its commencement. Sir, I commend the Articles as amended to the House.

The Bailiff:

The Articles are proposed as amended and seconded? **[Seconded]** Does any member wish to speak?

1.2.1 Deputy G.C.L. Baudains:

Just in relation to the amendment of Article 6, I must thank the Minister. He has been kind in thanking me for the work that myself and Deputy Maclean have done, but of course it is a two-way process and the Minister's open-mindedness and preparedness to hear the views of others has enabled this to be a seamless issue. What I did have at the time was a concern, that I think Deputy de Faye had raised, was that, for example, if a property had enjoyed its own hedge for some time and then later on at some time in the future a property was built next door, I think it would be unreasonable for the property to require the hedge to be reduced to below what it was at the time of the development or, in fact, ownership of a property to change hands because the people would be fully aware of what they were buying or what they were getting into. I think that would have been unreasonable and that has been fully addressed and I do thank the Minister for taking that on board. I will not say anymore because the report of the amendment is almost as if I had written it myself, so I do thank the Minister for his attention to that detail. Obviously, as I said previously, I do endorse the Law in general and, of course, the Articles that go with it.

1.2.2 The Deputy of St. John:

This is really picking up on something Senator Perchard was trying to say earlier on, and it is detail. Does the Minister agree that a deciduous tree in full bloom in summer is just as compromising as an evergreen in winter? If so, and this does become a problem as the Law progresses and it is used, would he consider bringing it back to the House and making necessary amendments if he feels that is an omission, because I can say that a deciduous tree in full leaf in summer is just as compromising as a full bloom evergreen in winter.

1.2.3 Deputy D.W. Mezbourian:

The Minister made reference earlier to the fact that the individual householders who are affected will benefit from this Law, and I may have misunderstood but Article five refers to complaints to which this Law applies and throughout it says: "This Law applies to a complaint that is made by the owner of a domestic property, made by the owner of residential property." It seems to me, Sir, that this Law does not allow a complaint by a householder who may be an occupier or a tenant. If an owner of a property does not want to make a complaint on behalf of their tenant it seems to me the tenant has no recourse through this Law, Sir, and I wonder if the Minister will comment upon that.

Senator F.E. Cohen:

May I ask that the Solicitor General answers that particular point?

The Bailiff:

Do you wish that dealt with now?

Senator F.E. Cohen:

If possible, Sir.

Miss S.C. Nicolle Q.C., HM Solicitor General

In Article 1, paragraph 1, owner is defined in respect of domestic or residential property to include any tenant of the whole or substantial part of the property.

1.2.4 Deputy C.J. Scott Warren:

I would like to ask the Minister for clarification under Article 13. If he could clarify the situation of an appeal to the Royal Court and the question of potential costs. I would also like to say that I do believe that the amended proposition makes good and sound commonsense.

1.2.5 Deputy S.C. Ferguson:

I do not want to correct the Minister but for the benefit of the people of the Island who are listening, in Article 4, the definition of what is a hedge; during his speech on the preamble the Minister said that a hedge was formed by more than two trees and, in fact, it says two or more evergreens and, as I say, I would just like... I apologise for correcting the Minister but it might be useful for the general public.

1.2.6 Senator T.J. Le Main:

It is really only to say that I know this work has been a very complex and difficult piece of legislation to try to meet the needs of everyone and I only rise to stand up to ask the Minister to personally convey, I am sure, this Assembly's thanks for Kevin Pilley, who has worked tirelessly on this legislation and also to the Crown Officers and the Law Drafting Department for bringing it here today. There has been a huge amount of work, which I did not realise. I thought it was going to be relatively easy, but I would like the Minister to convey certainly my thanks and I am sure other members thanks as well.

The Bailiff:

I call upon the Minister to reply.

1.2.7 Senator F.E. Cohen:

Deputy Baudains began by thanking me for thanking him, so I thank him for thanking me for thanking him. The Deputy of St. John raised the issue of deciduous trees. He makes a good point and it is something that I have considered. The reason that the Law is in its present form is that deciduous trees have their greatest impact, of course, in the summer when light levels are at their highest and therefore it was decided to not apply the Law to deciduous trees. I think it is something we, as he has suggested, need to monitor and, yes, if I find in time that deciduous trees do cause a problem when they form a hedge then, yes, to reconsider bringing an amendment forward to the House. So, I thank him for that. Deputy Mezbourian's point has been answered by the Solicitor General. Deputy Scott Warren raised the issue of the cost of appeal to the Royal Court. The Deputy and I have had a number of discussions in relation to the costs of appeal to the Royal Court. I am afraid that there is nothing that really can be done in relation to that. There is a cost of taking legal action, there is a cost at all levels of appeal and I am afraid that is a more general matter than is covered by this Law. Deputy Ferguson, she is quite correct. I should have said two or more trees, I am sorry I did not make that clear earlier. Senator Le Main asked me to thank officers involved. While I would not wish to name a particular officer, the officer has, in fact, already been named so I do thank him for all his efforts and I thank all the other members of Planning and Environment staff who have been involved in bringing this forward. It has been a long process and I would particularly like to thank the Law Officers for all their help and advice on the constant questions that have gone backwards and forwards from the department over many parts of this Law.

The Bailiff:

I ask any member in the precinct who wishes to vote to return to his or her seat. I ask the Greffier to open the voting.

POUR: 39

Senator L. Norman
Senator T.A. Le Sueur
Senator P.F. Routier
Senator M.E. Vibert
Senator P.F.C. Ozouf
Senator T.J. Le Main
Senator B.E. Shenton

CONTRE: 0

ABSTAIN: 0

Senator F.E. Cohen
Senator J.L. Perchard
Connétable of St. Ouen
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of Trinity
Connétable of St. Lawrence
Connétable of St. Brelade
Connétable of St. Saviour
Deputy R.C. Duhamel (S)
Deputy A. Breckon (S)
Deputy of St. Martin
Deputy G.C.L. Baudains (C)
Deputy P.N. Troy (B)
Deputy C.J. Scott Warren (S)
Deputy J.B. Fox (H)
Deputy S.C. Ferguson (B)
Deputy P.J.D. Ryan (H)
Deputy of Grouville
Deputy of St. Peter
Deputy J.A. Hilton (H)
Deputy P.V.F. Le Claire (H)
Deputy J.A.N. Le Fondré (L)
Deputy D.W. Mezbourian (L)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy S. Pitman (H)
Deputy A.J.D. Maclean (H)
Deputy K.C. Lewis (S)
Deputy of St. John
Deputy I.J. Gorst (C)

The Bailiff:

Do you move the Bill in Third Reading, Minister?

1.3 Senator F.E. Cohen:

I move the Bill in Third Reading.

The Bailiff:

Seconded? [**Seconded**] Does any member wish to speak on the Bill in Third Reading?

1.3.1 Deputy R.C. Duhamel:

In broadly welcoming this Law I do hope that the spirit of the Law will in fact be entered into by all of those who might well be affected by it and that we do not get a concomitant rush to garden centres and the take-up of requests for high fencing as a replacement for hedges.

The Bailiff:

Do you wish to reply?

1.3.2 Senator F.E. Cohen:

I would just comment that high fences are also covered by the Planning Law, the ability to erect fencing is only up to two metres and that is only in certain circumstances.

The Bailiff:

I put the Bill in Third Reading. Those members in favour of adopting it kindly show. Those against. The Bill is adopted in Third Reading.

2. Planning Applications Panel: appointment of members (P.119/2007)

The Bailiff:

We now come to Projet 119, Planning Applications Panel: appointment of members, and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to appoint, in accordance with Article 9A(2) of the Planning and Building (Jersey) Law 2002, as amended, on the recommendation of the Minister for Planning and Environment the following persons as members of the Planning Applications Panel with immediate effect for a period of three years: the Connétable of St. Saviour, the Deputy of St. Mary, Deputy Baudains of St. Clements and the Deputy of St. Peter.

Senator F.E. Cohen (The Minister for Planning and Environment):

May I ask that the Deputy for Trinity acts as rapporteur.

2.1 Deputy A.E. Pryke of Trinity (Assistant Minister for Planning and Environment - rapporteur):

I am sure members will recall debating Amendment No. four of the Planning and Building By-laws in January of this year. It introduced four separate measures: (1) an amnesty against enforcement of legal developments undertaken more than eight years ago; (2) the legal requirement for the owner's signature on all applications; (3) changes in the way certain by-law matters are dealt with; and very importantly (4) an increase in the number of members of the Planning Applications Panel which is the purpose of this proposition. At present the Panel consists of three standing members with two reserves who cover for absences or with any of the standing members which may have a conflict of interest with an application. Unfortunately a number of the open meetings have had to be cancelled or rearranged due to the fact that a quorum of three is required. As these meetings are now held in public with three days' notice needed, this is not an appropriate situation. At this point, Sir, can I pay tribute to a previous member of the Panel and its predecessor under the old Committee system, the former Connétable of St. Saviour, Philip Ozouf. As you said last week in your tribute, Sir, he was a valued member of the Panel, straight to the point and a great deal of commonsense. I, for one, will miss him. For a few months the Panel have operated with two members and two reserves and I would like to take this chance to thank them. The amended Law which came into force in August now allows the Minister to nominate up to 9 members, with the quorum still remaining at 3. The aim of each meeting is to have a Panel to be made up of five members. A larger Panel is in line with the spirit of the new Planning Law which serves to broaden the participation of a decision-making process and is consistent with other members to increase the transparency of the planning process. I therefore would like to propose the four additional members to be elected as Panel members; the Connétable of St. Saviour, the Deputy of St. Mary, Deputy Gerald Baudains and the Deputy of St. Peter. I would like to thank them for allowing their names to go forward and I am sure they will make a valuable contribution to the work of the Planning Applications Panel and I look forward to working with them. I move this proposition, Sir.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any member wish to speak? I put the proposition. Those members in favour of adopting it kindly show. Those against. The proposition is adopted.

3. Fiscal Policy Panel: appointment of members (P.123/2007)

The Bailiff:

We come next to Projet 123/2007 - Fiscal Policy Panel: appointment of members. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to refer to their Act dated 5th December 2006 to which they agreed to establish a stabilisation fund and further agree to the establishment of a new independent Fiscal Policy Panel and to appoint Mr. Christopher Allsopp C.B.E., Ms. Marian Bell C.B.E., and Mr. Joly Dixon C.M.G., as members of the Fiscal Policy Panel for a period of three years.

3.1 Senator T.A. Le Sueur (The Minister for Treasury and Resources)

Having just received the latest figures of the Island's G.N.I. (Gross National Income) for last year I think the topic of the Stabilisation Fund is even more appropriate at the moment. But I remind members that we agreed last December to set up this Fiscal Policy Panel in order to get some independent advice on overall financial policy. It is advice that comes to me, which I share with the House, but the House still remains in charge of making its own decisions. But I am pleased to say that following national advertising we found some excellent candidates for this Panel and I am grateful to the members of the Appointments Commission and others who selected suitable members for the Panel. I have maintained total independence from this, as the propositioner indicated, and the work was overseen by the States Economic Adviser, whom I also thank for this. Sir, the three successful applicants have their biographies shown on page five of my report. I think members can see the breadth of experience and the expertise which we have been able to tap into. I hope to meet these candidates for the first time next month at their first meeting, but meanwhile, Sir, I believe that we have in Christopher Allsopp, Marian Bell and Joly Dixon, a wealth of talent there which can only serve to help us make the right decisions for the future. I propose their appointment.

The Bailiff:

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

3.1.1 Deputy S.C. Ferguson:

The Public Accounts Committee welcomes this move. If members got to the end of amendment 9 last week reading the report, they will see that we consider it important that we investigate the application of a 'golden rule' to the economy over here and we shall be obviously starting to look at this and we would look forward to... I was going to say working with but we need to stay independent; co-operating, perhaps, with the Treasury Minister in this.

3.1.2 Deputy P.J.D. Ryan of St. Helier:

Notwithstanding the few comments that the Chairman of the Public Accounts Committee made just a second ago, I just would like to add the view of Corporate Services to this. Members will recall that the whole question of the actual establishment of the Stabilisation Fund came up at the Strategic Plan - it seems a long time ago, I think it was probably a year and three or four months - in that debate. Although the suggestion for a Stabilisation Fund had been made in the economic growth plan before that, my Panel was of the view that this particular area of policy development was not being progressed as quickly as it should have been, and that was one of the reasons for our

amendment to last year's Strategic Plan. I am very, very pleased to add my support to the establishment of this Fiscal Policy Panel. I have had one or two members of the public that have rung me up questioning the amount of money that we are going to be paying to these highly qualified people - I have to say that - but I can also say that when I explained carefully what the purpose of this Panel was and how it would probably, in my view, give us the best possible chance of moving from shorter term fiscal policy, shorter term economic policy, and, should I say, one based on a sort of five year planning cycle that one tends to see in...

The Bailiff:

Deputy, I am sorry to interrupt you but I hope you are going to come back to the proposition. The proposition is not whether there should be a Fiscal Policy Panel established. It is whether these three individuals should be appointed to the Panel.

Deputy P.J.D. Ryan:

I will certainly do that. I think members know where I am coming from. I had explained to members of the public that it was money well worth spending and having done that generally those members of the public were happy with what we were doing. I think that is relevant, Sir, to the appointment of these three people because the financial cost of so doing is also part of the proposition. I will close my comments now in respect of what you say, only to say that I fully support the Minister and the appointment of these three people, and I look forward to a period of great benefit from their involvement in our fiscal policy

The Bailiff:

I call upon the Minister to respond.

3.1.3 Senator T.A. Le Sueur:

I would just like to thank the two Deputies who have spoken in favour of this and agree with Deputy Ryan that this, I am sure, will be a small amount of money very well spent. I maintain the proposition.

The Bailiff:

I put the proposition. Those members in favour of adopting it, kindly show. Those against. The proposition is adopted.

4. Draft Road Traffic (No. 58) (Jersey) Regulations 200- (P.87/2007)

The Bailiff:

We come now to Projet 87, Draft Road Traffic (No. 58) (Jersey) Regulations and I ask the Greffier to read the citation to the draft.

The Greffier of the States:

Draft Road Traffic (No. 58) (Jersey) Regulations 200-: the States, in pursuance of the Order in Council of 26th December 1851 and Article 92 of the Road Traffic (Jersey) Law 1956, have made the following Regulations.

4.1 Deputy G.W.J. de Faye (The Minister for Transport and Technical Services):

As members, especially those with experience will appreciate, the applications of Laws and Regulations is very much a game of chess played on shifting sands and circumstances change. The Road Traffic (No. 58) (Jersey) Regulations fall into that category, as I will indicate with a number of examples. There have been a number of occasions where new residents to the Island have applied for a Jersey licence - surrendering a domestic licence - and they have asked for the category to which they have not a passed a test or the test they have taken for that category is not of an

equivalent standard to that in Jersey. The situation is that Jersey does not have the resources to vet the standard of driving tests offered elsewhere. However, the United Kingdom's Driving Standards Agency, who provide the courses that our own driving examiners undertake to become qualified examiners, do visit other jurisdictions and do make assessments of the standards of driving tests held effectively abroad. Jersey, therefore, has adopted the findings of the Driving Standards Agency and has applied these findings for a number of years. The list in Schedule five of the amended Driving Licence Order reflects the standards that have been determined and will formalise the procedures used in Jersey over the past few years. In another instance - and it is a fairly regular issue - the States of Jersey Police attend road checks, organised by Driving Vehicle Standards whenever possible. However, due to the commitments of the police there are times when police officers cannot attend which means that certain checks on driving licences cannot take place. Similarly, there are times when the department's traffic officers carry out spot checks or need to stop a vehicle that appears to be defective. Now that the new driving licence system is in place the department's traffic officers have a means of checking addresses, driving categories and identities onsite during road checks. However, currently the Law does not allow a traffic officer to require a driver to show his or her driving licence at a road check or when stopped with a defective vehicle. If Regulation five is adopted as proposed traffic officers, who incidentally take an oath in the Royal Court, will be able to require a driver to show his or her licence, check those details against the driving licence system, or if the person is not a holder of a Jersey licence check with the driver whether that driver is exchanging their domestic licence for a Jersey licence or, indeed, whether they are, in fact, entitled to drive in Jersey or not.

The Connétable of St. Ouen:

On a point of clarification maybe, the Minister has said the new driving licence can be identified by the address, but it does not contain an address.

Deputy G.W.J. de Faye:

Well, this is the information provided to me by the department who claim to know how the system works. I will certainly look into that matter. My understanding is that the department is able to check addresses via the licence system. To conclude, a States member - since the Regulations were last amended - raised a concern that people would be expected to carry their driving licence at all times so that if stopped in a road check the licence could be produced. That proposal, in fact, does not mean that people will have to carry their licences with them. The drivers will still have 48 hours to produce their licence, as provided for under Article 13 of the Road Traffic Law. I have often made the mistake before of saying this is a matter of housekeeping and I should not detain the Assembly for too long, only to be confronted by an hour and a half of debate, but I will proceed going through the changes to the Regulations which, if approved, provide for minor changes in respect of driving licences, following on from the introduction of the new licence in April this year. As I have outlined, these are to permit traffic officers to check driving licences and also there will be implementation for changes to speed limit policy, as previously approved by the States in 2005. Regulation two amends Article 1 of the Law by amending the definition...

The Bailiff:

Minister, may I just ask you to pause. You are proposing the principles of the Regulations at the moment. Can we deal with that detail when you come to propose the Regulations themselves?

Deputy G.W.J. de Faye:

Yes, Sir, I am very happy to proceed in that way.

The Bailiff:

Do you propose the principles of the draft?

Deputy G.W.J. de Faye:

Indeed, I do.

The Bailiff:

Is that seconded? [**Seconded**] Does any member wish to speak on the principles of the regulations?

4.1.1 Deputy S. Power of St. Brelade:

I am sure you will correct me if I am not in order here but I do have a question of the Minister with regard to the issue of a new licence and whether it meets certain criteria that are acceptable. The street address of the driving licence holder is not on the new licence. I am wondering if the Minister is aware of that? I have a new licence, Sir, and my actual domicile address is not on it. My Parish is on it but not my domicile. This may cause problems at road checks because it just says the Parish, so there is no domicile address on it and there is no barcode on it. Also I believe from parishioners in my Parish - and I am sure the Connétables may have a comment on that - it is very difficult to hire a car in the U.K. or anywhere if your address is not on the driving licence.

4.1.2 Deputy P.V.F. Le Claire:

I wonder if Deputy de Faye would give us his opinion on how he feels about the change in respect of the requirement to produce the licence. It implies - if I am incorrect then I can be corrected - that when one drives one must have the licence on them. If I could ask that point first of all. If there is no ability for the individual of the vehicle who might have forgotten or mislaid their licence to appear to produce it, as is currently the practice of the States of Jersey Police, I believe, within a certain time, then what we are requiring is a level of identification for a function that is pretty much a daily occurrence for a large part of the population. So at every time, opportunity that somebody is driving a vehicle, they must have a driver's licence on them. If there is no option - and I am asking if there is one - then what would happen if somebody was visiting a friend, for example, and was asked to drive their vehicle and did not have their licence on them? In general terms, we have spoken in the past about eroding Jersey's identity in introducing legislation that is unnecessary. Some aspects of this may be necessary but I find it interesting, to say the least, that if there is no alternative to producing that or if there is a fine that we would require the population to produce driving licences when we do not require them to wear seatbelts in buses or we do not require them to wear child safety harnesses in the backs of vehicles while travelling, as in the United Kingdom, and we do not require M.O.T.s (Ministry of Transport vehicle test). There are a number of issues with this. In particular I would ask the Minister or the Solicitor General if in those areas I could get some clarity. If it is the case, as I am thinking it is, that this implies that we must have these licences on us at all times, at what stage during this proposal will we be able to vote against that specific part of these Regulations if we wish to?

4.1.3 The Deputy of St. Martin:

I follow very much on what Deputy Le Claire was speaking about because I am a bit concerned. I am one of those people who never drive round with my driving licence. I know where my driving licence is. It is in my drawer alongside my passport so I know where I am. If I go away, as I have recently...

Deputy G.W.J. de Faye:

If the Deputy would just give way briefly. It is possible members may have misunderstood what I said. I did say drivers will still have 48 hours to produce their licence as provided for in Article 13(1) of the Road Traffic (Jersey) Law 1956. I think by corollary that means you are under no obligation to carry a driving licence while you are driving a car as you will have 48 hours to produce one if asked.

Deputy P.V.F. Le Claire:

There was some discussion occurring while the Minister was making his speech and I must have missed that. So, I apologise.

The Deputy of St. Martin:

Likewise. I think what I was going to ask was for the Minister to give us clarification because, like Deputy Le Claire, I was a bit confused by it because I had a feeling that one did not really have to have your driving licence on you. But I am glad the Minister has now clarified that. While I welcome the opportunity for these officers here to be able to issue a request to see a driving licence, is any consideration being given, maybe, to request insurance? I think most people get more concerned about the fact that people are driving round without insurances rather than driving licences. I wonder whether it is within the remit of the Minister to do so and if he may well give consideration to the future? Maybe also whether the 48 hours really creates a problem? I know certainly in other jurisdictions it is five days. I am just wondering whether 48 hours is too short and maybe he would like to give consideration to that also.

4.1.4 Deputy K.C. Lewis:

My question is similar to one I asked the Minister for Home Affairs yesterday, Sir. It is regarding cross-border checks. If the licensing authority is presented with a foreign driving licence in exchange for a Jersey driving licence, do they accept these at face value or is there some means of checking its validity?

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

I would ask that the Minister would confirm that in fact the driving licences in the new style are certainly not I.D. cards. One of the reasons that they do not have an address on is because principally they cannot carry all this information but the police and officers conducting roadside checks have access to this information through the technology which they carry on the roadsides. Perhaps one of the reasons why they do not carry addresses on them is because people are very often transient these days and addresses are constantly changing and it would be impossible to maintain an accurate record.

4.1.6 Deputy J.B. Fox:

From the time when I was in the police force you did have a period of time to produce your driving licence and your insurance. I do not confess to be up to date as to what the requirement is now but can drivers please remember that if they are travelling abroad that most countries abroad insist that you carry the documents with you, otherwise they can seize you and your vehicle, depending where you are. So it might be prudent to suggest that. It also might be prudent for the Minister in summing-up to talk about existing driving licences and the replacements of them that I brought up at a meeting we had with T.T.S. (Transport and Technical Services) and the Connétable of St. Ouen, and perhaps he would cover that point because there was some misunderstanding that you can replace your current driving licence with a new one, which is much more convenient to carry around with you than the existing ones, without destroying your existing licence deliberately otherwise, which I do not agree with. Therefore, that would be very useful. Generally speaking, this law, to me, enables things to happen in a much more convenient way than was otherwise possible and therefore I support it.

The Bailiff:

I call upon the Minister to reply.

4.1.7 Deputy G.W.J. de Faye:

I am very grateful to members for the questions they have put forward. Although perhaps I was slightly reluctant to indicate to the Assembly how Big Brother operates, it has been clearly

explained by the Connétable of St. Brelade. So, in response to Deputy Power, he is quite right that the street address is not shown on a driving licence. The Parish is but not the street address. However, it is the case that traffic control officers, as well as the police, have access to a database which they carry. They carry laptops with them. So, although your address is not shown on the card, they can find it extremely swiftly. I will look into this issue, though, of hiring vehicles elsewhere, and if the Deputy would like to discuss it with me outside the Assembly we will see if we can possibly progress that. I think in response to a number of Deputies, I hope I have made it clear now that there is no requirement to carry a licence with you when you are driving a vehicle. There is still two days grace to produce it to the appropriate authority. The Deputy of St. Martin wisely raised the issue of insurance. I can assure him that at road checks, which are now very much multi-organisational affairs, insurance is checked, along with whether the vehicle is defective. A road check is now a very comprehensive affair. So, yes, insurance is covered as well. Deputy Lewis raised the issue of foreign driving licences. These are, of course, recognised in the Island. The issue is simply whether you are a visitor to the Island, on holiday with your vehicle or possibly hiring a car. That changes if you have announced that you have an intention to live in the Island or you, in fact, are an Island resident. At that point there is a requirement on you to change your foreign driving licence to a Jersey driving licence, and that is the situation. The foreign driving licence would then be returned to its issuing authority. In due course, should that visitor turned local resident wish to return to their own country, they are then also in a position to swap their Jersey licence and have reinstatement of the foreign licence which is simply held on their behalf by the foreign issuing authority. I believe I have covered most of the questions. Deputy Fox is right; we had helpful discussions with representatives of the Comité des Connétables and I believe to obtain a new licence, if I recall those discussions, if one produces a new photograph to indicate how your likeness has changed it is possible to then acquire a new plastic licence, as opposed to keeping your old one. So those, I hope, have covered the issues raised. So, I propose the Regulations.

The Bailiff:

The principles are before the Assembly. Those members in favour of adopting them, kindly show. Those against? The principles are adopted. Deputy Duhamel, do you wish to scrutinise these Regulations?

Deputy R.C. Duhamel (Chairman, Environment Scrutiny Panel):

No, I do not think so at the moment, Sir.

The Bailiff:

Do you wish to move the Regulations *en bloc*, Minister?

4.2 Deputy G.W.J. de Faye:

I am sure the House would be very happy if I did, Sir.

The Bailiff:

Regulations 1 to 8 are proposed and seconded. **[Seconded]** Does any member wish to speak on any of the Regulations?

4.2.1 Deputy C.F. Labey of Grouville:

Yes, I do, Sir. Could the Minister please confirm if there is any truth, mainly among young people, that there is a set percentage of drivers trying for their test that fail each week?

4.2.2 Deputy G.C.L. Baudains:

I wonder if the Minister could explain to me the exact effect of Regulation 7, Schedule 2, as amended. I presume this relates to the carrying of a sign but I am not quite sure how that might apply to vehicles drawing trailers which could be a private car.

4.2.3 Deputy R.C. Duhamel:

I think I mentioned in this House once before the nature of the reciprocity of the actions we are undertaking here. I would appreciate a couple of comments from the Minister in explanation, if that is possible. Say, for example, a person who has been issued a licence in Sark comes to live in Jersey. Presumably those persons living in Sark do not have extensive driving abilities, although I am told that they can drive tractors up and down the hill. Should they come to Jersey to exchange their licence, which has been issued in their jurisdiction, for a Jersey licence, to what extent would they be required to pass a further test in order to allow them to show the administering authority their abilities to drive under circumstances and conditions that did not exist in their original country? On the other side, if a person coming from the U.K. to live in Jersey wishes to exchange his licence and he has had experience of driving trains or other larger vehicles which are not able to be driven in Jersey, on giving up his licence and taking over a Jersey licence, which would not presumably include that category, what would happen if after a period of time whereby he would have been licensed to drive that particular category in the U.K. had he not forfeited his licence for a Jersey one, he wishes to go back to that particular jurisdiction and re-establish his credentials in terms of driving that particular class of vehicles? It is the reciprocal nature of these agreements that I am concerned about. I hope those two examples show that perhaps there is an element that I hope has been considered in order to provide a fairness from both sides of the equation. I would not wish that perhaps in setting up legislation over here to exchange licences for U.K. people, who have motorway experience, for example, of driving, for Jersey residents going to the U.K. who wish to drive on motorways but have not passed the Jersey motorway driving licence equivalent, because we do not have motorways - other than Victoria Avenue which cannot really be properly classified as such - that there would be restrictions stopping those Jersey drivers from driving on international roads due to what we are proposing here. I may be just thinking up things that do not apply but I would like to be reassured nevertheless.

4.2.4 The Connétable of St. Ouen:

In the report accompanying the proposition, the Minister points out that there have been occasions in the past where the exchange of a driving licence from a foreign country by an appropriate authority has not always resulted in the same categories being given and that he is aware that the need for a test and the test itself in a foreign country is not always to the same standard as our own. Would he acknowledge that there is nothing in this proposition which addresses that?

4.2.5 Deputy P.N. Troy of St. Brelade:

I am going to ask about number seven which amends Schedule two of the law. We are told it will now state the large goods vehicles, large passenger-carrying vehicles, medium-sized goods vehicles and vehicles drawing trailers will have to adhere to a 30-mile-an-hour speed limit. It takes me back 20 years and I remember that I took a caravan from St. Malo down to Spain. We had a turbo-charged Mazda at the time and I think I had the fastest caravan in Europe. This caravan, with a turbo-charged vehicle at the front, we could drive it up a hill at 70 miles an hour and when the lights turned green we could leave the French farmer in his 2CV standing there while we were moving off into the distance. What I wanted to ask was, vehicles drawing trailers, whether a caravan is classified as a trailer in law - because hypothetically a vehicle could exceed this speed limit with a caravan - and if a caravan is not classified as a trailer then it would not be covered under the Law? I just wanted to query that.

4.2.6 Deputy P.V.F. Le Claire:

Earlier today Deputy de Faye gave a true story. I will just give one in return. I qualified for driving in Canada, after taking my test, and proceeded to drive on the roads. I then, in my function as an executive protection specialist, went on to a driving course that is probably considered to be one of the best in the world and proceeded to be employed in providing executive protection driving a

vehicle for some of the wealthiest people in the world. When I returned to Jersey I was able to use my Canadian driving licence for only a limited period of time before I had to surrender it, re-sit my test, including the multiple choice test that was available at Highlands, and I had to take lessons again to satisfy the requirements of the local conditions and the peculiarities of the local situations, and I sat my test and passed. My son is over at the moment. He is wondering whether or not it is worth his while to learn to drive in Jersey because when he goes back to Canada he cannot change that back into a Canadian licence. So there are these issues. I see that the Minister is now bringing forward these Regulations and will be able to make a prescription under the Orders to facilitate the surrender and exchange in terms of categories which will hopefully address these types of issues where you have somebody that has an ability that is suddenly faced with the reality that they have to start all over again. If it is of concern, or if it was of concern, that somebody's driving standards needed to be legitimised within the local context for safety reasons; then one has to question the validity of allowing somebody to pass a test in Jersey and for ever more be legally entitled to drive upon the road. Some people have medical conditions and physical aging that deteriorates their ability to drive vehicles in some circumstances and I do not believe anything is being done or is looking to be done in those circumstances. I am not saying that that applies to everybody but in some circumstances it is noticeable the ability to manage and manoeuvre the vehicle in some cases is noticeably deteriorated. If what we are debating today is aimed at improving the overall understanding and ease of transfer for recognising the principle that we would like people to be driving on the roads that are qualified, then I think we need to be asking the question if we need them to be qualified and if we need them to produce their driving licence to show that they are qualified, are they capable of driving safely? The other aspect is that in my experience in Canada I met an individual who was driving on his English driving licence for the year because about three weeks before he had completely totalled his Canadian driving licence and had his points removed and was then still driving when he really should not have been. I do not know if that was a peculiarity of that particular law in that particular country at that time; I do not know if it has been corrected or not. Is it going to be possible to identify the points system and the penalties from those points, for example, if you get caught for speeding in the United Kingdom and they are looking to introduce new legislation? If one has committed infractions on their driving licences, will they transfer over to the Jersey licence or will there be a system invented to transfer them over?

4.2.7 The Connétable of St. Brelade:

Just a small query, if the Minister would kindly answer. He suggests in the report that there will be a small cost of publicising the requirements by putting signs on States-operated vehicles. Could he confirm whether it will in fact be mandatory for all vehicles to carry a 30 sign and where in fact in the schedule it is? Maybe it is in Article seven Schedule 2, whether that is the case so that the public will be aware whether they are obliged to carry 30 signs.

The Bailiff:

I call upon the Minister to reply.

4.2.8 Deputy G.W.J. de Faye:

The Deputy of Grouville raises quite an interesting issue. I am most intrigued to hear that young people around the Island believe that somehow the Minister has set a percentage failure rate. I very much regret to inform members that the pass rate for acquiring driving licences hovers somewhere between 40 per cent and 60 per cent. In general, one in two people fail. I think that is more a reflection of how clever young people think they are as opposed to how clever they really are when it comes to driving cars. I can assure both the Deputy of Grouville and the Assembly that there is no plot at work; there is no determination on who passes or fails; no set percentages. You either pass or fail and I am afraid an enormous number of people fail, which is why last year we had difficulty when one of our examiners was ill and we had enormous lists of people queuing for tests, most of them having another go after failing the first time round. So, no, there is no hidden agenda

in driving tests. Deputy Baudains and Deputy Troy asked me for an explanation of Regulation 7, which I can give. It revises Schedule two of the Regulations clarifying the vehicles which will be restricted to a maximum speed of 30 miles an hour, namely large goods vehicles and large passenger-carrying vehicles, as well as medium-sized goods vehicles, which will be those deemed to exceed 3.5 tons laden weight, as well as vehicles drawing trailers. The current Law prescribes that it is vehicles over 2.5 tons unladen weight which are restricted to an all-Island limit of 30 miles an hour, although knowledge of that is somewhat limited. So that is essentially the change in the Regulations. The change will bring the description in line with driving licence categories and enable those vehicles which are subject to low limits to be more easily identified. So I hope that makes things a little clearer for the Deputies. I regret off the top of my head I cannot give Deputy Troy an explanation as to whether a caravan is a trailer or is not a trailer but the Connétables are all nodding at me and saying it is a trailer.

H.M. Solicitor General:

It is defined in the Law. Trailer means any vehicle drawn by another vehicle.

Deputy G.W.J. de Faye:

I am most grateful to the Solicitor General for that clarification. Deputy Duhamel bowled a most interesting googly by bringing up reciprocal licences with the inhabitants of Sark. I am not sure whether that is a question that was passed to him by Senator Kinnard or not. It is quite a novelty one because I am not sure whether Sarkees even require driving licences or not and I suspect they are either on bicycles, horse-drawn vehicles ... I am happy to give way to the Senator for clarification.

Senator W. Kinnard:

Perhaps I could assist in that Sarkees, when they are wishing to drive in the Islands of Guernsey or Jersey, generally have a driving licence from Guernsey.

Deputy G.W.J. de Faye:

How the Bailiwicks run in their own peculiar way. If the theory was in fact different and Sarkees, for example, only held tractor licences and no other licence then the reality would be if one came to live in Jersey clearly they would have a tractor qualification but not a car driving qualification, so realistically they would be told: "Sorry, unless you are driving a tractor, you will need a Jersey driving licence and you will have to take the test." That essentially is what would happen. To clarify as well with U.K. residents, and I think this really does explain reciprocity and reciprocal agreements fairly accurately, there have been occasions where U.K. residents have come to live in the Island with quite a substantial list of categories on their driving licence, including heavy goods vehicles and such like. It is not our fault in that sense but some time ago the United Kingdom decided it refused to recognise reciprocal arrangements with the Island in terms of certain heavier vehicle categories. So I am afraid with our nose put out of joint in that sense, we no longer recognise some U.K. categories of heavy licence and that has caused difficulty for one or two people because in effect, when they become residents, they produce their U.K. licence to the Jersey authorities and regrettably we say: "Yes, you can have the car, you can have that, but I am afraid you will have to now sit a local test for some certain heavy categories of vehicle." That is not a situation that we necessarily like but that is the way the United Kingdom wanted to play so we can bat the Law as well as the U.K. Just to clarify, though, those credentials, in other words all the tests passed in the United Kingdom, reside with the U.K. licence which is returned to the U.K. licensing authority and if at any time the person in question returns to the United Kingdom they simply recover their original licence with all its categories. They are not required to sit any further tests. It is just life returns to the normality of before coming to Jersey, if one can put it that way. I give way to Deputy Baudains.

Deputy G.C.L. Baudains:

I am grateful to the Minister. I wonder if he could just clarify for me, I was not aware of the fact that there was this difficulty with reciprocity of licences. I presume the Minister is referring to exchanging one licence for another. Does it affect somebody, perhaps like myself who has a heavy goods licence, from driving in the United Kingdom as a visitor?

Deputy G.W.J. de Faye:

Yes, there is that potential but I would suggest not if the Deputy was driving a vehicle there, as it were, just for a holiday break. The requirements to change driving licence, to give up one authority to exchange for another, is linked into an intention to become a permanent resident. So it does not affect the use of temporary visits. I accept that that is a rather bizarre situation but that is how it works. I think that may have also covered the question put by the Connétable of St. Ouen, and just to reassure Deputy Le Claire there is no intention at this stage of adjusting age limits or requiring people to sit annual medical inspections and so on and so forth. I would not rule it in or rule it out for future regulation but that is no part of the changes proposed at the moment. I am not sure if I have answered the point the Connétable of St. Brelade raised but if I have not I will be happy to discuss it with him outside the Assembly. Perhaps I can propose the Regulations *en bloc*, Sir?

The Bailiff:

Put the Regulations in Second Reading. Those members in favour of adopting them, kindly show. Those against? The Regulations are adopted in Second Reading. Do you move the Regulations in Third Reading, Minister?

Deputy G.W.J. de Faye:

Yes, please, Sir.

The Bailiff:

They are seconded? **[Seconded]** Does any member wish to speak on any of the Regulations in Third Reading? I put the Regulations. Those members in favour of adopting, them kindly show. Against? The Regulations are adopted in Third Reading.

5. Draft Public Elections (Amendment No. 2) (Jersey) Law 200- (P.94/2007)

The Bailiff:

We come next to Projet 94, Draft Public Elections (Amendment No. 2) (Jersey) Law in the name of the Privileges and Procedures Committee. I ask the Greffier to read the citation to the draft.

The Greffier of the States:

Draft Public Elections (Amendment No. 2) (Jersey) Law 200-, a law to amend further the Public Elections (Jersey) Law 2002. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

5.1 Connétable D.F. Gray of St. Clement (Chairman, Privileges and Procedures Committee):

In July of this year the Assembly agreed to a proposition by the Deputy of Grouville to lower the voting age from 18 to 16 years and this amendment to the Public Elections Law is to implement that decision. I propose the principles.

The Bailiff:

Are the principles of the draft seconded? **[Seconded]** Does any member wish to speak?

5.1.1 The Deputy of Grouville:

I welcome this legislation being brought forward at such speed by the P.P.C. (Privileges and Procedures Committee). I would just like to reiterate a few things that I informed this debate earlier this year in that this is a good thing for our community and our community needs the young people to become engaged with its democratic process, with our democratic process. I do not think many States Members really think that our democracy cannot do with invigorating in some way. If we can engage our young people - who are Jersey's future - and give them the right to participate I think this has got to be a good thing. What has saddened me is some people have associated lowering the voting age with a lot of negative things that take place, for example, the age people can smoke, drink, be sent to prison. I do not see why this should be. I do not see why it has to be associated with such negativity. Voting is a positive thing and it is empowering, enabling and engaging. There is probably more of an urgency to adopt this legislation in Jersey than in the U.K., for example, because 46 per cent of our young people leave our shores to go away to higher education. Some of them do not come back for a number of years and they never get into the habit of engaging with the community in which they live. I am pleased to be associated with the Education, Sport and Culture Citizenship programme. It is now an enhanced programme that is aimed to educate our young people in their Island, their heritage, their government, and the unique way in which this Island is run. I have recently been to a meeting at the Comité des Connétables and I hope they will take up my suggestion, and I am happy to work with them, to try and get young people to become interested or attend Parish Assemblies and other Parish events. Sir, as I said, I welcome this legislation and I ask my fellow States members to reach out to the young people, those people who want to participate in their society and want to become engaged in the community in which they live.

5.1.2 Deputy G.W.J. de Faye:

I think I have to say that since this original Law was passed I have had a number of voters and constituency residents from a number of parts of the Island who have all approached me on this issue and said exactly the same thing, unambiguously and unequivocally, that they could not believe that the States had passed this Law to reduce the age to 16. They basically felt that States' members had, and the general quote was, "taken leave of their senses". I have to say that in light of all the responses that I have had I will not be voting in favour of the Appointed Day Act.

5.1.3 Deputy P.V.F. Le Claire:

I wonder if the Deputy might share with me later how many responses he had to that process, because I received, I think, four emails.

Deputy G.W.J. de Faye:

If the Deputy would give way I can be quite specific: enough responses to make my own mind up.

Deputy P.V.F. Le Claire:

Some minds are bigger than others, Sir. Some minds need less influence than others. Some minds do not need to be made up either, Sir, by three or four emails from people who have a vociferous opposition to the inclusivity of any sector and to the participation of the expansion of Jersey's right to self govern. Democracy needs not a lecture today from us, it needs support, and the kind of foot stamping, animositic ... if that is a word. I will just make it up. It means I am annoyed. I am absolutely appalled that we would get to this phase and start to re-kick this around. I think that if we were to go out there and canvass now specifically the people that are going to be empowered by this and ask them for their opinions they would be in greater number than were in the Royal Square for the G.S.T. (Goods and Services Tax) rally and they would be much more vocal.

5.1.4 Deputy J.B. Fox:

In light of the few words from Deputy de Faye I would like to reassure him that the Deputy of Grouville and I went round the secondary schools; it created a huge, greater awareness of local government and the Island for the young people. If, for no other reason alone, that this proposition will support our educators and others into raising the awareness of our local young people of their Island, how it works and the benefits that living here has for their future, bearing in mind they are our future as well. I think this is a very important process. Even though it might be a small beginning, it will grow, and I think this is a very important act. So I would support this Appointed Day Act be appointed, thank you.

The Bailiff:

Deputy, we are debating a Law, not an Appointed Day Act.

5.1.5 Senator B.E. Shenton:

I will be brief. I spoke and voted against this originally, the concept of giving children the vote. A lot has been made of the fact that they were asked what they thought and a lot of them said yes. I carried out my own straw poll. I asked a number of 16 year-olds whether they thought they should be allowed to drive and they all said yes. I asked them also whether they thought they should be allowed in pubs and they all said yes. This sort of unscientific way of judging whether this is right or wrong is wrong and I will be voting against it.

5.1.6 Senator J.L. Perchard:

It is uncanny how often I am agreeing with Senator Shenton these days. Sir, like Senator Shenton and Deputy de Faye, I am still unable to support the lowering of the voting age to 16. I think, and I will ask members to consider, when we deem somebody not old enough at 16 to buy cigarettes or alcohol or drive a car or, more importantly, be held criminally responsible for their actions, how then can we deem them sufficiently adult to vote? I think there is some confusion as to what age an adult is but I certainly will draw the line in the sand in a different place to the good Deputy of Grouville. I think if you are adult enough to buy cigarettes you are probably adult enough to vote and alcohol, *et cetera*, and I just cannot see that we could possibly seek to lower the age of voting, even at this late stage, Sir.

5.1.7 Senator T.J. Le Main:

I have to agree completely with the last speaker. In fact, what I would like to say is last year I was invited to address 16 and 17 year-olds at Victoria College on this subject and a vote was taken and it was unanimously voted down. They did not want to vote at the age of 16.

5.1.8 The Connétable of St. Peter:

Following the decision that was made with regard to this proposal, I was interested to see the results of a survey taken from 16 year-olds soon afterwards. That clearly demonstrated the greater majority, and by far the greater majority, echoed the sentiment that they did not believe - and this was 16 year-olds themselves - that 16 year-olds were mature enough in mind, the majority of them, to go out and vote in the normal way. I have not seen anything to change my mind on that and I will not be supporting this today, Sir.

5.1.9 The Connétable of St. Ouen:

I supported the proposition when it came to the House and I can say that, unlike Deputy de Faye, I have not received a great deal of comment from my electorate. On the other hand, a couple of days ago - or maybe a couple of weeks, I cannot remember because it has been a long time - Deputy de Faye did point out how much he needed senior citizens to vote for him, so maybe the people who have contacted him are not of the same age group as have contacted me. On the other hand, I would like to just take issue with the Deputy of Grouville over not tying this in with other youth issues. I

think that if we are prepared as a House to give youngsters the responsibility of having a vote then I think equally we must be prepared to look and tell these youngsters that they do have responsibilities in other areas. Certainly, I think that we should be looking at what age a youngster can be identified to be responsible for their actions. Sir, I will continue to support this.

5.1.10 Deputy P.N. Troy:

I think members are worrying too much about this issue. If a young person was 16 years of age tomorrow morning, they would not be voting tomorrow morning. They would be voting in November 2008, October-November 2008, when they are over 17. There is the fact that as soon as you attain your 16th birthday there is often not an election being held on the day that you become 16 or very shortly thereafter. I do think that some young people are definitely more mature than others. We are not talking about vast numbers of young people who will be becoming age 16 in any one month, and I think really the numbers of people that we are talking about are very low indeed. Some may have no interest in politics. While they may have the ability to vote, many will not have any inclination to vote. They may not be interested in politics at all. So then if you look at that, the percentage really is very low. I think members are shrouding and they are concerned where they should not be concerned, and I think that this needs our support.

5.1.11 Deputy G.P. Southern:

This really is not the place to re-discuss and debate the whole issue of votes at 16. It is part of a gradual process; it is evolution and not revolution. At one stage women did not have the vote; at another stage it was property holders only; it was 21; it is 18; this is another move down to 16. It is not the opportunity to rehash the old issues. We had a two-hour debate in principle when this House decided that we should proceed with lowering the age of voting to 16. By all means, those people who feel it is a matter of conscience then they are free to register their objection but let us not rehash the debate. This is a decision this House has already taken. Let us not retake it; let us proceed in a fairly prompt manner, if we can, with proceeding with this part of legislation to bring it into force.

5.1.12 The Deputy of St. John:

Talk about ageism. Perhaps this is ageism in the reverse. I am appalled that members are standing up and saying what they are saying. I do not really understand what they are worried about at all. I think the Deputy of Grouville stated her case very well when she presented this concept in the first place. The key to it is, of course, that once they are eligible to vote, they are registered and, as Deputy Troy quite clearly has said too, they will not be voting straightaway. When I stood up and spoke last time the fact was that if you had just become 18 shortly after the Deputies election you would be 21 by the time you took part in a major vote again and clearly that is not terribly democratic. I really do not understand what members are worried about. It seems to be a bit of a demographic divide here in terms of the age groups that clearly think this is the wrong thing to do. I may be wrong but when one talks to some of the younger members of this House they really do not know what the debate is about. There is not a debate to be had, really. The fact is we are making it more democratic, we are engaging our young people at an earlier age, which can only be a positive good thing to do, and we are introducing civic studies into the curriculum as well so we teach them how the whole system works but: "Oh, by the way, you cannot vote, though, for another couple of years." What a nonsense. The fact is we are teaching them all about the system to allow them to participate in it. When it was done in the Isle of Man, very few voted under the age of 18, even though they could, in the first election that came up. That is not the reason for doing it. The reason for doing it is to engage with them early so that when they do leave the Island, as many of us do - I was one of them - when you come back you are registered and when the first election occurs you do vote. In my particular case, I left the Island at 19, came back at 25, was not registered and felt embarrassed about the fact that I was not so I did not bother registering. I am sorry to say that I did not vote again until I was in my 30s which, as a member of this House now, is a sorry thing to

admit but I think I am not alone and I think engaging them at 16 is a thoroughly sensible idea. Many of them will not vote, as Deputy Troy suggested, but some will and certainly I hope many, many more will when they are 18 as a consequence of being engaged with the process and having it taught to them in school and them being made more aware of it. So I really do hope that not too many more people are going to speak and we get on and vote on this, as we have already almost agreed it. I know we have to go through this process but I think it is a sad day if we were to reverse this at this point.

5.1.13 Deputy J.J. Huet:

I agree that we have to involve young people and make them aware of life as it is and as it is going to be as they get older but I did remember something after the last discussion that I had forgotten to say and I thought in actual fact how true it was. When one tries to remember what they were like at 16, and I know it is a long time ago but one tries to remember what your thoughts were and what you thought about the world and how you thought it should be run and what was the right thing to do and what was the wrong thing to do, and at 16 you obviously think you know it all. I was positive I knew it all and the one thing I do remember is I used to drive my poor mother berserk because she was a true blue and I, at 16, was going to be a communist. I thought the idea of communism was fantastic: all for one and one for all, and that we would all share everything and nobody would be any better off than anyone else. I thought this was marvellous. I thought: "Can I immigrate to Russia?" because this is where you heard it from and it was the big thing. Then I went out to work and I got my first wage packet. Well, I was not going to give you my wage packet, Sir, I can assure you, and that was when I changed my mind about being a communist. **[Laughter]** That is what I am trying to say. I was full of enthusiasm of the world and to put the world to rights and what was right and what was wrong and how we should look at things but I still cannot believe a person at 16 is fully adult. I do not mean that in any way derogatory; I just do not think you are fully mature at 16. It is not being nasty; your mind is full of everything else but it has not really settled completely into place, I do not think.

5.1.14 Senator M.E. Vibert:

What a depressing debate. I am surprised at some States members. We had this debate two months ago. That was the opportunity for members to argue the merits or otherwise of the move. To try to rehash the debate when the Privileges and Procedures Committee, of which I am a member, has come forward obeying States' instructions and then to reopen all these things I do not think reflects well on the States. Certainly it will not encourage young people to vote; it will not encourage anybody to vote if we go on behaving like this. I suggest that members reflect we have made a decision; this is putting it into effect; let us vote on it.

5.1.15 Deputy C.J. Scott Warren:

I will be as brief as possible but I have not received any emails or phone calls against the decision I made to support lowering the age to 16 for voting. We constantly complain about voter apathy. I ask members, how better to engage the population in the voting process and to get their interest than to give them what we have already promised in endorsing the Deputy of Grouville's proposition that they will be allowed to vote from 16 onwards? As has been said, it is unlikely to be the minute they attain 16. We are now encouraging schoolchildren to attend youth assemblies, to learn about how our States Assembly works. I would point out, Sir, the Isle of Man has succeeded in introducing this legislation and I believe they have had an election and it has increased voter turnout and I believe they are pleased with the result. I believe that those who are not interested in politics will not vote at any age, 16, 30, 55 or 92. So I will continue to support this principle to encourage the political engagement with the democratic process of people from 16 years onwards. Sir, we have made this decision. Let us get on and endorse it today.

5.1.16 Senator S. Syvret:

I was not in the Assembly, I was recovering from surgery when the original proposition was debated, but I will certainly be supporting the proposition today. I was struck by the actual paucity of the arguments against giving 16 year-olds the vote at the time of the previous debate and I have been so again today. To imagine that going into a ballot box and writing a few Xs on a bit of paper is somehow a task so intellectually challenging and requiring of such immense wisdom that it cannot be undertaken by a 16 or 17 year-old, I really think many members who have that point of view cannot really know many 16 or 17 year-olds. I know quite a number of them who are doing extremely diligent, hard, complex, intellectually demanding work in examinations, G.C.S.E.s (General Certificate of Secondary Education), AS levels, working towards their A levels. Most of the people I know, these young people who are carrying out this task, have, I would venture, an intellectual capacity and general understanding of the issues underpinning society than most of the members in this Assembly, including myself, I make no bones about it. Many of the members who have suggested that 16 and 17 year-olds lack maturity to engage in political discussion and thought really cannot have been here and witnessed the Youth Assembly taking place in this Chamber. Indeed, I cannot help but compare and contrast the workings of that Youth Assembly with the near two weeks of debate we have had now featuring very often a lot of rambling, repetitive, digressive and largely irrelevant speeches which have simply wasted our time. So I do not think many members in this Assembly are in any great position to criticise the youth of the Island. At the age of 16 or 17 you can marry, have children, start paying taxes. At 16 you can join the armed forces. You would not be sent to the front line but you can join. We have these responsibilities on the shoulders of 16 and 17 year-olds already in our society. Why then should we not allow them the right to vote? I absolutely agree it is unlikely that many of them will use it. Just as in the Isle of Man, I do not think a great huge swathe of them came out to vote in the elections and certainly, contrary to the views expressed by Deputy Huet and perhaps a couple of others, last time I looked the Isle of Man had not voted in a communist dictatorship. We need these young people. We only have to look at the plunging voter turnouts and the general disregard and disengagement on the part of the community with our democratic processes and systems. People are not voting in anything like sufficient numbers. Many, many people in Jersey have no understanding about political systems, no understanding of our political culture, our traditions of democracy at all. Now, giving 16 and 17 year-olds the right to vote is a way of beginning the process of addressing that. I do not imagine that it is a miracle cure but if we can get young people understanding their civic responsibilities towards democracy at the age of 16 and 17 that can only be a good thing. When I think of all the weeks and weeks it must be combined, heaven knows, that we have spent arguing about reform of government and governmental machinery and all of these kind of issues over the last five or six years - or however long it is - largely because we felt we have had to modernise our political systems and get people involved more, here is a golden opportunity to begin that process. We really must reach out to these young people and say we are interested in them. We are interested in their views and their opinions and we do think they have an important contribution to make to Island life and to our society. We need these young people to start participating in our democratic processes.

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

Like the last speaker, I was not here for this vote and I find it rather difficult. I agree with a lot of what the last speaker has said. We all want to encourage youngsters to vote, to get involved with politics and to generally be interested in the society but I think we have a problem. We are saying: "Yes, you can do that but you are not old enough to make a basic decision about your own health, i.e. you can smoke. You are not old enough or responsible enough to make a basic decision which is to go out and have a drink. You are not responsible enough to do that" but we are saying: "You can vote." Therefore, the impression that this is giving is that this is less important than drinking or smoking. It is trivialising the whole thing.

5.1.18 Senator L. Norman:

Where I part company with Senator Syvret on this issue is that intelligence is not the criterion that should or can or will be used to decide whether someone is able to vote or not. The criteria I think are probably maturity and experience. Children of six, seven, eight, nine, even younger, have got intelligence but surely that is not going to be the criterion by which the right to vote is judged because if that were the case, if you had to take an I.Q. test before you could vote, many children of that age would pass that test but many people of our age, over the age of 18 - yes, we are all over the age of 18 - would not pass that test so would be debarred from voting. It is an absolute nonsense. The only criteria have got to be maturity and experience. Now, we hear the Isle of Man have got this and it is a great success, according to Deputy Scott Warren. She said this in the last debate back in July. Great success: 90 per cent of the 16 to 18 years did not vote. That is a success? Not in my book it is not. As a consequence of a small turnout of that age group, the actual turnout for the election in the Isle of Man dropped because a huge number of these people did not vote. This is what is going to happen. If they do not turn up to vote, the actual percentage turnout drops. Is that what we want to achieve? Of course it is not. Then we heard some interesting comments from Deputy Troy and the Deputy of St. John: let them register at 16 because they will not vote until they are 19, 20, 21, because the election cycle will not come round. That is absolute nonsense. In that case, if they are right, then what we should be doing is bringing the voting age down to 13 so that by the time they come to vote they will be 16. It is absolute nonsense. They can vote the day they are 16. It might be a by-election, it might be a Connétables' election, it might be a Procurers election, it might be a Centeniers election, but there are more important things that go on. Every month there is a Parish Assembly, at least once a month in my Parish. Are they going to go to that? Are they going to wait three years before they go to that? Of course not. They will be entitled to go to it the day they are 16. As I said last time, if you follow what the Deputy of St. John and Deputy Troy are saying, the voting age will come down to 13 and the Parish Assemblies will have to be held in the afternoon so they are finished before bedtime. Sir, this proposition we agreed in July was a nonsense in July, it is a nonsense now, and I shall continue to vote against it.

5.1.19 Deputy J.A. Martin:

I was not going to enter this debate but after that speech from Senator Norman I really must add a few comments. To say we do not want to increase voter participation because if they do not use their vote it would make us look even worse, that we have more apathy in the Island ... I refer to the Deputy of St. John who is quite surprised we stand here today when only two months ago we did make an in principle decision. Well, has he never heard of a political vote because the speeches that day, Sir, were all for. So the people who maybe did not want it thought it might be a good political vote but it will not get through. I am sounding cynical but listening to these speeches today that is exactly what happened. Now, nobody has convinced me. There are two people who have spoken who were not in the House. They have a fresh vote. If anyone has changed their mind today it is political. It is not because they last time thought that the 16 year-olds should have a vote. We are doing an injustice to our 16 year-olds again today. We talk about intelligence and maturity. We expect a lot from our ... you call them children: they are teenagers. I am expected to leave a 13 and 15 year-old to basically fend for themselves because they are not expected to have any childcare facilities but if I have got to work then they have to be mature enough to find things to do and do them for themselves. We expected a lot more from when Deputy Huet was 16. She told us in the last speech she made an excellent decision at 16; she chose her life partner. I mean, some of us have made that decision many, many times and it has still been the wrong decision. **[Laughter]** So judging by that, yes, 16 year-olds make bad decisions, they also have the chance to change, but please bring this debate to an end. Vote with your conscience. If you voted for last time, stay with it; if you voted against, we have heard the arguments, vote against. Thank you, Sir.

5.1.20 Senator T.A. Le Sueur:

Senator Norman's comments there just made me think that there could be a situation where a voter of 16 could go to a Parish Assembly and vote on a Licensing Law application to permit a licence or refuse a licence although they could not go and use those Licensed premises for another couple of years. It does seem slightly absurd in some areas.

5.1.21 Deputy G.C.L. Baudains:

I rise to endorse the comments of the Connétable of St. Saviour and of Senator Norman, and referring also to the speech of Deputy Martin. I have not changed my mind; my original concerns remain. How much have those individuals made their own minds up and how much have they been influenced by their parents and their teachers? What pressure will be brought upon the youngsters to vote one way or another? How worldly wise are they? Wisdom, as we were told by Senator Norman, comes with age. Intelligence and wisdom are not the same. One only has to look at the age profile by standing outside a Parish Hall at election time to realise that youngsters 18 and above at present generally do not vote. In fact, very few below the age of 40 vote. So really, what is the point of lowering it to 16 when perhaps 95 or more out of 100 of them are not interested in voting? I cannot really see the benefit. I will not embarrass my Chairman; as a member of the sponsoring Committee I shall abstain from the vote, as opposed to voting against.

5.1.22 Senator W. Kinnard:

I was not here for the last debate - I think I was ill on that day - but I will be voting for this proposition. Some members have referred to ironically that voter turnout may be lower because of the widening of the numbers of people eligible to vote and that perhaps even if they do not take up this opportunity there will be this potential for the turnout figures to be lower. I do not see that that is any argument for not extending the franchise to people of 16 years of age. We all have a responsibility to vote, whatever our age, and many of us who are in our 40s and so on, people in their 30s and so on, can also be criticised for not contributing to better voter turnout figures. Other Members have drawn attention to why do we want to give the vote to 16-years-olds when we do not want them to drink and smoke, that they have to be 18 to partake in those sorts of vices. That is the word I use very advisedly. The Government intervenes in all sorts of ways to protect people of all kinds of ages against negative activities that they may or may not engage in. Why on earth do we have a message on cigarette packets warning about the health effects, which is a warning to all age groups? So it is not unusual for negative behaviours to be, if you like, given a negative sanction by government but a vote is a wholly positive thing. This is something that we are wanting to encourage; a positive behaviour, encouraging young people to become more a part of our community. It seems to me that that, together with what is going on in the schools in terms of the citizenship project, is absolutely the right way forward. Another point I would like to make, Sir, is that we are increasingly going to become an ageing population and we are going to have to rely more and more on the contribution that is made by our young people. As time goes on they are not only going to have to contribute to their own pensions and so on; they will find that they will have to contribute to various benefits, and maybe even the pensions of our generation, because of the ageing population, the likely pressures that we are going to face as we go forward. So I would like to say to young people: "Please get very aware about the political issues and get very aware about that political issue because we are going to have to rely more on you and we are going to be taking, to some extent, advantage of you." So, Sir, rather than seeing this as a negative thing, it is a very positive thing and I would certainly encourage young people to get involved right now. I shall be voting in favour of it.

5.1.23 Deputy I.J. Gorst of St. Clement:

Members might recall that during the last time we debated this proposition I mentioned that occasionally my wife accuses me of being pompous. I am afraid that today we have heard yet again quite a lot of pomposity in this House. I believe that we have a responsibility to engage with the

youth of this Island and I believe that in general States members believe that. The Education Department already has a programme in place to engage with people throughout their school life to understand how politics and how the civic society in Jersey works. In fact, Sir, this Assembly itself is endeavouring to engage with the public. It has produced a booklet in which, if I might say so, you are rather unflatteringly depicted as some type of bird. The public engagement part of Scrutiny is also trying to engage with the youth of the Island, alongside the Council of Ministers, and I understand that they have just agreed a step forward in that direction. I am disappointed that Senator Perchard has left the Chamber because I wanted to give him a piece of advice from one Assistant Minister to another. He said he would be following his Minister. I would just like to advise him that it is absolutely fine to follow one's Minister but one should not do it when one's Minister is incorrect. **[Laughter]** This is the right thing to do. It shows our faith in the youth of the Island. They are, after all, our society's future. It is vital that they are allowed to play their part now. This, as Senator Syvret said, is a start and I urge members once again to support this proposition.

The Bailiff:

I call upon the President to reply.

5.1.24 The Connétable of St. Clement:

I would like first of all to thank all the many contributors to this debate. I think, certainly for all the arguments that we heard last time against the proposition, we have heard them trotted out yet again. The Deputy of Grouville really summed-up what this proposition is about - and I think it was echoed by a number of the other supporters as well - that what we are trying to do is engage the youth early in the process in the democratic process. There has been suggestions that they may go to a Parish Assembly to vote for licences but I would point out to those members that the Parish Assembly does not grant licences. That is the role of the Licensing Assembly and I do not think there are any 16 year-olds on the Licensing Assembly bench. I have a note here that in America you need to be 21 to drink. Nevertheless, I think a lot of the states in America the voting age is 18 and in a number it is definitely 16. Senator Vibert really summed-up the situation because he said the Assembly has instructed the P.P.C. to bring forward this amendment and that is what we have done. I do not think I am going to convince all those that have spoken against to vote for it but I hope there is a sufficient number in the House to support it and see that this amendment is passed.

The Bailiff:

I ask any member in the precinct who wishes to vote to return to his or her seat and I will ask the Greffier to open the voting, which is for or against the principles of the bill.

POUR: 26

Senator S. Syvret
 Senator W. Kinnard
 Senator T.A. Le Sueur
 Senator M.E. Vibert
 Senator F.E. Cohen
 Connétable of St. Ouen
 Connétable of St. Mary
 Connétable of St. Clement
 Connétable of St. Brelade
 Deputy R.C. Duhamel (S)
 Deputy A. Breckon (S)
 Deputy P.N. Troy (B)
 Deputy C.J. Scott Warren (S)
 Deputy J.B. Fox (H)

CONTRE: 15

Senator L. Norman
 Senator T.J. Le Main
 Senator B.E. Shenton
 Senator J.L. Perchard
 Connétable of St. Peter
 Connétable of Trinity
 Connétable of St. Lawrence
 Connétable of St. Saviour
 Deputy J.J. Huet (H)
 Deputy of St. Martin
 Deputy of St. Peter
 Deputy G.W.J. de Faye (H)
 Deputy J.A.N. Le Fondré (L)
 Deputy of Trinity

ABSTAIN: 1

Deputy G.C.L. Baudains (C)

Deputy J.A. Martin (H) Deputy K.C. Lewis (S)
Deputy G.P. Southern (H)
Deputy S.C. Ferguson (B)
Deputy of Grouville
Deputy J.A. Hilton (H)
Deputy P.V.F. Le Claire (H)
Deputy D.W. Mezbourian (L)
Deputy S.S.P.A. Power (B)
Deputy S. Pitman (H)
Deputy A.J.D. Maclean (H)
Deputy of St. John
Deputy I.J. Gorst (C)

5.2 The Bailiff:

President, you propose the two Articles together? Yes. They are seconded? **[Seconded]** Does any member wish to speak on the Articles in Second Reading? I put the Articles. Those members in favour of adopting them, kindly show? Those against? They are adopted. Do you move the Bill in Third Reading, President? Seconded? **[Seconded]** Does any member wish to speak?

5.2.1 Deputy P.V.F. Le Claire:

I would just like to very briefly thank the President of the P.P.C. and the Committee for bringing this forward, as we had asked them to do, and congratulate Deputy Labey for bringing forward something that is long overdue, by about an hour and a half.

5.2.2 Senator W. Kinnard:

Just a very quick question which perplexed me. Given the way the debate is going or went, why did P.P.C. bring it forth in this way with yet an Appointed Day Act to come forward so there were three bites at the cherry?

The Bailiff:

I call upon the President to reply.

5.2.3 The Connétable of St. Clement:

I assumed that this was the standard process of bringing forward the amendment, Sir.

The Bailiff:

I put the Bill in Third Reading. Those members in favour of adopting it, kindly show. Those against? The Bill is adopted in Third Reading.

Deputy P.V.F. Le Claire:

Could I ask when is it likely the Appointed Day Act will come before the States? Have we any idea?

The Connétable of St. Clement:

I assume that it has to go to the Privy Council and then be registered in the Royal Court, and the necessary Appointed Day Act would follow almost immediately after that.

The Bailiff:

The next item on the Order Paper is Projet 97 but the Chief Minister sent me a note a little while ago to say that he was required to be at a speaking engagement over the lunch adjournment and he has requested that members will take this later in the day. I am sure members will agree to do that.

6. Deputies: extension of term of office to four years (P.98/2007)

The Bailiff:

We come then next to Project 98/2007 - Deputies: extension of term of office to four years, and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of the opinion (a) to agreed the term of office for all Deputies should be extended from three years to four years, with effect from the Deputies elections in the autumn of 2008, and (b) to request the Privileges and Procedures Committee to bring forward for approval the necessary legislation to give effect to the proposal.

6.1 Deputy P.N. Troy:

I hope the members who have just all left the Chamber are all voting in favour of the proposition and that they have already made up their minds. Let me say that on 18th and 19th July 2007 the States considered structural change and the outcome was that on 19th July we approved a proposition by the Comité des Connétables - P.54/2007 - that their term of office be extended to a four-year term. There were 35 votes in favour and only 12 against. During that debate many compliments were paid to the Connétables for their foresight and innovation in bringing forward these proposals for change but many members were concerned that we would have Connétables on a four-year term, Deputies on a three-year term and Senators on a six-year term, which in itself would perhaps create some difficulties in the election process and in management of the Assembly. Prior to the debate on the Connétables proposition, I had attempted to lodge this proposition that members have before them today so as to bring Deputies in line with Connétables in the 2008 elections. This would be more equitable than three different terms of membership. Members will recognise that if all were on a four-year term of office that the system would be vastly improved and that we could move towards a general election, or at least elections for all, in a one, two or even three-week period. For example, if all of us were on a four-year cycle one could elect Connétables and Senators on one day, which would be a total of 24 members, and then elect 29 Deputies on another day, and that could be in the same week or within one or two or three weeks of the election for Connétables and Senators. In that way the whole States Assembly would come up for election in a short timeframe. It would, in my opinion, enhance elections, creating a greater political awareness among voters and very probably result in a higher electoral turnout. My proposition moves us squarely towards a four-year term of office for all members of this Assembly and if members approved it today it gives P.P.C. a clear indication that we wish to proceed in implementing change. Now, why have I not brought forward a proposal to make all members subject to a four-year term? Quite frankly, I was not permitted to do so at the time because the States had rejected or blocked proposals from P.P.C. for change on 18th July. Those proposals had included a four year term of office and the Greffier advised me that I could not submit exactly the same as had been rejected in the recent debate. That is why I am bringing forward proposals for the Deputies only and if proposals come forward for the Senators they have to come forward from P.P.C. once they have been given a pure, clear indication that we want to move towards a four-year term of office for all members. It is important that members accept that a four-year term of office for all was not rejected in isolation. It was rejected as part of an unpalatable package and that, in my opinion, does not count as an outright objection. Members will recall, if they can take their minds back to July, that P.P.C. proposals were referenced (a) through (g) and those proposals made changes which included a reduction in members to 48 members, 36 members as Deputies plus 12 Connétables. It included a single election day, a common term of office of four years, and large electoral districts. That was rejected *en bloc*, not, I think because members opposed the four-year term, for we have already seen members support a 4-year term for Connétables. It was rejected, in my opinion, because members disagreed with the totality of an unattractive package and it was a bridge too far for members. I feel, from many members that I have spoken to, that there remains

much support for a four-year term of office across the whole of the States, as evidenced by the vote in favour of extending the term of office for Connétables. I would now like to draw attention of members to the sheet that I handed out through the usher earlier, which is headed “Debate, 25th September” and has my name on it, and it includes two tables: table A and table B. We can see in table A that if we get the term of office of Connétables, Deputies and Senators all on to a four-year term then the positions held in this Chamber, Chief Minister can be four years, so can Ministers, so can Assistant Ministers, so can Scrutiny Panel and P.P.C. Chairman, and so can Scrutiny Panel and P.P.C. members. It works perfectly. It would result in a much improved situation. To get all members on to a four-year term and all positions of office on a four-year cycle is most sensible and must be the objective at the back of members’ minds when they come to vote today. That is what we are trying to achieve when we vote today, to get all of us on a four-year term of office and to get all of the positions that we hold into a four-year cycle. Who can argue with the sense in that table A?

The Bailiff:

Members, Deputy, are not being asked to vote for that today, of course, are they?

Deputy P.N. Troy:

No, but what I am trying to demonstrate, Sir, that in supporting this they are clearly giving an indication that they want to move through to a four-year term for all. I think that is certainly my intention.

The Bailiff:

What members need is a table showing what the effect of your proposition will be.

Deputy P.N. Troy:

I do not know if you have the table, Sir. In table B I do demonstrate how one would manage the change through but I will come to that in due course. I would like to take members back to a time in 2005 and remind members of the time where the appointment of our Chief Minister halfway through the term of office resulted in calls for candidates to stand down and place themselves for re-election to obtain a current mandate at that time. Members may recall that I lodged a proposition in 2005 to enable that to happen, but members in their wisdom defeated that. If we vote for this proposition today to bring Deputies in line with Connétables, I have made it clear in my report that it then remains for P.P.C. to consider the position of the Senators. I have already explained that I could not bring a proposition at the time to get all of our positions on to a four-year cycle because it had been rejected in an *en bloc* proposal, and members need to understand why I am having to do it this way. How would we achieve this change that I am proposing? I have made one suggestion in table B and, of course, there are many routes through this. There are many routes into getting a 4-year term for all members. In table B it would allow P.P.C. to implement a four-year term for all by 2016 if the will is there. I invite members to look at table B and note that in 2008 P.P.C. could organise that the 12 Connétables are elected on a four-year term, which we have already agreed to, and that all 29 Deputies are elected on a four-year term.

The Bailiff:

I am sorry to interrupt you, but would you mind pausing because I do not think we have a quorum any longer. I ask a member or two to return to the Chamber from the precincts so that the debate can continue. Thank you, Deputy.

Deputy P.N. Troy:

So, Sir, I invite members to look at table B and note that in 2008 P.P.C. could organise that the 12 Connétables are elected on a 4-year term, which we have already approved in this Assembly. We have already asked P.P.C. to bring that forward. Then all 29 Deputies could be elected on a four-

year term if we approve this today. Finally, six of the 12 Senators who come up for renewal in 2008, which I have labelled Senators Group A for 2008 elections, could also be elected for a period of four years. So, in 2008 through to 2012 we could have just short of 90 per cent of this Assembly on a four-year term, leaving only what I have termed Senators Group B who come up for election in 2011 as the ones who would require to fall in line in the future. The way I have proposed that they could fall in line is that in 2011 when they come up for election, we could give those Senators a five-year term of office, taking them out to 2016. That would be reducing their term of office by one year to get them out to 2016. In 2016 all of those others - the 90 per cent that were elected in 2008 - have since had elections in 2012 taking them out to 2016, so in 2016 we now have the whole Assembly on a four-year cycle. Everybody in this Assembly could be on a four-year cycle. That is the objective which I have in mind. That makes the most sense. All members would be elected on a four-year term in 2016. I would hope that members are positive about this change. I feel that we can implement change and I am strongly of the opinion that the public want change. They must be extremely disappointed that we have achieved absolutely nothing to date. We are a third of the way there in having support of the Connétables' change to a four-year term. Let us send a strong message to P.P.C. that we want to implement a four-year term by supporting this proposition. Let us get two-thirds of the way there and P.P.C. will have to bring proposals to reduce Senators' term of office to four years also, perhaps in the way I suggest. Or they might decide in their wisdom to put Senators out on eight-year terms which, quite frankly, is not the right way to go, I feel. I maintain that I have demonstrated in table B that it is possible to get all members on a four-year electoral cycle with just short of 90 per cent of members on a four-year term in 2008 and the remainder fully coming into line in 2016. If members do not support this today, P.P.C. have said: "We are going to overturn the States' decision of giving Connétables a four-year term" and the question is why? Why would they want to go back on the States' decision on the Connétables where the majority of this Chamber supported it? The Connétables did have vision. The Connétables can see out into the future. P.P.C. cannot see out into the future. I am going with the Connétables and I think members also should seriously look at this, look at the bigger picture. members must realise that it is not about today, it is not about the Senators' position today; it is about this Assembly, how this Assembly will operate in the future, out in 2016, 2020. Some of us will not be here, but we have the responsibility to effect change. Now, you can do that or you can just say: "I am not interested." You can effect change today. You, the people in this Chamber, have the destiny of this Chamber in your hands today.

The Bailiff:

Through the Chair, please, Deputy.

Deputy P.N. Troy:

Sorry, States' members, Sir, have the destiny of this Chamber in their hands today. This is important. Members should not vote this down. It is important that this Chamber progresses forward out into the future over and above the interests of a few members who feel that their term of office might be cut from six years to four years and they do not like it very much, thank you. So, I hope you will look at the future, look at the bigger picture, look at the way forward. I make the proposition, Sir.

The Bailiff:

Is the proposition seconded? [**Seconded**] Deputy de Faye?

6.1.1 Deputy G.W.J. de Faye:

I am coming round to the view that perhaps the hand of destiny should reach out to every States member and hand them a cigarette packet. On the back of that cigarette packet, they can jot down their brightest idea for electoral reform and maybe we can chuck all the cigarette packets into the middle of the Assembly and perhaps the Greffier would pick one out. That sounds to me like

probably our best way forward in this entire issue because this really is legislation off the back of a fag packet. I supported a 4-year term for the Connétables and I remember saying at the time that I supported it because I felt it distinguished the role of the Connétables by the length of the appointment. It distinguished the Connétables by saying a four-year term indicates a level of seniority and importance over the clearly lesser role of a Deputy who serves currently three years. Deputies, of course, developed originally as supporters of their Connétables who could represent the Parishes here in the States particularly if a Connétable was ill, but they were conceived very much as the number two. Over years Deputies have grown like Topsy to reflect the shifting population changes in the Island and now inexplicably the junior squaddies have become the most powerful force in the Chamber, something that if we are looking at electoral reform probably needs to be addressed, in fact. It also struck me that perhaps Senators did deserve a longer rein, currently six years, than both the Connétables and the Deputies because they have been elected by the entire Island and do not emerge from their various hobbit holes around our distant rural Parishes, unlike some Deputies. I think it has been an eminently sensible improvement that the Connétables now will go forward to enjoy four years and I am baffled by suggestions that this is apparently going to somehow cause chaos. Because, after all, the Connétables were elected randomly anyway and I understand that they are now all going to collude together in some notable manner and try and contrive their own single Connétables' election day and I wish them well with that proposal. Then within minutes almost of the Connétables acquiring this distinguishing feature, up popped the Deputies going: "Oh, me too, me too." I really am concerned about what the public are going to make of all this. How nice it will be for Deputies to have four years of guaranteed income instead of three. How nice and convenient it will be to avoid elections for an extra year. How jolly nice, because that will be what the voters out there will be thinking of this. How nice it is, is it not, for Deputies to feather their nests in the same way as the Connétables. I absolutely see no reason for change in Deputies' terms of office inasmuch as it would be very nice to allow ourselves the 18 months as a newly elected Deputy to get your feet under the table, 18 months to understand the workings and then stick another year on the end and perhaps you might get a proposition through the States and demonstrate what a worthy Deputy you have been. By the same token, do the voters really want to wait an extra year to get rid of someone they are disappointed with? This is an element that, it seems to me, is being rather overlooked here. There has been, as I understand it, for many years something of a feeling among the voting public that being a Deputy is rather like having an apprenticeship and you should learn the ropes and then, if shown to be reasonably promising, you will, of course, be re-elected and given a further term of office. But if you prove to be a rather faulty apprentice, do we really want to make the public endure four years rather than three? I think I know what the public response to that would be. I am concerned about the message that we would be sending out to voters by adopting this proposition. Let us just remind ourselves of how popular four years was. I am sure we all recall the interesting pie chart that emerged from the M.O.R.I. (Market and Opinion Research International Limited) poll, and I will not reiterate former comments I have made about the validity or not of M.O.R.I. polls operationally. Nevertheless, members will recall that there were big chunks of enthusiasm for three years, for four years and for five years, and the P.P.C. effectively went for the middle option compromise because four years would probably not upset those who voted for five and three years too much. Nevertheless, if you had a close eye for the actual percentages, on a first-past-the-post basis it is quite clear that three years would have won because it had a higher percentage return from those polled by M.O.R.I. than either four years or five. So, not really much of a surprise, then, to discover that on a first-past-the-post basis, if you were making that analysis, voters - or at least those consulted by the poll - were quite happy with the existing three-year term of office. So why this sudden concern about going for four years? I have to say that there are elements of the Deputy's report I simply cannot agree with. I am not at all sure that it has been universally recognised that reform is necessary. It may be desirable but we still seem to be struggling along to establish some of the basic factors behind what electoral reform should be. I think we are seriously lacking any form of detailed analysis into lengths of appointment. I have seen no seriously written-out and argued reports on the subject,

which is why I reiterate this to a large extent is doing electoral reform on the back of a fag packet. It is almost gut instincts. It is the same as members deciding how many States members should there be in the Assembly. We have had a multiplicity of suggestions. Some say 48, some say 44, some say 42, perhaps it could go down to 36, but we have to date, to my knowledge, no single report that has identified what the minimum number of members would be required for effective government. In other words, what is the lowest number? It is no good Deputy Troy waving that report at me because it does not say that. It does not say what the lowest required number of States members is for effective government and neither have there ever been any recommendations as to what the most convenient or reasonable number of States members would be for effective government. So we are all on these issues absolutely guessing in almost the dark. I see absolutely no value at this time to extend the term of office for Deputies. I think we are at a situation where something clearly sensible has emerged, a clear differentiation between terms of offices between the three different classes of States member. I think that is a good position to be in, and I do not think we should then proceed to cloud the issue by going down a path that says we are all going to end up at four years, Senators included. I think that is entirely unhelpful. I think it is entirely unresearched and I really do not think this Assembly should entertain any further electoral reform, indeed, without having very considered arguments on the subject before we even approach debate.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The adjournment is proposed. If members agree, we reconvene at 2.15 p.m.

LUNCHEON ADJOURNMENT

PUBLIC BUSINESS - resumption

Deputies: Extension of Term of Office to four Years (P.98/2007) (...continued)

The Bailiff:

I should be glad if any members in the precinct who can hear me would be kind enough to return to their seats so that we can become quorate. The debate now continues on the proposition of Deputy Troy. Does any other member wish to speak? Senator Vibert.

6.1.2 Senator M.E. Vibert:

As obviously this debate has intrigued States members in their masses so we are finally quorate, I think that I would describe Deputy Troy's proposition as tinkering with parts when we should be looking at it as a whole. We are not being asked in the proposition what Deputy Troy says he really wants, which is for everybody to have a four-year term. That really is my concern because it seems to me it is a rather deceiving way to try to get to a position as the proposition does not say everybody is to have a four-year term but that is what Deputy Troy wants and he believes it will lead to. I think the danger is it will undermine the value and the standing of the all-Island mandate and it is a way of getting rid of the Senators by default, by stealth. I remember speaking with Deputy Troy about this. He might remember I asked him privately. We were talking and I said to him: "What would the incentive be for sitting Deputies, in particular, States members to stand for Senator if we all have the same term? Why would they leave their 'safe' seat and stand for Senator?" I asked him. I asked him if he would do it himself. I am still waiting for the answer, or any answer, on that. I think that the danger would be that if Deputy Troy's dream came true and we were all three categories of member on the same term of office that the position of Senator would become devalued and you would have only non-States members, people with no experience of the States at all, standing for the Island-wide mandate. I do not believe personally that that is what the public wants and what they have indicated every time they have been asked what they want. I do not agree with this piecemeal reform which may have undesirable, unintended consequences. The

public have consistently indicated they wish to maintain the all-Island mandate and I do not believe that this would occur under Deputy Troy's proposition because eventually I think it would become so devalued it would wither on the vine and have to go. I do not think that is the way it should be done. If the States want to get rid of Senators, they should vote to get rid of Senators and it should be done after a proper and full public debate. That is another concern I have. The previous speaker before lunch - Deputy de Faye - referred to the report accompanying this proposition, all three paragraphs of it, as something that had been written on the back of a fag packet. I think that probably does an injustice to fag packets because you can sometimes find something quite interesting and well thought out written on the back of a fag packet, unlike in this proposition, I am afraid. As this would be a major change to our constitutional position, I will ask the Deputy to explain what public consultation he has carried out, what public meetings he has held, how have the public been consulted? When I was President of the Special Committee looking at changes to the States, we spent with Senator Norman and others many months and many open meetings, public meetings and otherwise, trying to get public opinion. As a member of P.P.C. we have done M.O.R.I. polls, we have put out consultation documents, we have had a considerable number of replies, and when we brought something forward to the States, the States had a full debate on it and made a decision. Yet here we are being asked to make what is a fundamental change to our constitution that will affect every member of the public in their voting patterns and who and how they vote, and we are being asked to do it on the basis of three paragraphs with no consultation, with no research, with nothing but the Deputy believing that it is the right thing to do and he believes the public are in favour of it. Well, I do not think that is responsible government, I am afraid. I have talked, it seems, quite a lot lately about responsible government and I think it is very important. I do not think making decisions in the way we are being asked to make a decision today, an important decision, is the way to behave. The same will, as far as I am concerned, apply to other propositions that have been brought that are down for debate later today. If you are going to make important decisions, they should be made after full public consultation. So, Sir, I will not be supporting this and I hope in the interests of good government no other States' members will be.

6.1.3 Deputy J.B. Fox:

Ever since I first read the *Clothier Report* and saw the process that we were going through, I thought: "Oh, good, this is going on well, we are moving forward" and we divert our attention slightly and then all of a sudden we get lost in this quagmire of what seems like 15 or 20 different propositions, all trying to move the process forward and then we make several strides backwards. The argument always comes back to what the public think; to consultation. We then change the process and try again. In my world we call it piecemeal. We try to cherry-pick the bits we like and we try to ignore the bits that we personally do not like, but we are not thinking collectively as a States. We are thinking of ourselves. You probably gathered by this that I shall not be voting for this amendment, but what I hope is that before the time that I leave the States we will have a proposition that will put all the things that we need to put together to make a coherent, well thought out proposition hopefully before the elections in 2008, hopefully in time that we can alter things if that is humanly possible to have a final go. I see the President of P.P.C. shaking his head and I can sympathise with him, to be honest with you. He has been very patient with us and we have not been very good students or good boys and girls. We have been trying to do our own things, but I am afraid this one is again something that is cherry-picking. I can understand why Deputy Troy has put this forward to try and move something forward, but I am afraid that this is not the way forward. We are going to have to wait until the time, I suppose, that there will be a consensus to look at the remaining things that need to be achieved, to be put forward and then to be achieved, or to die a natural death or to be buried for some time longer. Thank you, Sir.

6.1.4 Deputy R.C. Duhamel:

Six-year electoral terms for six members at a time, out of phase with the remainder of the House. The majority of the House is at present going for three-year periods of service, albeit 12 of those members being elected to the House in a higgledy-piggledy fashion. It strikes me that whenever any members of the House display any attempt at long-term vision, there is always a flurry of ill-thought out comments to try and knock those members who are trying to move the House in a sensible direction. We have just gone through a budget process under the new system and members should be reminded that last year we had a five-year Strategic Plan. Now, if the majority of the members are only elected to the House for three years, how can we be getting ourselves into a long-term planning process which is absolutely right for any government or any collection of members that call themselves a government to be planning for the long term. You cannot do it if we are all at 6s and 7s when it comes to the electoral periods that we come into the House with. Not only that, we have the strategic planning out of sync with the generally three-year electoral periods that we are here for and, to compound matters, we are all down for a one-year Annual Business Plan. The whole thing is an utter mess. Clothier sat round the table and they came up with some sensible proposals long term and we did cherry-pick and we have implemented things piecemeal. This really is where our problem lies. The Connétables are to be highly commended, as other members have said, for taking it upon themselves to unpick the logjam. Nothing was going to change in terms of moving towards I think what is a generally desired common period of election or service to this House until the Connétables came forward to put themselves back in line. Now, they have done that and already we can hear the squeals from some of the Ministerial benches saying: "Well, no, this is not good enough. They did not know what they were doing. We are going to have to unpick it. We are going to have to send out messages to P.P.C. to come back to this House, having made a decision in this House, to unpick it once again." What are we doing? It is utter folly, I think, for any members to be standing up and trotting out things like we have heard. "This is a deception" from the Minister for Education. "Really there is a sub-agenda, a plot, to get rid of the Senators, to get rid of the Island-wide mandate." It is an absolute nonsense, Sir. Likewise we have heard mention from another Minister - the one who sits behind me, the Minister for Transport and Technical Services - suggesting that this is not going to be fair to the public because they voted us in for three years and somehow by moving to four years for the next election, if we can arrange our business to bring it in by then, we are somehow getting off scot free and imposing the wills of those members on the non-voting public for a further year. It is just an absolute nonsense, Sir. We are not doing that at all. What we are doing...

Deputy G.W.J. de Faye:

I believe the Deputy is accusing me of talking nonsense, which is surely unparliamentary.

Deputy R.C. Duhamel:

No, I am not giving way, Sir.

The Bailiff:

Deputy, Deputy Duhamel is not giving way, I am afraid.

Deputy G.W.J. de Faye:

It is a point of order, though, Sir.

Deputy R.C. Duhamel:

No, it is not a point of order, Sir. I am not giving way.

Deputy G.W.J. de Faye:

It is surely unparliamentary...

The Bailiff:

May I just have some order, please? Deputy Duhamel, if Deputy de Faye has a genuine point of order it may be made.

Deputy R.C. Duhamel:

I do not think he has, Sir.

The Bailiff:

If it is a point of correction...

Deputy G.W.J. de Faye:

No, Sir, it is a point of order and that is the Deputy has accused me of talking nonsense and I believe that to be unparliamentary language.

The Bailiff:

I do not think that is a point of order. If it is, I do not accept it.

Deputy R.C. Duhamel:

Well, members can judge for themselves. That was the point that I was making. If there is no argument against the long-term sense of a particular proposition and members nevertheless wish to kick it into touch, then by and large they will come forward with spurious arguments which do not really get this House anywhere. We need to realign the electoral periods. If we intend long term to make any sense in coming forward on a regular basis for the periods that we have been elected for to plan our affairs sensibly, there is absolutely no way we can be at 6s and 7s, as I said before, with half a dozen different electoral periods and a process that relies on five-year strategic planning processes, one-year budgeting processes and electoral periods which are all over the place. Although some members have said it is a piecemeal attempt or process or proposition that is being put forward, I do not see it as that at all, Sir. I think it is not a piecemeal process, it is a piece in the jigsaw. But, as I said earlier, not many Members have the ability to see without looking at the picture on the box what the whole picture is when they are bringing forward pieces of the jigsaw. I think the Deputy of St. Brelade, Deputy Troy, has looked ahead and there is no doubt in my mind, Sir, that with a further 29 members falling into line behind the 12 Connétables, a very, very firm message will not only be sent to the remaining Senators to fall in line with the general mood of the House, but it will show to the public once and for all that contrary to all the time that we have expended in this House appearing to go nowhere, there is still an element within the House who are dedicated to moving the reform of the States Assembly in a sensible direction for the benefit not only of ourselves and how we deal with the work but for the benefit of the Island at large. I fully intend to support this proposition, Sir, and I do hope that other members will think about it and do the same.

6.1.5 Deputy S.C. Ferguson:

Over the years I have heard a number of members say: "We should reform stage by stage, not all at once." Well, I suppose you could say that with this proposition of Deputy Troy's we are going through a stage. We have heard, as the Connétable of St. Peter said, they wanted to kick-start the reform process. Well, that was one stage and this is the next. We hear a lot about the all-Island vote, but in actual fact I have been asking those who have been standing and holding forth about all-Island votes when they last saw their local Senator. Who did they go to if they had a problem? It is the Deputy and the Connétable, or the Connétable and the Deputy. But the Senators? "Oh, we did not think of asking them." So I am a little concerned that perhaps the Senators are not as in touch with the electorate as perhaps the Deputies are. We are always in touch with our constituents, but it is a bit like learning to swim. You get pushed in, it is a bit sort of: "Whoa" and then you get pushed in and you think: "Oh, it is really quite nice." I am sorry, I must apologise to the President of

P.P.C., but as a co-opted member I am hoping that I have a little more freedom than the voted members. I really feel that perhaps we ought to be following this and voting for this proposition.

The Connétable of St. Clement:

Can I just correct the Deputy? She is not a co-opted member; she is an elected member to the Committee.

Deputy S.C. Ferguson:

Sorry, with respect, Sir, an *ex-officio* member.

The Connétable of St. Clement:

Could that point be clarified, Sir? It is not my understanding.

6.1.6 Deputy C.J. Scott Warren:

I would firstly like to make a comment on Senator Vibert's comment about more consultation because with all due respect I think the public have been consulted out. There has been so much consultation they have now basically lost interest in this. I will, Sir, be supporting this proposition. In my opinion it is not good enough for Privileges and Procedures to suggest that the endorsement of a four-year term for the Connétables should now be rescinded, reversed. It was a decision made by this Assembly and I do not think we should be going back in time. As many people say in this Chamber, we are where we are. This issue of terms of office needs to be addressed and to be moved forward, Sir. I am not in the business as a Deputy of bashing the role of Senator. In my opinion, people do contact Senators when they want an opinion and they do not want to contact their Connétable or their Deputy. I think we fulfil different roles within the Island and on the local side but, having said that, they are in my opinion of probably equal responsibility and we also have equal responsibility in the States' Chamber in the voting, the decisions we make locally for Jersey and at an international level. I believe that it would be a vast improvement to have a four-year term of office for Deputies. As it was decided by the Connétables that that was the term of office they want, I do not see that this will affect the decision that is to be made or not made regarding the term of office and the future role for Senators. That does need addressing and it has in my opinion been a sticking point all along when major packages of reforms have come to the States. We all share the responsibility for the good government of this Island. My own personal view is that it would be good to have the same terms of office for all different categories of States' members, but as regards the Senator role that is something for another day. I am a Deputy and I believe all Deputies probably feel as I do, but I cannot speak for them. With all due respect to the member who said this, it is nothing to do with whether or not we have an additional year's money by having a four-year term. It is the effective operation of government within a four-year term rather than a three-year term. We can have better work programmes and implementation of the Strategic Plan. Then, Sir, we will be judged by the electorate. As you have obviously realised from my speech, I believe this is a progression and a good progression that Deputy Troy has brought to the States today and I will be supporting it. Thank you, Sir.

6.1.7 Deputy S. Power:

Just a very brief observation, Sir, if you might indulge me, looking at the Chamber this morning running up to lunch and just immediately after lunch, Sir, I wonder if we ever did reduce the numbers in this Chamber how we might ever get to have a quorum because we seemed to bump along this morning at 27 or 28 for a large part of the morning, and even when we came back after lunch we were still waiting a few minutes for a quorum. Having got that off my chest, I seconded Deputy Troy's proposition because I support it and I would like to give some reasons as to why. The change and the evolution of this Chamber has always been gradual. Change has been brought about by the needs of the time and by circumstances. I think there was a dramatic change in 1948 because of the then Privy Council reacting to public opinion as a result of the end of the Second

World War. Reference has been made this morning and this afternoon to evidence, to the Island-wide mandate and to research or the fact that Deputy Troy has not undertaken research. I do not want to repeat what other people have said, but I think there is sufficient research there right now for all of us to know that there is change needed to adapt this Chamber - to change this Chamber - and I certainly would like to make one comment on this great sacred cow that is the Island wide mandate. I am sure that Deputies in the Chamber this afternoon, like me, will have been contacted by residents in the other 11 Parishes, for whatever reason, and I feel that if we were to move to a four-year term for Deputies and we were to move to an Assembly with two types of members then I would be comfortable with that. I think P.P.C. have done an excellent job up until now but sometimes I feel that change needs to come by increment rather than by large change. I think what we have seen... in my view the bold move by the Connétables in the early part of the summer to move forward for a four-year term shows that we can change this Chamber by increment rather than by large steps at a time. I certainly support what the Connétables have done and think it is because of what the Connétables have achieved in moving to a four-year term and all standing for election on the same day, that Deputy Troy decided that he would do the same for Deputies. That is why I support him. Moving on to my own personal experience of being a Deputy, I would like to say that when new members are first elected it does take some time to find one's feet in the Chamber and that it is not an instant or an automatic thing. It took me at least three months to understand how this Chamber worked before I felt comfortable in here, and I still do not understand it, thank you, Senator [Laughter]. It might take as much time as the good Senator has been in the Chamber for me to understand all the idiosyncrasies of how it operates. But I do wish to point out that I did ask people like Senator Le Main and remember talking to Senator Routier; I remember asking Deputy Breckon and Deputy Duhamel how long did it take them to find their feet in the Chamber and the answers were varied but it took anything from three months to three years. Now, we are now reviewing the term of the Deputy and in the short 21 months that I have been in the Chamber I would say that for the first three months of that I was not really that productive at all. So I came on to a Scrutiny Panel at the beginning of last year, we started working in the spring of last year, and now here I am a year and a half on and am now looking a re-election, should I decide to do so, in a short 13 months, 14 months. So I feel the role of the Deputy would be more productive and I think the role of the Deputy would be more consistent. I also think the taxpayer - the public purse - would get more value out of us if we did have a slightly longer term. Like Deputy Scott Warren, I do not say that because I want an extra year's security or an extra year's salary or an extra year's whatever... longevity. I simply do not come at it from that point of view. I come at it from the point of view that I think I would be a more productive member of this States if I had a slightly longer term. I also feel that as a Deputy representing a Parish I can represent Islanders no matter where they live. Sir, for that purpose and those reasons I have outlined I am very happy with Deputy Troy's proposition. I congratulate him for bringing it forward. Thank you.

6.1.8 Deputy G.C.L. Baudains:

Drawing on some comments made by previous speakers, it was not that long ago, Sir, that we were all accused of being turkeys desperately trying to avoid Christmas, looking after ourselves. Well, I have to start off, Sir, by saying that this Deputy is not looking to increase his three years to four years. There is nothing I am looking for for myself in this. If I could start with the comment made by Deputy Duhamel, Sir. He spoke of looking at the bigger picture. Well, I have to say - and this is not meant to be humorous - what I am looking at is a bit of a cartoon because what we are told is Deputy Troy's vision is to me a public's nightmare. For some time - surely we have not all forgotten - this Assembly has been applying its mind to perform and one of the major aims has been to increase voter turnout. Here we are, surely, ensuring voter alienation. Not my opinion, Sir, but those members of the public who have spoken to me on this issue when they have seen the alternatives. I am surprised that the Deputy has seen fit to bring this proposition in the light of that. Perhaps he has not paid attention to all the lengthy and comprehensive debates that we have had on this issue because all the workable options have been brought to this Assembly, and they have been

rejected, Sir. Surely those people who have spoken so far and spoken in favour of this proposition have not forgotten that the public want an Island wide mandate. They do not want their Ministers to be elected by a small section of one Parish. They believe that their Ministers, in the main, should be those people elected by the entire Island. So that in itself rules out having all Deputies and doing away with the Senators. That is the public's opinion. We cannot have all Senators and no Deputies because the election process would be completely unworkable. You could not have - or maybe you could but I really would not like to envisage it - a hustings meeting with 70 or 80 candidates on the stage. The election paper itself at the polls would be quite an interesting document and I suggest that most members of the public would probably vote for the five or six names they know and then all the rest of the members who are successful for getting in the States would be a sort of lucky draw. If that is an improvement on the present situation I do not see it, Sir. Privileges and Procedures Committee - of which I am a member - has been castigated by some people for not doing its work. I can assure you we have spent many hours drawing on all the information available to come to the conclusions that we have. We also see, as we warn, that the proposition brought by the Connétables is not workable in the form it was passed by the States. It is highly unlikely to come to fruition. But, never mind, we will create a little bit more confusion with another proposition that builds on something that is not going to work. In my view, Sir, this proposition which the Deputy is bringing, no doubt with good intentions, will simply introduce more chaos. I am surprised he did not suggest a seven and a quarter year term for Senators and perhaps three and five-eighths for Deputies and something else for the Connétables. He has not done his homework, Sir. He had not paid attention and I really think he should withdraw this proposition because he has had his joke. We need to move on, Sir. **[Laughter]** If we do not move on I think we will be moving on to the next item.

6.1.9 Senator L. Norman:

In contrast to the last speaker, Sir, I rise to give my 100 per cent support to Deputy Troy's proposition. I do that, Sir, despite the fact that I spoke and voted against the proposition to extend the term of office for Connétables to four years. I did that at the time because I thought the original proposal to extend the term of office for Connétables was, as Senator Vibert put it, tinkering. It was also a move away from something which I hold quite dear in the possible reform of the Constitution of the States, the possibility of a general election. But I accept, Sir, that the four-year term of office for Connétables is going to happen. I say that because yesterday the Chairman of the Privileges and Procedures Committee confirmed that legislation would be brought forward by the end of this year to confirm that and to achieve that. Then this morning Senator Vibert, a senior member of that Committee chastised - quite severely chastised - some of us who spoke against the amendment to the Law to reduce the voting age. He told us that the States have made that decision and we should not revisit it. Senator Vibert has many qualities, among them he is not a hypocrite. So he will not be bringing a rescindment motion for the decision that we made on the Connétable's change of term of office. Senator Vibert and I, one thing we have both been consistent about is that we would like reform of the constitution of the States to be dealt with in a holistic manner. In the past seven years since Clothier was published, we have manifestly and clearly failed to come anywhere close to a holistic change in the constitution and reform of the States. There is absolutely no sign of us getting anywhere close to any change in an holistic manner. So if we are going to have reform - and very few people, I suspect, think that we do not need any reform - it needs to be step-by-step. Now, during all the debates we have had over the last seven years two things seems to have gained consensus, except by Deputy de Faye. One is we would like to have a general election, or something as close to a general election as we possibly can. That is all members being elected for the same term on or about the same day. The other thing that would seem to have gained consensus - sorry, I had Deputy Baudains as the one who has not gained consensus - was a four-year term for all members. Now, the first step we took a couple of months ago when we agreed that the Connétables should have a four-year term and, as I said, that is now going to happen. This, Deputy Troy's proposal, is a logical second step. If this gets approved then most members of the

Assembly will have a four-year term. Forty-one members of this Assembly will be elected in a relatively short general election period as opposed to 35 currently. Currently it is 29 Deputies and six of the Senators. I think that will be much more attractive to voters whose excuse often for not voting is: "We cannot change it because most of them are still in there." It is not ideal but it is much improved. As I say we are not going to make a holistic change, it has to be step-by-step. I do suggest to members that they should not worry about the role of the Senators. The Senators are very robust characters and quite honestly they can and will look after themselves. They can and will survive. They will have to reform if this proposition is adopted. It is not beyond the wit of the senior members to discuss among themselves to bring forward for debate appropriate reform, based on the reform that has already happened to the Connétables and Deputies. That is the right way to go because it was the Connétables who proposed their four-year term and election on the same day. It is a Deputy who is bringing forward this proposition for a four-year term for Deputies. On that basis it is then the role of the Senators themselves to come forward with appropriate reform for themselves, and, as I say, I am sure they have the wit to do that. One thing I do agree with Deputy Baudains is that Deputy Troy's vision - the vision he pronounced this morning - is flawed. But one thing I am absolutely convinced about is his proposition is not. It is absolutely right, timely and appropriate and I urge the States to accept it.

6.1.10 The Deputy of St. John:

Groundhog Day does come to mind here. Once again this is a piecemeal approach and this is what irritates me hugely. I have said this before and I am going to say it again: we should not be doing this, we should have a full review by an independent commission. It should be given teeth, it should be given the opportunity to bring forward a proposal of its own, the power to call for a referendum. We should not be doing this. As the Senator just said, the Deputies have brought this forward as a proposition about the Deputies. The Senators should bring forward a proposition about the Senators and so we go on. It should not be done by us; it should be done in the manner Clothier was done. Clothier should have been adopted in my opinion. The P.P.C. proposal that was brought forward, which I thought was eminently sensible, should have been adopted but it was not because it came from P.P.C. It needed to come from an independent commission. I am firmly of the belief that that is way it should be done and, again, it is piecemeal. The reason why we are in the position we are in now is because the Connétables - perhaps an unintended consequence, after a very sensible proposition to have a general election for them - put in there a four-year term. Now, I did hear some rumblings that the Committee may well withdraw the four-year term and go back to a three-year term. I would be interested if anybody from the Committee today is going to speak about that or not. Because if they did clearly there would be no need for this proposition. We would then have, once again, a system that would work because of the six-year term and the two three-year terms. This will throw into chaos the electoral process again unless the Senators come forward with a proposition fairly soon. So it is progress in some people's eyes but it is piecemeal progress and it is not how I think a professional organisation such as a parliament should be acting. It should be done in a much more coherent manner, a much fuller manner, and it should be done by somebody outside of this Chamber, not by us. So, although I admire Deputy Troy for bringing forward the proposition - and I think it is well intended - I do not think it is going to help matters at all. I think we should be taking an independent view on it from an independent body which is given teeth to bring forward a referendum so we can decide this once and for all, instead of continually coming back time and time again with piecemeal propositions. So I am afraid I will find it very difficult - well impossible - to support this proposition. I am sorry, but I would just be a turkey voting for Christmas if I was to support this and I am certainly not going to do that.

6.1.11 The Deputy of Grouville:

That last speech filled me with utter horror. The thought of yet another independent review to come back to this House to all be rejected in piecemeal fashion. I spent the first five years in office looking at reforms, most of which have failed and I welcome the day where we can just be in this

Assembly and get on with the business we were elected to do. This proposition has, I am afraid, got all the traits of doing away with the Island-wide mandate. It would leave absolutely no purpose for standing for... there would be no reason why any existing member would stand for election, would go through the expense of standing on an Island-wide mandate if they can stand in the Deputy's or Connétable's elections. One point that has not been made is that each different office brings with it different responsibilities and different roles and, unlike Clothier, I think that is a good thing. I do not think it is good that we all become Deputies of our own little constituencies. I think it is good that there are people looking after the Parishes with a responsibility for those Island-wide mandates and people in their constituencies. So I am quite happy with the Chamber with the three different offices that we have. As I say, I think this proposition by default would, in effect, do away with the Island-wide mandate. At this point I would really like to hear from P.P.C. because I believe this proposition has been instigated from the proposition brought forward by the Comité des Connétables and it is on the back of that that Deputy Troy has brought this one forward. I would like to hear from P.P.C. what exactly are they doing. I know they say in their comments that if this fails they are going to bring something forward. When are they going to bring it forward; is it going to be ready for the next election; and if perchance this were to succeed are they then going to look at the role of Senators? Are they going to make more incentive to stand for that office, like only have people who are Senators to be Ministers? I would like to know what exactly their thinking is on this because I really do not know and there have been precious few successful reforms brought forward by the P.P.C. and I would like to see some leadership and some incentives coming from this Committee. Thank you, Sir.

6.1.12 The Deputy of St. Martin:

It is a bit like a seesaw. I thought we had a seesaw the other day with the P.A.C. (Public Accounts Committee) debate where it went from one side to the other and at the end really a lot more weight came down on one side and the whole thing collapsed. I hope that will not be the same with this particular debate because I think there is a lot of merit to it. I think it is rather unkind of Members to be attacking the messenger because I think what Deputy Troy is doing is like a number of us - and I include myself in that - that have tried to come forward with some form of reform and every time you come forward with some form of reform the proposer is attacked rather than the policy or the message that they are bringing forward. I have been one that welcomed Clothier right from the outset. I do not know whether Deputy Fox was in the House when it first came about. I certainly welcome it and I look forward to the Ministerial government. I have my reservations now but at the same time we are there. But the other thing I did look forward to also was electoral reform and we have cherry-picked, without a doubt we have cherry-picked, and even now we are still looking to see which is the best way forward. We were told that revolution was not possible and what I did come forward with was revolutionary because I support Clothier and the proposition I came forward with did not get through, and now it has been proved that revolution is not the way forward. But evolution is. I would take issue with Deputy de Faye when he talked about the four years for Connétables because it gave them some form of seniority in the House as if six years as a Senator is more important because six years emphasises that. Four years for a Connétable: of course they seem more important than Deputies. Well, I do not think the Deputies are any less important than any other member of this House. We are all in here to serve the community and we are all here with one vote and the Deputies have the same power in their vote as the Connétables or the Senators. So I do not think that is really on. Can I make it quite clear that as far as I am concerned - and I am pretty sure Deputy Troy is as well - that this debate of this proposition is nothing about an attack on Senators. If one looks at the proposition it is about a four-year term of office for Deputies. I think we ought to kick that one right out, it is certainly not an attack and I do not see that as an attack at all. During the debate on the Connétables - I will make it clear - I did not support the four-year term of office because I was one of those that believed that we were going to have a piecemeal approach and really we should be looking again for the revolutionary point. I have been proved wrong. I can see now that there is absolutely no chance of us getting everything

to agree to every packet. It is no good asking us to ask for a referendum because, again, we did have the opportunity of putting a referendum and the States disagreed with that. We did not support that view. It is no good asking P.P.C. to come up with it because, as we have heard today, we have got members of P.P.C. who are not agreeing and some, in fact, will be supporting Deputy Troy. So we cannot go backwards because it is not going to happen. I think what we have got to do is to look at each one by a step-by-step approach, and I am glad those words have been used before me by Senator Norman because he is right; it is a step-by-step approach. The Connétables have now got four years and they were deeming it revolutionary: four years, we have got it. So there it is. I hope they do not go back to a three-year term. If we want effective government I think you have got to look to at least four years. I think most people thought four to five years was a sensible period and I would go for four. Certainly I would also argue that we will be doing away, by accepting today, with the Senators role. It will not be. The Connétables have come forward and, as I said in the Connétable's debate, I think the only way forward will be for each body... the Senators to come through, the Connétables and the Deputies and the House will agree because we are not going to agree to reduce our number, what we have got to do is try to work on a sensible way forward for 53 members. So the advantage at the moment is that Senators have a six-year cycle. Well, those, you know, mean a different type of election. There is no canvassing and, in fact, if you really want to throw a lot of money at it and do a lot of advertising it is probably easier to become a Senator than what it is to become a Deputy. I would also raise the issue that a Senator is no longer a senior post, if that is the position, because we only had it last week when in fact had the Chief Minister had the Senator as his choice for Health Minister he would have been proposing a Deputy for the position of Minister for Social Security. So, again, what is the point of a Senator? So, again, what I would ask members to do is support what Deputy Troy is asking for, it is a step-by-step approach. We will have four years for Connétables, four years for Deputies, there is no reason why Senators cannot have a four-year term elected in the same way as we are doing. So I ask members to support the proposition.

6.1.13 Senator S. Syvret:

I struggle to rise to my feet in this debate. To be honest I am largely completely indifferent as to the outcome of this vote as I have been after about the first five years of these kind of debates. But I just wanted to make a few points. If the proposition were to be supported it will have an impact on the survival of the Island-wide mandate. I think the Island-wide mandate is important because it gives the whole community together an opportunity to express a collective view, unlike elections for Connétable or elections for Deputy. It also at least gives the community the confidence and the security of knowing that whoever becomes, for example, the Chief Minister or the Finance Minister will, in all probability, be drawn from among the ranks of those who have an Island-wide mandate. I think the Assembly would be going down a very dangerous path if we ended up with somebody with a small mandate in a small constituency somewhere leading the Island. I see Deputy Mezbourian shaking her head but I look forward to hearing her explanation because in large countries where you have a Prime Minister leading the country the community have an opportunity to express a collective view because they vote for the M.P.s (members of Parliament) who are members of the parties. You go to the polls knowing that if a majority of M.P.s end up being from the Labour Party then their leader will become the Prime Minister. The absence of party politics in Jersey does make the Island-wide mandate important. Certainly if the Island-wide mandate were gone I would have no doubt that party politics would happen quite quickly. I just do not think it is credible for people from small backwater districts who may not have even faced a contested election to suddenly be driving through major fundamental taxation reforms or whatever else it is that the Ministers might be doing. It just would not stack-up in the eyes of the public. The last speaker said this was not an attack on the Island-wide mandate and then went on to spend several minutes of his speech attacking the role of Senators in the Island-wide mandate. So I do wonder where he was coming from in that particular vein. But maybe those members who do want just one category of member in the Assembly - without Connétables, without Senators - will be inclined to

support this proposition because looking at it in the long-term and taking into account the likely consequences, that is what will ultimately happen. Indeed, I see a couple of heads nodding over there on the Deputies' bench. So they know exactly what they are doing. The reason is because quite obviously if there is no longer any incentive whatsoever for running to an Island-wide mandate then no one is going to do it on a general election date. How many Deputies in a safe comfortable constituency are going to run to see if they might lose in the general elections and that is it, they are out of the Assembly. How many would do that? How many would take that risk? Very, very few I would imagine. That fact alone would then end up leading the Island-wide mandate to become moribund. So if the proposition is accepted today I think the Privileges and Procedures Committee and others are going to have to think long and hard about ways of introducing some kind of incentive for members and for people to run for the Island-wide mandate. Because if it carries no more authority than just being a Deputy or a Connétable, then nobody will run for the post, or at least nobody of any particular great calibre. The danger then is it will fall into disrepute and once the Island-wide mandate goes then the position of Connétables in the Assembly equally becomes, likewise, unsustainable. The Island-wide mandate is a counterweight to the unrepresentativeness of the Connétables constituencies. You have the Connétable of St. Mary who has a very small constituency and the Connétable of St. Helier who has a massive constituency yet they each have only one vote in the Assembly. That is very, very democratically unbalanced: it is very unbalanced from a representative point of view. At the moment the only real counterweight to that is the existence of the Island wide-mandate. So I just think members need to bear that in mind. What I really wanted to speak about, though, was the comments of the Deputy of St. John who said that we should not be dealing with this; we should give it all over to an independent commission. Another one. Well, absolutely no thank you. We, in this Assembly, are the Island's elected Chamber - its legislature - and for good or ill it is our job to make these kind of decisions. The very notion that you can just farm-out such major far fetching important and constitutional decisions to an unelected body and to then kind of do whatever the resultant changes they recommend, is just absolute nonsense. Whatever happens has to be decided by this Chamber and has to be approved and debated and amended, whatever, by this Chamber and there can be no question of us shirking our responsibility. But the other point I would make about the *Clothier Report* is that I voted against it and I did so because it was a load of old rubbish. It was absolutely hopeless. The democratic systems of the United Kingdom are themselves falling into stagnation and disrepute. Plunging voter turnouts, democratic deficits, whole ranges of problems exist with the democracy as practiced today in the United Kingdom. Many, many other Western jurisdictions have a far, far healthier system. What did Clothier produce for us? A half-baked extrapolation of the U.K. Local Government Act 2000. I think it only mentioned, for example, freedom of information in two lines in the entire document. Did not mention any analysis of power, did not have an particular regard for the traditions and the culture of the Island, its recommendations did not really take proper cognisance of the fact we do not have a party political system. It was hopeless. It was simply a rubbish and inadequate piece of work and it deserved rejecting.

6.1.14 The Connétable of St. Ouen:

I think what is disappointing about this debate is the fact that again a number of members are trying to put off a decision to another day suggesting that another body looks at it or suggesting that a different type of proposition should be brought. After all, we have - and I think Senator Syvret said for five years, I think it may be more than that - been discussing various propositions that have been brought to look at the whole in one go. We have absolutely failed to make any decisions on it. A couple of months ago the Comité des Connétables brought a proposition which dealt with their position and I have to thank members for the support which they gave. I see no reason at all why a Deputy or a group of Deputies should not bring a proposition which deals with their situation and it should be debated and decided on. That does not stop, as Senator Norman said, the Senators from doing the same thing at a later date. I would, Sir, while I am on my feet, like to take this opportunity of looking at the comments from P.P.C. and the comments regarding the proposition of

the Connétables which was accepted by such a large majority. Unfortunately the Minister for Education, Sport and Culture is not in the House, but I did write down at the time the comment that he made to the Council of Ministers when this particular proposition was talked about. He said that, and I quote because I wrote it down at the time: “The P.P.C. Committee cannot bring forward something they cannot agree with.” I am sorry, Sir, I think that if this House agrees something and charges P.P.C. to deal with it that they are obliged to do so. [Approbation] To see in their comments to this proposition that they will be thinking about bring a proposition to alter the decision previously made by the States I think is something which we should oppose most strongly. I think that this proposition deserves the debate it is going to get and I think, Sir, that members should seriously consider supporting it.

6.1.15 Deputy P.V.F. Le Claire:

I have had the privilege of being a Deputy, a Senator and now again a Deputy. Many of the people that have stood for election have made the point, and I have made it myself that there are a number of quirks and irks that the public wanted sorted out. When the Assembly abdicated that responsibility to the Clothier Panel and then we ignored the public by implementing a system of government that they had no deciding vote on by way of referendum to a Ministerial system, we removed the populace from a great deal of the information and the policy formulation and decision making that they used to have access to. The comments of the Deputy of St. John have been commented upon. I am sorry to say, because I think he is a very nice chap, intelligent chap, that that suggestion is just another abdication of our responsibilities. Another...

The Deputy of St. John:

If the Deputy would give way, I was suggesting an independent commission but with the teeth and power to call for a referendum which is what the P.P.C. were asking for as well. Put the power in the hands of the people. I am not suggesting that the independent body should make the decision, no. The people should make the decision by referendum.

Deputy P.V.F. Le Claire:

Well, I am glad the Deputy explained himself a little bit more to us. I do not want to get into a debate about whether or not we should create an independent body to look at what the people decide and then have some submissions from only the people that can show up that have not got jobs because they are so rich, and then meet in secret and decide themselves upon which jobs to give themselves once they have elected the body that is going to govern themselves, and then put it to people in a referendum and if the decision comes back that they do not like it we can always vote against it because it is not mandatory anyway. Giving an independent body the teeth and proposing an independent body is abdicating our responsibility. It is our position to decide whether or not we govern this Island in the ways that we have or the ways we currently are or the ways that we are proposing to change to. Deputy de Faye made a point that the Connétables are senior and deserve four-year terms, and I think that maybe we need to have cognisance of the fact within the parochial system the Connétable is a senior officer. The senior member in the Parish and at a Parish Assembly with the Parish Deputies and in the Parish Hall the Connétable has great influence - a huge influence - in the parochial affairs of the Island. A Connétable can call up parishioners to come and support an issue if they wish and receive strong support at a Parish Assembly to effectively implement policy. In the parochial system they deserve our respect but in this system of government, the States of Jersey, they - Deputy de Faye, myself and the Senators and everybody else - should accede the position that it is one member one vote, and we should all be seen as equal in that regard. What we have to do if we are moving forwards is to assess whether or not we are moving forwards in a responsible carefully measured way that will empower the people of Jersey to have a representation that is proportional by way of a common Jersey being represented by a cross-section of the Island's elected representatives. Not just the wealthy, not just the political parties and not just the little nice chap that has gone through the States' parochial system for the last 35 years.

It should be something that is open to most people. We have argued before in the past about whether or not there is party politics in Jersey. I think it came as a bit of a surprise to Jersey that the party politics existed once the elections were over, but nevertheless party politics exist. The J.D.A. (Jersey Democratic Alliance) are a political party. Their members and their membership have stated that they are politicians in the States of Jersey, three of which sit in the front bench directly opposite me and are their elected representatives. They will no doubt seek to have those positions confirmed and cemented at the next election. The news this week that the Joseph Rowntree Foundation will match funding for them at £28,000 means that they will have effectively - if they reach that amount - £56,000 for the next election. Now, if they chose to target that £56,000 at one seat or one district...

The Bailiff:

Deputy, are you going to come back to the proposition?

Deputy P.V.F. Le Claire:

I am, Sir. Everyone else has spoken about the procedures in relation to the changes to government and I am trying to draw a parallel that if we do not move progressively forwards then... if we are going to just talk about three year terms, Sir, then I really think there should have been earlier interventions.

The Bailiff:

You are probably right but you are going a little bit too far astray. Come back to the point, if you could, as soon as possible.

Deputy P.V.F. Le Claire:

I will try to curb myself, Sir. I do go around the houses but the point is that we are moving in new directions. There are political parties in Jersey. The Connétables did not amend their proposition to three years when I asked them if they were going to a few months ago, they came back to the House; the House questioned why they had not done so - it was even mentioned in the P.P.C. comments at the time - and it was felt when we debated it that the Connétables were reaching one of those overarching quirks and irks that the public had been calling for for all these years. That was the general dissatisfaction about a general election and the general election that they were referring to was about knowing whether or not there was going to be a Connétables' election and whether or not the Connétables were going to get elected at all or just sit in the Parish Hall for 45 minutes. The Connétables have bravely brought forward a great proposition to make sure that a general election of Connétables will, in the future, be on the cards. No one will be unaware of the Connétables' elections because it will be happening all over the Island at the same time. The Deputies' proposition brought by Deputy Troy to increase it to four years will be going along some of the same principles, gradual evolution. I do not think it is right to suggest that the only reason people sit as Senators is because of the six years: I certainly did not sit for that reason. I was trying to get an Island-wide mandate to back my proposals for a work permit system. I stood up and said: "Look, if you believe, as I do, that we should have work permits then elect me" and they did. Unfortunately, nobody in the States - or about four people I think - supported me when I brought it. It is more about whether or not the length and term of office that is given to somebody that stands for office represents the views and beliefs of the people that we stand to represent. Whether that be one year, two years, three years, four years, five years or six years. Are they getting what they are paying for? In many cases they do not feel that they are. They do not feel that they are having that impact. This is a gradual progression, a step-by-step approach, and I think it is correct. I think the Senators, I have always felt the Senators, and continue to feel the Senators... an Island-wide mandate needs to be expanded. I think that the current make-up of the Council of Ministers demonstrates that the positions of Senator are considerably more worthy - if that word is right, or appropriate - for the Ministerial position. The experience is certainly there. Many of the Senators

have gained their position after having sat in the States for many years as Deputies learning what they are doing. There may be some remuneration issues in the future in relation to Senators and their terms of office and those are debates for another day. But I certainly think that with party politics... because I do believe we have got them - you can say we have not but there is going to be a lot of money on the table in the next election and we will have them - it will not just be the wealthy winning seats next time around. £56,000 directed at one district. The J.D.A. could double their membership in one election.

Deputy S. Pitman of St. Helier:

A point of clarification, please. Sir, that is incorrect. The money is going to be used also to promote... we do not have that £56,000 allocated to the elections, solely for the elections.

Deputy P.V.F. Le Claire:

Well, it is a policy decision of the J.D.A: I will leave that to them, but I am merely demonstrating the fact that there is now a move away from what we were used to. My point is this, that the position has changed. There are party politics and we have agreed a four-year term of office for the Connétables. I want to see us getting away from differential politics and different levels of representation and having the ability for all members to be seen and treated as equals as the elected representatives of the people within the States of Jersey. I want to see it either equitable or historically the same. We either revert back to where we were and say: "No, we will keep it as it was" or we move forwards. Now I was clearly under the impression that we were moving forwards and I supported it. If we want to tell the public and everybody else that we are moving backwards we are going to look really silly. The Connétables are moving forwards for a general election for a four year term, Deputy Troy has pointed out it is an equity issue, it is four years. The politics of the Senators had better be a lot smarter and clearer than just the issues of a six-year term. They had better demonstrate verbally and effectively that there is much more to that office, I know there is, than a six-year term. There is the ability which no one else has of representing anyone and everyone anywhere on anything. I turned up at one district in St. Ouen just before the last election and was shouted out by the Deputy. Near St. Ouen, not in St. Ouen. Shouted out by the Deputy of the district, not in St. Ouen. He was saying: "It is my patch. It is my patch. It is my patch." I said: "Well, I am sorry, Deputy, but I am a Senator it is all my patch. I continue to represent the issues of the people that I had been called to see." That is the value of the senatorial election. That is the value of the Senator. That is the value of the Island wide mandate. You represent everybody in the Island and it is a very, very precious appointment. It is something that I had a great deal of pride in and is something that definitely is much, much more than six years. It is the highest elected office in Jersey and it should be considered as being the highest because it involves everybody. Four years I support. There is more to it than just four years.

The Bailiff:

I call upon Deputy Troy to reply.

6.1.16 Deputy P.N. Troy:

This proposition has obviously got feelings running high in some quarters but it was the Connétables that started this process of change and members can continue with that process by supporting that the Deputies' term of office is extended to four years. I am confident that structural changes can be implemented and some members have suggested that Senators could bring forward their own proposals to deal with their own issues at a later date. I do not think that this will do away with the Island-wide mandate. There have been fears that it will do away with the Island-wide mandate. I disagree with that totally. The Senators could still propose that they have a four-year term of office and they could propose that their election is three or four weeks before the Deputies' term of office as it is now and many Deputies might still stand as a Senator and even if they failed to get in as a Senator they would still make very good Deputies. That has been one of the points I

think that Senator Vibert brought up at one of these previous debates because there has been a lot of discussion about whether Deputies would stand for Senator. If this is approved today I would be prepared to stand as Senator. I would and I am sure other members would. There are members around this Chamber who are prepared to stand as Senator and I disagree that this would do away with that position. The position of Senator is still highly valued and I must go back to P.P.C.'s proposition in July. They proposed that there would be a term of office for four years for every member in this Assembly. Hang on, P.P.C. proposed that and what am I doing here? I am proposing the Deputies go for four years along with Connétables and the natural progression is that Senators would go for four years. P.P.C. proposed in their proposition in July that there would be a term of office of four years. What is their problem? Senator Vibert voted for that. I have got the record here. Senator Vibert voted for his P.P.C. proposition which wanted to introduce a 4-year term for Members and it wanted to introduce large electoral districts. It did away with Senators effectively. He voted for that. Now he is saying: "This is going to do away with Senators." I do not understand where his thinking is coming from: a total contradiction. **[Laughter]** Senator Vibert is contradicting himself. He will vote for P.P.C. but he will not vote for this and this does exactly what P.P.C.'s proposition was looking at. It moves us towards a four-year term of office for members. I do not know why P.P.C. and members of P.P.C. are so frightened of it all. The Connétables are leading the charge. The Connétables, they should be congratulated. They should be congratulated. They have got vision. They have got vision but the Connétables know that I am passionate about reform and I have served on P.P.C. myself and I want this Assembly to move forward into the 21st century. I believe that the Connétables are driving forward change. This Assembly must sit up and take notice. It is the Connétables that are driving the change. They are obviously not a group of middle-aged men stuck in the past; no, the Connétables are visionaries. **[Laughter]** They are dynamic reformists and they are lateral thinkers prepared to risk their reputations in a desire for change.

The Deputy of St. John:

If the Deputy would give way, the Connétables voted against P.P.C.'s proposal.

Deputy P.N. Troy:

Sorry, I am not giving way. The Connétables have driven this forward and I really need to implore our Deputies to think about the future of this Chamber. It is logical that we move on to the same term of office as the Connétables. If, then, the Senators want to stay on a 6-year term, if that is what P.P.C. propose and the Senators propose it later, then we will debate that. But let us look clearly at what we can achieve today to marry up what the Connétables have brought forward. Otherwise we are just going backwards again. Clothier: December 2000 Clothier was produced. December 2000 and here we are in 2007 and we no further forward. We have brought in the Ministerial system but structural change to this Assembly has not really occurred. Nothing has changed. We have got the Connétables driving change, you, the Deputies, we the Deputies, can continue that change. We can push this forward and then the Senators have to consider their position in isolation afterwards. I have shown you in my own thoughts - I have put my own thoughts on paper - I am not hiding anything. My objective is to get everybody on to four-year terms. If you do not agree with that, if members think that Deputies can be on a four-year term and the Connétables on a four-year term and Senators on a six-year term, that is fine. That is fine with me. But I have shared with you what I feel should happen. I feel that members should very seriously consider the future of change. Clothier recommended that the interval between elections should not be less than four years, nor more than five. Now, that was a Clothier recommendation in December 2000. It is either going in the bin today **[Approbation]** or it is not **[Laughter]**. It is either being implemented today in a small way, and it is for Deputies to decide the way forward. Members today have really... there has been a lot said today. I could not agree with Deputy de Faye that this was all about money. I mean that was a horrible situation to find us tarred with his brush there. This was not... this is not about money: this is about reform of the Assembly. Members need to think about reform and that is what

it is about. It is a desire for reform and the Connétables are driving it and we are in the passenger seat and we either stay on the train or we get off. Senator Vibert said: “What public consultation have you had?” Gosh, does anybody remember what happened on the run-up to Clothier? Does anyone remember all the meetings we had in the Parish Halls? Does anybody remember all the polls that have been taken? It was said the public have been consulted out, I think it was Deputy Scott Warren who said that. The public have been consulted out of the process. They are sick of this process and they are probably sitting at home today thinking: “Those idiots in there are going to do nothing again.” They might be right. **[Laughter]** I ask members to really consider what they are doing today. Deputy Duhamel said that we need to have long-term vision and plan for the long term. Of course he is absolutely right. Then he went on to say P.P.C. are like the unpickers, the professional unpickers. Anybody who brings something forward, it is picked apart and you cannot do this and you cannot do that. Well, we are from the can do bunch not the cannot do bunch and P.P.C. are the cannot do bunch. I am the can do bunch. That is what I want you to be today. We can do this and we can drive this forward and we can bring in harmonisation across this Chamber, even if it is in stages. Senator Norman said, you know: “It is a good idea to bring these things through in stages” and Deputy Ferguson said the same thing. She was talking about going through a stage in reform and, yes, they are both absolutely right. Deputy Ferguson said that Senators are not as in touch with the electorate as Connétables and Deputies. Yes, she is absolutely right there as well. Senators are waving their flag, worried about what will happen to their Island-wide mandate and we can... I feel that they can look at that and bring it forward in their own way. Sir, this does not remove the Island-wide mandate and I do hope that members will vote for it. The change is needed otherwise here we are, we will have Deputies on a three-year term; Connétables on a four-year term; Senators on a 6-year term. That is even worse than all Deputies and all Connétables on a four-year term and the Senators on a six-year term. So I ask members to support this proposition today, bring the Connétables and Deputies into line and the Senators will follow later. Senator Norman said: “We can talk among ourselves as to what we need to do in the future.” He said that and that is absolutely correct. So I ask members to support the proposition today. I ask members to support the proposition, Sir, and I ask for the appel.

The Bailiff:

Can I ask all members who wish to vote to return to their seats. I shall ask the Greffier to open the voting which is for or against the proposition of Deputy Troy.

POUR: 22

Senator L. Norman
 Senator F.H. Walker
 Senator T.J. Le Main
 Senator B.E. Shenton
 Connétable of St. Mary
 Connétable of St. Lawrence
 Connétable of St. Brelade
 Connétable of St. Saviour
 Deputy R.C. Duhamel (S)
 Deputy A. Breckon (S)
 Deputy of St. Martin
 Deputy P.N. Troy (B)
 Deputy C.J. Scott Warren (S)
 Deputy G.P. Southern (H)
 Deputy S.C. Ferguson (B)
 Deputy J.A. Hilton (H)
 Deputy P.V.F. Le Claire (H)
 Deputy J.A.N. Le Fondré (L)

CONTRE: 18

Senator S. Syvret
 Senator W. Kinnard
 Senator T.A. Le Sueur
 Senator P.F. Routier
 Senator M.E. Vibert
 Senator F.E. Cohen
 Senator J.L. Perchard
 Connétable of St. Clement
 Deputy J.J. Huet (H)
 Deputy G.C.L. Baudains (C)
 Deputy J.B. Fox (H)
 Deputy J.A. Martin (H)
 Deputy of Grouville
 Deputy G.W.J. de Faye (H)
 Deputy D.W. Mezbourian (L)
 Deputy K.C. Lewis (S)
 Deputy of St. John
 Deputy I.J. Gorst (C)

ABSTAIN: 0

Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy S. Pitman (H)
Deputy A.J.D. Maclean (H)

Deputy P.N. Troy:

I would like to thank all Members who supported the proposition. Thank you.

7. Retail Strategy: Impact Assessment (P.84/2007)

The Bailiff:

Now we come back to P.84 Retail Strategy Impact Assessment and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of the opinion to request the Minister for Economic Development to exercise his power under Article 6(4) of the Competition Regulatory Authority (Jersey) Law 2001 to request the Jersey Competition Regulatory Authority to carry out a full economic impact assessment on the addition of a third supermarket entrant on the retail sector based upon the correct data now available on market size and household expenditure.

Senator B.E. Shenton:

I am a director of the Channel Island Co-operative Society so I will excuse myself from this debate.

The Bailiff:

Very well. Declaring an interest.

7.1 Deputy G.P. Southern:

When people have settled down. It is nice to have a little buzz of excitement about politics from time to time. Deputies vote to extend the length of their contract, wow! Yes, that is going to set them talking, so no surprise there, Sir. But on a more serious note, earlier this morning we were asked to defer this to the first item in the afternoon on the grounds that the Economic Development Minister had asked me to withdraw the proposition. I have had discussions, not with the Economic Development Minister as he has gone home because of illness I believe, but I have discussed it however with his rapporteur the Treasury and Resources Minister, as I understand it. We have not been able to agree that it is appropriate to withdraw this proposition and I will just briefly explain why and people will see that, in fact, I do not believe this need be a long debate. In the comments submitted by the Economic Development Minister he states, in the final paragraph: "While the proposition itself is capable of being supported there is much in the accompanying report with which I do not agree. Nevertheless the J.C.R.A.'s (Jersey Competition Regulatory Authority) advice is being sought and there is clearly no need for the States to debate P.84." Now, I believe there is a clear need to debate and to request - as a result of P.84 - the way forward for the Economic Development Minister. But note first, while the proposition itself is capable of being supported, so the Economic Development Minister seems to be saying: "Proposition itself, no problem. There are things in the report that I object to." Okay, so let us take a look at the report. The report, remember, came about as a result of a Scrutiny review which took several weeks, the Retail Strategy Interim Review into effectively the possibility of a third supermarket on the Island. Perhaps the key findings that are in that are the points that the Economic Development Minister objects to. They are really quite hard hitting but I will just take you through them briefly to see where we are. The *Experian Report* reported on the whole retail sector, the size of the market, the potential for competition. The *Experian Report* was so fundamentally flawed as to be unfit for purpose. The figure produced for over trading in Jersey's convenience retail sector was 45 per cent

greater than is justified by the evidence. Very wrong indeed. The assumption that the arrival of a U.K. or European multi would produce an increase in competition and a decrease in food prices ignores many of the factors operating on the Jersey market, namely the structure of the retail trade, regional price variations, increased labour costs and, in particular, comparisons with the Isle of Man. Again, serious conclusions as a result of extended research and work done by the Scrutiny Panel. Thirdly: "Every pound spent at a locally owned retailer is more beneficial to Jersey in economic terms than one spent at a U.K. multi in that locally grown or supplied products were likely to be replaced by products from elsewhere, centralisation of services result in services being sought nationally rather than locally." Again, the secondary effects of local ownership versus national or multi-national ownership. "The Panel finds that the Economic Development Department's retail strategy remains over reliant on the flawed data of the *Experian Report*." Back to number one and an over-reliance on that data. Now, I believe this is what the Economic Development Minister is objecting to. Then finally: "The recommendations for retail growth contained in the retail strategy, despite being a scale down from those proposed by *Experian* and supposedly incremental in nature retained the potential to have a significant detrimental effect on the retail economy." Now, whether our report is right or the Economic Development Minister himself is right to object to those hard-hitting conclusions is not the issue. We can agree to disagree. The result is that as a result of these concerns, which are legitimate, there is a risk of damage to the Island's retail economy that we pointed out. So the recommendation which appears in the proposition is: "Given the cumulative defects in the analysis that has led to the retail framework the Panel recommends that the Economic Development Minister suspends any action based on the strategy until he has fully re-examined the guidelines in the light of accurate data and reported his findings to the States." Here we come to agreement, because the Minister has brought forward his proposal that he is going to use J.C.R.A. to have a look at the market which is exactly what we said. Now, this is where I believe we have got agreement but where there are still differences. The issue before the House today is do members wish to support this proposition which says: "Look at the market"? In the first part of the report it contains five serious areas that must be investigated. So the terms of reference, if you like, are contained in five points. Those five points, I think, are very specific and they are related to the results of our findings. They are that the impact assessment should include but not necessarily be limited to: (1) the impact of a third supermarket entrant on the viability of all retail operators including both multiple and independent retailers, so possible impact; (2) the effects of an additional 50,000 square feet of convenience retail space either as a single entity or incrementally over a five-year period, again timings that were there that there may be a risk; (3) the likely outcomes if additional retail space and competition is added and it later emerges that there was no scope for such expansion, a major concern; (4) how the performance of the retail sector might be improved without adding additional retail capacity; and (5) the wider economic impacts upon jobs, infrastructure and traffic. I think members would agree that if they saw that as a set of terms of reference they would know what they were doing and they could make sure very easily that they address those issues. That would be a comprehensive impact assessment. Instead of which the Minister is proposing merely three, and in my belief, quite woolly terms of reference for the J.C.R.A. His three are: (1) in providing this advice the J.C.R.A. should take into account the likely impact on consumer welfare in terms of prices, quality, innovation, choice available to the consumers; (2) the productive efficiency of existing retailers in terms of their costs and revenues; and (3) the Jersey economy overall. The question is if this proposition is accepted by the House it requests the Minister to do a full impact assessment based on five well drawn-up tight terms of reference that will deliver and answer all the questions that are contained in the retail strategy and our report on it. Or, not to accept that and to allow the Minister to go ahead with his three, what I believe are, fairly vague and woolly terms of reference which may or may not address those central questions. That is the issue. I was thinking about this last night and I was thinking: "Hang on, this is what Scrutiny is for. Here we are, we have done our review, we have come up with our recommendations, the Minister is almost there and is going ahead but he is quibbling because we have set down some terms of reference that are very specific and very well

addressed. He wants to do it in a much more looser framework.” Is that not what Scrutiny is there for, to keep an eye on Ministers and make sure they do the right thing? I believe that is what we are doing. I believe the phrase is why a keep a dog - we are the dog - and bark yourself. Okay, we had done our job, we have produced the reports. We said: “Here is the problem, you must do an assessment. Here are the issues you must address.” We have a response, which, at the moment, does not quite address them. Please, I would ask the House, support this proposition with the implication that the five clear areas of concern must be addressed, or let the Minister go ahead do it his way and not necessarily have those issues addressed, with the potential again of making mistakes and getting it wrong.

The Bailiff:

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

7.1.1 Deputy A.J.H. Maclean:

Just a matter of clarification, if I may, or guidance from the Chair. The Economic Development Department is more than content to accept this proposition as was indicated this morning by Senator Ozouf. The guidance I require, Sir, is that under the proposition there are terms of reference and other items contained within the report. We do have concerns about the terms of reference but as far as our understanding goes the proposition itself is all that members would be asked to be voting on today. We accept the proposition but not the terms of reference.

The Bailiff:

The members are being asked to adopt the proposition and that is long and the short of what the Assembly is being asked to approve.

Deputy A.J.H. Maclean:

Fine, thank you, Sir.

The Bailiff:

I put the proposition. Those members in favour of adopting it, kindly... I am sorry, do you want to speak, Deputy?

7.1.2 Deputy J.A. Martin:

Sorry, Sir, I thought the Assistant Minister was going to speak. But if he is not, yes, I would just like to add a few comments. Thank you for that clarification, Sir. Why we have ended up here is because when the Scrutiny Panel presented their report Economic Developments seemed to say that we had got everything wrong and we had not considered consumers. Basically when we interviewed the J.C.R.A. - if you turn to our report on page 8 - they tell us twice, when I asked them questions, they have not done a proper impact assessment study and included the areas we ask in our proposition. It is a matter for them to be directed by the Economic Development Minister or the States. Now, on our first report - and it was me, Sir, who urged my Chairman to bring this as a proposition because there was nothing being done so we brought the proposition. Obviously, I urged the Chairman to do this because I had serious concerns that if we did not look at these overall... yes, I slightly also disagree with my Chairman, I think the three points put forward by the Economic Development Minister are valid. They are quite woolly but they focus... he would say they turn around and focus on the consumer. Now, I have concerns about who is the Jersey consumer. They are also workers, they are also in the small retail business, and they are all in the wider community. The J.C.R.A. told us if we wanted the job done we have to bring a proposition or direct the Economic Minister to do this. We have done this and I fully understand why the Senator is not here this afternoon. I had a brief word with Senator Le Sueur. I really cannot understand what the problem is. They asked, Sir, for a full impact assessment and we define it in five bullet points. They use three. Which, as our report says, are limited to our five. I think it is very easy... this is the

first time the States have directed the J.C.R.A. to do something and I think we should give them very clear instructions of what we want before we could go ahead and make big mistakes. I will just say that the jury is not out as far as the Scrutiny Panel is concerned whether the retail strategy was based on, let us say, evidence that was seriously flawed, because I questioned the department and the Minister and I have a whole transcript where I cannot get a direct answer. The one part where I cannot get a direct answer, Sir, is on the impact on the whole of Jersey if we have the 50,000 square metres in one hit or we have it over a staged period with retailers already here increasing their size. This is a fundamental, it has not been answered. So, Sir, I think I have covered all I wanted to say. I really am... I thought over the past weeks Scrutiny had found a bit of footing and a bit of recognition and I am ever so sorry, Sir, that the Minister who is acting as rapporteur cannot find it to accept the Scrutiny's wider terms of reference. I really feel that we are directing the J.C.R.A. to do something... let us be specific and let them do their work and come back to this House so we can then all decide where the retail market goes in Jersey. Thank you, Sir.

7.1.3 Senator T.A. Le Sueur:

I agree with Deputy Southern. There is no need for this debate to take any longer at all because I think the Assistant Minister for Economic Development having accepted the proposition, that really is the end of the matter. But I will just pick up on a couple of comments since my name has been mentioned. In respect of Deputy Southern's comment about *Experian* I just draw his attention to the comments of Senator Ozouf subsequent to that which said: "To anyone reading the retail framework procedure it is not based on the *Experian Report*" but whether it is or not is relevant. The fact is that the Minister not only will accept the proposition, he already has instructed the J.C.R.A. and if members read page two of his comments, he has instructed the J.C.R.A. that advice is sought on the economic impact of a new entry and a third supermarket competitor. Exactly what the proposition asks for. So, Sir, on that basis the proposition has been fully complied with and clearly there is no reason why the House should not accept it.

7.1.4 Deputy S.C. Ferguson:

It would be helpful I think to those of us who perhaps were not in the thick of the Scrutiny Report for either the rapporteur or the two Assistant Ministers to explain why the terms of reference indicated by the Scrutiny Panel are unsuitable or even to say why they cannot be combined with the terms of reference that the Minister is giving to the J.C.R.A. Can we not combine the two? Please will somebody explain it to us?

7.1.5 The Connétable of St. Brelade:

I would just briefly like to comment on the Minister's statement in the appendix. Simply to say I think a lot of the comments he makes are inappropriate, ill considered and somewhat repetitive, and I think probably flung-out on the spur of the moment. Principally I object quite strongly to many of the comments he has made. Thank you, Sir.

7.1.6 Senator J.L. Perchard:

I think we are flogging a dead horse here. We have a proposition which you have confirmed is exactly and no more than we are expected to vote on. We have an Economic Development Department who have accepted it. We have the Scrutiny Panel who are proposing it. I think every member is going to vote for it, why do we not just get on with it?

7.1.7 Deputy A.J.H. Maclean:

Perhaps I could help clarify for Deputy Ferguson. She was asking about the terms of reference and the differences between the department's view on terms of references which Deputy Southern quite rightly pointed out there are three compared to the Scrutiny Panel's five. It is the view of the department that some of the requests that the Scrutiny Panel have made with regard to their terms of references are, in fact, unworkable. There is, for example, a request under five to look at the

impact on job, infrastructure and traffic relating to a supermarket. Incidentally, Sir, the supermarket size that is referred to by Deputy Martin, I think she referred to square metres which is significantly larger than square feet which is the reality. So perhaps I could just clarify that point to anybody listening. It would be impossible, for example, to deal with traffic when the site of any potential new supermarket is unknown at this particular point. So it is our view that a number of the points raised in the terms of reference of the Scrutiny Panel are not feasible. We believe that the terms of reference contained by the department, the request that has been made to the J.C.R.A., are the most appropriate ones to get the job done effectively and that is why we are pressing ahead with it. If I can just reconfirm to Members that we have instructed already the J.C.R.A. to undertake this impact assessment under the terms of reference that are indicated here. We believe that will do the job effectively. Thank you, Sir.

The Bailiff:

I call upon Deputy Southern to reply.

7.1.8 Deputy G.P. Southern:

Mercifully brief but I do not think Deputy Maclean has really answered the questions posed by Deputy Ferguson: what did they object to? To suggest that wider impact on jobs is not possible to look at is simply not true. *Experian* did some estimates of what the impact on jobs would be, talking about replacement rates and whether they would be new workers or workers dragged in from other supermarkets or other shops, *et cetera*, so the basis is there for that. Infrastructure and traffic, again, the *Experian Report* attempted a fairly superficial look at possible sightings and possible traffic implications, it is really not that difficult. To suggest that there are areas that cannot be covered, I do not believe is true. What I am seeking for... and those in (5) wide economic impact on jobs, infrastructure and traffic are vital issues which must be addressed before you say: "Well, let us have a third supermarket." Because very shortly after we are saying: "We are going to plonk it there." Then you are going to have people say: "Oh, oh, look. Look at the impact on jobs. By the way Connétable, whatever have you noticed we have just plonked a supermarket in your Parish and you have got some heavy, heavy - really heavy - traffic problems?" You cannot do it. So, come on, I am looking for an assurance that the job that will be done will be better than the last time and will address real issues. Now, unless the Minister is going to say: "Yes, we will attempt to cover all those five terms of reference" then, I am sorry, the J.C.R.A. is wasting its time and will produce a report at whatever cost which will, I think, not be worth the paper it is written on because we really have to do a thorough job if we are going to take this sort of step. So, I am looking for some assurance - and have been today, all day, I have not had it yet - that those five terms of reference can, should and really must be met. If we come back in January - I think we are just putting off the day for another argument - with a J.C.R.A. report that says: "Blah, blah, blah" and those five points are not addressed then I am going to want to know why and I will be urging Members not to accept the report from the Economic Development Minister. Send it back and say: "Do it." So I am giving fair warning, unless the Economic Development Minister comes up with something that addresses those five points and addresses them properly, I will be asking this House to send it back, send their report back, and do a proper job.

Deputy P.V.F. Le Claire:

Could I ask a point of clarification, please, Sir, of the proposer? Why was it not possible to bring a proposition that included these terms of reference at this time?

Deputy G.P. Southern:

Why was it not possible? It was possible. We were doing our best, we may have made a mistake in putting it in the reports and not in the proposition. But, okay, we live and learn. I am learning the process as well. However, I maintain the proposition and call for the appel please, Sir.

The Bailiff:

Very well, I ask any member who wishes to vote on this proposition who is the precincts to return to his or her seat. I ask the Greffier to open the voting which is for or against the proposition of the Scrutiny Panel.

POUR: 38

CONTRE: 0

ABSTAIN: 0

Senator L. Norman
Senator W. Kinnard
Senator T.A. Le Sueur
Senator P.F. Routier
Senator M.E. Vibert
Senator T.J. Le Main
Senator J.L. Perchard
Connétable of St. Ouen
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of Trinity
Connétable of St. Lawrence
Connétable of St. Brelade
Connétable of St. Saviour
Deputy R.C. Duhamel (S)
Deputy A. Breckon (S)
Deputy J.J. Huet (H)
Deputy of St. Martin
Deputy G.C.L. Baudains (C)
Deputy P.N. Troy (B)
Deputy C.J. Scott Warren (S)
Deputy J.B. Fox (H)
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy S.C. Ferguson (B)
Deputy of Grouville
Deputy J.A. Hilton (H)
Deputy G.W.J. de Faye (H)
Deputy P.V.F. Le Claire (H)
Deputy J.A.N. Le Fondré (L)
Deputy D.W. Mezbourian (L)
Deputy S.S.P.A. Power (B)
Deputy S. Pitman (H)
Deputy A.J.D. Maclean (H)
Deputy K.C. Lewis (S)
Deputy of St. John
Deputy I.J. Gorst (C)

The Bailiff:

Now we come to Projet 97, the draft Social Security Reciprocal Agreement with Ireland (Jersey) Act 200-

Deputy A. Breckon:

I understand there was a delay asked for this morning. Can I suggest this item is put last on the agenda?

8. Goods and Services Tax: price marking legislation (P.99/2007)

The Bailiff:

If members agree we will put this *bout de la liste*: bottom of the Order Paper. We come then to Goods and Services Tax Price Marking Legislation, Projet 99 in the name of Senator Norman. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of the opinion to request the Minister for Treasury and Resources to take no steps to bring forward for approval an Appointed Day Act in respect to the Goods and Services Tax (Jersey) Law 200- until the States have debated legislation relating to price marking of goods and in particular relating to the inclusion or exclusion of Goods and Services Tax in the marked price of items offered for sale.

8.1 Senator T.A. Le Sueur:

Before the Senator embarks on a long speech, could I advise the House that following discussions with the Minister for Economic Development and myself this morning, and with Senator Norman, I have come to the conclusion, based on the review carried out by the Economic Affairs Scrutiny Panel and their recommendation that prices should be marked displaying inclusive price and that receipts should indicate the amount of G.S.T. paid, in the light of that key recommendation and the assurance from my colleague, the Minister for Economic Development, that the price marking law can be lodged and debated this session, I am content to accept the proposition of Senator Norman. [Approbation]

8.1.1 Senator L. Norman:

In that case, Sir, I make the proposition.

The Bailiff:

Is the proposition seconded? [Seconded] Very well, I put the proposition. Those members in favour of adopting it, kindly show.

Senator L. Norman:

Could we have the appel, please, Sir?

The Bailiff:

The proposition is adopted. Too late. [Laughter]

9. Draft Financial Services (Amendment No. 3) (Jersey) Law 200- (P.100/2007)

The Bailiff:

I do not know whether the Assistant Minister is able to deal with this. I received a note before he left for personal reasons from the Minister for Economic Development that Projet 100 was to be adjourned, is that correct?

The Connétable of St. Lawrence:

I am prepared to take it, Sir.

Deputy A.J.H. Maclean:

We will take it, Sir.

The Bailiff:

I will ask the Greffier to read the principles of the Bill.

The Greffier of the States:

Draft Financial Services (Amendment No. 3) (Jersey) Law 200-: a Law to amend further the Financial Services (Jersey) Law 1998. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

9.1 The Connétable of St. Lawrence (Assistant Minister for Economic Development):

The proposed changes to the Financial Services (Jersey) Law 1998 (the Law) would modernise the market abuse regime and facilitate international co-operation in keeping with international standards. The modernising of the current market abuse regime will consolidate the two key market abuse offences, namely insider dealing and market manipulation under one Law helping to ensure consistency in the enforcement of the market abuse regime. The Law will retain the offensive market manipulation as currently provided for under Article 30 of the Law and a new offence of insider dealing will be introduced under the Law in accordance with proven international models. The threshold tests which must be passed in order for the Jersey Financial Services Commission to use its investigatory powers in market abuse cases are harmonised under Article 32(2) of the Law so that the Commission may invoke its investigatory powers only in circumstances where it is reasonable to do so. This will ensure consistency in the use of the Commission's investigatory powers and help to avoid inconsistencies arising from having different legal procedures for related offences set out in separate provisions and laws in the existing fragmented regime. The new regime will also facilitate Jersey's role in investigating and assisting overseas regulators to investigate suspected insider dealing and market manipulation where there is a Jersey connection in accordance with Jersey's obligations as a signatory to the International Organisation of Securities Commissions' Multilateral Memorandum of Understanding while retaining those protections currently available to the public. Article 36 of the Law which provides for the Commission's powers of co-operation with overseas regulators is amended in accordance with international standards by expanding the scope and character of the offences in relation to which the Commission may provide assistance. The current provision is considered to be overly restrictive and impedes the Commission's ability to co-operate with overseas regulators with reputational consequences for the Island. The change will enable the Commission to provide assistance where the overseas offence is similar but not necessarily exact to the specified offence in Jersey. There are also two minor changes designed to correct apparent errors...

The Bailiff:

I am sorry, Assistant Minister, to interrupt you but we are apparently not quorate. We will send out a call for members...

Senator T.J. Le Main:

It seems to be getting worse by the week, Members just missing. Certain members check in in the mornings and we do not see them all day; they check in after lunch. It is getting really ridiculous. I can look across from here and see one Member that is never in the House and is always missing.

The Connétable of St. Lawrence:

I am not quite sure where I had got to when we were inquorate but the current position is considered to be overly restrictive and impedes the Commission's ability to co-operate with overseas regulators with reputational consequences for the Island. The change will enable the Commission to provide assistance where the overseas offence is similar but not necessarily exactly

the same as the specified offence in Jersey. There are also two minor changes designed to correct apparent errors in the existing provisions of the Law. These are small items, but firstly there is a typographical error in Article 33(1)(i) of the Law. This is corrected so that the term “financial services business” with a plural “services” will now read “financial service business” in the singular form as it is used in the rest of the Law. That is for consistency. Secondly, the changes will require the Commission to take into account the interests of existing customers when deciding whether or not to issue directions under Article 23(1)(b). The current Law only permits the Commission to issue a direction in the interests of potential and future customers. The amendment will enable consistency with parallel provisions such as Article 11(4) and 33(1) of the Law which require the Commission to consider the interests of both existing and future customers. Sir, I propose the principles of the Law.

The Bailiff:

The principles are proposed and seconded? **[Seconded]** Does any member wish to speak on the principles of the Bill? I put the principles. Those Members in favour of adopting them, kindly show. Those against? They are adopted. Deputy Southern, does the Scrutiny Panel wish to scrutinise this legislation?

Deputy G.P. Southern (Chairman of the Economic Affairs Scrutiny Panel):

No, thank you, Sir.

The Bailiff:

Very well. Assistant Minister, how do you wish to proceed?

9.2 The Connétable of St. Lawrence:

I would like to propose the Articles *en bloc*, Sir, and Schedules 1 and 2.

The Bailiff:

Very well, the Articles and schedules are proposed and seconded? **[Seconded]** Does any member wish to speak on any of the Articles or Schedules of the Bill. I put the Articles and schedules. Those members in favour of adopting them, kindly show.

Deputy S.C. Ferguson:

Could we have the appel, please?

The Bailiff:

Yes. I ask any member who wishes to vote to return to his or her seat and I ask the Greffier to open the voting.

POUR: 27

CONTRE: 0

ABSTAIN: 0

Senator W. Kinnard			
Senator P.F. Routier			
Senator M.E. Vibert			
Senator T.J. Le Main			
Senator J.L. Perchard			
Connétable of St. Ouen			
Connétable of St. Peter			
Connétable of St. Clement			
Connétable of Trinity			
Connétable of St. Lawrence			
Connétable of St. Saviour			

Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy C.J. Scott Warren (S)				
Deputy S.C. Ferguson (B)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				

Deputy G.P. Southern:

I think I drifted off, Sir, I failed to vote. [Laughter]

The Bailiff:

Assistant Minister, do you propose the Bill in Third Reading?

The Connétable of St. Lawrence:

I do, Sir.

The Bailiff:

Seconded? [Seconded] Does any member wish to speak on the Bill in Third Reading? I put the Bill, all those members in favour of adopting it, kindly show. Those against? The Bill is adopted in Third Reading.

10. Draft Air Transport Permits (Repeal) (Jersey) Law 200- (P.101/2007)

The Bailiff:

It is has occurred to me that Members are suffering from sitting fatigue. Members are content to continue? They do not wish to take a break? Very well, we come to Projet 101, Draft Air Transport Permits (Repeal) (Jersey) Law 200- and I ask the Greffier to read the principles of the Bill.

The Greffier of the States:

Draft Air Transport Permits (Repeal) (Jersey) Law 200-: a Law to repeal the Air Transport Permits (Jersey) Law 1998. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

10.1 Deputy A.J.H. Maclean (Assistant Minister for Economic Development):

The Air Transport Permits (Jersey) Law 1998 was introduced to manage the applications for airlines to fly between Jersey and the United Kingdom and other British islands. This management of services was purely an economic and social protective measure with matters of safety covered by the requirements of the United Kingdom's Civil Aviation Authority. Each transport provider applied to the department for a permit for new cargo or passenger services. Applications had their merits and disadvantages weighed and duly considered before a decision was made in accordance

with the policy of the day. In November 2003 the then Economic Development Committee produced a revised policy. This came about as a result of a changing external environment with considerable deregulation in the United Kingdom as well as the States' own policy towards encouraging competition. Thus the Committee of the day stated that the interests of the Island businesses, residents and visitors alike are to be best served by further encouraging competition and avoiding the imposition of unnecessary administrative costs either on the airlines or on the authorities. This is in line with the States' economic policy generally. It will also bring the Island into line with the Open Skies policy of the European Union. Since that time the legislation has been kept in place and processes duly followed but the old requirement for an airline to enter into a service level agreement was dropped. Additionally the presumption has been that all permit applications would indeed be granted. It was believed that this Open Skies policy would benefit Islanders, the business community and tourism. Since the policy came in the effect it has been positive with a climate of route expansion and no evidence of the loss of year round scheduled services. High frequency inter-island flights have also not suffered. It is a source of pride that Jersey now has a route network which covers more than 70 airports across the United Kingdom, Ireland, Mainland Europe, the Mediterranean and Madeira operated by both scheduled and charter airlines, of which 14 operate year-round and an additional 17 operate during the summer season. There has been a commensurate increase in passenger demand with projected full year growth 2006/2007 expected to be close to 10 per cent of the total, i.e. a number of 1.65 million passengers for 2007, up from the current 1.49 million in 2006. There are new airlines offering new routes and additional services with some genuinely low cost fares. These new services will add to the range of airlines and destinations available to the Island residents and visitors alike and in themselves provide welcome competition. The ability to operate in a free market is key to attracting new airline business to Jersey. Jersey cannot afford to create or maintain any impediment to airlines in what is an extraordinarily competitive industry and within which airports and destinations are vying aggressively for airline business. The above improved performance has been achieved precisely because the States have taken a lead in encouraging business and adopted a hands-off policy towards regulation. To justify continual regulation and government intervention in markets the economic growth plan seeks evidence of a clear need which is in the Island's interest. Firstly, there should be a market failure and, secondly, evidence that intervention will bring net benefits to the Island. Quite clearly neither of these is the case. The 2004/2005 red tape reform initiative was intended to reduce unnecessary bureaucracy. Likewise the States' Strategic Plan makes the commitment to aim to reduce the levels of red tape and regulatory legislation in 2006 and that regulatory services should be appropriate and are impartially and officially delivered. The Economic Development Department are specifically charged with securing air links that are both cost-effective and beneficial to the Island. A revised Air and Sea Transport policy was presented to the States on 28th March 2006 as part of a response to a proposition from Deputy Fox concerning sea transport. This policy states the continuation of the present "open skies" policy for air transport services will be in the best interests of the Island and of the users of these services and that the Air Transport Permits (Jersey) Law 1998 as amended should be repealed. We need to send out a clear signal that the Island is open for business. This means developing and maintaining a large route network in conjunction with dynamic, positive-thinking airlines which actively attract new customers. All this adds up to one thing; continued application of a law that adds to bureaucracy and no longer serves a purpose cannot be justified. It is time to repeal it. Sir, I propose the principles of the Law.

The Bailiff:

The principles are proposed. Are they seconded? **[Seconded]** Does any member wish to speak on the principles of the Law? The Deputy of St. John?

10.1.1 The Deputy of St. John:

Just to commend the Ministry for bringing forward this. This is bang-on the principles of getting rid of unnecessary red tape and it is this kind of deregulation that is exactly what the business environment wants to see in Jersey that would improve communications with the airlines in particular and speed up the process of applications. I think the Ministry should be commended for taking the initiative and bringing it forward.

10.1.2 Deputy G.P. Southern:

Just one point or question to make and that is if we are expanding the number of routes already and if we are expanding the number of passengers already, the airlines seem to be perfectly happy with the permit system that we have got, albeit with light regulations, and they are quite happy to keep on expanding. Why withdraw the permit system altogether? It seems to me that you then have no mechanism by which you might negotiate some sort of service level agreement with the airlines. One of the things I notice is that with the “open skies” policy and prices coming down, cheaper and cheaper services mean that, for example, flights from Teesside are regularly two hours late, 2½ hours - sometimes six hours late. The flight from Manchester... again, Manchester-bound, two hours late. You are not getting to where you are intending to go until after midnight; instead a journey ruined. Then information coming through with cancelling the 5.00 p.m. from Manchester flight and we are moving it to 10.00 a.m. Again, absolutely useless, you cannot get there. The service level attached at sort of “open skies” level seems to be going down, down, down. We have got no mechanism by which we might engage in some service level agreements. So, it seems to me, they are keen to come. We are expanding the routes already, why pull out the only bit of regulation that we might have that might say: “The service level you are providing is inadequate. We would like you to do better.” I question the need to repeal the lot.

10.1.3 Deputy G.W.J. de Faye:

I would be grateful if the Assistant Minister during his summing-up would perhaps explain a little of the thinking around the change in policies and the policies we now have. Clearly, at the moment the “open skies” policy appears to be a good news story with open competition apparently working very successfully. But I recall that originally permits and also the powers, I believe, of the Channel Islands Aviation Authority, were to do two things. One was to protect the so-called lifeline link to Heathrow where ultimately the Island received an unpleasant surprise from the operator in terms of reciprocation for loyalty and the other aspect was to restrict charter flight operations that prevailed during the summer season specifically in order to have a bias towards operators who offered year-round services and would thereby avoid having charter operators coming in and creaming-off the best of the lucrative holiday season business. Clearly the policy thinking has changed to an “open skies” policy. But I would like the Assistant Minister to explain to me what the current thinking on charter operations is and if there are or were to be any concerns about charter operators creaming-off the business during the lucrative holiday season and what tools remain to deal with it in any way. I think that is all I need to hear, Sir.

10.1.4 Deputy R.C. Duhamel:

I do hope the Economic Development Ministry has considered the moves that they are making in order to pursue an “open skies” policy in the light of other commitments that have been made by this House, in terms of our climate change commitments and the move towards controlling the amount of carbon dioxide that various transportation systems pump into the atmosphere day after day, year after year. It is all very well asking for more competition and more flights but do we really have wider concerns and wider considerations? I would ask specifically that if their joined-up approach in this respect has not been thought about on behalf of the Economic Development Ministry then, in fact, they do take time out to speak to any of the relevant other departments in this respect to ensure that one side of government is not acting out of kilter with another side.

10.1.5 Deputy C.J. Scott Warren:

I totally support this proposition and I support the “open skies” policy. I believe this policy will enable us to look forward further to improved choice of destination for both our local passengers, the business community and for our tourists. I wholeheartedly support this, Sir.

10.1.6 The Connétable of St. Peter:

I would like to ask the Assistant Minister for his assurance that if this were to take place that it would not mean that it would be open hours all round for additional aircraft coming in and out of the Island. At the moment there has been a very good and a very reasonable control on the numbers. I would not wish to see, in repealing this particular part of the regulation, that we would suddenly have a free-for-all and in order to accommodate, maybe, the regular and scheduled service users, drastic measures would have to be taken to find other slots well into the night and earlier morning than currently exists.

The Bailiff:

I call upon the Assistant Minister to reply.

10.1.7 Deputy A.J.H. Maclean:

I will deal briefly with the queries in order. Deputy Southern raised a point concerning the message that is being sent out and whether, in fact, it is necessary to repeal this Law. The answer is very much so. This is all about sending the appropriate message out to the business community, to the airline industry, to the tourism industry and elsewhere, that Jersey is open for business and we want to attract business. By having this Law on our books, albeit treated on an “open skies” basis, it is still there and people are aware it is there and it is time that we removed it and that we are modernised. I think there are some concerns, for example, regarding consumer protection; that was one of the areas under service level agreements that had a degree of protection. Now we have the likes of the J.C.R.A., we have the Consumer Council and there are appropriate bodies in place to ensure that consumers are protected in a more appropriate way. But the best and most effective manner in which consumers are protected is, frankly, through competition. If you have choice it helps not only drive down price but it ensures that airlines operate in the most efficient manner possible because it is a competitive market. If they do not produce a good service then they are going to lose business. It really is as simple as that. I have to say it makes me shudder at the thought that service level agreements are even being considered as far as our airline market is concerned; that is such a thing of the past. Nowadays we are vying for business; it is competitive market. If we start increasing barriers we are going to lose airlines, we are going to lose routes and it is absolutely vital to the economic success and social success of the Island that we have the best possible route network that we can have. S.L.A.s (Service Level Agreements) are the proxy to competition and competition is the source that we have chosen with the “open skies” policy. Deputy Southern also made some comments about one or two services which have been delayed or cancelled in recent times. He mentioned Manchester and, I think, Teesside. These are largely operational issues and not matters that I would like to address at this particular juncture. But, certainly, if he has concerns in that area they should be taken up with the airlines in question. Deputy de Faye asked about the change in policy: the Law has, in fact, been in place since January 1999. It replaced a previous set of very similar triennial Regulations that ran from January 1996. It has, therefore, been a requirement to have an air transport permit for nearly 12 years. The Law was amended in 2002 primarily because of the need to react to changes in the policy of the U.K. Civil Aviation Authority. European Community carriers would no longer require a route licence for services between the United Kingdom and the Channel Islands. The legislation was a reaction to the developing U.K. and E.U. “open skies” policy. We were merely aligning ourselves in what has been and, indeed, still is, a very competitive market. Deputy de Faye also asked about charter flights. He raised a very good point as to whether or not by opening up in this way that we would see charter companies “cream-off the best of the summer months”, I think his term was. In fact the statistics rather show

that charter flights and charter operators have been suffering at the throat of competition. Quite frankly, low-cost operators have largely taken that market now and there are less charter operators and we are certainly not seeing any movement away. In fact, having year-round services at low, competitive fares are exactly what the Island wants, both for inbound tourism traffic and, of course, for the Islanders as well. We do still have charter operators, they provide a valuable additional service but there is no concern with regard to them creaming-off the prime summer months. Deputy Duhamel raised the point about increasing numbers of aircraft flying in and out of the Island, the environmental issue. Yes, it is something we very much have got our eye on. Clearly, being a responsible government you have to be very cautious and ensure that environmental issues are taken seriously. I am pleased to say that a number of airlines are also taking on board the importance of the environmental aspects of airline travel as well as very many other modes of travel. That can be seen, for example, with the new aircraft the Embraer that Flybe have just introduced. It is not only the quietest airline but that particular aircraft is also one of the most environmentally-friendly aircraft. I think a move by airlines in that direction is something that we should applaud. The Connétable of St. Peter and, indeed, for that matter - although he is not in the Assembly at the moment - the Deputy of St. Peter, I am sure would have a great deal of interest in the opening hours of the airport. It is clearly a situation in their Parish and I can imagine the aggravation that they would suffer if we were open all hours. That is certainly not the intention. There are set operating hours for the airport and those will be maintained. There is no intention at the moment to anything otherwise. There are occasions when we have to keep the airport open in the evening slightly later than the standard times. That is normally due to operational issues with airlines where their planes have technical problems or knock-on effects from other flights coming in. We always try to accommodate airlines to allow them to bring passengers back to the Island. We work on the premise that Islanders would like to return if possible and we have always been sure that the Connétable and the Deputy are notified if the airport is remaining open on a one-off basis; it does happen from time-to-time. Certainly, on an ongoing basis there is no intention to do so. I hope, Sir, that answers all the questions and I would move the proposition.

The Bailiff:

I put the principles of the Bill. Would those members in favour of adopting them, kindly show. Those against? The principles are adopted. Deputy Southern do you wish to scrutinise the Bill?

Deputy G.P. Southern (Chairman of the Economic Affairs Scrutiny Panel):

No, thank you, Sir.

The Bailiff:

You move the two Articles *en bloc*, Assistant Minister? They are seconded? **[Seconded]** Does any member wish to speak on either of the Articles of the Bill? I put the Articles. Those members in favour of adopting them?

Deputy G.P. Southern:

Can we have the appel, please.

The Bailiff:

The appel is asked for. Any members who wish to vote on the Second Reading of the Bill should return to their seats. I ask the Greffier to open the voting.

POUR: 34

Senator L. Norman
Senator T.J. Le Main
Senator B.E. Shenton
Senator J.L. Perchard

CONTRE: 1

Deputy G.P. Southern (H)

ABSTAIN: 0

Connétable of St. Ouen
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of Trinity
Connétable of St. Lawrence
Connétable of St. Brelade
Connétable of St. Saviour
Deputy R.C. Duhamel (S)
Deputy A. Breckon (S)
Deputy J.J. Huet (H)
Deputy of St. Martin
Deputy G.C.L. Baudains (C)
Deputy P.N. Troy (B)
Deputy C.J. Scott Warren (S)
Deputy J.B. Fox (H)
Deputy J.A. Martin (H)
Deputy S.C. Ferguson (B)
Deputy J.A. Hilton (H)
Deputy G.W.J. de Faye (H)
Deputy P.V.F. Le Claire (H)
Deputy J.A.N. Le Fondré (L)
Deputy D.W. Mezbourian (L)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy S. Pitman (H)
Deputy A.J.D. Maclean (H)
Deputy K.C. Lewis (S)
Deputy of St. John
Deputy I.J. Gorst (C)

The Bailiff:

Do you move the Bill in Third Reading, Assistant Minister? Yes? Seconded? **[Seconded]** Does any member wish to speak? I put the Bill in Third reading, those members in favour of adopting it kindly show? Those against? The Bill is adopted in Third Reading.

The Connétable of St. Ouen:

Just on a point of order, Sir. It would appear from the list in the Members' Room that my vote on P.98 was not recorded. Can I have it recorded that I did vote pour?

The Bailiff:

I am afraid, Connétable, that you cannot. Standing Orders do not permit us to do that. I think what must have gone wrong was that either you pressed the button prematurely or you have failed to press it with sufficient vigour. **[Laughter]** But the button has been working in subsequent votes so we think it cannot be an operational problem.

11. Draft Licensing (Licence Fees) (Jersey) Regulations 200- (P.104/2007).

The Bailiff:

Now, we come to the Draft Licensing (Licence Fees) (Jersey) Regulations 200-, in the name of the Minister for Economic Development and I ask the Greffier to read the principles of the draft.

The Greffier of the States:

The Draft Licensing (Licence Fees) (Jersey) Regulations 200-. The States, in pursuance of Article 11 of the Licensing (Jersey) Law 1974, have made the following Regulations.

11.1 Deputy A.J.H. Maclean (Assistant Minister for Economic Development):

It is necessary to decide on any increases in fees for liquor licences because legislation needs to be formulated so that fees can be charged. Applications for liquor licences are received in October and the legislation needs to be in place in advance of this time. Fees were last increased for 2007 by 2.5 per cent over 2006. Treasury and Resources has suggested the fee should again be pegged if at all possible but the level of increase should not exceed 2.5 per cent, which is exactly the basis of the proposition. I would also like to note that the Deputy of St. Martin is bringing a proposition immediately after this with regard to a review of the Liquor Licensing (Jersey) Law. It is a review that the Economic Development Department is undertaking. In any event, we do support the proposition to come; we do recognise there are a number of significant issues that need to be addressed with regard to licensing laws and these will be looked at as part of the review. This is just an interim step in order to increase the fees by the 2.5 per cent. I move the proposition, Sir.

The Bailiff:

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

11.1.1 The Deputy of St. Martin:

I would just like to concur with what the Assistant Minister says. Indeed, you know before I lodged this I did discuss with you and other people what my proposition is. It is a stand-alone; it is not an amendment to what is being proposed today. I did not wish to interfere with what was being proposed this year, what I am proposing is for the next year. So, I will be supporting this particular amendment and ask that members also do likewise.

11.1.2 Deputy G.C.L. Baudains:

A very quick query; I just would like to know whether any analysis has recently been done to determine whether these charges accurately reflect the administration charges involved?

The Bailiff:

I call on the Assistant Minister to reply.

11.1.3 Deputy A.J.H. Maclean:

To answer Deputy Baudains' question, no, and that, hopefully, will be an issue that will be covered as part of the review when it is undertaken. Sir, I move the proposition.

The Greffier of the States (in the Chair):

I put the principles. Those members in favour of adopting them kindly show? Against? The principles are adopted. Do we have the Vice-Chairman of the Economic Affairs Scrutiny Panel? You do not wish to scrutinise the draft? Very well. Do you propose the Regulations *en bloc*, Assistant Minister?

Deputy A.J.H. Maclean:

Yes, Sir.

The Greffier of the States (in the Chair):

Seconded? [**Seconded**] Does any member wish to speak? I put the Regulations. All those members in favour of adopting them kindly show? Against? The Regulations are adopted in Second Reading. Do you propose the Regulations in Third Reading, Assistant Minister?

Deputy A.J.H. Maclean:

Yes, Sir.

The Greffier of the States (in the Chair):

Seconded? [Seconded] Does any member wish to speak? I put the Regulations in Third Reading. Those members in favour of adopting them kindly show? Against? The Regulations are adopted in Third Reading.

Senator F.H. Walker (The Chief Minister):

Could I just, at this juncture, make an apology to the House for not being here when P.97 was called? I had anticipated that other debates would go on longer and I was engaged in other States' business. But that is no excuse. It was certainly not my intention to show any disrespect to the House and I do apologise to members for the lack of courtesy of not being here.

12. Licensing (Jersey) Law 1974: Review of Fee Structure (P.117/2007)

The Greffier of the States (in the Chair):

The Assembly now comes, as indicated in the last debate, to the proposition of the Deputy of St. Martin - P.117. 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 (a) to review the structure of the current liquor licence fees charged annually at each category of licence under the Licensing (Jersey) Law 1974 with a view to introducing a more equitable licensing structure; (b) to finalise the review and publish its findings no later than 1st August 2008 or before any requests are made for further increases in licensing fees.

12.1 The Deputy of St. Martin:

Members who are acquainted with the 1974 Licensing Law will know that apart from being outdated it is also complex and this view is shared by the Council of Ministers who, in their 10th Amendment to the Annual Business Plan, described the Law as being burdensome and complicated and has not kept up with modern times. Sir, there are seven categories of licence to operate; proprietors must not only be licensed but the licence is renewable annually. Because of the erosion of categories and to enable proprietors to meet their customers' expectations some proprietors have to purchase as many as three licences to operate. There is a wide range of fees applicable and there appears to be little logic as to why there should not only be a different fee for some licences, or some categories, but why the cost of some licences should be as much as four times more than others. For example, large supermarkets who sell thousands of pounds worth of alcohol a week pay the same price for their licence as small corner shops. Likewise, why should small restaurants pay four times more than large off-licence premises? There has been an inequality in these licensing fees for some time and I frequently ask Presidents and Ministers why the matter has not been addressed and have been informed the matter would be addressed at some time. In fact, during last year's debate when an increase was again sought I again raised the matter and was advised by the Minister that he would be looking into the whole issue of licensing in a more general way and it was a holding position, certainly for that year. Well, as members can see, we have just agreed to P.104 which has no changes. However, things are looking up. In 1995 I was a Member of the Tourism Committee that chaired a panel which carried out a review of the Licensing Law. Interestingly, the panel was of the view that the annual licence fee - and the collection of fees - really was a burdensome administrative responsibility for which the panel could see little benefit. The panel was also of the view that there should be a single licence for the sale of alcohol. Sir, my proposition is not suggesting that the liquor licensing fees are abolished but is asking that the inequality in fees be reviewed before any further increase in the price of fees is requested. I am also of the opinion that inequality would not stand up to any close scrutiny of the Jersey Competition

Regulatory Authority. Therefore, the sooner the fee structure issue is addressed the better. Since lodging my proposition, Economic Development has now introduced a single fee rate for the registration of hotels which replaces the variable rate formerly based upon the grading of premises. I am sure, Sir, given the will the same arrangements can be made for Licensed premises. Members will know that yesterday the States gave approval to drafting a new Licensing Law, albeit 12 years after my panel made the recommendation. As we know from the Assistant Minister, I have met and discussed my proposition with the Economic Department and there is general agreement that this should be part of the review and as such, as referred from the Assistant Minister, he is willing to accept my proposition. I ask that members do likewise and I propose the proposition.

The Greffier of the States (in the Chair):

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

12.1.1 Deputy G.W.J. de Faye:

I very much welcome this proposition from the Deputy of St. Martin. I think he has been particularly observant and perspicacious in spotting this apparent anomaly in the Licensing Laws and clearly there would appear to be a level of inequality in a number of areas. Assuming that one of the Assistant Ministers from Economic Development will make a speech at some stage, I would like to hear a response from the Minister of Economic Development because this is only one of a number of issues pertaining to our Licensing legislation at the moment. I am sure members are very well aware that with aspects of late night drinking the Licensing Laws probably need to be reassessed in view of chucking-out times, drinking-up times...

The Greffier of the States (in the Chair):

Deputy, please, we do not want a Licensing Law debate.

Deputy G.W.J. de Faye:

I am not about to launch a Licensing Law debate, Sir, I am simply going to ask the Assistant Minister of Economic Development whether this review will, in fact, form part of a rather more significant review that will cover a number of wider aspects of the Licensing Law.

12.1.2 The Deputy of St. John:

It was thought that the House might be interested to know that Home Affairs are looking very closely at this issue at the moment related to alcohol abuse. Of course, from that will come reform of the Licensing Laws. I have already met with representatives of the Licensing trade who are very keen to take on board some of the suggestions that the Deputy is making; the review, for example, of the numbers of categories and a number of other things. As Deputy de Faye was intimating, yes, there is a need for a full review and this perhaps is only a very small part of it. But it is something which we would have reviewed in conjunction with Economic Development during that whole review. I see no reason why this cannot form part of that review. I see absolutely no reason why we should not support it and it will, as I say, form part of a comprehensive review which we are currently undertaking in conjunction with Economic Development and Health and Social Services and, of course, very much the police and other areas of Home Affairs.

12.1.3 Deputy A.J.H. Maclean:

First of all, I would just like to thank the Deputy of St. Martin for liaising with the Department in such a constructive manner over this issue. We clearly welcome his proposition. We support it, just so that Members are not in any doubt whatsoever, and we will be moving forward to ensure that an appropriate review is carried out, not only in the narrow constraints of this particular proposition but certainly in a more wide-ranging review. Both Deputy de Faye and the Deputy of St. John have raised pertinent issues regarding Licensing and I think that is an area that will be contained within the review. It is clearly an area that is much needed to be properly reviewed. Some of these laws go

back to the early 1970s and it is high time that we updated and reviewed them, which is exactly what is being undertaken at part of this proposition. So, I just wanted to reassure Members that we will, in fact, be supporting this proposition and moving forward to conduct the necessary review.

The Greffier of the States (in the Chair):

I call upon the Deputy of St. Martin to reply.

12.1.4 The Deputy of St. Martin:

Can I thank those who spoke and I think the Assistant Minister has really clarified the point that Deputy de Faye was making and also, just to confirm that I did discuss the matter with the Alcohol Licensing Community Action Group to which the Deputy of St. John is referring. I ask, Sir, that the proposition be put to members.

The Greffier of the States (in the Chair):

I put the proposition. Those members in favour of adopting it, kindly show. Against? The proposition is adopted.

13. Draft Public Employees (Contributory Retirement Scheme) (Existing Members) (Amendment No. 9) (Jersey) Regulations 200- (P.105./2007).

The Greffier of the States (in the Chair):

The Assembly comes now to the Draft Public Employees (Contributory Retirement Scheme) (Existing Members) (Amendment No. 9) (Jersey) Regulations 200-, in the name of the Chief Minister I ask the Greffier to read the citation to the Regulations.

The Deputy Greffier of the States:

Draft Public Employees (Contributory Retirement Scheme) (Existing Members) (Amendment No. 9) (Jersey) Regulations 200-. The States, in pursuance of Article two of the Public Employees Retirement (Jersey) Law 1967, have made the following Regulations.

Senator F.H. Walker (The Chief Minister):

Could I ask that Deputy Gorst act as rapporteur for this item, please?

The Greffier of the States (in the Chair):

Yes, I think so. He is not your Assistant Minister but...

13.1 Deputy I.J. Gorst of St. Clement (rapporteur):

This is, I hope, a relatively simple amendment. It is for existing members of the Public Employees Contribution Retirement Scheme. It aims to tighten up the definition of salary for pensionable purposes under the Regulations. It clarifies what is included in the term "salary" and also what it excludes for pensionable purposes. I can confirm that this amendment has the support of the Committee of Management of the Pension Scheme via its Technical Sub-Committee and also the Joint Negotiating Group. I maintain the proposition.

The Greffier of the States (in the Chair):

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

Deputy J.B. Fox:

Do I need to declare that I am a recipient of the Pension Scheme and have a direct pecuniary advantage?

The Greffier of the States (in the Chair):

I think you are right to declare, Deputy but I do not think it will, unfortunately, increase your pension. [Laughter] I do not think you have any need to withdraw.

Deputy I.J. Gorst:

Sorry, Sir. Maybe I was not very clear but this relates to salary and, unless the Deputy is still working for the States' Police Force, then it should have no effect any pensionable monies that he has received.

The Greffier of the States (in the Chair):

I think the Deputy was right to draw it the members' attention. Does any member wish to speak on the principles to the Regulations?

Deputy S.C. Ferguson:

I would like to declare as well, Sir.

The Greffier of the States (in the Chair):

Very well, it is noted. I put the principles. All the members in favour of adopting them kindly show. Against? The principles are adopted. Deputy Ryan?

Deputy P.J.D Ryan (Chairman of the Corporate Services Scrutiny Panel):

No, thank you, Sir.

The Greffier of the States (in the Chair):

Do you propose the Regulations *en bloc*, rapporteur?

Deputy I.J. Gorst:

Yes, please, Sir.

The Greffier of the States (in the Chair):

Is that seconded? [Seconded] Does anyone wish to speak? I put the Regulations in the Second Reading. Those Members in favour of adopting them, kindly show. Against? The Regulations are adopted in Second Reading.

Deputy I.J. Gorst:

En bloc, please, yes.

The Greffier of the States (in the Chair):

Is that seconded? [Seconded] Does any member wish to speak? I put the Regulations in the Third Reading. All those members in favour of adopting them, kindly show. Against? The Regulations are adopted in Third Reading.

14. Draft Public Employees (Contributory Retirement Scheme) (New Members) (Amendment No. 12) (Jersey) Regulations 200- (P.106/2007).

The Greffier of the States (in the Chair):

We come now to the Draft Public Employees (Contributory Retirement Scheme) (New Members) (Amendment No. 12) (Jersey) Regulations 200- and I ask the Greffier to read the citation of the Regulations.

The Deputy Greffier of the States:

Draft Public Employees (Contributory Retirement Scheme) (New Members) (Amendment No. 12) (Jersey) Regulations 200-. The States, in pursuance of Article two of the Public Employees Retirement (Jersey) Law 1967, have made the following Regulations.

14.1 Deputy I.J. Gorst (rapporteur):

I shall try to be even briefer in this one. This is an identical amendment to the one that we have just approved apart from this is applicable to new members coming into the scheme, whereas the previous amendment was to existing members of the scheme.

The Greffier of the States (in the Chair):

Is the principle seconded? [**Seconded**] Does any member wish to speak on the principles to the Regulations?

Deputy J.B. Fox:

Just the same declaration, Sir.

The Greffier of the States (in the Chair):

I put the principles. Those members in favour of adopting them kindly show? Against? The principles are adopted. Do you propose the Regulations *en bloc*, rapporteur?

Deputy I.J. Gorst:

Yes, please, Sir, thank you.

The Greffier of the States (in the Chair):

Seconded? [**Seconded**] Does anyone wish to speak? I put the Regulations. Those members in favour of adopting kindly show? Against? The Regulations are adopted in Second Reading. Do you propose them in Third Reading, rapporteur?

Deputy I.J. Gorst:

Yes, thank you, Sir.

The Greffier of the States (in the Chair):

Seconded? [**Seconded**] Does anyone wish to speak? I put the Regulations in Third Reading. Those members in favour of adopting, kindly show. Against? The Regulations are adopted in Third Reading.

15. Draft States of Jersey (Amendment No. 4) Law 200- (P.107/2007)

The Greffier of the States (in the Chair):

We come now to the Draft States of Jersey (Amendment No. 4) Law 200-, in the name of the Chief Minister I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft States of Jersey (Amendment No. 4) Law 200-. A Law to amend further the States of Jersey Law 2005. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

Senator F.H. Walker (The Chief Minister):

May I ask that Deputy Le Fondré acts as rapporteur for this item, please?

15.1 Deputy J.A.N. Le Fondré (Assistant to the Chief Minister - rapporteur):

Members may recall that we approved the basic principle of allowing certain States' employees to participate in political activities and that was approved by 32 votes to three in April of last year. P.107 is a very, very short item. It is the first of two, the second being P.109. It makes very minor changes to the States of Jersey Law 2005 to give effect to that decision. Essentially, what it does is it amends certain Regulations governing who can stand for Senator, Deputy or Connétable to allow certain States' employees to stand for that position. I can keep it brief, Sir, I will maintain the principles.

The Greffier of the States (in the Chair):

Are the principles seconded? **[Seconded]** Does any member wish to speak on the principles to the draft Law? I put the principles. Those members in favour of adopting them, kindly show. Against? The principles are adopted. Do you wish to propose the Articles *en bloc*, rapporteur?

Deputy J.A.N. Le Fondré:

Yes, Sir.

The Greffier of the States (in the Chair):

Is that seconded? **[Seconded]** Does anyone wish to speak on any of the Articles to the draft Law? I put the Articles. Those members in favour of adopting them, kindly show. Against? The Articles are adopted. Do you propose the draft Law in Third Reading, rapporteur?

Deputy J.A.N. Le Fondré:

Yes, Sir.

The Greffier of the States (in the Chair):

Adopted. Seconded? **[Seconded]** I put the draft Law in Third Reading. Those members in favour in adopting it, kindly show. Against? The draft Law is adopted.

16 Draft Employment of the States of Jersey Employees (Amendment No. 2) (Jersey) Regulations 200- (P.109/2007)

The Greffier of the States (in the Chair):

Now, in accordance with the decision this morning, the States agreed, I think, rapporteur, to take P.109 as the next item of business before P.108. So, the Draft Employment of the States of Jersey Employees (Amendment No. 2) (Jersey) Regulations 200-. I ask the Greffier to read the citation to the Regulations.

The Deputy Greffier of the States:

Draft Employment of the States of Jersey Employees (Amendment No. 2) (Jersey) Regulations 200-. The States, in pursuance of Article 30 of the Employment of States of Jersey Employees (Jersey) Law 2005, have made the following Regulations.

16.1 Deputy J.A.N. Le Fondré (Assistant to the Chief Minister - rappoprteur):

P.109 is the second part enabling the decisions of the States to be implemented. Essentially, the proposal is to have two classes of employee in this respect; politically eligible employees who can participate in political activities and politically ineligible employees who cannot. Politically eligible employees are most States' employees and they are shown in Schedule two of P.109. Politically ineligible are the rest, the minority of States' employees, and are shown in Schedule 3. Essentially, they include the likes of chief officers and most civil servants who are on Grade 12 above. The reason for choosing that level is because they are generally of either managerial level or tending to advise States members or Ministers on policy. There is a degree of flexibility in the Law. There is a

provision that allows for posts to be reclassified, for example, to be politically eligible and that is to take account of, say, technical posts which happen to be a Grade 12 but are not in a managerial capacity, effectively. Employees who are politically eligible must still exercise discretion in how they participate in political activities and, for example, if they were to disclose information which they were privy to only as a result of their employment it would still leave them open to disciplinary action. There are provisions within the Regulations which deal with the procedures to be followed if an employee wishes to stand for election, which governs such matters as unpaid leave, resumption of employment after the elections and such like. Politically ineligible employees still remain open to disciplinary action if they participate in political activities and depending on the circumstances. To conclude, Sir, the proposed Regulations have been approved by the Privileges and Procedures Committee and the Council of Ministers. They have been cleared by the Law Officers Department as being human rights compliant and, as far as I understand, the Corporate Services Scrutiny Panel has previously decided not to review the proposals. Consultation did take place with the relevant trade unions and staff associations and no significant matters rose out of these consultations. I tried to keep it brief, Sir. I propose the Regulations.

The Greffier of the States (in the Chair):

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

16.1.1 Deputy G.P. Southern:

I rise to my feet to warmly welcome this change in Regulations, to remove the restrictions on the freedom of political action from States' employees and to bring the Law more up to date and in line with basic human rights that I believe all should have. What I would ask is that while one can change the Law it is another matter to change people's perceptions and people's worries and the culture that surrounds changes. What I would call upon the Chief Minister to do is to widely advertise within the Civil Service that this change has occurred and in particular among personnel people at manager level that this culture of change has occurred, and people are not in any way to be discouraged from either standing or expressing their political views in the widest possible forum in order that we can get rid of the culture that says: "I am a civil servant. I cannot state a thing. I cannot attend your meeting. I cannot even say who I support." This culture is deeply ingrained, I think, and the sooner we can make sure that we dissipate this and get more participation from what are a very able sector of society, the sooner we can increase the level of political understanding and political activity on the Island. I would call upon the Chief Minister to make sure this change in Law gets translated into a change in culture as rapidly as possible throughout the Civil Service.

16.1.2 Deputy J.J. Huet:

Does this mean that any Civil Service friends of one can now come to our election parties?

The Greffier of the States (in the Chair):

Does anyone wish to comment on the principles to the Regulations? I call on the Assistant Minister to reply.

16.1.3 Deputy J.A.N. Le Fondré:

I think I will just welcome the comments from those who have spoken and maintain the Regulations.

The Greffier of the States (in the Chair):

I put the principles. Those members in favour of adopting, kindly show. Any against? The principles are adopted. How do you wish to propose the Regulations, rapporteur?

Deputy J.A.N. Le Fondré:

Can we do *en bloc*, Sir, if that is acceptable to the Assembly?

The Greffier of the States (in the Chair):

Very well. Is there anything further you wish to add? The Regulations are proposed and seconded. **[Seconded]** Does anyone wish to speak on any of the Regulations? I put the Regulations. Those Members in favour of adopting, kindly show. Any against? The Regulations are adopted in Second Reading and proposed in Third Reading. **[Seconded]** Does anyone wish to speak? I put the Regulations in Third Reading. Those members in favour of adopting, kindly show. Any against? The Regulations are adopted in Third Reading.

17 Draft Employment of States of Jersey Employees (Amendment) (Jersey) Regulations 200- (P.108/2007)

The Greffier of the States (in the Chair):

I come now to P.108/2007, the Draft Employment of States of Jersey Employees (Amendment) (Jersey) Regulations 200-. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Employment of States of Jersey Employees (Amendment) (Jersey) Regulations 200-. The States in pursuance of Article 30 of the Employment of States of Jersey Employees (Jersey) Law 2005 have made the following Regulations.

17.1 Deputy J.A.N. Le Fondré (Assistant to the Chief Minister - rapporteur):

Again, a very simple amendment. When the States approved the Employment of States of Jersey Employees (Jersey) Law, which was back in 2005, a schedule attached to the Law omitted an error, the post of Magistrate which should have been defined as an office holder. It has been pointed out that by missing this definition Magistrates are automatically considered to be employees which should not be the case. Office holders include such individuals as the Bailiff, the Deputy Bailiff, the Attorney General, Solicitor General, the Greffier of the States and certain other posts. This amendment corrects the situation and at the same time formalises an existing situation to properly permit the States' Employment Board to determine the relevant remuneration. I move the principles.

The Greffier of the States (in the Chair):

Are the principles seconded? **[Seconded]** Does any member wish to speak on the principles? I put the principles. Those members in favour of adopting, kindly show. Any against? The principles are adopted. Deputy Ryan, I look to you again.

Deputy P.J. Ryan (Chairman of the Corporate Affairs Scrutiny Panel):

I dare not say yes, Sir, so I will say no on this one.

The Greffier of the States (in the Chair):

Rapporteur, do you wish to propose the Regulations *en bloc*?

Deputy J.A.N. Le Fondré:

Yes, Sir.

The Greffier of the States (in the Chair):

Seconded? Does anyone wish to speak on the Regulations? I put the Regulations. Those members in favour of adopting, kindly show. Any against? The Regulations are adopted in Second Reading and proposed in Third Reading. **[Seconded]** Does any member wish to speak? I put the Regulations in Third Reading. Those members in favour of adopting, kindly show. Any against? The Regulations are adopted in Third Reading.

18 Draft Criminal Justice (Community Service Orders) (Amendment) (Jersey) Law 200- (P.110/2007)

The Greffier of the States (in the Chair):

We come now to the Draft Criminal Justice (Community Service Orders) (Amendment) (Jersey) Law 200- in the name of the Minister for Home Affairs. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Criminal Justice (Community Service Orders) (Amendment) (Jersey) Law 200-. A Law to amend further the Criminal Justice (Community Service Orders) (Jersey) Law 2001. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

18.1 Senator W. Kinnard (The Minister for Home Affairs):

I am bringing this amendment to the Assembly at the request of the Jersey Royal Court and its Probation Board. Each year over 10,000 hours of unpaid work for the community is performed by offenders who would otherwise have served prison sentences. Everyone gains from this punishment. The offender can keep their employment and home and their families are not pushed on to benefit and the community as a whole benefits from the work performed. The range of beneficiaries includes Durrell, football, rugby and sailing clubs, charity shops and youth organisations, the Men of the Trees and the Jersey Sports Association for the Disabled, among others. Members may also be aware that this year the scheme won an environmental award for work carried out to conserve the habitat of the agile frog. These amendments to the legislation are designed to further improve what is already a very successful sanction and which is in line with Pillar 8 of the Criminal Justice Policy shortly to be debated by this House in that it provides the Courts of Jersey with an effective alternative to a custodial sentence. Another benefit is in terms of prison numbers. There are few short-term prisoners in Jersey, unlike other parts of the British Isles, because the courts here understand and make good use of alternatives to custody such as community service. The first part of this amendment follows from discussion with the courts while consulting on the Criminal Justice Policy. The Royal Court believe that there have been occasions when they would have been prepared to impose a Community Service Order but were unable to as the present maximum number of hours is 240 and equates to 18 months imprisonment or youth custody. Doubling the maximum number of hours will allow the Royal Court to consider using Community Service Orders when the custodial sentence would be one of up to three years. The court does not consider that it will use this option often but nonetheless believe that it will be appropriate to use it on occasion. Because of the normal rate at which offenders are expected to complete Community Service Orders - it is between six and 12 hours each week - a two-year period is necessary to allow the hours to be completed. The Probation Service is content that they can manage the small increase in orders that this amendment would generate. The second part of this amendment deals with the practical difficulty experienced by the courts when dealing with offenders who have committed minor offences while subject to Community Service Orders imposed by the Royal Court. At present all these cases have to be referred back to the Royal Court for breach of that court's Community Service Order. So, for example, an offender made subject to a Community Service Order for a serious fraud who is subsequently prosecuted for drink driving would have to be dealt with by the Royal Court for the breach of the order. This situation causes unnecessary work for the Law Officers Department and for the courts. This amendment will allow the Magistrate discretion to deal with the matter in the lower court. He may, of course, still refer it up to the Royal Court if he believes that is the correct course of action. I propose the principles.

The Greffier of the States (in the Chair):

Are the principles seconded? Does any member wish to speak on the principles?

18.1.1 Deputy P.V.F. Le Claire:

I think this is an important issue. Before I came to the States of Jersey I began a scheme where I was teaching children life skills. We called it Acorn Day and planted trees. We ended up doing so well from our little course that we ended up with 2,000 trees and it was quite an effort to put them in the ground. We managed to do that in an open day with the children but we were still left with a significant number of trees. Thankfully, I had approached the Probation Service and they worked with me on weekends by providing workers who came along and dug the holes and planted the trees in the farmers' fields and the edges of football fields, *et cetera*. They also got involved later on, after they had finished this, with schemes, bringing their own children in their own time to plant trees with the children. Not to go on at too great a length, but just to say that I personally experienced the change in attitude of these people when they were given something environmentally constructive to do. One of the criticisms was that they had spent most of their weekends before this had come along painting horse-jumping fences and clearing out wealthy people's back buildings and things and the work was not anything that they were going to benefit from. This environmental productive approach was something they really enjoyed. I am glad to hear about the beneficiaries at the moment... although I have stopped that scheme - I am now doing this scheme, the States of Jersey scheme - I am very pleased to hear the Men of the Trees are still using these services. I am personally convinced that keeping the numbers down in the prison and giving people the opportunity to perform this type of community service is of great value to Jersey. I would encourage the Connétables, if they have schemes or anything else, to ask their officers to get in touch with the Probation Service and see whether there are community facilities that could be enhanced and improved by the use of this type of labour which is an excellent way to rehabilitate people who have fallen on the wrong side.

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

I would just like to start by quoting from the report which says: "These orders would be used by the Royal Court as alternatives to custodial sentences of up to three years and provide a meaningful, challenging and useful punishment in appropriate cases." My concern about this proposal coupled with the proposal within the Criminal Justice Policy that has been lodged and is due for debate on 20th November is that I believe this could lead to a dumbing-down in the sentencing policy. Community service is an appropriate way for somebody who has been convicted of an offence to pay something back to society but I am concerned that by increasing the number of hours from 240 hours to 480 hours, which according to the report is the equivalent to a three-year jail sentence, that there may be in the future people being convicted of offences that one would expect them to serve in prison. This does cause me concern. I would like to know from the Minister in what instances does she believe that the Royal Court might use this option with regard to type of offence that somebody may have committed that would warrant them having 480 hours of community service rather than a 3-year prison sentence? I am not going to comment on the other part of the proposition but I just wanted to mention this to members because, as members will be aware, there is a proposal within the Criminal Justice Policy to introduce supervised discretionary leave from prison after half the sentence has been served. This is quite a way from what we are currently doing and I have got big concerns about that because at the end of the day I think the victims should always be put first. Most members will be aware that one of the big complaints that comes out of the U.K. as far as sentencing policy is concerned is that victims quite often believe that the sentence the criminal receives is not appropriate to the suffering that they have undergone. A lot of people believe that getting parole after you have served half your sentence is not appropriate in certain cases. So my concern is the type of offence that this may be used for. Like I said, I would be very upset indeed if it turned out that maybe drug dealers, sex offenders or such like would be receiving Community Service Orders rather than a term of imprisonment.

18.1.3 The Connétable of St. Peter:

I would like to pay tribute to the managers and the charge hands of these groups of persons that serve in their community parole. They are certainly doing some exceedingly good work in all the parts referred to by the Minister island-wide and it occurs to me whether the Minister would care to look into the possibility maybe of finding some sort of direction within the prison inhabitants. Although I know it is looked at extensively at the moment, I am sure there could be scope where they could give a very good service in that rehabilitation process. If that were the case I think it would encourage a lot of people to completely go on the straight and narrow in the future years.

18.1.4 The Deputy of St. Martin:

I have always supported the Community Service Orders. I have, in the past, made use of them and they have done some useful work, certainly around the east of the Island. I give the assurance to Deputy Hilton as to the people who do go on that, they are of low risk and they are seen to be people that could be trusted and this is one way of keeping them out of prison and I think we ought to be doing our utmost to keep people out of prison. I will say they are of low risk to society but are probably of greater risk to themselves because anyone who has seen them wielding a fork or a shovel, they are pretty good at leaning on them but they are not very good at using them as some have never been shown how to use them. That is sometimes the first time in their lives they have had a shovel or a fork in their hand. However, they are of good use and I would hope that the service will continue. It is quite interesting to see that we are looking to have an increase to 480 hours yet when one looks at the Criminal Justice Policy and one looks at page 32, paragraph 5(15)(3), reference is made to a trend of the increased use of Community Service Orders slowed in 2006 with a reduction of 19 on the Orders made in 2005. As for Probation Orders there was a decrease in Orders made in the Youth and Magistrates Courts. Conversely, the Royal Court increased this use of community service. Could the Minister give us some idea of what sort of figures we are looking at, what sort of numbers we are talking about? We are told 10,000 hours but obviously there is a decrease. Maybe the Minister can give us some idea of the numbers of people involved because I think that is important because that tells us the number of people who could well be put in prison who are not and, again, I support that view. Also, any ideas as to why there has been a decrease in Orders given by the Magistrates and Juvenile Courts yet an increase by the Royal Courts.

18.1.5 Deputy J.B. Fox:

I have had some very positive experiences with Community Service Orders and the like over the years. I think it might be useful if the Minister could make a short statement to allay some people's fears that there are occasions when people breach the Orders, and if she could just outline what the process is if such a breach occurs. I think that might just put some minds at rest.

18.1.6 Deputy J.J. Huet:

Is it not funny how it is all the people who have been involved with Law? I would like to have the Minister confirm or reassure us that, dare I say, no paedophiles will ever be on this community service because I am honestly of the belief they cannot be cured and the only safe place for our children is when they are in prison. I do not wish to see them on community service and I would like to be assured that they will not be on the community services. I do not think community service is suitable for this type of offence.

18.1.7 The Connétable of St. Ouen:

I can say in reply to Deputy Le Claire that I have used Community Service Orders in St. Ouen to help out people who were probably in need. I recall one of the latest ones was the repairing of windows and painting of windows of an elderly gentleman which was undertaken extremely well by someone who had previously been in the building trade. On the point that Deputy Hilton made

there might be some mileage in informing the victim of what the person put on a Community Order does, because I think that there is a perception by the public that Community Orders do not achieve a great deal.

18.1.8 Deputy C.J. Scott Warren:

I support giving the power to the Royal Courts in appropriate circumstances to impose the greater number of community service hours to keep more offenders out of prison if at all possible. But I do emphasise the word “appropriate” and bearing that in mind I can therefore, as I say, support this proposition.

18.1.9 Senator S. Syvret:

I just want to express a similar concern as to that expressed by Deputy Huet. I certainly need assurance that people who have exhibited any dangerous activity towards children will not be considered for this kind of sentence. The reason I ask that is because there was a case that was widely reported in the media earlier this year of a disgusting old pervert who was basically trying to seduce three teenage girls, plying them with alcohol and cigarettes and things of that nature. The man got two year’s probation. I could not believe it when I read this in the paper; two year’s probation for, I think, a 64 year-old who had basically been trying to rape three children. It was an absolutely ludicrous sentence handed down by the Bailiff, utterly preposterous and this man should have had a custodial sentence.

The Greffier of the States (in the Chair):

I call on the Minister to reply.

18.1.10 Senator W. Kinnard:

I thank those members who have spoken in support. I thank Deputy Le Claire for his supportive comments and the Deputy of St. Ouen, I think, answered his point. In terms of the concerns that have been expressed by, mostly, Deputy Hilton and also Senator Syvret, what I have to say is that the sentencing is a matter for the courts. It is not a matter, of course, for the Home Affairs Minister. It is clear that those that are generally considered for community service are considered to be of relative low risk because it is seen as an alternative to custody. That decision, when it is taken by the court, is taken after a great deal of consideration. It is taken on the basis of all of the information and on the basis of the merits of the case that appears before the court at that point in time. Whatever one may feel personally about an individual case that may or may not have been treated in a particular way by the court, I have to say that we on the outside do not have all of the information available to us and the court makes the decision that it makes. Obviously, it has been made aware when public comment is made about sentencing that perhaps members of our community do not approve of; the court is obviously made quite well aware of that. I think that it is important to be absolutely clear that the court decides on sentencing very carefully and it is their remit to make that sentencing decision. In terms of the Community Service Orders, in terms of the ability to have more hours for an Order, the courts are not really feeling that they are going to use it all that often but they are of the mind that it would be very useful to them on certain occasions. Again, I would say that we have to trust the court to make that decision. I do not think it is for us to say when it is appropriate and when it is not appropriate because it does very much depend on the merits of the case before the court at any one time. The Deputy of St. Martin, again I appreciate his supportive comments and he again made the point about low risk. If I can also reassure Deputy Hilton and perhaps some others about the proposals in the Criminal Justice Policy. She raised some concerns about the proposals for discretionary supervisory release. I have to say they are much better in terms of the protection that we are likely to be able to provide for our community than what happens at present. At present prisoners who get one-third remission off, after they have served two-thirds of their sentence, are immediately released from prison without any need for supervision in the community whatever their crime. It seems to me that it is far better to have a

discretionary supervised release system coupled with the Parole Panel - we are probably one of only modern communities that does not have a parole system - whereby individuals will be assessed as to their risk profile and only those that are suitable will be considered for discretionary release at the 50 per cent point of their sentence but they will be supervised in the community to the end of their sentence. They do not need to commit a crime; it may well be that they just break the conditions of their early supervised release. It may contain a condition of not to enter a public house and that would be enough for them to be recalled to prison to continue the rest of their sentence. I believe that will provide greater safety for the community than the systems that we have at present. What I am proposing is very unlike the system that is in the United Kingdom. The United Kingdom's system is for automatic release at the 50 per cent point and mine is for discretionary release. Indeed, there is also allowance for the court to decide that particularly violent or sexual offenders should serve at least two-thirds of their sentence before they are considered at all. So we have given the court greater powers there as well. Deputy Fox talked about what happens in the situation of a breach. It is contained in the report but just to say that community service is an alternative to custody and therefore if the Order is breached the individual can be taken back to the court and be made to serve the original custodial sentence. The Connétable of St. Ouen made the point that victims would benefit from knowing what an individual has to do on community service and I think that is a very useful suggestion; it is one I will certainly pass on to the Probation and After-Care Service if they do not already do it. The Deputy of St. Martin asked me the number of individuals that were involved in community service. I do not have that information with me; I can find it out. I only have the total hours but I am happy to find out and let Members know. I doubt it will be later today; it will have to be tomorrow now. So I maintain the principles, sir.

18.1.11 H.M. Solicitor General:

I wonder if I could just say something about sentencing policy and procedure because I sense that Members would like reassurance on the point of sexual offenders and I will be as brief as possible. Whenever a defendant is being sentenced for something for which a sentence of imprisonment is likely there will be a social enquiry report prepared by a probation officer but in the cases of offences relating to children there will almost invariably be a psychiatric or psychological report and sometimes both. These will advise on risk and also on the availability of treatment. Quite often when considering conclusions, that is what to suggest as a sentence, there is a choice between a term of imprisonment at the end of which the offender will come out as much of a risk, if not more, to children as he went in, or an available treatment which can be made a compulsory term of probation order which will require him to undergo a programme of treatment the purpose of which will be to reduce, to the greatest extent possible, his risk to children. When deciding these things it can sometimes be quite difficult to decide what to recommend because retribution on one hand suggests somebody should have a term of imprisonment but then the future risk to children is in support of the other thing and the public interest, and particularly the safety of children, has to be the deciding factor.

Senator S. Syvret:

Can I ask the Solicitor General a question about that? That surely depends upon the proper availability of an appropriately structured and effective course of therapeutic treatment for the offender when they are out on probation and this, in fact, is often not available, or at least not available to a suitable degree? In the particular case I was referring to it seemed to be, from the media reports, that probation was decided upon because the defence was run in the court, which the court apparently absorbed to some extent, that because the victims had taken cigarettes and money from the assailant they were somehow asking for it and this was taken as mitigation towards the sentencing. It seemed to me at the time, and I did write to the Bailiff but he refused to engage in discussion with me about it, that there was a clear failure on the part of him and the court to recognise that children make foolish errors of judgment. It is 14 year-olds we are talking about; they make mistakes and therefore the law is required to protect them.

H.M. Solicitor General:

The answer to that is that the defence will say whatever it appears to them that they can say in mitigation. I think it is inconceivable, certainly in the prosecution and I would think the court, that the court would take it as mitigation that young children and young teenagers, or even older teenagers, act in a way which the defence represent as asking for it. It is well known that a person who fancies children will groom the children and the children will respond because they know no better. That is known to prosecutors; that is known to the courts. The fact that the media report what the defence have said does not mean that it is what the court has based its decision on. As to the availability of treatment, yes, there has to be the treatment and as I have said we have social enquiry reports and these are available before the sentencing; they are seen by the prosecution and the defence and the court. They will specify the nature of programmes which are available and in extreme cases it may be a programme in the United Kingdom. Sometimes the offender has to be assessed to see if there is a prospect of responding to the programme because there is no point putting someone on a programme who does not respond. I hope that is comfort to members.

Deputy G.W.J. de Faye:

Could I just follow that up with a brief question? Could I take it from what the Solicitor General said that in the same way, as I understand it, that underage children cannot legally consent to physical intercourse even though they may have factually consented, the same would apply in similar areas of exchange with underage children?

H.M. Solicitor General:

Yes, that is correct. Children cannot consent to sexual activity.

The Greffier of the States (in the Chair):

I put the principles. The appel is called for. Members to be in their designated seats. The Greffier will open the voting for or against the principles to the Law.

POUR: 34

Senator L. Norman
Senator F.H. Walker
Senator W. Kinnard
Senator T.A. Le Sueur
Senator P.F. Routier
Senator M.E. Vibert
Senator T.J. Le Main
Senator B.E. Shenton
Senator J.L. Perchard
Connétable of St. Ouen
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of Trinity
Connétable of St. Brelade
Connétable of St. Saviour
Deputy R.C. Duhamel (S)
Deputy A. Breckon (S)
Deputy of St. Martin
Deputy G.C.L. Baudains (C)
Deputy C.J. Scott Warren (S)
Deputy J.B. Fox (H)

CONTRE: 5

Senator S. Syvret
Deputy J.J. Huet (H)
Deputy J.A. Hilton (H)
Deputy S.S.P.A. Power (B)
Deputy S. Pitman (H)

ABSTAIN: 0

Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy S.C. Ferguson (B)
Deputy P.J.D. Ryan (H)
Deputy G.W.J. de Faye (H)
Deputy P.V.F. Le Claire (H)
Deputy D.W. Mezbourian (L)
Deputy of Trinity
Deputy A.J.D. Maclean (H)
Deputy K.C. Lewis (S)
Deputy of St. John
Deputy I.J. Gorst (C)

The Greffier of the States (in the Chair):

I turn to the Chairman of the Education and Home Affairs Scrutiny Panel. Do you wish to scrutinise the draft?

Deputy D.W. Mezbourian (Chairman of the Education and Home Affairs Scrutiny Panel):

No, thank you, sir.

The Greffier of the States (in the Chair):

Minister, propose the Articles.

18.2 Senator W. Kinnard:

Yes, thank you, sir. I will just propose them *en bloc* if I may, sir; it is so late.

The Greffier of the States (in the Chair):

Very well. Is that seconded? Does any member wish to speak on any of the Articles?

18.2.1 Senator J.L. Perchard:

Just a quick point. Article four says that the maximum amount of hours the court can lay down for community service now has gone up to 480, double the existing amount available to sentence. Can the Minister assure the House that this is nothing to do with the fact that H.M. Prison La Moye is bulging at the doors?

18.2.2 Senator W. Kinnard:

It has got absolutely nothing to do with prison numbers except that obviously what we are saying is that we should make as much use of community sentences where that is appropriate. This is a matter that was brought forward, a request from the court. It originated from the court and not from myself so I can assure the Senator that his presumption is not correct.

The Greffier of the States (in the Chair):

I put the Articles. Those members in favour of adopting them, kindly show. Against? The Articles are adopted. Do you move the draft for a Third Reading, Minister?

Senator W. Kinnard:

Yes, sir.

The Greffier of the States (in the Chair):

Seconded? Does anyone wish to speak? I put the Law in Third Reading. Those members in favour of adopting it, kindly show. Against? The Law is adopted in Third Reading.

ADJOURNMENT PROPOSED

Senator S. Syvret:

May I propose the adjournment, sir?

The Greffier of the States (in the Chair):

Yes, are members content to adjourn? Before we adjourn I must announce to the Assembly the lodging of three propositions that have been distributed this afternoon - Income Support Scheme: deferral of introduction (P.143/2007), lodged by the Health, Social Security and Housing Scrutiny Panel; Draft Community Provisions (Ship and Port Facility - Security) (Amendment) (Jersey) Regulations 200- (P.144/2007), lodged by the Minister for Economic Development; and Health Insurance Exemption cards: free bus travel and Active cards (P.145), lodged by the Health, Social Security and Housing Scrutiny Panel.

Deputy G.W.J. de Faye:

I do not want to pre-empt anything that the Chairman of Privileges and Procedures might be about to say but while I sense the Assembly is brimming with excitement at the remaining propositions to be dealt with it will mean coming back tomorrow and I wonder whether the proposers of the relevant propositions might consider deferring them to 9th October where we could take them after we have dealt with draft Income Support? It would save everyone coming back tomorrow in essence.

The Greffier of the States (in the Chair):

It is for the Assembly. There is already quite a heavy agenda for 9th October.

Deputy G.P. Southern:

There are two items. I believe they deserve to be dealt with and I believe there is a very heavy agenda coming up on 9th October with some serious and heavyweight debates. I think it is appropriate, whatever the outcome, to deal with them and we return tomorrow to do that.

Deputy A. Breckon:

Can I say that it was I that requested that the reciprocal agreement with Ireland be put to the last item but the date for that is 1st October so if we are not taking it now then I believe we should take it tomorrow.

The Greffier of the States (in the Chair):

Senator Syvret has proposed the adjournment. Subject to any contrary propositions the States stand adjourned until 9.30 a.m. in the morning.

The Deputy of St. John:

Is anybody prepared to propose what... I am prepared to propose, to move the two items to 9th October to avoid coming back tomorrow for two items? Is anybody prepared to second that?

The Greffier of the States (in the Chair):

It is a matter for the Assembly.

Senator S. Syvret:

Personally, I would recommend not doing that because we will get in an immense log jam of business, as always happens towards the end of the year.

The Greffier of the States (in the Chair):

I will put it to the vote. Those members in favour of deferring the items to 9th October, kindly show. Those against? Clearly, the mood is to return tomorrow. The Assembly stands adjourned until 9.30 a.m. tomorrow.

ADJOURNMENT