

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 3rd DECEMBER 2008

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

PUBLIC BUSINESS – resumption

1. Draft Budget Statement 2009 (P.158/2008): amendment (P.158/2008 (Amd.))

The Bailiff:

The debate continues on the Budget Statement and the next matter in the order of debate is the amendment in the name of the Minister for Treasury and Resources to reduce taxation income. I ask the Greffier to read the amendment.

The Deputy Greffier of the States:

On page 2, after the words “as set out in the Budget Statement” insert the words “accept that the estimate of total taxation revenue shall be reduced by £500,000 for the exemption from stamp duty on all transactions through the Jersey Homebuy Scheme for first time buyers.”

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

I said in my speech that I was anxious to try to help people get on to the housing ladder and to stimulate that I have made some concessions in terms of stamp duty for first time buyers. The properties encompassed in the Homebuy Scheme are somewhat unusual in terms of their treatment for stamp duty in that the stamp duty is payable on the full value of the property even though the purchase cost is initially a lower figure than this. For example, it may well be that the value of the property is, say, £400,000 but the purchaser initially only pays 75 per cent or £300,000, nonetheless, the stamp duty is calculated on the full value of the property. This struck me, on reflection, as being likely to have an adverse effect on people being able to buy on the Homebuy Scheme and I was anxious to ensure that that scheme did achieve its objective of getting more people into an affordable housing situation. Therefore, this amendment proposes that for those properties which are defined as Homebuy properties they too should be exempt from stamp duty. That is the purpose of the amendment and I so propose it.

The Bailiff:

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

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

Just a couple of points: this is welcome but we all know that the Homebuy Scheme has met with teething problems but with goodwill and energy I am sure they will be overcome. Can I ask the Minister what other thing he may have in the pipeline in order to stimulate the housing market? We all know that Homebuy only appeals to a certain group and we all know it has been confined to a certain group of property. Is there anything that he could add? Can I say, on a totally different matter, there has been a public accusation made by Deputy Southern that I am a fence-sitter of the lowest calibre. **[Laughter]** Could I say that my fence-sitting has been of the highest calibre **[Laughter]** and I am very proud.

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

I support this amendment, which is a sensible change in the current times but, as I said yesterday in questions to the Minister for Housing, I would like to see further revisions of the Jersey Homebuy Scheme to make it much more accessible.

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

I would like to congratulate the Minister for Treasury and Resources on bringing forward this amendment. It is exceedingly welcome and the Homebuy Scheme I hope will be the mechanism of driving forward affordable home ownership, not just on the present schemes but on all future large schemes. The Minister for Housing and I are currently working on a mechanism that hopefully will deliver Homebuy, as I have said, in many other large housing schemes in the future.

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

Before the Minister sits down, and it looks like he has just about done so, I wonder if I could press him on that statement he has just made which is that the Homebuy Scheme would be expanded to further future large schemes. My understanding was that was not the case, it was to be reviewed at the end of this particular batch of housing.

Senator F.E. Cohen:

The intention of Homebuy was always to extend the Homebuy Scheme. The current sites that are effectively Homebuy sites are being run as a trial. There will be amendments to the process and to the procedures but the intention is certainly to extend the concept of affordable home acquisition to many other Islanders in the future and to ensure that through a mechanism of planning obligations and other mechanisms we are able to maximise the opportunity for Islanders to purchase affordable homes on future large scheme sites. So, please regard the current system as a trial and there will be significant consultation at the end of the current trial.

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

The Minister for Treasury and Resources talks, as ever, in generalities and does not talk about hard things like how much and how many. How much, the question must be asked? What quantity of money does this save the purchasing couple? Despite the assurances of the Minister for Planning Environment that this scheme will roll on, it appears to me that the Homebuy Scheme is in rather desperate trouble. It appears not to be working well at all. I have seen no evidence that it is working. I have heard plenty of complaints that people still cannot afford to buy and cannot find the mortgages with which to buy.

The Bailiff:

Members must hear the Deputy, please. Please continue, Deputy.

Deputy G.P. Southern:

I have seen no evidence that the scheme is working and the desperation with which we are trying to make it work from this sort of device here. While I am on my feet I may as well take the time to apologise to the Member behind me for insulting, apparently, the quality of his fence-sitting. [Laughter] Had my email been designed for wider circulation I would, of course, have corrected it before I sent it and praised the quality of his fence-sitting. He is truly without equal in his fence-sitting. [Laughter]

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

Without doubt, this is probably one of the most pressing things, especially for our young people and the people who have always desired but not necessarily managed to achieve home ownership. It is a positive way forward. I am pleased by today's news. I would, however, desire the Minister, if he is able to, to give us an indication when the timescale is likely to come to fruition for extra homes because I think it is important. It also must be borne in mind that it is not just the homes themselves, it is the whole package of affordability in the round and I am sure that in the next period of time that the Treasurer, supported by this House, will endeavour to improve that that exists at this time, and I support this.

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

I understood from listening to the radio this week that the position for saving on this type of issue is something like £4,000 on a £400,000 house. While Members leap to their feet to congratulate the Minister for Treasury and Resources I am going to repeat what I have said before and I am going to repeat it and repeat it until it gets through; 48 per cent of people leaving the Island have housing qualifications. Those are not my figures, those are figures that were produced in the Housing Needs Survey that was produced in conjunction with the States Statistics Department and only 12 per cent of those returning have housing qualifications. It strikes me as somewhat bizarre in an

Island that has pride in itself, in making sure that people contribute before having these qualifications that we see so many people that are leaving with them. I am not saying that people should not leave Jersey. I did. Other people have and they have returned. But I think it is alarming that the cost of a first time home in Jersey these days is in excess of £400,000. That is borne out by the evidence that the States itself has tabled with 48 per cent - this was a few months ago now - of those leaving with housing qualifications. There now needs to be serious consideration in this Assembly and in the next Assembly to making sure that the requirements of the Planning Department and the Constables - especially large schemes that have been approved by the Constable of St. Helier recently - have obligations upon those people that are building apartments and houses to home the residents of Jersey that they are not just being built for the benefit of the pensions of people who do not live in this Island and the developers that are throwing them up. There is now a need for serious consideration, as in other places where there is a shortage of housing, for home ownership to be restricted to those that live in here. It may not be acceptable but it certainly needs consideration and I would urge Members to dwell on that. If it is not acceptable, fine, it is not acceptable, but we need to consider it.

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

First, this particular scheme is to be applauded for its initiative and assistance that it undoubtedly will give. I know that the shrewdness of the Minister for Treasury and Resources will have, I am sure, looked at the conditional aspect of any such arrangement. When it does take place I would ask that any person who aspires to gain support through this system, if they at some stage decide to move on, sell on - as we have witnessed and seen in many cases over the years of people who have gained assistance, they have gone away with a very, very large profit - that whatever is expended from the public funds that it is safeguarded and able to be reimbursed within that assistant scheme.

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

Just briefly; obviously I do welcome this and hopefully the people who have been saying that even with only being able to buy up to 65 per cent, it is a help. The problem is the people who are talking to me say this may help some. Up to about 6 months ago you were having banks offering you 10 times your wage and on £40,000 to £60,000 possibly you could get there; even 5 times your wage would just about get you 65 per cent of this house. These deals have now dried up. People were being offered mortgages up until they were 70, well beyond their working age, but, you know, as long as the money was there. We all know that the banks have now pulled back, so my plea again is to really seriously look if we want to help people in Jersey. It might be the time or it may not - and it certainly should not be the old States loan scheme - but if we have money around going from sales of houses, money from non-profit organisations at a sensible rate, a base rate that is comparable to the bank, I really think there is more that needs to be done because just by lowering this does not mean that people will get a mortgage, although I do thank the Minister for going this far. As I say, I really do hope in the next House whoever are the Ministers for Planning and Environment, Treasury and Resources, and Housing seriously sit down and talk to people who need the help and the best way to get it.

1.1.10 Deputy A. Breckon of St. Saviour:

I would echo some of what Deputy Martin has just said and also say it is welcome because when people are buying a house there are other costs as well and anything that reduces that has to be welcome. But somebody, I think it was when Deputy Southern was speaking, mentioned evidence. I remember the Minister for Planning and Environment and the Minister for Housing were in a bit of a hurry-up because people must be in by Christmas with this scheme. I may ask the Minister for Housing, he has not spoken yet, how many people will be in by Christmas because that would be evidence. I understand 12 houses were available on the scheme, therefore, if some people have benefited, and I think it supports this, then perhaps this could be even retrospective to them. But that is against a background where we have had 40 per cent house price inflation over the last 2

years. I would urge a degree of caution to enter into a market to prop it up when perhaps there may be - and I have an estate agent in front me - a level of correction and that, perhaps, should be allowed to happen because that will be a good thing. It will not satisfy everybody but it must indeed calm down. There is an old saying: "When the music stops make sure you have a seat." I think we probably have a situation like that here. The stamp duty is only a part of it and, as others have mentioned, affordability is another issue. I really think some of the groundwork that the Minister for Planning and Environment and the Minister for Housing have done we have to get behind and we have to make it more affordable for people. The scheme has been put in place. It was a trial. The stamp duty is an issue for people and is welcome as a gesture, I would say, at this stage because I am not convinced that the take-up will be there if people cannot afford and cannot get the money. It is a different climate to a year ago and I would ask Members to be aware of that. So although we are doing that, it could well be a gesture and I will look forward at some time in the future to someone reporting to see how effective this all is so that we can move it on and, hopefully, some people who need it get the benefit of it. As the Minister for Planning and Environment has said, it is not just about houses, it could be on apartments, it could be assisted in all sorts of areas but we need to have the structure in place, including the stamp duty, and we need to look at the share transfer part as well. This is welcome but I would like to see the evidence, some that may or may not happen at present and, also, in future somebody reporting back and saying this is what we have done and these are the people who have benefited, not individually, of course, but collectively.

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

I would just like a little bit of clarification from the Minister for Treasury and Resources with regard to the continuation of the exemption to subsequent buyers with his proposal. I am of the understanding that the Jersey Homebuy Scheme applied to properties involved in perpetuity. I just would like to know whether this exemption will continue throughout the life of the property.

1.1.12 Senator T.J. Le Main:

I would like just to follow up a point by Deputy Breckon and one or 2 others. The issue is that there are 11 buyers and 11 homes. The first lot of people will be able to transact early January on the Homebuy Scheme and we hope to have that ready before Christmas. I think, in view of the huge amount of support by Members in this Assembly and the need to look at where housing is going to go for first time buyers, particularly, none of us wanting green, open field sites. I think that the assistance the Scrutiny Sub-Panel did for Homebuyer worked out very, very well and that was a wonderful opportunity that we have grabbed with both arms, and I would rather hope that the Minister for Housing in the New Year will again ask the Scrutiny Panel to look at all the issues raised by Deputy Le Claire and others. There are some huge implications, I am sure the Minister for Treasury and Resources will say, on bringing back a States loan. I mean, you are going to need £1 million - a billion - in a very short time to just satisfy the need of what is waiting at the moment. There are all sorts of issues. But certainly the Minister for Housing and the Minister for Planning and Environment would welcome the Scrutiny Panel in the New Year to have a look at all these issues about share transfer, home ownership and all that sort of thing. I would welcome that and I would like to say a public thank you today to the Scrutiny Sub-Panel that did all the work on the recent Homebuy Scheme.

The Bailiff:

I call upon the Minister to reply.

1.1.13 Senator T.A. Le Sueur:

This amendment is not designed as a panacea to all ills of housing or all problems of stamp duty. This is a proposition to help in some small way a group of people in their quest to get on to the housing ladder. I thank Members for the confidence they have given in this additional support to that. In response to Deputy Le Hérissier, this by itself is not going to stimulate the Homebuy

market. I said yesterday that there are many other facets which will need to come in to affect the course of the properties. I think Deputy Breckon referred to the fact the prices have gone up by over 40 per cent in the last 2 years. There may well be a market correction and we will see some of that come down again. We need to ensure that there is ongoing economic confidence because unless there is that confidence people will not buy. They have to have incomes which enable them to afford that. But we can look at other aspects of stamp duty; we can look at mortgage interest relief. That is outside the remit of this current proposition because, as I say, it is a very narrow one just to help on the stamp duty for the Homebuy Scheme. Deputy Southern asks how much benefit in hard cash terms it will bring in. Well clearly that depends on the value of the property, but as a rough indication it would be something probably in the region of £5,000 to £7,000 on the value of a typical Homebuy house at the current time. Maybe not enough by itself but at least it is an additional help which otherwise would not be there, and I think at this time any little help like that can only be to advantage. I think Senator Le Main dealt with Deputy Fox's question about when this will come into effect. I think Deputy Le Claire was talking about more general housing policy which we do need to look at and that, I think, has been picked up by a few people. As to what happens when a Homebuy house gets sold - when that profit is realised much of it goes back; 35 per cent of which is outstanding to the original developer trust. The Constable of St. Brelade asked if this would continue to subsequent buyers. No, Homebuy applies only to the first occupants of that property, so it is a one-off arrangement. I think that probably deals with all the comments. I thank Members for their support. As I say, it is not enough by itself but I am sure that the Minister for Housing, the Minister for Planning and Environment and other Ministers will look in the New Year at what else can be done in order to keep the housing market ticking over. Meanwhile, I maintain the amendment which I think I can take by standing vote.

The Bailiff:

Those Members in favour of adopting the Amendment kindly show. Those against? The Amendment is adopted.

2. Draft Budget Statement 2009 (P.158/2008): fifth amendment (P.158/2008 (Amd. 5))

The Bailiff:

The next is amendment number 5 in the name of the Minister for Treasury and Resources. The Greffier reminds me that first of all I have to ask the Assembly whether Members are prepared to debate the amendment which has been lodged for less than 2 weeks. Are Members content to proceed? Very well, I ask the Greffier to read the amendment.

The Deputy Greffier of the States:

On page 2 rename the proposition as paragraph (a) and add a new paragraph (b) as follows: "(b) to agree that the sum of £63 million should be transferred from the Consolidated Fund to the Stabilisation Fund in 2009."

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

When the States set up the Fiscal Policy Panel a couple of years back one of the tasks they gave to that panel was to request the panel to advise the Minister for Treasury and Resources on the appropriateness of monies to be transferred to and from the Stabilisation Fund and the Strategic Reserve. Their recommendations to me are not binding. I have to consider them and, if I think they are good ones, present them to the States for approval. In their report in September the panel recommended at that time that there should be no transfers to or from either the Stabilisation Fund or the Strategic Reserve. I did ask the panel to do a supplementary report in the light of changing economic conditions and that report was presented to me and to States Members just under 2 weeks ago and I have a copy there, which I hope all Members will have read by now, setting out their up-to-date views. Their up-to-date view is that in the current economic climate we should put more money into the Stabilisation Fund to prepare for a potential significant economic downturn

sometime in the future. I recognise that as being good economic advice and I hope Members do as well. Because it only was given to me less than 2 weeks ago I did not have the chance to lodge this at the time of the original budget, but having received the updated information I feel it is only correct that we should now act upon it and that is why I lodged this proposition at relatively short notice. The reasoning behind it, which I have outlined, is also contained in that report. It makes absolute sense to me; it is consistent with what I said yesterday in my opening speech on this Budget, that we need to be well prepared in the event of future economic decline and that this will make the Stabilisation Fund into a sound and suitable vehicle. It does not affect the overall States finances; it is really simply a matter of transferring it from your current account to your deposit account. It still earns the same amount of interest but what it does is place it in what is the more appropriate, more correct pot. I propose the amendment.

The Bailiff:

Does anyone second it? [**Seconded**] Does any Member wish to speak?

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

I will be very brief. I do not expect that I am ever going to get Senator Walker - when he was threatening to resign 2 and a half to 3 years ago over the establishment of a Stabilisation Fund in the Strategic debate of 2 and a half years ago - to say: "You were right." But I was and I am quite heartened by a few words that Senator Le Sueur said a few weeks ago which were: "I do not know why we did not do this many years ago." That is heartening and I will stop harping on at this point. There is just one point I would make and that is that the advice from the Fiscal Policy Panel of about 3 or 4 months ago before the State Business Plan was that we also should not be spending more money, and that was ignored. I just point that out to Members because over the next 3 years, through the chair, you lot are going to get some stuff to deal with. I will not but I will be watching.

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

A very simple question to the Minister; he just referred to the interest earned on both of these funds and I wonder whether he will advise us what the rate is, currently, please.

2.1.3 Deputy G.W.J. de Faye of St. Helier (The Minister for Transport and Technical Services):

I have been waging a quiet battle behind the scenes but regrettably the flag will be withdrawn from the battlefield shortly so I am hoping I can pass the banner on to at least one other States Member. To some extent, this revolves around the workings and understanding of the fascinating world of accountancy where knowledge of law and a useful pocket calculator brings you a level of status, and due understanding of headings brings you into potentially a world of creative accountancy. I am a strong believer in positive communication and communication is important for the States, particularly when members of the public need to understand what we are doing. What are we doing when we are moving money between - is it the Rainy Day Fund, the Strategic Reserve, the Consolidated Fund, the Stabilisation Fund, the Capital Works Programme, the Rolling Revenue Budget? What are we doing? I have almost lost track in this short debate already. I have been pleading quietly behind the scenes that can we get some consistency about names and names for the right sort of budget so that they sound as though they are doing what they are supposed to be doing. I have to say that it does strike me that the fund that we really should not be touching, the one that has dug deep with the famous Treasury padlocks on it: "15 men on a dead man's chest", that should be the Consolidated Fund. "Consolidated" sounds solid to me. The one in the middle where we pour the money, as it were, on a see-saw basis from one side to the other, that really does sound more like a Stabilisation Fund to me, in fact, and is probably more Strategic. Then, of course, we have the rolling business of the annual budgets, expenses and costs. So could I just plead with the Minister for Treasury and Resources, at some point would he get together with someone sharp, in public relations terms, and get all our nomenclatures sorted in a nice and easy way so we can all

understand and can we start dropping references to rainy day funds because it rains an awful lot in Jersey and people are not quite sure how rainy it is, and when the rainy day fund should be assaulted or not. On that brief note I will, of course, be backing this amendment.

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

I would just like to rise to support my Minister in this amendment which leads on from the Fiscal Policy Panel's review. I hope that all Members feel that they are able to support this, notwithstanding the slight confusion that Deputy de Faye seems to be encountering about naming of funds. It is important that there are sufficient monies in this particular fund which is what it says, stabilisation for the more difficult times that we are going to face as a community and as an economy. I would say, and this maybe is tempting fate, that the vote that we are about to go to now, hopefully is the easy bit and that Members will support it and we will allocate this money to this purpose. The difficult question will be in the future and that will be when ought we to spend it and what ought we to spend it on? I believe that that must continue to be directed by the Fiscal Policy Panel and we need to make sure that we start to get our heads round what exactly the trigger will be for the spending of this money. I hope that Members will support this easy decision but also look forward to the day of the difficult decision when we might need to spend this money.

2.1.5 Deputy C.J. Scott Warren:

I will support this amendment as we have been given the assurance that there will remain sufficient money in the Consolidation Fund.

2.1.6 Senator J.L. Perchard:

Further to that, really was to ask about the sums of money remaining in the Consolidated Fund and to endorse the points made by Deputy de Faye. These funds are strangely named and they have different functions. I think it would be quite useful for the new Minister for Treasury and Resources to consider the points made by Deputy de Faye and outline for Members the 3 types of funds, suggest possibly renaming them more appropriately and explain to Members exactly how these funds can be accessed. Basically the move of £63 million to the Stabilisation Fund limits access. The thing is there is some ignorance among us all as to who, how and when these different funds can be accessed. So, endorsing what Deputy de Faye says and just asking the Minister to remind us how much is in the Consolidated Fund and, in the event of an emergency next week, and we needed to access funds immediately, how would we do it?

The Bailiff:

I call upon the Minister to reply.

2.1.7 Senator T.A. Le Sueur:

I very much take on board the comment of Deputy de Faye, I think echoed by Deputy Gorst and others, about the communications and maybe the misleading titles we have for some of these things. I would be more than happy to rename the Consolidated Fund as something else because I have difficulty in saying "consolidated". But there ought to be a better reason than that. If Members think of the Consolidated Fund as our current account and the Stabilisation Fund as the short-term deposit account, the Rainy Day Fund as our sort of long-term backstop, the chest with 15 men on it, as Deputy de Faye would say. Going back to more serious matters, Deputy Mezbourian asked about the current yield on the Stabilisation Fund. That is fluctuating from day-to-day and I cannot give an up-to-date figure. The most recent figures have been an average of 5.5 per cent on the yield but, clearly, in the current economic climate that is likely to be going downwards. I cannot give an up-to-date figure and it would not be particularly relevant to give it on a daily basis, it would on the year. But the most recent information I have, contained in the Budget book, I think, is 5.7 per cent. Deputy Scott Warren agrees there is sufficient money left in the funds. Senator Perchard wants to know how much is left in the funds. After this transfer we still have £20 million left in the funds and, in my opinion, and in his too, apparently, that is more

than sufficient to see through the coming year. He suggested there could be a dramatic disaster next week. I rather think not. We are talking about revenue forecasts which in the main have been pretty well firmed up now, in terms of income tax revenues and G.S.T. (Goods and Services Tax) revenues. Perhaps while I am talking about forecasting I could close by thanking the Scrutiny Panels for their recent comments on the financial forecasting and the work that they have done over the years. I agree with Deputy Ryan that we need to pay much more attention to the advice of the Fiscal Policy Panel and also listen to that of the Scrutiny Panel. One of the Scrutiny Panel's recommendations, for those who have not yet had a chance to read it, is that our forecasting might show a range or spread of possibilities rather than a single figure and if Members turn to the second page of my amendment they will see that the Fiscal Policy Panel did just that in terms of their range of future economic growth for 2009. They give the likely expectation and the extremes up and down of how that might change. I think that is an indication of what the panel itself was suggesting we might do more generally, in terms of forecasting. With those words, I thank Members for what appears to be pretty general support for this amendment and again I put it to a standing vote.

The Bailiff:

Very well, I propose that the *défaut* on Deputy Pitman be raised. Those in favour? Those against? The *défaut* is raised. I put the amendment of the Minister for Treasury and Resources. Those Members in favour of adopting it kindly show. Those against? The amendment is adopted.

3. Draft Budget Statement 2009 (P.158/2008) as amended

The Bailiff:

The debate now returns to the principle proposition of the Minister for Treasury and Resources, amended, as Members will know, by the 2 amendments which have just been adopted. Does any Member wish to speak on the proposition? Minister, do you wish to say anything in reply to the matter overall?

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

No. I hope that maybe the applause that I received at the end of speech yesterday afternoon is indicative of the fact that Members generally welcome these Budget proposals. We have the one amendment of the Deputy of St. Ouen which will incorporate into the final proposition together with those that I have just proposed and I thank Members for their support. As I said in my introduction, I believe we are in a sound position going forward and I want to ensure that that remains the situation. I am grateful for Members' support in this Budget proposal and I formally propose it. Maybe as it is such an important document, although there is approval, I would ask for an *appel*.

The Bailiff:

I would ask any Member in the precinct who wishes to vote on this matter to return to his or her seat. I ask the Greffier to open the voting which is for or against the Minister for Treasury and Resources' proposition.

POUR: 41		CONTRE: 1		ABSTAIN: 0
Senator L. Norman		Deputy G.C.L. Baudains (C)		
Senator T.A. Le Sueur				
Senator P.F. Routier				

Senator P.F.C. Ozouf				
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. Lawrence				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy J.J. Huet (H)				
Deputy of St. Martin				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				

Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (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 K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				

4. Draft Finance (2009 Budget) (Jersey) Law 200- (P.159/2008)

The Bailiff:

Now the Assembly turns to give effect to the decisions which have been made pursuant to Article 17 of the Public Finances Law and the first taxation draft is the Draft Finance (2009 Budget) (Jersey) Law 200- and I ask the Greffier to read the citation to the draft.

The Deputy Greffier of the States:

Draft Finance (2009 Budget) (Jersey) Law 200-: a law to set the standard rate of income tax for 2009; to amend further the Stamp Duties and Fees (Jersey) 1998 and to amend further the Customs and Excise (Jersey) Law 1999. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

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

This is the legislation which puts into effect the proposals we have just agreed in the Budget proposition: proposals firstly in respect of the rate of income tax, which is paid at 20 per cent or 20 pence in the pound. Maybe I had better stop at that point and propose Article 1 because in relation to stamp duty and fees there will be an amendment to Article 2, unless the House is prepared to adopt the law as amended.

The Bailiff:

Can we proceed with the principles of the draft?

Senator T.A. Le Sueur:

Yes, Sir.

The Bailiff:

Seconded? [**Seconded**] Does anyone wish to speak on the principles of the bill?

4.1.1 Senator J.L. Perchard:

I am not sure if it timely, perhaps you could advise me whether I am speaking at the right time. I wanted to know why the Minister has decided to exclude the proposal for deemed rent to be included in his Budget plans. Would this be the right time for me to ask that question?

The Bailiff:

It is an omission. It is not contained in the Articles, no. I think this is the proper moment to raise it then.

Senator J.L. Perchard:

The Minister will know that the Corporate Services Scrutiny Panel under my chairmanship, going back 18 months, was very enthusiastic to find a solution, as in fact the Treasury were, to the problem created by Zero/Ten in the sense that non-locally owned businesses trading in Jersey would pay, effectively, no tax. The Treasury themselves came up with a proposal to introduce what they called the R.U.D.L. (Regulation of Undertakings Development Law) charge, which was a tax on employees, and locally-owned businesses could claim it back before paying profits to their shareholders. Non-locally owned businesses would effectively be liable but on further inspection by the Treasury and ourselves it was deemed that the R.U.D.L. charge would not achieve that and it would be a further Payroll Tax, effectively. It was abandoned and rightly so. We pursued it at Corporate Services, the principle of try to find a mechanism for non-locally owned trading in Jersey to contribute to the exchequer. We were delighted to come up with a plan. The seeds were sown by Jurat Blampied where effectively a tax would be levied on property under the Schedule A clause of the current income tax law appropriate to the rent. The rent of that property would be actual or deemed. The deemed rent would be assessed in parallel to the Parish rates and this would have the effect, we felt, potentially of not forcing any business' costs up and that Jersey-owned businesses trading on the Island would be able to claim this contribution back if they made profits. Non-locally owned businesses trading on the Island would effectively pay a contribution of 20 per cent of their actual or deemed rent. We were very excited when the Treasury said that they endorsed this and it was a great win for Scrutiny. I was really excited when the Minister decided to include it in his Budget proposals but very disappointed when he withdrew it at the last minute. I know there has been another intervention at the outgoing Scrutiny Panel, which I do think was inappropriate, but I do want to ask the Minister if this is temporary and will he be bringing it back or is it going to have to come from a private Member?

4.1.2 Senator B.E. Shenton (The Minister for Health and Social Services):

I would just like to ask the Minister whether the proposals of the Scrutiny Panel, with regard to the Blampied proposal, were in fact fairly flawed? A lot more work is needed. It does not take into account the profitability of the underlying company and would cause chaos in a number of sectors of the Island, including the tourism and the retail sector. Basically, at the moment as the proposal stood it did not do what it said on the tin and a lot more work is required.

4.1.3 Deputy I.J. Gorst:

I must just rise after that last speech there. I was not sure if that was Senator Shenton or another member of his family speaking. While I think it was and is right that the Treasury Department has taken these particular proposals from this Budget and will review them at the request of the Corporate Services Scrutiny Panel, that is exactly how Ministers' departments and Scrutiny should work. If there are issues that need to be addressed then they should be addressed together, not separately and not divisively. Where I do part company with Senator Shenton is that while he says that these proposals need a great deal more work on them, I am not certain that the amount of work needed is, as he says, a great deal. There are some issues that need addressing, probably about carrying forward losses and how that can be offset, as he says, because it deals with profitability of certain sectors. We must remember that this is a cost for foreign-owned businesses doing business within the Island and it is an ultimate cost that they will not necessarily be able to offset. So I do welcome the review that will take place with the new Corporate Services Scrutiny Panel but I, for one, believe that these proposals will be back once they have been refined and made more fit for purpose, shall we say.

4.1.4 Senator P.F.C. Ozouf (The Minister for Economic Development):

Can I just say that I believe that Senator Shenton is partly right in what he says on the need for a significant amount of additional work to be carried out. I looked at the proposals, wearing my hat as Minister for Economic Development, and was concerned about the fact that there would be an unfairness; it would create a barrier for new foreign, non-Jersey investment in Jersey, it would create an un-level playing field. I am afraid that Senator Perchard is not absolutely right when he said that foreign businesses do not pay anything. They may not be paying anything locally but they will be paying tax in their home jurisdiction. This is a problem. It is an issue which we have to do more work on. One of the other unintended consequences of the proposals would have been for foreign businesses, whether it be a major High Street retailer that owns their property, they would, effectively, have sold that property into some sort of property fund. You would have seen, effectively, a large amount of non-Jersey owned commercial property being sold off because that would have been a way round these proposals. I do accept the principle reasons why we are still trying to find a solution to the Zero/Ten issue for foreign businesses but I am afraid that if those proposals had been included in this year's budget I would not have supported them. We need to do far more work to close the loopholes and to ensure that we are not doing anything which disincentivises businesses investing in Jersey.

4.1.5 Deputy G.P. Southern:

Once again I rise to my feet to agree with my opposite number there, the Minister for Economic Development. I could not agree more with him about his reservations around this particular proposal. But I think it is worse than that. I seek reassurance from the Minister for Treasury and Resources that he in turn has reassurance from H.M. (Her Majesty's) Treasury in the U.K. (United Kingdom) that this deemed rent will be acceptable and not seen as a simple way of avoiding taxation, a device merely to avoid taxation which would be ruled out of order by H.M. Treasury. I do not know where he has got his advice from but I am glad he is withdrawing it for the moment because he would have forced me, along with the Minister for Economic Development, to vote against the proposal had it still been in the budget. But time for the new Corporate Services Panel to examine it in detail and, in particular, with reference to that assurance that the Treasury in the U.K. is not going to simply rule this out of order because that is my submission.

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

I would just like to remind Members on this particular issue that there was always a risk that when we went to Zero/Ten these issues would occur. We have made that decision now, we cannot start twiddling with it again and this was kind of almost like a knee-jerk reaction to satisfy public opinion that some of these non-local companies were not going to be paying any tax. They will be paying tax but in their own countries. We must stick to the principles. I would urge Members not to deviate from those otherwise you are going to start taking one of those legs away from the stool, which we discussed yesterday. I would urge Members to be very, very careful when they debate this hopefully in the future. I understand the reason why the Minister has only put it in now, because it has been delayed for further consultation and that is absolutely right. Senator Ozouf mentioned the investment market. There is quite a big market here for investment, for example, from pension funds and properties in Jersey and this could severely impact that property market. There is quite a big issue here which Members need to be very mindful of and a lot more work needs to be done on it. I would urge Members not to rush into anything and abolish the whole principle of Zero/Ten in doing so. I would urge a huge amount of caution on this and do the proper consultation before you get any further with pursuing this particular item.

The Bailiff:

I call upon the Minister to reply.

4.1.7 Senator T.A. Le Sueur:

I thought I was dealing with the preamble to the amendment to the Stamp Duties and Budget things. Anyway, the question has been raised and quite rightly. It gives me a chance to respond to that. I thought that Members were aware that following discussions with the Corporate Affairs Scrutiny Panel, of which I know Senator Perchard was a member before he became an Assistant Minister, we discussed further the Blampied proposals as lodged by me and agreed that it needed some further review. For that reason I agreed with their suggestion that we withdraw it from today's Budget discussions. It is still on the table for review. I hope that the newly formed panel next year will look at this in early course and if there are amendments then let them be brought forward. I think, as ever, there is a variety of views about those proposals and the time for discussing them will be when the law is brought back to the States in whatever form that may be, either in its current form or as amended as a result of the advice of that panel. I take the views of the Deputy of St. John but I think there was a general feeling at that time that States Members wanted this sort of legislation and, acting on that, I brought legislation to the House. Deputy Southern asked that in the meantime we seek reassurance from H.M.R.C. (Her Majesty's Revenue and Customs) that this is not a device. That is a question which I raised myself some months ago because the same thought had occurred to me. It is amazing how great minds think alike sometimes, but flattery will get me nowhere, I am sure. I think the advice I got back was that this was not a device. It is not advice from the H.M.R.C; it is advice from the local tax department based on their discussions. We are never going to get advice from H.M.R.C. on our own tax laws, and quite rightly. All we can do is seek the best possible external advice and information. But I do think that we are straying from the preamble to this particular law, which is about the Budget amendments on duties and so on for which there seem to be no comments about the preamble which I, therefore, maintain.

The Bailiff:

I put the principles of the bill. Those Members in favour of adopting them kindly show. Those against? The principles are adopted. Do you move Article 1, Minister?

4.2 Senator T.A. Le Sueur:

Article 1 which is rate of income tax of 20 per cent as before.

The Bailiff:

Seconded, Minister? **[Seconded]** Does any Member wish to speak on Article 1? I put Article 1. Those Members in favour of adopting it kindly show. Those against? Article 1 is adopted. You move Article 2 amended by the amendment which you have lodged, Minister?

4.3 Senator T.A. Le Sueur:

That is correct. The amendment which I lodged reflects the Homebuy amendment we just passed this morning. I do not think there is any need to read it out. I think it is fairly clear that the amendment simply implements that decision. I move Part 2 as amended.

The Bailiff:

Article 2 as amended. **[Seconded]** Does any Member wish to speak? I put Article 2. Those Members in favour of adopting it kindly show. Those against? Article 2 is adopted.

4.4 Senator T.A. Le Sueur:

Articles 3, 4, 5 and 6 deal with the impôts duty on alcohol and tobacco and in the final article on the citation ...

The Bailiff:

They are, in fact, all one on the Bill, Minister, so you can propose Articles 3 and 4 together.

Senator T.A. Le Sueur:

Articles 3 and 4 together, yes.

The Bailiff:

They are seconded? [Seconded]

4.4.1 Deputy A. Breckon:

I think this is something that Senator Ozouf and I are at one on; the unexplained margins that are in here with some of these. I wonder if the Minister would like to say what he believes the inflationary effect will be of that and also, and I hope Senator Ozouf will join in as well, if there is any pressure that we could bring to bear to make sure that what we have proposed happens and not somebody profiteering from it, which I believe is the case at the moment.

4.4.2 Senator P.F.C. Ozouf:

I am pleased that Deputy Breckon and I find something to agree on, and he is absolutely right in respect of the unexplained margin difference that exists both in terms of alcohol, in terms of tobacco and in terms of petrol duty. The solution to that issue is ensuring there are competitive markets in the Island and also that consumers are informed about these issues. It is the good work of the Consumer Council in publishing information and, indeed, the good work of the J.E.P. (*Jersey Evening Post*) in terms of their fair trade pages that have raised awareness of these issues. We had improved the situation in respect of petrol. Yesterday I had a note concerning the margin differential on petrol. It appears that crude prices have fallen in sterling terms by 60 per cent and as yet petrol prices at the pump have only fallen by 40 per cent. Members are aware that I have an interest in a commercial property so I do not comment about the petrol issue. I have nothing to do with the business, it is just there as a linked issue but there certainly is a remaining concern about the stickiness of petrol prices and, indeed, something I am going to be asking for the J.C.R.A. (Jersey Competition Regulatory Authority) to watch and be vigilant about. There remains an unexplained and serious difference in relation to the underlying cost of tobacco taking out the duty and G.S.T. on a packet of cigarettes. It is a fact that in the U.K. a packet of cigarettes cost about £1.10. In Jersey it is over £2 the last time I looked at it. I am afraid it does not cost 90 pence to move a packet of 20 cigarettes and, indeed, to put the Channel Island warning on them. That is an unexplained issue which must be dealt with. In respect of the alcohol duties, I think that there is going to be a requirement to have a further debate about duty policy in relation to alcohol and that is something that will happen, I hope, with the publication of the *Green Paper* on licensing and we have a stimulating debate about the future of alcohol policy in Jersey.

The Bailiff:

I call upon the Minister to reply.

4.4.3 Senator T.A. Le Sueur:

I think the main concern from Deputy Breckon was the inflationary effect of these price increases. As I indicated in the Budget speech, about 0.1 per cent into impôts duty alone, the affect is similar to last year although the increases in percentage terms for alcohol and tobacco are slightly higher than last year, there has been no increase in the impôts duty on fuel. So the overall effect on the R.P.I. (Retail Price Index) is much the same. I share with him and Senator Ozouf concerns about margins which have been highlighted for some time now in Budget books. That is something which is not controlled by impôts duty but should, perhaps, be controlled through competition mechanisms or pressure being brought in other ways on the retailers in the industry concerned. That is not, however, the function of the impôts duty, which is to collect duty on the items themselves. I maintain Articles 3 and 4.

The Bailiff:

I put Articles 3 and 4 of the bill. Those Members in favour of adopting them kindly show. Those against? They are adopted and you will move the bill in third Reading?

Senator T.A. Le Sueur:

I do, yes, please.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on the bill in third reading? I put the bill. Those Members in favour of adopting it kindly show. Those against? The bill is adopted in third reading. The Assembly now moves to consider the Acte Operatoire to give immediate effect to the Finance Law which the Assembly has just passed and I ask the Greffier to read the long title of the Act.

The Greffier of the States:

Act declaring the Finance (2009 Budget) (Jersey) Law 200- shall have immediate effect. The States in pursuance of Article 19 of the Public Finances (Jersey) Law 2005 have made the following Act.

4.5 Senator T.A. Le Sueur:

This is the traditional way of ensuring that the legislation we have just passed, although it will go to the Privy Council, will come into effect immediately. I say come into effect immediately although Article 4 of the law says that the effective date will be 1st January 2009 but the law by being passed today with immediate effect allows that to happen. I propose the Act.

The Bailiff:

Is the Act seconded? **[Seconded]** Does any Member wish to speak on the draft Acte Operatoire? I put the proposition. Those Members in favour of adopting it kindly show. Those against? The Act is adopted.

5. Draft Income Tax (Amendment No. 31) (Jersey) Law 200- (P.160/2008)

The Bailiff:

We come next to the Draft Income Tax (Amendment No. 31) (Jersey) Law 200- and I ask the Greffier to read the citation to the draft.

The Greffier of the States:

Draft Income Tax (Amendment No. 31) (Jersey) Law 200-: the law to amend further the Income Tax (Jersey) Law 1961. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

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

I should perhaps begin by pointing out that as a result of the amendment of the Deputy of St. Ouen the amount of revenue to be raised from the taxation in the year 2009 has changed by £500,000 as a result of his successful amendment on child allowance. That will need to be taken into account on a last minute amendment to the Income Tax Law, which I do not know if it has yet been distributed to Members.

The Bailiff:

It is coming round.

Senator T.A. Le Sueur:

It is coming round as we speak. In that case maybe for the sake of formality I ought to record that the Budget proposition we passed about 10 minutes ago was, of course, as amended by the successful Members. I take it Members appreciated that. The amendment relating to that successful one from the Deputy of St. Ouen has now been circulated but in dealing with the preamble to this law this law really reflects the income tax arrangements for the coming year and put into effect the proposals which I outlined in my Budget statement and which, with the exception

of that of the Deputy of St. Ouen, were adopted. The law reflects those in legislation and I propose the preamble.

The Bailiff:

The principles of the law 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.

5.2 Senator T.A. Le Sueur:

I think it might be appropriate to deal with these in parts. I propose Part 1, which is just preliminary and Part 2, which deals with the pension arrangements as amended by proposal, which I will also like to make, which has been lodged separately.

The Bailiff:

Very well, parts 1 and 2, Article 1 to 7 of the bill are proposed and seconded? **[Seconded]** Members should be aware that in Article 3 and in Article 4, of course, there are amendments which the Minister for Treasury and Resources has lodged, substituting £50,000 for £250,000. Does any Member wish to speak on any of these articles as amended?

5.2.1 Deputy R.G. Le Hérisier:

We are debating the amendment of the reduction of £250,000 to £50,000 for the proposal?

The Bailiff:

The Minister for Treasury and Resources has proposed these Articles as amended by his amendment so you may set the address at that point.

Deputy R.G. Le Hérisier:

I wonder if the Minister could elaborate. There are people confused as well as sitting on the fence and it strikes me we were moving into an area when self provision of pensions was very important and we all know it is not quite the glorious era that it was painted as. I wonder if he could explain why, when we are being told you should be making your own provision be you in a self-employed situation, for example, there has been this sudden drop. Jersey has been slow to allow tax shelters for pension purposes. It has been very slow and we know there is a lot of work being done at the moment to try and increase those possibilities. I just do not understand why this massive drop.

The Bailiff:

I call upon the Minister to reply.

5.2.2 Senator T.A. Le Sueur:

Yes, I am happy to explain further to Deputy Le Hérisier and to Members. Although this is a reduction in terms of the legislation, it is an increase in terms of where we previously were. We were previously at figures of £30,000 and £35,000. So it is an increase from the present level. It is less of an increase that it would otherwise have been but it is, nonetheless, an increase. He talks about that I am being slow to adopt tax shelters for pensions. No, I think the proposals here make pensions far more accessible, far more flexible and far more likely to be used by contributors and I think this is a step in the right direction and done with the support of the pensioners' industry. It is, as I say, a step in the right direction and my intention is that there will be further steps in that direction and that £50,000 limit may well go up in the future. But he talks about tax shelters and one of the corollaries of tax shelters is that they are also available for tax planning and a figure of £250,000 could lead to aggressive tax planning using pension products for the wrong reasons. For that reason I think the H.M.R.C. in the U.K. is having second thoughts about their ceiling and reviewing that. Rather than raise the figure this year and then have to reduce it next year I thought it was far better to do it in stages gradually starting with the £50,000 and working our way up in the

light of experience and in the light of experience not just here but in the U.K. as well. My intention remains to make pensions more attractive, more flexible and to increase that limit to a workable balanced figure. But I think a contribution rate of £50,000 a year is not unreasonable for the average pensioner, in fact I suspect there are a few people around the room who would wish to contribute £50,000 pension premium in the year to their pension pot, but that remains a matter available. So that is the explanation for the so-called reduction but it is, in fact, an increase but a lesser increase. There being no other questions I maintain the ... I am not sure we were on the ...

The Bailiff:

Part 1 and 2.

Senator T.A. Le Sueur:

Part 1 and 2?

The Bailiff:

As amended, yes. Before I put the proposition I think I should have asked Members beforehand whether they were willing to debate the amendments of the Minister for Treasury and Resources, they having been lodged only on 24th November. But no Member has raised any dissent so I assume from that Members are prepared to do so. So I put therefore parts 1 and 2 as amended by the Minister for Treasury and Resources. Those Members in favour of adopting those articles kindly show. Those against. The articles are adopted.

5.3 Senator T.A. Le Sueur:

I think then, I would be happy to take parts 3, 4, 5, 6 and 7 *en bloc* recognising that they cover a variety of miscellaneous areas and I would be happy to take questions on any of those areas should they arise.

The Bailiff:

Very well. The remaining articles of the bill, Articles 8 to 23 are proposed and seconded? **[Seconded]** Does any Member wish to speak on any of those articles?

5.3.1 The Deputy of St. John:

I am not sure it is an appropriate moment to mention this, but the Minister for Treasury and Resources mentioned that one of the ideas of the £250,000 being removed is so that aggressive tax planning does not become an issue. He did something similar with relief on investment plans but it was removed completely thus preventing people the opportunity, in some cases, in investing in funds that would provide funds, for example, for education and health, and that has been removed completely. Will the Minister at any stage in the future reconsider that so that it encourages people to save for things like health and education in a similar way, which we are clearly encouraging people to do here with pensions, which I applaud, and we are putting things in there to prevent abuse of it by aggressive tax planning, he did remove it completely for other vehicles. Will he be reconsidering that in the future?

The Bailiff:

Minister, before I ask you to reply to that point, I wonder if you might perhaps address the amendment which I hope has been circulated to Members to give effect to the amendment of the Deputy of St. Ouen on child allowance. There is an amendment to page 21, a new Article 20 has been inserted.

Senator T.A. Le Sueur:

Sorry, Sir, I have so much paper on my desk that one slipped past me. I should not maybe have gone as far as ... but having proposed them I think the answer is probably for me to propose the articles with Article 20 as amended by the Deputy of St. Ouen.

The Bailiff:

Does any other Member wish to speak on any of these articles of the bill and the amendment relating to the Deputy of St. Ouen's amendment which, as I say, has been circulated recently to Members? I call upon the Minister for Treasury and Resources to respond.

5.3.2 Senator T.A. Le Sueur:

The only question raised was that by the Deputy of St. John about relief on investment plans. I have to say that concerns have not reached my ears about any shortcomings or lack of opportunity in terms of those plans, but having raised it I would be happy to pursue that and maybe the Deputy could give me chapter and verse afterwards because it is my intention as a policy to find ways of encouraging people to save, be that through pensions or be that through investment plans or so on. If that can be done in a way which is consistent with reasonable taxation activities then I am more than happy to pursue that. I am confident that the Comptroller of Income Tax has adequate powers to avoid or to counter any abuse of those plans should that occur, but if we can use this to stimulate savings and investment at any time I would be more than happy to look into that. The intention was not to deny people that opportunity but simply, I think, as the Deputy understands, to avoid aggressive tax planning. If it has gone too far then I would be happy to let the pendulum swing back the other way. I thank the Deputy for his comments and I maintain the articles.

The Bailiff:

I put Articles 8 to 23 as amended, those Members in favour of adopting them kindly show. Those against? The articles of the bill are adopted. Do you move the bill in third reading, Minister?

5.4 Senator T.A. Le Sueur:

I do, Sir.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on the bill in third reading?

5.4.1 Deputy R.G. Le Hérissier:

Just a general point which was addressed earlier. As one goes round and people are asked the inevitable question: "Well, what would you put in place of G.S.T.?" some people suggest, of course, a penny or a percentage on income tax. Now 20 per cent has become the Holy Grail and I understand in one of these little interesting historical footnotes, it was put in place, I think, in the first year of German occupation by the States. I wonder if the Minister could comment on why it has become such a Holy Grail and whether he feels that at any point in time there might be a change?

The Bailiff:

I call upon the Minister to reply to that philosophical question. **[Laughter]**

5.4.2 Senator T.A. Le Sueur:

I am prepared for any questions, I hope, and certainly the Deputy is quite right. It was in 1940 that it was changed to 20 per cent, interestingly enough, because at that time there was not free circulation of capital in the world because the Island was cut off. But I think the more general question is the 20 per cent rate fixed. Well, no it is not, it is agreed each year in this budget's proposition and is up to Members, if they think that a more suitable rate should be proposed, that that could be put forward. But I do remind the Deputy and Members that we discussed this in some detail when we were discussing the fiscal strategy some 4 or 5 years ago now, I suppose, that there were alternatives to G.S.T. as I may need to remind some Members. There were and there are alternatives to G.S.T. The reason we did not adopt them, because we felt that they were all significantly worse than G.S.T. That remains my view. I think it is the general view that income tax rates and corporate tax rates around the world are coming down rather than up, and I think the

Deputy was suggesting they might go up. So we would be bucking the trend there. I think that the third reading of this law is probably not the time to have a revisitation of fiscal strategy but if it keeps the Deputy happy and understands the mechanism for changing the income tax rate, yes, it is possible to do that but we should not do it just on a whim. We should do it as part of an overall fiscal strategy as we have done and which I hope we will continue to do so. I maintain the bill in third reading.

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. Now we come to the Acte Operatoire to give immediate effect to the bill the Assembly has just adopted and I ask the Greffier to read the long title.

The Greffier of the States:

Acts declaring that the Income Tax (Amendment No. 31) (Jersey) Law 200- shall have immediate effect. The States in pursuance of Article 19 of the Public Finances (Jersey) Law 2005 have made the following Act.

5.5 Senator T.A. Le Sueur:

This is again similar to the reasoning behind the last Acte Operatoire and this Act has the effect of bringing this law into effect. While I am on my feet, and I seem to have been carried away with exuberance at times this morning, because when I said that the budget figure for 2009 had been amended, the figure of course was amended not in respect of the Deputy of St. Ouen's child allowance which affected 2010, it is in effect of the Homebuyers Scheme which happens to be a similar figure and I put 2 and 2 together the wrong way, but anyway the figure was the same but for the wrong reason. So I thought I would just clarify that, that the Homebuyer effectively takes place now but the child allowance takes place subsequently. It also, of course, in that amendment, accounted for the £63 million transfer to the stabilisation fund. But I return to the Act which is the matter in hand, which is to do this with immediate effect and I propose the Act.

The Bailiff:

The Acte Operatoire is proposed and seconded? **[Seconded]** Does any Member wish to speak upon the draft Act? I put the proposition. Those Members in favour of adopting it kindly show. Those against. The Acte Operatoire is adopted. Now we come to the final stage of the budget, Article 18 of the Public Finances (Jersey) Law 2005 requires that the States are provided with a summary of all the authorised movements in the consolidated fund, the estimated balance of the consolidated fund at the start of the year, amounts authorised by the States to be withdrawn from the consolidated fund during 2009, all the money to be paid into the fund and the estimated balance at the end of the year. Members have in front of them at the moment at page 35 of the Draft Budget Statement the figures which require amendment, of course, following the amendments which have been adopted by the Assembly yesterday and today. I am informed by the Greffier that a revised version will be distributed to Members very shortly but it is not at this moment available. Now that concludes the budget debate unless the Minister for Treasury and Resources wishes to add anything at this stage.

5.6 Senator T.A. Le Sueur:

I would like to thank Members for their attention and support over these last 2 days. There are times, I think, when it has gone through so quickly I have not been able to keep up with my paperwork but I think that is an indication, maybe, of the fact that there has been general acceptance and appreciation of the sound budgetary position we find ourselves in. I have an advance copy of the revised summary table D which Members will be receiving shortly, and they show that even with the movements that we have agreed during these last 2 days, or maybe particularly in respect of the movements in the last 2 days, the Island is in a strong position going forward and I am pleased that this States over the last 3 years has enabled us to achieve this

outstanding position. So I thank Members for their support in achieving that position, and with that I think the budget process for budget 2009 is now complete.

The Bailiff:

Thank you, Minister.

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

I think it would be remiss if I did not, on behalf of Members, thank Senator Le Sueur for the way he has steered this budget through the States in probably record time, which is I think a reflection of how good a budget it is in very challenging times. I would like to thank him and congratulate him on that, and also warmly congratulate him on the very, very strong financial position that he has created for Jersey which we are most certainly going to need in the challenging times ahead. I think he deserves the thanks and congratulations of the whole House. [Approbation]

6. Income Support and G.S.T. Food Costs Bonus: additional funding (P.163/2008)

The Bailiff:

We come now to projet 163, Income Support and G.S.T. food costs bonus: additional funding, 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 in accordance with Article 11(8) of the Public Finances (Jersey) Law 2005 to amend the expenditure approval for 2009, approved by the States on 22nd September 2008, in respect of the Social Security Department head of expenditure to permit the withdrawal of an additional £3,400,000 from the consolidated fund for its net revenue expenditure in order to fund amendments to the benefits payable under the Food Costs (Offset of Average G.S.T. Bonus) and Income Support Scheme and as set out in table A on page 3 of the attached report.

Deputy S.C. Ferguson of St. Brelade:

I wonder if might crave the indulgence of the House in view of the fact that my first set of amendments did not go through and were rejected by the House I would ask their permission to withdraw my amendment to this proposition.

The Bailiff:

Very well. I was going to come to that in a moment, Deputy, but we can deal with it now. You do not actually require the leave of the Assembly to withdraw the amendment because it has not yet been proposed, so you are informing the House that you are withdrawing the amendment? Thank you, Deputy. I now call upon the Minister for Treasury and Resources to propose his proposition.

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

This proposition simply puts into effect the decision, if you like, half of the joint decision of the Minister for Social Security and myself for using the £5.8 million agreed in September to be spent for support on G.S.T. and food and fuel costs. Of that £5.8 million, £3.4 million represents an increase in spending and £2.4 million represents an increase in benefits. So, this £3.4 million has the effect of increasing the States expenditure for the coming year and since the Business Plan is the time which sets expenditure and the Business Plan sets a limit of what the expenditure should be, it is necessary under Article 11(8) to have a separate proposition giving permission to increase that expenditure to allow the £3.4 million to be spent. This proposition therefore achieves that and I propose the proposition.

The Bailiff:

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

7. Draft Food Costs (Offset of Average G.S.T.) Bonus (Amendment) (Jersey) Regulations 200- (P.164/2008)

The Bailiff:

We come now to the Draft Food Costs (Offset of Average G.S.T.) Bonus (Amendment) (Jersey) Regulations lodged by the Minister for Social Security, and I ask the Greffier to read the citation to the draft.

The Greffier of the States:

Draft Food Costs (Offset of Average G.S.T.) Bonus (Amendment) (Jersey) Regulations 200-; the States in pursuance to the Order in Council of 28th March 1771 have made the following regulations.

7.1 Senator P.F. Routier (The Minister for Social Security):

I was very grateful to the House supporting the Minister for Treasury and Resources' proposals for the increases to income support because those increases and adjustments will help the income support system to make those improvements which people have been calling for, so I am very grateful to the House for supporting that. Moving on to this particular regulation. It makes 2 changes to the G.S.T. Bonus Regulations; firstly in accordance with the measures set out in P.163, the value of the bonus is increased to £150 in 2009. This compares with the bonus, as you are aware of, £50 which currently is for this year which covers the period of 8 months from May until December. The bonus will increase to £150. The second part of the regulations is to allow the timing of the bonus to be paid earlier in the year so that people can make an application from March. I think that is the main issue with regard to the regulations and also to change the name of it to ... because there has been a recognition that the costs of food have gone up considerably and the amount that is being proposed takes it further than the amount that would be required to cover G.S.T. for that group of people, it is just changing the name of it, so I would ask Members to support this proposition as it will help people who are in need.

The Bailiff:

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

7.1.1 Deputy R.G. Le Hérissier:

It relates to the question I asked the Minister yesterday when there was this improbable situation in the eyes I know of his department of property owners, for example, who might need emergency payments. One of the issues that has come up, and I thought the system had the flexibility to deal with it, of course nostalgically speaking the Parish welfare system did, is what is the department, when we are looking at all these add-on payments, doing about people who fall into temporary situations of lack of money, they cannot, for example, pay the mortgage because unemployment has occurred and so forth? It is that lack of a discretionary element which I find quite worrying. I know it is difficult to administer and I know, as I said, as we speak nostalgically it was part of the Parish system and it does worry me that we have got this rigidity and we do not seem to be able to cope with temporary issues.

7.1.2 Deputy J.A. Martin:

Just briefly, again this ... and I welcome the press release that went out today, I think it is going out today, but again this talks about 5,000 households and it is an estimate and approximately and I still have great concern that there are at least 2,500 households who are not, for some reason, getting this message and are not claiming. To the point Deputy Le Hérissier made; if he thinks back to

income support, there was an amendment for temporary mortgage relief for those who found themselves... it was not supported, but I really do think if this House is willing to give straightaway up to £280 for a 3-bedroom house in rent it is something that seriously should be considered on one of these one-off when we are re-jigging the income support. But I really do ... sticking to the preamble, I really do not know how they are going to get round this but this is money that is entitled to, I would say, at least 5,000 households and somehow we are still missing the target by 2,500 households.

The Bailiff:

I call upon the Minister to reply.

7.1.3 Senator P.F. Routier:

Deputy Le Hérisse's comments with regard to property owners, and followed up by Deputy Martin, is something that we have looked at it but we really need to have a lot more background information about how people could be helped in that circumstance and obviously there are additional funds that may be needed to help in those circumstances. It is not a closed door to that suggestion but certainly ... well, it is a closed door with the funds we have available at the present time, but I recognise there are certain times when people do get into difficulties. There is a discretionary element which ... it is possible to help people if there are extra special circumstances. If a disability was caused or some people became very ill or some additional circumstances other than the financial circumstances, there is an opportunity for the Minister to make a discretionary payment and I have made a discretionary payment in those circumstances, but it was only in real exceptional circumstances when somebody was very, very ill. So, that is there. But if it was just solely to do with financial circumstances it would be less likely that, under the current system, we would be able to help. Deputy Martin followed on from what was said yesterday about the publicity with regard to this. I think we are becoming aware that the estimate of 5,000 people was an overestimate and a cautious estimate. Hopefully with the publicity that we have had over the last day or so - I was on the radio this morning and there are going to be some advertisements at the weekend and at the beginning of next week - which will encourage people to make an application, and I repeat again, I hope that people will make an application for this bonus. I maintain the preamble.

The Bailiff:

I put the principles of the regulation. Those Members in favour of adopting them kindly show. Those against. They are adopted. Do you move the regulations *en bloc*, Minister.

Senator P.F. Routier:

Yes, Sir.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on any of the regulations? I put the regulations. 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?

Senator P.F. Routier:

Yes, Sir.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on the regulations in third reading? I put the regulations. Those Members in favour of adopting them kindly show. Those against. They are adopted in third reading.

8. Draft Income Support (Amendment No. 3) (Jersey) Regulations 200- (P.165/2008)

The Bailiff:

We come now to the Draft Income Support (Amendment No. 3) (Jersey) Regulations and I ask the Greffier to read the citation to the draft.

The Greffier of the States:

Draft Income Support (Amendment No. 3) (Jersey) Regulations 200-; the States in pursuance of Articles 5 and 18 of the Income Support (Jersey) Law 2007 have made the following regulations.

8.1 Senator P.F. Routier (The Minister for Social Security):

This simply puts in place the increases to the component rates which were approved previously under Senator Le Sueur's proposition. The Income Support Regulations include various component rates that make up the income support scheme and this regulation replaces with it the new values and these will come into effect from 1st February next year. I make the proposition.

The Bailiff:

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

8.1.1 Senator F.H. Walker:

Just a brief comment; I wonder if the Minister heard, I wonder if Members heard, the comments of Mr. Francis Le Gresley from the Citizens Advice Bureau on Radio Jersey this morning, surely someone who is uniquely qualified to know how effective or otherwise the new income support system is and although Mr. Le Gresley would say, and I think all of us would say ...

The Bailiff:

He is the director of C.A.B. (Citizens Advice Bureau).

Senator F.H. Walker:

Yes, I know, Sir. **[Laughter]** Forgive me in probably my last speech, I think everyone accepts that, and this is the point of what I am saying, that the income support scheme does need to evolve and indeed this is what it is definitely doing. It was very heartening to hear the strong support that the director of C.A.B. gave to the new scheme compared to what he has said previously. I congratulate the Minister (a) on introducing it and (b) on his obvious willingness to continue to improve it.

8.1.2 Deputy S.C. Ferguson:

If I could just comment on; I do not know who in the House heard Mr. Le Gresley on the radio this morning ...

The Bailiff:

Deputy, I am sorry that I did not make my point sufficiently clear to the Chief Minister. We do not refer to people by names unless it is absolutely necessary.

Deputy S.C. Ferguson:

The director of the C.A.B., yes, who also stated as a corollary to how well the income support scheme was working, that the people who were above the income support, who were subject to fiscal drag, are in fact suffering quite badly and I would suggest that perhaps the new Corporate Scrutiny Panel may like to look at the question of fiscal drag on middle Jersey.

The Bailiff:

I call upon the Minister to reply.

8.1.3 Senator P.F. Routier:

The director of the C.A.B. has been a long supporter of income support in that he helped in the early days to help us to formulate a lot of the system that we have in place, and I am very grateful to him for his comments. I have to say, during obviously the years that we have been developing income support, it has been a long, long trail and I believe with these amendments and improvements that we are making today, we are going to see in the States where we can be very, very proud of what we have achieved. I think the income support, when we think back from a few years ago and what we have replaced, I think we are now in a position where we can look forward to making general improvements as the community changes. As the community changes obviously income support has to change, and that will hopefully continue in the future. I thank the Chief Minister for his comments and also the director of the C.A.B.

The Bailiff:

I put the principles of the regulations. Those Members in favour of adopting them kindly show. Those against. They are adopted. Do you move regulations 1 and 2, Minister?

Senator P.F. Routier:

Yes, Sir.

The Bailiff:

They are seconded? **[Seconded]** Does any Member wish to speak on either of the regulations? I put the regulations. Those Members in favour of adopting them kindly show. Those against. They are adopted. Do you move the regulations in third reading?

Senator P.F. Routier:

Yes, Sir.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on the regulations in third reading? I put the regulations. Those Members in favour of adopting them kindly show. Those against. The regulations are adopted in third reading.

Deputy P.V.F. Le Claire:

May I ask; the next item up on the agenda is my proposition P.150. Having spoken this morning with the Minister for Economic Development, he has an important set of comments that are to be circulated in the very near future and I wonder if we could move this down the list until after lunch, if possible?

The Bailiff:

Are Members prepared to agree to debate this after lunch, move it down the Order Paper? Very well.

9. Draft Collective Investment Funds (Recognized Funds) (Actions for Damages) (Jersey) Regulations 200- (P.157/2008)

The Bailiff:

Then we come to projet 157; Draft Collective Investment Funds (Recognized Funds) (Actions for Damages) (Jersey) Regulations and I ask the Greffier to read the citation to the draft.

The Greffier of the States:

Draft Collective Investment Funds (Recognized Funds) (Actions for Damages) (Jersey) Regulations 200-; the States in pursuance of Articles 24 and 35 of the Collective Investment Funds (Jersey) Law 1988 have made the following regulations.

9.1 Senator P.F.C. Ozouf (The Minister for Economic Development):

The proposed regulations will replace and update the current regulations of the same name made by the States under Article 35 of the Collective Investment Funds (Jersey) Law 1988. The law, together with the original regulations, form part of a suite of legislation that defines the recognised funds class of collective investment funds and sets out the regulatory requirements applicable. Article 35 of the law provides that a failure to comply with any statutory requirement under the law shall be actionable at the suit of a person who suffers a loss as a result of that failure. The States accordingly passed the original regulations which specify the provisions which the article applied. The effect of specifying the provision is that non-compliance with it by certain operators of recognised funds will give rise to a civil action under the law. The provision specified in the original regulation were those of the law itself and those of 2 orders made under the law, namely the Collective Investment Funds (Recognized Funds) (Permit Conditions of Functionaries) Order 1988 and the Collective Investment Funds (Recognized Funds) (General Provisions) Order 1988. Recently the latter order was superseded by a new order and the original regulations consequentially require updating to refer to this new order. The undesirable effect of not passing the proposed regulations would be that non compliance with the provisions of the new order would not necessarily give right to a civil right of action in the matter intended under Article 35. The objectives of the legislation is to ensure that investor protection arrangements are equivalent to those available to participants in authorised collective investment funds in the United Kingdom. As a result of this equivalence, recognised funds in Jersey are permitted to market directly to Members of the public in the United Kingdom. The continued success of Jersey's recognised fund sector which at the last count has an aggregate sterling equivalent of approximately ... or value of approximately £2.5 billion is therefore dependent on the passing of the proposed regulations. 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?

Deputy I.J. Gorst:

Sorry, I should have stood earlier and said that I do not wish to speak on this, I have a conflict of interest. I am employed by a firm of accountants and we operate in the field that this law regulates.

The Bailiff:

Deputy Gorst declares an interest and will not participate in the debate. Does any other Member wish to speak? I put the principles of the regulations. Those Members in favour of adopting them kindly show. Those against. They are adopted. Do you move regulations 1 to 3?

9.2 Senator P.F.C. Ozouf:

Articles 1 to 3, Members will note that the provisions specified are (a) the provisions of the law itself; (b) one of the original 1988 orders; and (c) the order which is now superseded, the General Provisions Order 1988. Regulation 2 revokes the original regulations and regulation 3 provides for the citation of commencement of the regulations 7 days after they have been made. I move the articles.

The Bailiff:

Regulations 1 to 3 are proposed and seconded? **[Seconded]** Does any Member wish to speak? I put the regulations in second reading. Those Members in favour of adopting them kindly show. Those against. They are adopted. Do you move the regulations in third reading? They are seconded? **[Seconded]** Does any Member wish to speak? I put the regulations in third reading. Those Members in favour of adopting them kindly show. Those against. They are adopted.

10. Draft Firearms (Amendment No. 2) (Jersey) Law 200- (P.162/2008)

The Bailiff:

We come now to projet 162, the Draft Firearms (Amendment No. 2) (Jersey) Law in the name of the Minister for Home Affairs, and I ask the Greffier to read the citation to the draft.

The Greffier of the States:

Draft Firearms (Amendment No. 2) (Jersey) Law 200-; a law to amend further the Firearms (Jersey) Law 2000 and for connected purposes. The States subject to the sanction of Her Most Excellent Majesty in Council have adopted the following law.

10.1 The Deputy of St. John (The Minister for Home Affairs):

I hope you do not mind me firing away here and I do hope that I hit the target. **[Members: Oh!]** I thank the House for allowing this to come forward sooner than it may have been because this is a complex bit of legislation and a number of amendments that have taken a number of years to put together and it would be a shame to leave this House without having the opportunity of, at least, the Deputy of St. Martin to have an opportunity to have his say on it. So I will go into the preamble. These amendments to the Firearms (Jersey) Law 2000 are the result of a consultation process by the Firearms Law Liaison Group which has taken several years. I would like to thank, in particular, the contribution that has been made by members of this group who represent various user groups. The dialogue has been extremely useful and as a result we have before us today a variety of amendments that not only have the support of the firearms users but some of the amendments have been requested by such groups themselves. It is important that any change this important in law balances the needs of Jersey's very successful shooting clubs and associations with public safety. This, I believe, we have achieved with the co-operation of all parties that currently contribute to the Firearms Law Liaison Group, so I think it might be appropriate if I just outline to Members what this group is about and how it came about. The group was set up in November 2000 and it is chaired by myself and consists of representatives from the shooting fraternity, the Comité des Connétables, the States of Jersey Policy, Education, Sport and Culture, and 2 lay members. The terms of reference to the group are to monitor the practical application of the law, to highlight any anomalies that appeared in the law and to develop and agree the administrative arrangements in place for the implementation of the law and to consider amendments as and where necessary. They also act as a focal point through which firearms users can raise queries relating to compliance with the new law and other matters, and to keep the provisions of the new law under review and, of course, to ensure that it was kept up to date with modern firearms practices and procedures. All the proposed amendments to the Firearms (Jersey) Law have been considered by the group, which has met regularly since the law first came into force in 2000. The objective of the amendments that the Members have before them is simply to make the enforcement of the law and compliance with it more straightforward. Wider consultation has taken place as appropriate with the Magistrates, head teachers, the Comité des Connétables and the Harbour Master in this instance as well. This consultation process has taken a considerable time but was essential in order to ensure that the amendments were appropriate and practical to implement. Even so, further amendments have been prepared following discussions raised since the lodging of the draft law, which I will come on to later. P.162 amended substituted Article 45 re hunting as proposed by the Home Affairs for clarification, and a second amendment from the Comité des Connétables which I will be accepting, which makes an addition to Article 5 to avoid unnecessary criminalisation of individuals where firearm certificate renewals have not been completed by the date or the due date, and applicants are at risk of being in possession of a firearm or ammunition once the certificate has expired. I would like at this stage to propose the principles of the draft law in the hope that we can quickly move on to the individual articles.

The Bailiff:

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

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

Basically I accept many of what has been proposed, however as one will see later on, I do have an amendment which is, I think, very important which I hope the House will support. I am delighted that the Minister still cares to say that I share an interest in Home Affairs issues. I just make it known now that I am in the House for another 3 years and I intend to carry on that process. It is an area I do have great interest in. It is quite interesting, having read this, to see that we need guns to deter pirates and sharks, and no doubt that will be very useful for around the Island. Also, just bearing in mind, that hopefully when we do come to the House with a new licensing law that Members will remember or recall that we are allowed to hunt and shoot animals or kill animals on Christmas Day and, indeed, on Good Friday. As yet we are still not able to go into a nightclub and enjoy themselves, so just bear that in mind. Otherwise, there are issues which I will raise during the course of the debate but in general I welcome much of what is in the amendment.

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

As the Minister quite rightly points out, this is a very important piece of legislation. Jersey has had a long history of target shooting, both local, nationally and internationally and has done extremely well throughout the years. This is a very important piece of legislation. I was very pleasantly surprised when this proposition landed on my desk. It is very well thought out, it is an excellent piece of housekeeping. There are one or 2 amendments coming up but on the whole I welcome it and give it my full support.

10.1.3 Deputy G.C.L. Baudains:

When I first read this proposition I was surprised, I have to say, because usually I am sad to say, a proposition from the Home Affairs does not usually get my support. This, however, I have to say, is different. The Minister, the Deputy of St. John is, I believe, not noted for his participation in shooting sport so maybe his knowledge of firearms is perhaps limited, and that is why I was surprised that this projet seemed so sensible. **[Laughter]** But I have to say, before the Minister gets too excited, there is one article coming up that I shall have some comments later on relating to that particular article. The only thing I would say at this stage is in the report the reference to the consideration at every stage of representatives of various people, I have to say that the Firearms Liaison Group over a period of time has not functioned quite as well as people might be led to believe and I know some representatives of the shooting fraternity have been very frustrated at the consultation that has taken place. They do not believe that they were either taken seriously or that it was a ... I cannot say not an honest attempt at consultation but they really felt that they were being simply overruled by others in the organisation.

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

The Comité des Connétables will support the general thrust of this proposition but there are one or 2 points which we will wish to raise when the various articles come up. I have to say that I think that for note by the next Minister for Home Affairs is the fact that the consultation which needs to occur in this type of legislation needs to be looked at and probably worked on before further amendments are brought.

The Bailiff:

I call upon the Minister to reply.

10.1.5 The Deputy of St. John:

I thank the Deputy of St. Martin for his comments. The reason why I mentioned him earlier is because I will miss the comments of the Deputy of St. Martin but I am sure the rest of the House will still get them, as he already has just said. He has an interest in this area. He mentioned, was it really appropriate to even mention pirates and sharks in the projet. Well, that was not about this Assembly, it was about the issue of ships that are registered in Jersey but are, of course, in other parts of the world where, as you will be aware from recent media reports, piracy is a serious issue,

so such ships do need to carry firearms on board. The other issue that was raised by Deputy Lewis; he is quite right to say this is a matter of good housekeeping, and that is really what we are trying to do here. Laws of this nature, in particular, should always be reviewed on a regular basis and as a result of that these amendments have come about. Deputy Baudains, he is quite right, I do not shoot. But, believe me, being surrounded by experts on the Firearms Liaison Group, of which some of these people are world class shooters, I have learnt an awful lot about shooting. I think it is up to Members when they are dealing with such matters to engage with people and gather knowledge so that you can make informed decisions, which is what this Assembly should be all about. So I have endeavoured to find out as much about shooting as I possibly can and taken advice from experts that are included on that panel. I would like to think, as a result of that, what you have before you is not my thoughts, not my views, but the views of a group of people that have expertise in these areas. My particular interest was public safety and ensuring that the likes of sports shooters are not compromised and they continue to excel at their sport in Jersey, which I am delighted to say we do in Jersey, excel at ... we punch way above our weight around the world stage, and I want that to continue. The Constable of St. Ouen suggested that the consultation process was slightly flawed. It is in one way, and that, I would say, is feeding information back from the group to the likes of the Comité des Connétables does not seem to have worked as well as I would have liked. We have endeavoured to always include a Connétable from the Comité des Connétables on that panel and the Constable and I spoke briefly in the precincts earlier about perhaps the need to include somebody from the Comité des Chefs as well. I think that would be a very good idea. What will also happen, which appears not to have happened in recent times, is the minutes of those meetings, albeit they are given to the Connétable that sits on that panel will be circulated throughout the Connétable Committee and to the Chefs as well. So there is no reason why people that have a real interest in policing this law, which is what the Chefs do, do not have all the information available to them that is discussed on the Firearms Law Liaison Group. I think that answers everybody's questions with regard to the preamble and I would be happy to move on to the articles, if the chair wish me to.

The Bailiff:

I put the principles of the bill. Those Members in favour of adopting them kindly show. Those against. The principles are adopted. Deputy Mezbourian, do you wish to scrutinise this bill?

Deputy D.W. Mezbourian (Chairman, Education and Home Affairs Scrutiny Panel)

No, thank you, Sir.

The Bailiff:

We move to consideration of the articles of the Bill. Minister, may I ask you to propose Articles 1 and 2?

10.2 The Deputy of St. John:

Article 1 is a preamble, but Article 2 provides new definitions relevant to the amendments which have been added into the draft law. I propose Articles 1 and 2.

The Bailiff:

Articles 1 and 2 are proposed and seconded? **[Seconded]** Does any Member wish to speak on Articles 1 or 2? I put those articles. Those Members in favour of adopting them kindly show. Those against. The articles are adopted. Do you move Article 3?

The Deputy of St. John:

If I could go on to propose Article 3.

The Bailiff:

You are going to invite the States not to adopt a paragraph in that article?

The Deputy of St. John:

Yes, Sir, is that in that article? I think it comes further on.

The Bailiff:

In Article 3 of the bill, Article 2(2) of the principal law is amended. My understanding was that you were not going to move subparagraph (b).

The Deputy of St. John:

I beg your pardon, Sir, you are quite right. It is within Article 3 and subparagraph 2(b) I would like to remove.

The Bailiff:

Are you going to explain that to Members?

10.3 The Deputy of St. John:

There was an issue that was raised during this consultation process and it regarded size of shot. For those Members that are not shooters, there is clearly 3 different sizes of shot that are used with a shotgun. The largest of the shot which are quite large ball bearings is often defined as buckshot. Before the original 1956 law was superseded by the 2000 law buckshot was permitted and it was not licensed. It was not on your licence. During the 2000 law that, for some reason, was taken off, therefore shooters, particularly those that visited the U.K., for example, for clay pigeon shoots and other such shooting competitions, they found themselves bringing shot back from time to time which looked pretty much exactly the same as the other smaller shot and it was quite difficult to define as to whether it was buckshot or not. So it was always felt it was better it was exactly the same classification as in the U.K. and bear in mind in the U.K. shotguns are not on permit anyway. However, upon recent consultation with the Comité des Chefs in particular, concern was expressed about buckshot being used in Jersey because the fields that sometimes these shotguns are used in are quite small and the buckshot is quite large. So although not necessarily completely fatal, if it landed on your car, for example, or on your house you would have a little bit of a shock, but it would not necessarily be life threatening. I think the Comité des Connétables, in particular, felt that they would like to know who is using buckshot and that item should be on certificate. So it will not be prohibited but it should be on certificate. In order to achieve that that sentence needs to be removed, Article 2(b) of Article 3, and that will make sure that buckshot, in particular, remains on licence and it will be up to the Connétables whether they think somebody that wants to shoot a shotgun using such shot has to have authority from the Connétable in the normal manner as they would with any other ammunition.

The Bailiff:

In Article 3 of the bill the Minister is moving amendments subparagraph (a) and subparagraph (c), are they seconded? **[Seconded]** Does any Member wish to speak on Article 3?

10.3.1 The Deputy of St. Martin:

I am grateful for the Minister withdrawing this because again it just goes to show really the lack of consultation because it says quite clearly that consultation has occurred or taken place between the Honorary Police and the Connétables and yet the opposition to this is coming from those very people so one wonders what form of consultation there was. I very much welcome the withdrawal of this particular paragraph and I am sure it will come back to us at some other time.

10.3.2 The Connétable of St. Ouen:

I thank the Minister for withdrawing this part of the article. Certainly when the Connétables have been shown the evidence of what it is we are talking about we were very keen that this should not be included in this law.

10.3.3 Connétable S.A. Yates of St. Martin:

I am horrified that it has got as far as this, to be included in this proposition, and we are talking about so-called buckshot which is 0.36 of an inch. If one remembers the history of the Second World War, the British troops used 0.303, 0.36 of an inch is bigger than 0.303. The size of fields in Jersey with the habitation around the fields is much too short, it is dangerous, it is not just going to dent one's car. This size of shot would be lethal, it would be lethal. We are talking about large bullets, 6 bullets in a shotgun cartridge, I am horrified that it has got this far. I am glad it has been rescinded, the point being, I understand from the Minister that it is still going to be licensed on the certificate. I am horrified. This is lethal ammunition. It is not going to happen in my Parish, I can assure you.

10.3.4 Deputy G.C.L. Baudains:

If I might follow on from the previous speaker and with no disrespect to him whatsoever, I have to say this is the sort of thing that the consultation exercise does deplore because it shows a complete misunderstanding of the situation. To compare a buckshot cartridge for a shotgun with 0.303 rifle is totally ridiculous. A 0.303 rifle has the potential if aimed in a still wind and at the right angle to reach something like 7 miles. I believe the furthest, albeit accidental, death recorded from a 0.303 rifle was at 3 miles. Of course the velocity of a 0.303 rifle bullet exceeds the speed of sound. If I recall correctly it is about 2,600 feet per second. A shotgun cartridge travels at about half or less than that and also it is not rifled, it is not travelling down the bore of a gun as an exact fit. It is rattling around in the bores it goes down because the bore of a shot, a 12-bore shotgun, is roughly three-quarters of an inch. **[Interruption]** I do not see why I should give way, I am just trying to point out that there is no comparison between the 2 whatsoever and even if it were 0.36 of an inch the range at which it could potentially be lethal is probably in the region of 100 yards and whereas a 0.303 rifle, as I have said, it is a question of miles and the kinetic energy possessed by that particular pellet at that range is not that great. I do deplore people trying to make situations sound worse than they are.

The Bailiff:

I am sorry to interrupt you but may I just respectfully draw your attention to the fact that this is not being proposed by the Minister.

Deputy G.C.L. Baudains:

I am aware of that, Sir, but of course the matters addressed in this House are recorded in *Hansard* and they go out and I would not like the public to get the wrong impression.

The Bailiff:

I think you have gone far enough down the road. Does any other Member wish to speak? I call upon the Minister to reply.

10.3.5 The Deputy of St. John:

I do thank Deputy Baudains for his explanation there because, like others in this House perhaps, I had little knowledge of such things until a few years ago, and he is quite right to say there is a very big difference between the cartridge used in a shotgun than that used in a 0.303 rifle. The velocity is quite, quite different. That is the reason why this is not a prohibitive item. It is simply being put on certificate. The reason why it was not on certificate in the past was because it was not deemed to be hugely dangerous because unless you are within 300 metres of somebody you are unlikely to ... well, you would hurt them but you are not going to kill them. It is not as lethal as a normal barrelled rifle. The Deputy is quite right to point that out. This was not an oversight. This was requested by the firearms community because of the anomaly that existed between us and shooting in the U.K., and it was regarded as an oversight in the 1956 transition to the 2000 law. This is not an oversight. It was consulted on hugely in that the Comité des Connétables were well aware of this because they received all the minutes and were at the meetings, and understood the reasons

why the firearms community wanted it not to be licensed. But I do accept, and this is what consultation looks like, when you put out a paper like this other concerns are brought to bear, such as the Comité des Chef and I accept those comments. It will still be permitted but it will be on license so that you know who is using it.

The Bailiff:

I put Article 2(a) and (c), those Members in favour of adopting it kindly show. Those against. The article is adopted. Do you move Article 4 please, Minister?

10.4 The Deputy of St. John:

Article 4 ensures that where the applicant for a firearm certificate or its variation of revocation was a Connétable or member of the Connétable's family the Minister is empowered to issue, vary or revoke certificates. The Chef des Police of the Parish would discharge the Connétables functions where the Connétable is absent for a long period or the post is vacant.

The Bailiff:

Article 4 is proposed and seconded? **[Seconded]** Does any Member wish to speak on Article 4?

10.4.1 The Connétable of St. Ouen:

Just to inform Members that, in fact, the Comité des Connétables promoted this amendment. We did at one stage consider that it might have been possible for the Connétable of a neighbouring Parish to maybe issue that licence but ultimately we decided that for clear transparency that it would be better for the Minister to do that.

The Bailiff:

I call upon the Minister to reply.

10.4.2 The Deputy of St. John:

It does clear up an issue which was of concern to both the Connétables and, of course, to Home Affairs so I thank the Connétables for their input on that and I think it will largely resolve that issue. I propose the article.

The Bailiff:

I put Article 4. Those Members in favour of adopting it kindly show. Those against? Article 4 is adopted. We come to Article 5.

10.5 The Deputy of St. John:

Article 5 enables the Minister to prescribe the detail of the number and type of photographs needed for applications. Currently the law requires more photographs than absolutely necessary, so this decreases that number. Again, it is just good housekeeping. I propose the article.

The Bailiff:

Article 5 is proposed and seconded? **[Seconded]** There is now an amendment to Article 5 in the name of the Comité des Connétable, and it is a rather long amendment. Are Members content to take it as read? I call upon the chairman to propose it.

10.6 The Connétable of St. Ouen:

The wording of the amendment may be long but, in fact, it is a fairly simple amendment. At the moment, notification to the holder of a firearm certificate is issued 4 months in advance of the certificate expiring and therefore the majority of people will come to the Parish Hall for new forms, et cetera, within a month of that, so there is a 3 month period to work with. Unfortunately, on very rare occasions, that 3 month period is not sufficient for the proper checks to be completed in order for the firearms certificate to either be renewed or issued, and the Connétable did ask of the

Attorney General whether there was a possibility that we could extend the original firearms certificate to stop people from becoming unlawful owners of firearms. We were told that this would have to be done by changing the law, and this is the purpose of our amendment. What we are asking for is that the law be changed to give the Connétable the ability to extend the present certificate for a period of up to 2 months if there was just reason to do so. If someone comes in a couple of weeks before their firearms certificate expires and expects their old one to be extended that will not occur. It will only be people who have acted properly and for no reason of their own find themselves in a situation where the firearms certificate has not been or is not able to be renewed.

The Bailiff:

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

10.6.1 Deputy G.C.L. Baudains:

I do support this amendment but at the same time I would just like to express some reservations that I have in the report accompanying the amendment. At the start of paragraph 3 it said: "All firearm certificate holders are given 4 months' notice." I have to say that is not strictly correct. Maybe some are, not all. I speak from personal experience. Generally speaking one knows when your firearms certificate, your firearm licences is due for renewal and you obviously apply with what one considers to be time to spare. Usually the advice given or certainly advice I have received in the past has been to make the application at least a month before your firearm certificate date of renewal arrives. Even so it is not unusual for a renewal, simple renewal, to take 8 weeks, as it did in my case recently. I am not quite sure why it should take so long, especially for somebody who has had **[Interruption] [Laughter]** ... never thought of that. But the point is I have had the same firearms certificates for 41 years so I do not know if much has changed in that time. The point I would make is I think what we really need to be doing, instead of sticking a plaster on the wound, is finding out what the actual malady is. It does seem to be, unless ... I can understand if somebody is applying for ... making a first time application that many more checks will need to be carried out. Why take so long? I think is what we should be looking at. Is the delay with the Constables? Is the delay with the police? Where is it? I mean, we are now talking about, well, it could take at least 4 months' notice; we are talking now about 5 months to do something which, in my view, should take a week. I really think, as I said, while I am grateful to the Constables for bringing this, I think we really or somebody really needs to be looking at why it is taking so long. I can understand on the odd occasion there may be a need for further background checks, even then I cannot imagine why it should take months. We need an answer to that ultimately.

10.6.2 Deputy K.C. Lewis:

I have had reports that there have been some considerable delays in both the granting and renewal of licences. Somebody already in possession of a licence and firearms, if their licence was about to expire would have no choice but to surrender their firearms and ammunition to the States of Jersey Police otherwise they would find themselves outside of the law, so I welcome this amendment by the Comité des Connétables.

10.6.3 The Deputy of St. Martin:

Deputy Baudains asked why it takes so long to process a new application of renewal. I think one of the answers could be, and I hope he will be supporting it, is because so much time is taken up by processing visitors' permits, which are a duplication. So, I think this may be a quick introduction to what I am about later on. But quite clearly, in the answers given yesterday to my question about the time taken, quite clearly there are issues to be addressed and hopefully they will be done by obviously the Connétables and the States Police.

10.6.4 The Deputy of St. John:

I do not want to feel like I am replying to the amendment here, but I would like to add some things which maybe the Connétable will want to comment on. In particular, I would draw Members attention to the fact that this is not a licence - excuse the pun - but it is not a licence to be late or remiss with your application. It does clearly say in the report that this would only apply, this extension of 2 months, if you have put your application in 3 months before the expiry of your certificate. So, I would always urge members of the public to ensure they apply in good time for this certificate because it does, and it should, take time to process. There is a very good reason for that and Senator Le Main suggested what that might be, and that is you do need to do thorough checks in the background of people. Maybe Deputy Baudains was one of those cases where we needed to do a lot of checks into his background because we knew him too well, I do not know. But it has to be done properly. There is a process and that process does take time. It is not exactly a policing priority either, either for States of Jersey Police or for the Connétables. What is the priority is public safety and they will prioritise and make sure the job is done thoroughly in good time. I have, however, recommended that the next group, Firearms Liaison Group, and whoever the chairman may be, looks closely at other ways of doing this as technology now exists for us to process such applicants online and there is a project manager with the States of Jersey with the Chief Minister's office to develop a much bigger web strategy for the States of Jersey, and I am recommending that within that strategy firearms licensing is included. That would enable the applicant to complete the form completely online, present it to the Connétable for signature and for approval, and then when it gets to the Licensing Unit at the police station where we hold the records, their application will already have been made, it will already be online, it does not have to be re-inputted, so this would make a huge difference in terms of the actual process time. But the time needed for doing the appropriate checks will still be the time that is required. Sometimes it will be longer than others, so I would urge people to be patient with that, and it is, at the end of the day, in the interests of public safety. I would also like to remind Members that these licences last for 5 years. People's circumstances change over that 5 year period so even though you are an existing licence holder, had no issues before with the application, your situation may have changed, therefore there are no guarantees that the process will be exactly the same as last time. Five years is quite a long period and the Connétables want to make absolutely sure that before they issue a certificate that they are content that that applicant is a worthy applicant to hold a firearms certificate. That matter still rests, and so it should do, with the Connétables. All States of Jersey Police are doing is simply supplying the information to the Connétables, so there may be delays in both areas but usually for very good reason.

The Bailiff:

I call upon the chairman of the Comité to reply.

10.6.5 The Connétable of St. Ouen:

I have to say that the Minister appears to have a much better understanding of renewals than Deputy Baudains. I have to say to Deputy Baudains that whether it is an application for a new licence or one for renewal, it does take time. A renewal can come to you with 2 different referees to the previous licence and those referees have to be checked out, in the same way the premises that the applicant for renewal is entering on the application form may be different premises to the previous ones, and there again they have to be checked out. I think I refer to the Connétable of St. Brelade's comments yesterday morning when questions were being asked of the Minister, when he said that the role of the Connétables is public safety and we have to be sure that all the checks are thoroughly made and before a licence is issued that we are confident that the person holding that licence is the right and proper person to do that. So, it does unfortunately take time, even the renewal. I would say to the Deputy of St. Martin, that this has absolutely nothing to do with visitor permits because the Connétables are not involved in the issuing of visitor permits. We are involved in the issuing of permits to residents and we are doing our utmost to ensure that only the right

person is having a firearms certificate in their possession. I thank Deputy Lewis for his support and I maintain the proposition.

The Bailiff:

I invite any Member in the precinct who wishes to vote on this amendment return to his or her seat. I ask the Greffier to open the voting, which is for or against the amendment of the Comité des Connétables.

POUR: 35		CONTRE: 1		ABSTAIN: 0
Senator F.H. Walker		Deputy G.C.L. Baudains (C)		
Senator M.E. Vibert				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator F.E. Cohen				
Senator J.L. Perchard				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				

Deputy P.J.D. Ryan (H)				
Deputy of St. Peter				
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 K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

The Bailiff:

We come back to Article 5, as amended, by the Comité des Connétable. Does any Member wish to speak on the article as amended? I call upon the Minister to reply, if he wishes to, on Article 5.

The Deputy of St. John:

I do not need to, Sir, I am happy to progress to Article 6.

The Bailiff:

I put Article 5 as amended. Those Members in favour of adopting it kindly show. Those against. Article 5 is adopted. Do you wish to propose some of the remaining articles *en bloc*?

The Deputy of St. John:

Yes, Sir. I would like to propose Articles 6 to 16 *en bloc*.

The Bailiff:

Are you going to speak to them?

10.7 The Deputy of St. John:

Article 6 makes it a requirement that particulars of a certificate changes be notified by the Connétable to the Chief Officer as soon as possible. This serves to ensure that the Central Firearms Index Records are maintained up-to-date by shortening the period. A 21 day period for notification is now a maximum. Consequential changes to this effect are made throughout the draft law, particularly Articles 7, 12, 13 and 14. Article 8, this removes the exemption from the requirement to hold a firearm certificate where signalling apparatus is kept on a ship or an airplane, consequential on the deregulation of the flare guns. This has also resulted in the reference to aircraft being removed. Article 9 makes a practical amendment which enables executors or administrators of an estate to possess a firearm or ammunition held by the deceased until it can be practicably surrendered to an appropriate authority. On to Article 10, the law as previously worded implied that to be a shooting club required permission from the Minister for Home Affairs, when Ministerial permission is only required if clubs wish to hold open days. This is often the case

though, that most shooting clubs tend to hold open days. This provision makes it clear that the law is now permissive rather than compulsory and shooting clubs may apply for approval as a shooting club. Articles 12, 13 and 14 make some consequential amendments, so I shall not go into any detail. I move the articles.

The Bailiff:

Article 6 to 16 are proposed and seconded? **[Seconded]** Does any Member wish to speak on any of these articles?

10.7.1 The Connétable of St. Ouen:

Sorry, we were looking at the Members across there in the hope that they would rise. **[Laughter]** Sorry, expectations, maybe. Just to say that Article 9, which deals with administrators of estates was an article which has come forward because again it was promoted by the Comité des Connétales who often find themselves in the position of an unsuspecting member of a family suddenly finding themselves in possession of firearms and this is needed to be done to ensure that they were not in a position where they could be liable for anything.

10.7.2 The Connétable of St. Brelade:

If I could just mention that Article 15, Article 33, that also refers to buckshot and I would ask the Minister perhaps just to comment on that particular paragraph when he is summing up.

The Bailiff:

I am sorry, Connétable, I did not catch that last bit. Would you mind repeating it?

The Connétable of St. Brelade:

Paragraph 15, Article 33 amended, that: “(1)(d) of the principal law shall be deleted” and that also refers to buckshot as has been referred to earlier on.

The Deputy of St. John:

That is correct, and that will be removed as well as a result of the slightly on the hoof amendment we made earlier.

The Bailiff:

Sorry, I am not clear about that. Does that mean, Minister, that you are not proposing Article 15 of the bill? Article 15 of the bill says: “Article 33(1)(d) of the principal law shall be deleted.” Mr. Solicitor, can you help on this?

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

Article 33 of the principal law sets out limitations on the kind of ammunition that can be manufactured, sold and transferred. Included in that at the moment is (d) which would be: “Shotgun ammunition containing less than 5 pellets larger than 0.23 of an inch in diameter.” If the amendment as presently proposed were to go through then that would be removed from the statute. If the proposed amendment does not, then that will continue and there will be a restriction on the buckshot that has been mentioned earlier.

The Deputy of St. John:

That is correct, we do wish the buckshot to be on licence. That is the whole issue.

The Bailiff:

So you are moving Article 15?

The Solicitor General:

I think if one moves Article 15 it deletes Article 33(1)(d) which deletes the requirement for buckshot to be restricted.

The Connétable of St. Brelade:

If I may, and my understanding after discussion, is that the intention was that paragraph 15 would be deleted by the Minister.

The Bailiff:

Minister, you are on the spot.

The Deputy of St. John:

I am afraid so. The intention is, perhaps the Solicitor General can give us advice here, is to make sure that buckshot is on licence and if that article prevents that from occurring then we would need to delete it.

The Bailiff:

Perhaps I can express a question to the Solicitor General in this way. The Minister, having deleted subparagraph (b) from his amendment to Article 2(2) of the law, does it logically follow that Article 15 of the draft bill should now be deleted so that Article 33(1)(d) of the principal law remains in place?

The Solicitor General:

Article 33, as I read it, talks about the authority of the Minister being required for the manufacture, sale, transfer, et cetera, of these things. If it is intended that buckshot should, and other large pellet ammunition, should be covered by the permission of the Minister, if it is intended that that should remain then it seems to me Article 15 of the amendment should be withdrawn. I hope that helps.

The Deputy of St. John:

If Members are content with that and you are, Sir, as well, then that is what I would like to achieve.

The Bailiff:

No, it is a matter for you. You are moving [Laughter] at the moment ...

The Connétable of St. Brelade:

If I may, with your permission, Sir, suggest that the intention of the Firearms Law Liaison Group and the Comité des Connétables was that the previous arrangement whereby buckshot would have to appear on the certificate, is to take place and I would suggest, through you to the Minister, that it would be linked by this article being removed as has been suggested by the Solicitor General. If the Minister could arrange that that be done now, I think that would succeed.

The Bailiff:

Are you prepared to take that advice from your seconder?

The Deputy of St. John:

Yes, I am.

The Bailiff:

Does the Assembly give leave to the Minister to withdraw Article 15 which he has just moved? Very well, the debate continues on Articles 6 to 14 and Article 16. Does any other Member wish to speak on any of those articles?

10.7.3 Deputy J. Gallichan of St. Mary:

Just very briefly, I would be grateful for guidance from the Minister as to what he considers to be a reasonable, practicable time in accordance with Article 9?

The Bailiff:

I call upon the Minister to reply.

10.7.4 The Deputy of St. John:

Reasonable and practicable time is an interesting question. This exists in a number of laws and it is really up to the enforcement agency to decide as to what is reasonable, and that would be the Licensing Authority, the Connétables. The Solicitor General may want to recommend what is reasonable because I would not be the arbitrator of that, it would be the Licensing Authority.

The Solicitor General:

I do not think that I can give any guidance as to what period might be reasonable. It would seem to me that it would have to depend on the circumstances of the case. It may be that it is quite straightforward to return firearms, it may be that there is a real complexity involved about the retrieval of them or other things that have to be done first. I think it must just depend on the circumstances of the case as to what would be a reasonable time. Clearly, the executor or administrator of the estate would have to act as promptly as he could.

The Deputy of St. Martin:

Deputy Baudains and I are a little bit confused as to where we are talking about Article 17. That is the left hand article.

The Bailiff:

We have not got to Article 17. Minister, are you ...

The Deputy of St. John:

Can I propose 6 to 14 and I then need to go on to Article 16?

The Bailiff:

And Article 16.

The Deputy of St. John:

I have not spoken on Article 16 yet, Sir.

The Bailiff:

You have not? You moved it originally. You moved Articles 6 to 16 and then you withdrew Article 15 ,and that does not cause a problem for the Deputy of St. Martin, does it?

The Deputy of St. Martin:

Maybe I misheard but I thought we were agreeing to 14 but excluding 15 and including 16 and 17. If I have misheard then I apologise.

The Bailiff:

May I just repeat it perhaps for the second time. The Minister moved Articles 6 to 16 inclusive. He then withdrew Article 15, so what is before the Assembly at the moment is Articles 6 to 14 inclusive and Article 16. The Minister is in the middle of his closing speech on that debate. Is there anything else you wish to say?

The Deputy of St. John:

I have nothing else to add. [Approbation]

The Bailiff:

May I put those articles? Those Members in favour of adopting them kindly show. Those against. Those articles are adopted. Minister, you want to move some of the other articles?

10.8 The Deputy of St. John:

I would like to now move to Article 17, if I may. Article 17 contains new provisions which make it an offence for a person to carry an article with a blade or sharp point in a public place without lawful authority or reasonable excuse. This clause would, for example, cover the carrying of a knife for fishing or a bayonet or blade for historical re-enactments. Simply the carrying of an offensive weapon, blades or sharp pointed objects on school premises is prohibited without lawful authority or reasonable excuse. The penalty for such offences is imprisonment for up to 4 years and/or a fine, although there is provision in the law for a defence where a reasonable cause for carrying can be established. This provision is being introduced as within the principal law currently the police have difficulty securing prosecutions of people carrying knives in public as the intent to injure must be proven. But I would like to add there that if you have reasonable reason for possessing such an item for the purposes of fishing or re-enactments, and the like of, that would be reasonable excuse, so there is no intention here of trying to catch people out who perhaps have always carried a knife for legitimate reasons of work. I was only speaking to the Constable of St. Brelade who of course has a chandlers business and he will very normally carry a knife on himself because he needs it during the course of his work. I hope he does not use it at the Parish Hall, but I am sure he uses it at the chandlery. So that is an example whereby reasonableness of carrying a knife. So I would like to move Article 17.

The Bailiff:

Article 17 is proposed and seconded? **[Seconded]** Does any Member wish to speak on Article 17?

10.8.1 Deputy R.G. Le Hérissier:

If there is a dispute, far be it for me to question the motives of the Constable of St. Brelade, but if there is a dispute as to the reason for carrying a knife and somebody cites religious reasons, for example, how will this be resolved?

10.8.2 Deputy G.C.L. Baudains:

I have been trying for the last few moments to watch the Minister's legs, and I hasten to add solely to see whether he is afflicted by that well known political condition known as knee-jerk reaction. Unfortunately this is a serious matter and I shall be referring mainly to the first part, the insertion of Article 43A, I have less reservation with regard to Article 43B. My concern starts with the Minister's opening remarks on this particular article because he started speaking about the carrying of knives. In the following sentence they had already become an offensive weapon. It is this confusion which I find extremely unhelpful and it rather concerns me. First of all, I object, as I always have done, to the inversion of the bedrock of British justice and I refer to the assumption that now a person is guilty until they can prove their innocence. **[Approbation]** The Attorney General and myself have crossed swords over this many times but I do maintain my position. Making someone having to prove their innocence, which this article does, is not acceptable. When you realise the sort of person who will end up doing this under Article 17, little old ladies carrying a pair of scissors or a pointed comb in their handbag, we begin to realise how unreasonable or indeed unacceptable this article is. It does not mean to say that I do not understand where the Minister is coming from. Merely that the solution, in my view, is not what ... the solution is not what he proposes because we are all aware, I am sure, of the sickening amount of knife crime in the United Kingdom, especially on the streets of London which fortunately are not happening here ... is not mirrored here at present anyway. But I think we should just reflect quickly on a related issue. Not long ago the United Kingdom outlawed most firearms in the U.K., and we have just been dealing with that in earlier parts of this proposition. Law abiding members of the public, many of whom participated in target shooting at clubs, were obliged to give up their guns and responsible

gun owners warned the authorities this would result in a rise not a fall in gun crime. They were laughed at, but what happened? Gun crime rose. I am not advocating this Article 17 will have a similar effect, but I can guarantee it will not prevent one stabbing. What this article will do and what concerns me greatly is that it will cause law-abiding citizens to be arrested, possibly spend a night in the cells. What if it is a young mother with children? They will probably be taken into temporary care. Yes, it does happen, I have seen it happen, for no real, tangible benefit to society. Under this article you will be liable to a maximum, I believe, of 4 years in prison if you carry in a public place - and that means nearly everywhere - a folding pocket knife with a blade of more than 3 inches or any article that has a blade or is sharply pointed. If you can prove that your item is for use at work, for religious reasons or is part of a national costume, well, you will get let off. So if you carry a pair of scissors in your handbag, watch out. About a month ago I was walking through town with 2 screwdrivers in my pocket. They are pretty sharp and pointed. What if I had been stopped by the police? How would I prove, while probably held at police headquarters, that I was on my way to disconnect an electric cooker? How do we define "for use at work" under the lawful authority or reasonable excuse criteria, recalling at all times that one has to prove one's innocence, not the other way around. Does it mean, for example, as an engineer I can walk around with pockets stuffed with screwdrivers and knives all day because I might need them on the next job I am called out to? If it does, then the law patently will not work because youngsters in town, presumably the target of this legislation, will claim likewise. On the other hand, would I be arrested on every occasion and spend hours at police headquarters trying to prove my innocence? I have a standard penknife I often carry with me. In fact, I have it with me now. Penknives are useful. Time was almost everyone carried one. I always have it with me if I go out for a meal. Why? Because it is very useful. It has a toothpick in the handle, and it would not be the first time I have needed it to cut a steak because the cutlery at the restaurant was not up to scratch. **[Laughter]** But unfortunately, the blade is 3 and one-eighths of an inch long. Does that mean I have to grind an eighth of an inch off the end of the blade? Will the police be issued with digital callipers to enable them to accurately measure any blade they come across? What exactly is reasonable excuse? How will the police interpret that consistently? Because it does seem to me that individual officers will have differing views. If they are going to arrest a youngster in town who happens to be carrying a pair of scissors, then they must arrest the little old lady as well. The law must be applied consistently. I do believe it is unacceptable to have a law which has the potential to cause immense distress to large numbers of the public while at the same time having little or no real effect on the perceived problem. I hate to use the word "cobbled" but we know this was bolted on to the Firearms Law because it appeared to be one of the few places that it could be put in fairly quickly and without too much delay from law drafting purposes, but I have to say it does not sit well. What we do need is a targeted approach. The police complain that existing legislation regarding offensive weapons is difficult to enforce. Well, maybe we should be addressing that. Why is that? Is better training needed? Because it does seem to me that the current legislation is the proper way to address unlawful use of such instruments. I did refer when I started speaking to the Minister's comments. One moment he was talking about a penknife with a blade; in the following sentence that had already become an offensive weapon. The difference is not what it is but the way you are using it. That is what really matters. It does not matter what is in my pocket, it is what I do with it or intend that matters. Under the proposal before us today I could walk through town carrying a baseball bat and a crowbar without fear of arrest: neither has a blade or is sharply pointed. I would, however, expect to be arrested if I drew the bat and was about to hit somebody with it, or if I was lingering late at night outside a jeweller's with my crowbar. I have to ask whatever happened to common sense policing. It does seem to me that just because today, for whatever reason, they feel they cannot adequately deal with a perceived problem, it is in my view no reason to make half the population criminals unless they can prove their innocence. So, in conclusion, while I am not overly opposed to 43B I believe 43A has no place on our statute books.

10.8.3 The Connétable of St. Ouen:

The Connétables have been considering this for a considerable amount of time, and I have to say that the feeling is that as much as we would like to see the law regarding the carrying of knives entered into the statute book, we are not over-enamoured with the idea of putting it in with the Firearms Law. Maybe if I could direct a question to the Solicitor General, the Minister pointed out that it would be a defence if you could prove a sport connection, if you were using your knife for sporting connections, but under the principal Law Article 43A, paragraph (3), and Article 43B, paragraph (2), neither of those lists sports as a defence if charged with an offence under this law.

The Solicitor General:

I am asked to comment whether carrying some form of knife or presumably other pointed or edged weapon covered by the statute for sporting purposes would give rise to a defence under the law. I should immediately, I think, declare that I have an interest in the matter in that my own personal pastime involves swords and carrying them around and medieval re-enactment and, therefore, I would entirely fall within the general definition. But I have discussed what I am about to say to the Assembly with the Attorney General, who is not so conflicted. The view that we take is that the use and carrying of any kind of re-enactment weapon, for example, for the purposes of re-enactment would provide a defence under the law. That would be a reasonable purpose to carry the weapon for. I think provided the weapon or the blade or whatever it is can be demonstrated by the person carrying it to be used for a sporting purpose, then that would provide them with a reasonable excuse for having it in their possession. I do not think I can assist further on the specific question.

10.8.4 The Deputy of St. Martin:

I have had experience of having to deal with these particular problems and I do not like referring to what Deputy Fox would call a former life, but I think what we have here, half of me says I want to support this, but the other half of me says I do not. The reason why I want to support it is because I can see what the intention is. I can see that, but my real worry is the application of the law. Because it is too easy for an officer - and I am not saying whether States Police officer or Honorary Officer - to say it is an offence to have it without saying: "Why have you got it?" So they will be arrested and told it is an offence to have it without asking, really, the person they are speaking to or addressing to say: "What is your reason for having it?" That is what worries me. I would far rather that this particular Article 17 here was removed from here and for us to come back or ask for Home Affairs to come back [**Approbation**] with a proper offensive weapons law very much akin to what Deputy Baudains was saying. I shall miss Deputy Baudains because he does speak a lot of sense at times. [**Laughter**] But really, I think the issue about baseball bats or having any weapon or anything designed or that could be designed to be an offensive weapon is something which needs to be addressed. If we are going to give police officers the tools of the trade, we ought to give them the proper tools. What we have here, I think, is half the tools without encompassing the whole lot. So if I could have any persuasion on the Minister, could I ask him maybe to withdraw this particular one and come back to the House with a proper offensive weapons law? [**Approbation**]

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

I agree very much with what the last speaker has said in that I think this would be better withdrawn. While, as we know, the intention of this is to cut down the use or prevent crime and we all would wholeheartedly support that, it is going to be almost impossible to police. Jersey is an Island. We have boats all round the edge of it and a lot especially in town. It is essential if you are going boating to have a knife. Like it or not, it is better if that knife locks and is serrated because it does not cut your fingers if you have to use it in an emergency. There is a whole reason for having locked knives and they are not necessarily for stabbing people. They are to stop them closing on your fingers. So the problem we have with this law is that it would be perfectly reasonable to have a knife on you if you are going to your boat, if you are coming back from your boat, and there are thousands of people with boats in this Island so they are all going to be entitled to go to and from their boat carrying a knife. We are then left with the way that this is policed. There has very

recently in England - which has a similar law to this - been a well-known case where an international sailing judge, a man of incredible experience, has been arrested and locked up because he was in possession of a knife on his way back from boating. Now, that is patently absurd and yet it took hours for this case to be resolved and he was locked up for some considerable time. This does nothing but damage to the relationship with the police. It cannot be good. It makes it impossible to police. I suggest this article ought to be withdrawn. **[Approbation]**

10.8.6 Deputy G.W.J. de Faye:

Sometimes, perhaps all too often, it is rather easy for legislators to lose touch with reality. As we have seen with the drifts of the Firearms Law and increasing regulations, there clearly has been a feeling that if you take an item away it will somehow change human behaviour. The problem we have, certainly in respect of this particular aspect of the legislation, is that we are concentrating too much on the item and not enough on what constitutes normal human behaviour. **[Approbation]** There is nothing wrong with a Japanese culinary expert wielding a razor-sharp sushi knife within his kitchen in the course of his or her work. The problem occurs when that becomes an offensive weapon and the particular Japanese chef in question begins to assault his staff, but that does not mean that there is an issue with knives. The issue is with the person's behaviour. This Island - if you want to go shopping in numerous hardware shops - is equipped with an absolute arsenal of some of the most offensive knives one can possibly imagine. You can buy them by the block load in all different shapes and sizes, some serrated, some not. But they are normally bought at Christmas as presents for the household and nothing wrong with that. The problem is where they are used for the wrong purpose. I hope that the Minister can see that we have a number of issues with this particular section of the law, primarily, in my view, I do not think that legislation for knives should come under the Firearms Law in the first place. **[Approbation]** Secondly, it is time that we changed our thinking from worrying about knives and instead concerned ourselves with the people who use knives and why people use knives improperly. That is the policy direction that we should be approaching. It is more a question of: "Excuse me, it is 2.00 a.m. What are you doing with a knife?" and not bothering fishermen, divers, yachtsmen and so forth with yet more regulations. I do hope that we do take heed of our own advice to ourselves which we bound ourselves to, clearly not very rigorously, only a matter of a couple of years ago when this body decided we would try and reduce the amount of bureaucracy and legislation that entangles our community. Members, I hope you do recall that advice you gave to yourselves and apply it even more rigorously in the future.

10.8.7 The Connétable of St. Brelade:

It was the practice many years ago on sailing ships for the first duty of the ship's master when a crew came on board to examine knives, and the first thing he would do is grind off the tips. I would suggest that sharp-tipped knives tend not to be used on vessels. They are simply used usually by painters and decorators and surveyors and those sort of people. While I empathise with a lot of points that Members have made this morning, I think one point that has been overlooked is the fact that in the western civilised world there is a serious knife crime problem. At present, the police do not have the tools - dare I use that word - to deal with it. I think we have the responsibility to give the police those tools and we have to do it soon. How long do we have to wait? How long will it take to pass through another law to enable this to be done? I suggest it will be probably 2 to 3 years. I do not think there is time. We have a serious drug issue in the Island, there is no question about that. A lot of the knife crime is related to that and I think we need to be conscious and aware of the fact that we need to do something sooner than later.

10.8.8 Deputy D.W. Mezbourian:

You asked me earlier whether my Scrutiny Panel wished to scrutinise this legislation and I replied that we did not. However, we did give it some consideration before reaching that decision and one of the issues we would have raised was exactly what has been mentioned today, which was the

insertion of this article in the Firearms Law. We briefly discussed it. We did not feel it was appropriate at all and I echo the words, I believe, of the Deputy of St. Martin who called for a separate piece of legislation which would be aimed specifically at offensive weapons. What Members have been referring to consistently through the discussion on this article is reference to a knife, carrying a knife, but if we look at what is proposed, it is not only a knife, it is any article that is sharply pointed. Deputy Baudains mentioned walking through town carrying screwdrivers. Now, in Article 43B, which I would not have objection to supporting, we are looking at an offence at carrying these weapons on school premises unless they are for educational purposes. I contend that that should have been included in Article 43A because we encourage people to undertake evening classes and they could be carrying sharply pointed articles for the purposes of an evening class or any educational purposes, and yet because that has not been included in Article 43A it would not be a defence for them to be doing that. The other thing that I personally object to is this onus on an individual to prove their innocence rather than the prosecution or the police to prove that they are guilty. I do feel that that is beginning to erode our civil liberties and our personal freedoms. I ask the Minister to consider the calls that have already been made that this article be removed from the amendment to this legislation.

10.8.9 Deputy J.B. Fox:

As a police officer [**Members: Oh!**] all bar 10 years retired, I never had any problems in dealing with any offences. One uses your professionalism to do it, but one recognises that times are changing, the world is changing, and we have to have things written down in statutory legislation as opposed to using all sorts of other ways and means of dealing with it. I do agree that I do not like to see offensive weapons coming under a Firearms Law unless they have a relation to a firearm or something like that. I think it is much better to have a separate thing, but I can see why this has been included in this law because it is easy to do, it is there and it is like anything, if you have something that is easier to do and you can bring it in, then you would do it. The problem is nowadays that people are always associating things with knives, but they are not necessarily knives. They can be pokers. In Snow Hill in about 1970, early 1970s, I think we collected about 150 offensive weapons from mods and rockers having a wonderful time, not forgetting the 10,000 bottles that were left out for refunds that were also smashed. But we had large pieces of wood with 6-inch nails, all in various patterns, that were used. We had motorcycle chains which had been sharpened and you can imagine the injuries that they do. But they could all come under this particular bit of legislation, none of which would be a firearm. Yes, we can look further afield to the U.K., we can look to Europe, we can look to other parts of the world and look at the horrendous offences that have been happening with small knives where people have been killed. If you attack somebody and it suddenly pierces an artery or some very sensitive organ, it can be done. At the end of the day, this legislation in this particular section here is very small, it is very limited. Yes, it probably covers an area in Jersey laws and regulations that is not covered elsewhere, but it is not looking at the whole issue. It is only looking at a part of an issue. I think that proper legislation could be put on the legislation list a lot quicker and could be done in 6 months to a year. We would still have reasonable time to bring in the legislation but have it properly thought out for the purpose that it is intended. I am quite happy to vote for this one, but I would prefer to see a proper one brought in. The danger with voting for this one now is it would stay and it would lose its priority, whereas if you voted this one down today, it would increase the priority aspects for the next Home Affairs. [**Approbation**]

10.8.10 The Deputy of St. Mary:

Just very briefly, following on from what the previous speaker has said, what concerns me about this is it takes articles which are not in themselves inherently dangerous or threatening, which are everyday items, and then places the onus on the person having them to give a reason why they have them. Taking it to a very silly extreme but sometimes you need to have a clear example to show things, something from my own bag which I would have had with me today which could be used to

cause considerable injury to someone but which is a perfectly innocent thing in the way it is used: my pencil. Extremely sharp, and I can tell you I could probably do quite a lot of damage with this if I was so minded, which I reassure Members that I am not. Of course, I have a reasonable excuse to have it. It is not a problem because I am here in the States Chamber making notes with it, so I have a reason to have it. If, however, for some reason I was in the hairdressers and somebody came up to me and said: "You have a sharp implement", why would I have it there? I would not. It is ridiculous. It is not the fact that I have a pencil that is the problem, it is the fact that in some frame of mind I could be using it in a manner for which it was not intended, to cause harm. It seems to me here that we are doing exactly what we always say we should not, we are using a sledgehammer to crack a nut. We are using - bad choice of words - a blunt instrument. I heard the Solicitor General give a great explanation for why his particular hobby of re-enactment would not be a problem for carrying a weapon, and I respect that, I understand that, but we are talking in that case about a weapon and here we are simply talking about a pointed object. That is much too broad and we would be opening ourselves up to all sorts of ridiculous things. I understand why this should be dealt with, but as the previous speaker has said, we really should be doing this in a responsible and focused way. So I certainly will not support this article if it is proposed.

10.8.11 Deputy C.J. Scott Warren:

I also will not support this article if it is proposed. A very close relative of mine was attacked a few years ago in England and it was with, we believe, a piece of wood. It did not have to be sharp, it broke my relative's nose and he had to have an operation. I do not think this Article 17 covers everything satisfactorily. I will not support it and I agree with the other Members that we need this to be taken away and, by the Minister's successor, another piece of legislation should be quickly brought back to the new Assembly.

The Bailiff:

I call upon the Minister to reply.

10.8.12 The Deputy of St. John:

I would urge Members to try and remember the words of the Connétable of St. Brelade. **[Laughter]** I am going to be the outgoing Minister very shortly. The important thing about this law is that, had I been going on to be Minister, I would not want to do anything that would allow knife crime to become an issue in Jersey. It could very much become an issue. It is a cultural thing, particularly among young people, and this is a quick and dirty - you might not like it - way of resolving the issue. We could have a whole law for knives. The U.K. has one. Knives have always been in the Firearms Law; there is nothing new about that. All we have done is enhance it so that you can use it in a way that would help the policing of knives. There is a very good reason for it and I would urge Members to think about that reason. We could delay this and you could have a bespoke law for offensive weapons for knives. I think you should have one, but in the meantime if you look at the list of legislation that is required for this Assembly going forward, it is extensive. It has been very extensive for the last 3 years that I have been in this Chamber. This is a way of producing some protection here with regard to knives at a time when it is becoming culturally almost fashionable for particularly young people to carry them for reasons that are not justified. This is an opportunity to fix that here and now before we have an incident that is serious. So I would be very, very careful in opposing this Article. It could be very, very soon that we have a crime committed as a result of this. I will give you an example. The police will often find people in town on a Friday night who have had too much to drink and will be carrying a concealed weapon. That is an offence anyway, but with this law it makes it easier to police it. The police have enough to do, they are not going to be stopping little old ladies with scissors in their handbags and Constables-elect with sharp pencils and outgoing Deputies that need a toothpick because they really do, and Solicitor Generals that happen to be wandering along with a large samurai sword because they are going to a re-enactment. **[Laughter]** They are going to be applying

reasonableness and that is the whole issue. We have a number of laws we have spoken about earlier on that established what is reasonable. We are not going to be wasting our time arresting people who have a legitimate reason for possessing a sharp implement. That is not the purpose of this. This is a way of producing some legislation rather quickly to resolve a potential issue that may become more and more of an issue in Jersey, as it has in many other places. So I would urge Members not to be seduced by the idea that we are suddenly going to be running around trying to arrest people who have a legitimate reason for possessing such items. Members are almost suggesting that we are going to be licensing knives. Of course we are not. I have had calls during this review of the Firearms Law that we should have no licence at all for firearms because it is not the guns that is the problem, it is the person who has them. It is behaviour, and that has come up in this debate with knives. So should we not make any attempt to legislate for the carrying of knives that perhaps some people should not be in possession of? Of course we should not. We have licensed firearms for very good reasons, for public safety reasons and the like, but we could have licensed them not at all because the guns are not the problem, it is the people. You are trying to apply the same argument to knives. We are not licensing knives, we are simply making some recommendations here that make it illegal to be in possession of a sharp object, in some cases a knife, when there is absolutely no reason why you should have it in your possession. There is going to be no intention by the Honorary Police or the States of Jersey Police in trying to catch people out because they have a sharp implement in their handbag or on their boat or on the way to their boat. That is not the intention at all. We simply do not have the resources to even contemplate doing that. So I am slightly disappointed that Members cannot see the benefits of having such legislation, the savings of having it in a Firearms Law where it has always been anyway, but they are quite right to request that going forward we should have a separate law for knives. You are quite right and that will come, but it could take some time. The legislation list is already long. I would urge Members to reconsider, if they have any concerns about public safety, particularly among young people, that they wish to take this article out. I think I would be very concerned. The first heading in the newspaper that I see of a stabbing or the like or the possibility of one that may have occurred, I would be looking back to this moment and thinking: "If only we had had that legislation, we just might have prevented it." That is on your conscience [**Members: Oh!**] and I would urge you to reconsider what you are thinking here. But you are right, there should be a separate knife law.

The Deputy of St. Martin:

Could I raise a point of order? I am afraid the Minister has it completely wrong about the knives being part of the Firearms Law. I would refer him to the Offensive Weapons Law 1953 and I speak from experience. The 1953 law was brought in to deal with the problems the authorities had dealing with teddy boys who carried all sorts of weapons with them and it was not in a Firearms Law.

The Bailiff:

Deputy, this is not, I think as you well know, a point of order. If you could phrase it as a question to the Minister, that would be in order. It is not a point of order.

The Deputy of St. Martin:

Well, can I phrase a question, then? Will the Minister agree that the Offensive Weapons Law 1953 was in place to ensure that people who were carrying offensive weapons were dealt with under that law and not under the Firearms Law?

The Deputy of St. John:

I cannot admit to having read the 1953 law but I have read the 1956 law and the 2000 law and, like I say, the mention of offensive weapons has always been in there.

The Deputy of St. Martin:

I ask the Minister to withdraw that statement that it is in the Firearms Law.

The Bailiff:

The Minister is right, Deputy, it was in the Firearms Law 1956.

Deputy R.C. Duhamel:

Can we have the appel?

Deputy D.W. Mezbourian:

I believe I have a point of clarification, if I may. In his summing-up I understood the Minister to say that the police would be reasonable in their application of this legislation. My question and the clarification I seek is if this is approved today, does it or will it allow the police in the Island, be they Honorary Police or the States of Jersey Police, to question people who they find in a public place with any article that is a knife or is sharply pointed? Will it permit them to question people as to the reason for them having that object in a public place?

The Deputy of St. John:

Yes, it will. We have a very, very professional police force and some very dedicated Honorary Officers as well. They are not going to stop somebody arbitrarily in the street and ask them to empty their pockets. They have to have reasonable suspicion that that person is concealing a weapon and they would act responsibly and professionally in discharging their duty. There is no suggestion here at all that suddenly the police and the Honorary Police are going to start frisking anybody that looks like they might be carrying a concealed weapon. That is not the intention whatsoever.

The Bailiff:

You asked for an appel, Minister. Any Member in the precincts who wishes to vote on Article 17 should please return to his or her seat. I ask the Greffier to open the voting, which is for or against Article 17 of the Bill.

POUR: 12		CONTRE: 31		ABSTAIN: 0
Senator L. Norman		Senator F.H. Walker		
Senator T.A. Le Sueur		Senator J.L. Perchard		
Senator P.F. Routier		Connétable of St. Mary		
Senator M.E. Vibert		Connétable of St. Clement		
Senator P.F.C. Ozouf		Connétable of Trinity		
Connétable of St. Ouen		Connétable of St. Lawrence		
Connétable of St. Helier		Connétable of Grouville		
Connétable of St. Brelade		Connétable of St. Martin		
Deputy P.J.D. Ryan (H)		Connétable of St. John		
Deputy J.A. Hilton (H)		Connétable of St. Saviour		
Deputy K.C. Lewis (S)		Deputy R.C. Duhamel (S)		

Deputy of St. John		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 R.G. Le Hérisssier (S)		
		Deputy J.B. Fox (H)		
		Deputy S.C. Ferguson (B)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy of St. Peter		
		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 I.J. Gorst (C)		
		Deputy of St. Mary		

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

Yes. I wonder if before the adjournment I could ask the Minister perhaps in collaboration with the Solicitor General to consider the remaining articles of the bill because it may be that there are consequential amendments and he should not move some of them. Very well. The Assembly now adjourns until 2.15 p.m.

LUNCHEON ADJOURNMENT

PUBLIC BUSINESS - resumption

The Bailiff:

Now the debate continues on the Firearms (Amendment No. 2) (Jersey) Law 200-. Would you propose Articles 18 and 19, Minister, subject to your own amendment?

The Deputy of St. John:

At what point do you want me to propose the amendment, Sir?

The Bailiff:

It is your own amendment, Minister, so I think subject to the approval of the Assembly you can move these articles as amended by your own amendment.

10.9 The Deputy of St. John:

Yes, that is fine, then. Could I also add at the end of the last debate we obviously removed Article 17. There are some consequential amendments that will have to take place, not least the provision within schools, which was one of the main intentions of that particular article to allow children in schools under supervision by the head teacher to be searched by a police officer. There is a very good reason for that. That was the main driver behind that amendment. That has now fallen away and I would warn Members that that is the case. That does give me grave cause for concern, but that is what Members wished. It will have consequential amendments as we go through.

The Bailiff:

So will you move Articles 18 and 19?

The Deputy of St. John:

Yes. I shall go into the explanation. Article 18 of the draft law amends the principal law to allow hunting with a firearm or legitimate pest control work between sunset and sunrise, which is prevented currently but may often be the optimal time for shooting in particular, for example, roosting birds. This would require the authorisation of the appropriate Connétable and licences would be granted for the preservation of public health or safety for a specified period. I must emphasise at this point that there is no intention of allowing shooting in the dark. It is an opportunity here for the Connétable and the Connétable only to grant permission for this particular exclusion; in other words shooting particularly at dusk and dawn. The court is empowered to cancel a hunting licence where a person is convicted for certain offences or conditionally discharged under Article 19. Since the draft law has been lodged some concern has been expressed regarding the effect on wildlife of the proposed change. A further amendment of P.162 clarifies the interaction of the substitute Article 45, which provides for the grant of licences by the Connétables authorising the use of firearms for hunting with the provisions of the Conservation of Wildlife (Jersey) Law 2000. The amendments make it clear that if the proposed hunting using a firearm is either of protected wild animals or protected wild birds or any wild birds using a firearm that would be a prohibited method of killing, a licence will be required both from the Connétable and from the Minister for Planning and Environment. Wild animals and wild birds that are protected are prescribed in Schedule 1 of the 2000 law. I propose the article.

The Bailiff:

Articles 18 and 19 are proposed, and seconded? [**Seconded**] Does any Member wish to speak on any of those Articles? Deputy Baudains.

10.9.1 Deputy G.C.L. Baudains:

More to raise a point of order, I notice it is becoming the norm to propose articles as amended by the Minister if the Minister has brought an amendment, but I would just make the observation - and I hasten to say I have no view either way on this particular one - that I am concerned for those people who might have preferred the article unamended. It does not give people the opportunity to speak or vote on the amendment.

The Bailiff:

I did say, Deputy, that the Minister could do this subject to the views of the Assembly. If any Member of the Assembly objects to the amendment being proposed by the Minister, that is perfectly in order and we will deal with it in the traditional way. But I understood from Members' silence that nobody had any objection to the amendment. The Constable of St. Martin.

10.9.2 The Connétable of St. Martin:

I am sorry, but I am looking at Article 18 and I have not seen this amendment. I am sorry if I am remiss here, but as it is written in Article 18, it is quite unacceptable.

The Bailiff:

The amendment to Article 18 was lodged on 11th November 2008 and it should be in your papers there.

The Connétable of St. Martin:

It is obviously remiss of me.

The Deputy of St. John:

Perhaps I could assist the Constable. It simply interacts properly the Firearms Law with the Wildlife Conservation Law so people understand that you cannot shoot animals that are protected. It is important to identify with that in this law to ensure that does not happen.

The Connétable of St. Martin:

Reading the proposal, the existing law prevents hunting between sunset and sunrise, which may be the optimal time for shooting roosting birds. I have reservations that the wording of this proposition, inasmuch as it talks about hunting with a firearm between the hours of sunset and sunrise, would give the perception that it is a hunting process. It is not. If you want to go and shoot a bird at night, it is for culling and it is because they are roosting and you want to get rid of feral pigeons in the barn. I just cannot accept that the Constable will not give permission for shooting after dark. I believe that anybody who wished to do this would have to be a registered pest control officer, and I believe that the problem is there is no definition of a registered pest control operative. I have serious reservations that this law, this proposition, has not had sufficient thought put into it in reference to the Conservation of Wildlife (Jersey) Law 2000 when the only unprotected birds that can be shot under that law are crows, magpies, pigeons feral and wood, and starlings. Why would you want to hunt them? You do not hunt; you cull. I would think that the emphasis has not been correctly written in this proposition. There is no way that we would want to encourage the perception that hunting between the time of sunset and sunrise is ever going to be permitted. Pest control, maybe under controlled circumstances by the Constable's permit, yes, specifically for one or 2 days on specific dates and specific times, but this is not a licence to go and get into your car and take your car out and see some rabbits and shoot them because they are dazzled by the headlamps. Unfortunately, the way this is written is not satisfactory and I would like it to be withdrawn and rewritten. I do not want to support this Article, this amendment.

10.9.3 The Connétable of St. Ouen:

This has put the Connétables in a bit of a dilemma because originally the request for such an amendment to the law was put back in May 2000 to the then Home Affairs Committee, and that Home Affairs Committee advised the Comité des Connétables that they had accepted the recommendation and had requested the law draftsman to prepare the necessary amendment. It has taken us nearly 9 years to get to where we are and yet I have probably to apologise to the House that the Connétables have not come forward with an amendment to this in time. The Connétable of St. Martin is quite right that what is being proposed does not cover what the Connétables initially wanted. What we would have wanted to see was the current Article 45, which if I may be permitted to read says: "Any person who hunts any animal or bird with any firearm on Sunday,

Good Friday or Christmas Day or between sunset and sunrise on any other day shall be guilty of an offence and liable to a fine not exceeding Level 2 on the standard scale.” The Connétables would have liked to have seen that article remain in place, in statute, and had an amendment to follow on from that, another paragraph added to that which gave the Connétable permission, on special particular occasions when someone recognised as a pest control operator came to them and asked if they could do that, we would give them special permission to do exactly that, to clear vermin, to clear pigeon or whatever from a particular property. Unfortunately, the way that this is being proposed is that Article 18 substitutes Article 45. The Connétables would very much like to have seen Article 45 remain and merely have a paragraph added to it which allowed what has been happening for many years, where the Connétable has given permission to a recognised pest control operator to do this but, in fact, they have been doing it, although with the permission of the Connétable, illegally. That is the issue that we wanted to clear up. So I would ...

The Bailiff:

I thought that that is exactly what paragraphs 1 and 2 say?

The Connétable of St. Ouen:

I do agree that the whole of it, if you read the whole of it, then it does do what we say. The unfortunate part about it is that doing away with the first bit of Article 45 I suspect and I fear gives the impression to the public that you are doing away with not being allowed to shoot on Good Friday, Sunday and Christmas Day and at night, that you can come to the Connétable and ask for permission to do that at any time in those days. That is not the case. The case is that the Connétables would not wish to see Sunday, Good Friday or Christmas Day, even if it was a pest control officer who wanted to do it on those days, operate on those days. So I accept that we have missed the boat. We should have brought in our own amendment to this, but I do not believe that what is proposed is going to make the public totally aware of what we want to do.

10.9.4 The Deputy of St. Martin:

Again, this calls into question what is in paragraph 2 of the report where it says: “Members have been considered at every stage” and includes the Connétables. One wonders where the consultation has taken place. Can I just seek clarification from the Minister under paragraph 2. The way it reads it means - well, I think it means - that you have to live in a Parish to be able to shoot in that Parish. In other words - I will use myself as an example - I would like to go to St. Martin and shoot, but I cannot because I can only shoot in the Parish I reside in. It says here in paragraph 2: “The Connétable of a Parish may by licence in writing authorise a person who resides in the Parish to hunt for the purpose ...” So does that mean that I can only shoot in the Parish I live in rather than the Parish I would like to shoot in? **[Interruption]**

The Bailiff:

Deputy, I think paragraph (2)(b) answers your question, does it not?

The Deputy of St. Martin:

Yes.

The Bailiff:

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

10.9.5 The Deputy of St. John:

Could I just clarify that there has been full consultation on this - and I think that is what the Connétable of St. Ouen intimated - and it has been going on for some time. This was an amendment that was requested by pest controllers, in other words another group of people that was consulted as a result of this firearms review. But this was a request that came in nearly 10 years ago, so it should be no surprise to the Connétables that this was something that was required and

asked for and drafting was done to permit it. I would just like to reassure Members and members of the public who might be listening that there is a strict criteria here which will be contained in the Orders as to how this should be authorised by the Connétable. I will just read them to you, it might be useful: “Anybody applying for this type of exemption would be fully aware of the principles of marksmanship; they should have a good knowledge of pests and protected species; they should have a good knowledge of local legislation concerning the protection of wild animals and birds; they should be prepared to keep a register of all work carried out detailing the location, species, reasons for the cull and numbers of the cull.” In other words, strict conditions would be applied by the Connétales in issuing this permission. It is only able to be issued by the Connétable who is the licensing authority in that Parish. There is absolutely no intention in this law to allow indiscriminate shooting or even rush shooters, for that matter, who just fancy shooting at night being allowed to. They have to ask the Connétable for permission and that would only be given by him or now, of course, his Chef de Police. That is important because he knows his Parish well. He knows where areas can be safely shot in, even if it is after dark. I also add that really we are talking here about dusk and dawn. Particularly in the summer period the dusk and dawn period is very long and that is when often pest control can be achieved at its maximum effectiveness. Even those who may have shot rabbits in the past, they tend to be out chewing the cud at dawn and dusk and then you do not see them again for the rest of the day. So this is the reason for it. If you are trying to control pests of that nature, that is when you are most likely to shoot. The current law does not allow that, but neither should it be used just as an excuse for rush shooters to shoot in the dark. That is not the intention. It is very clear in the law that that is not the intention and it is up to the Connétable to license it anyway, so there is absolutely no intention at all to allow shooting in the dark unless it is an extremely controlled environment and those that made application to the Constables follow some very strict criteria which will be embellished in the Orders that we will produce and guide notes that we will produce to accompany the Firearms Law. I hope that that answers the questions and the concerns. The licensing authority, i.e. the Connétales, are extremely thorough in issuing permits for all sorts of things, not least firearms, so I would expect them to be equally as thorough in allowing somebody this particular derogation in order to shoot at that time of the day. I would hope that the requests we have received from pest control experts would be accepted by Members. I do not really see any major issues here, provided the Constables are prepared to support it. Can I just add that if the Constables wish to bring the amendment to clarify this at a later date, then that is entirely up to them, but I feel that it is important that they make it very clear to applicants that that is the status and it is not a licence to shoot indiscriminately at night. That needs to be very clear to the public.

The Bailiff:

I put Articles 18 and 19 as amended. Those Members in favour of adopting them kindly show? Those against?

The Deputy of St. Martin:

Can we have the appel, please?

The Bailiff:

Yes, very well. Do you wish an appel on each article or on Article 18? Article 18, very well, yes. Any Member in the precincts who wishes to vote should please return to his or her seat. The vote will be for or against Article 18 of the bill.

POUR: 33		CONTRE: 3		ABSTAIN: 0
Senator L. Norman		Connétable of Grouville		
Senator F.H. Walker		Connétable of St. Martin		

Senator M.E. Vibert		Deputy G.W.J. de Faye (H)		
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator J.L. Perchard				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Clement				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of St. John				
Connétable of St. Saviour				
Deputy R.C. Duhamel (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 R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy A.J.D. Maclean (H)				

Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy of St. Mary				

The Bailiff:

An appel on Article 19, Connétable, or standing vote? Standing vote. I put Article 19. Those Members in favour of adopting it kindly show? Those against? Article 19 is adopted.

10.10 The Deputy of St. John:

We come on to Article 20 and this is where I was saying before that elements of this will potentially fall away. This was my major concern with not approving Article 17 because this will no longer permit police to search young people in schools with the permission of the head teacher, and that was the major driving force behind this particular amendment within the Firearms Law where, as I said before, knives had always been cited since 1956. So, I am not sure whether the Minister for Education, Sport and Culture wants to say anything about this matter or shall we just move on to the next article?

The Bailiff:

No. You must decide. Article 20 of the bill I think now falls away, so you are going to move Article 21?

The Deputy of St. John:

Article 21, yes.

The Bailiff:

Article 21, yes, for which there is an amendment, of course.

The Deputy of St. John:

Yes.

The Bailiff:

So, will you move Article 21?

The Deputy of St. John:

Yes. Do you want to take the amendment after I have moved it?

The Bailiff:

Yes, please.

10.11 The Deputy of St. John:

Article 21 amendment enables visitors to the Island to be issued with a visitor's permit. Currently visiting shooters from outside the Island who have a valid certificate issued outside the Island authorising them to possess firearms and ammunition and who are visiting or intending to visit Jersey may be issued with a visitor's permit by the Chief Officer of the States of Jersey Police. Difficulties have arisen where visitors do not hold a certificate, for example, because they possess a firearm that can be held legitimately in their own country of residence without the need for a permit. The new provision would apply to those who have a bona fide reason, e.g. as part of a visiting shooting team, to bring in a firearm if they were in possession of a valid certificate issued elsewhere, or if supported in writing by an official of a shooting club. The form of permit is

prescribed and allows the holder to possess a firearm and stipulated ammunition. Its validity is limited to a period of one year from issue. Provision is made for a prescribed fee. I move the Article.

The Bailiff:

Article 21 of the bill is proposed and seconded? **[Seconded]** Now, there is an amendment in the name of the Deputy of St. Martin. It is a long amendment. Deputy, may the Assembly take it as read? Then I call upon the Deputy of St. Martin to propose his amendment.

10.12 The Deputy of St. Martin:

Just an observation, I had mentioned before that it is always very difficult for a Back-Bencher to prepare a presentation when he does not receive the comments of a particular Committee or Minister until the lunchtime of the day of the debate and, as such, has then had to spend a considerable amount of time rearranging their speech to ensure that you cover the comments. So, I would ask in future please could comments be given to people who propose amendments much sooner than the day of the actual debate. I took part in the debate when the States approved the 1999 Firearms Law. The Defence Committee of the day accepted a number of my amendments. However, the States approved Article 50 which was to require all visitors who brought their firearms and/or ammunition to the Island to apply for a visitor's licence or visitor's permit. It is worth recalling that the reason for updating the then existing Firearms Law was to tighten the law following the Dunblane massacre of schoolchildren and their teacher. As is the nature of the public, there were understandable calls for drastic measures to be taken to ensure that such tragic events do not occur again. Unfortunately, some of the measures taken were draconian and amounted to knee-jerk action or reaction which did huge damage to the lawful shooting community, cost the U.K. taxpayer huge sums of money, and has done very little to reduce the crime which is caused by the criminal fraternity. In addition, the measures taken have created unnecessary red tape and bureaucracy for thousands of ordinary members of the public who possess firearms for a number of legitimate reasons. In 1999 I saw no reason for visitor's permits. I argued then it was unnecessary and in time the committee with responsibility for issuing permits would come back to the States with a request to impose a financial burden on those whom they wished to inconvenience. Although it has taken 9 years, my prophecy has come to fruition because Home Affairs is now seeking approval to charge for a visitor's permit, which just adds insult to injury. I think it is pertinent to remind Members that following the Red Tape Review in 2004, which Deputy de Faye mentioned this morning, it is States policy for States departments to focus on legislation for which they are responsible. I quote from RC70 of 2005 which states: "It is hoped that this revision process will be the start of a culture whereby any legislation that is drafted in future will be approached from a critical stance which will question both its necessity and style. Similarly, it is hoped that the seeds of a culture have been sown whereby the need for any bureaucratic system and the process it involves are constantly open to review." It is quite obvious that Home Affairs has not reviewed the need for issuing visitors' permits, let alone the need to seek to impose a charge for this unnecessary bureaucratic nonsense. In its comments - which again I said were on our desk yesterday lunchtime - Home Affairs admits that the issue of visitors' permits is cumbersome and time-consuming. I will explain what I mean by bureaucratic nonsense. Jersey has a remarkable record of success in target shooting. Apart from adding to Jersey's prestige, it is a vital part of the Island's sports tourism infrastructure. Members of the shooting fraternity have been coming to Jersey for over 150 years with nothing untoward occurring before or since the introduction of the visitors' permits. So, one is entitled to ask why respectable and responsible people should be required to inform the police in advance that they are visiting Jersey to partake in a sporting activity with a weapon and ammunition which they can lawfully own in their own country. What is the purpose or need for the Jersey Police to know? If it is a valid reason, then surely there will be evidence of the benefits arising from the procedure. There will surely be frequent incidences of refusal to issue visitors' permits for some valid reason. But there is no such evidence. On the

contrary, the Minister for Home Affairs tells me that he knows of not a single case of refusal. How is it that France, Germany, Switzerland and Northern Ireland can find it satisfactory for Jersey competitors to come and shoot without visitors' permits? I would suggest that is simply because it is not a problem. Home Affairs claims that it is important to record visiting weapons without, however, providing an iota of evidence to support their claim. I would like to quote from part of a speech which was made by the late Senator Tomes when speaking on the Firearms Law: "To those who are nervous about guns, the concept of knowing where every gun is may sound attractive and reassuring. It is, however, in reality as voluble as a void insurance policy. The painful fact is that guns, details of which are so carefully collected, are not guns of criminals. They are the guns of honest people. Criminals do not volunteer such information. Quite simply, collecting useless information belongs to the hobbyist, like collecting railway engine numbers. To do so at the expense and inconvenience of the public is not a rational public policy." I have grave concerns with the position being adopted by the Minister for Home Affairs. Firstly, the comments paper that has been circulated contains some errors of fact. It states that shotguns do not require certificates in the U.K. In fact, they have been required for the last 40 years. Secondly, it states that reciprocal rights for travelling shooters are in place between the U.K. and Europe. That is not so. The E.U. (European Union) introduced a firearms passport system in 1991 but the U.K. opted out of it and remains out of it. Thirdly, Home Affairs state: "A better solution would be reciprocal rights." That is in the comments from yesterday. In other words, they accept that a situation in which by definition visiting competitors would arrive and be welcomed to Jersey without notice, entirely on the strength of their own documentation issued by their own country, would be a better solution. That is precisely the essence of my proposal. Of course, it would be nice if those countries that still insist on visitors' permits, such as the U.K., agree to accept visitors from Jersey's firearm certificates. I would say that would be an excellent objective for the new Minister for Home Affairs to work on. Fourthly and most importantly, Home Affairs seems to regard the U.K. as a model Firearms Law jurisdiction from which Jersey can and should learn much from. Again, I would dispute that. I simply do not understand the basis of this view. The U.K. has made major changes to the Firearms Law several times, most recently in 1968, 1988 and 1997. Each change has not only been very expensive but caused huge damage to the U.K. lawful shooting community. Each time the expense and damage was justified on the basis that it was necessary in order to reduce gun crime. Each time gun crime has got worse after each law change. The new laws just make life much more difficult for the ordinary, law-abiding shooter or people from the shooting fraternity. I submit that Home Affairs should accept my amendment and enter into discussions with the U.K. and other countries that our competitors visit to try to persuade them to accept the visitors from Jersey. Members will have read the report accompanying my amendment and will have noted there is a lengthy process to be followed before the visitor's permit is granted. For the most part, it is recording details which already exist in the applicant's firearms certificate. It is an inefficient, meaningless and time-consuming process. As previously mentioned, even Home Affairs concedes that the process is cumbersome and time-consuming. Applicants must be first aware that a permit is required. If, after the applicant is granted a permit, he or she becomes ill, there is a strong possibility that the replacement shooter would be unable to participate or the firearm cannot be used because there has been insufficient time to process the reapplication. Since 2000 the States Police have issued well over 1,200 visitors' permits. There has been a steady rise in the number of permits granted, and since the number has increased on average from about 100 a year to 180 a year. Apparently, it takes 30 minutes to process each application with further time needed to prepare a report underlining any points which the Chief Officer or the Deputy Chief should be made aware of prior to making the decision as to whether to issue that permit. Again, this information was supplied to me by the Minister for Home Affairs. I would submit that the 30 minutes plus is very, very conservative. Why else would the States Police require at least a month to process the application? Interestingly, there is no record regarding refusal. However, during his time at Home Affairs, the Minister has informed me that he is not aware of any such refusals to issue a permit. Therefore, it could be said that thousands of man hours have been spent by both the

States Police and the applicants on a paper exercise, processing applications which have proved to be a complete waste of time because everyone who applies is granted a visitor's permit. Now, of course, Home Affairs wants applicants to pay for the privilege of inconveniencing them and wasting everybody's time. Apart from the competitive shooting fraternity applying for permits to partake in shooting competitions, there are a number of shooters who visit Jersey to shoot game with local landowners. Again, these people will be in possession of a firearm or shotgun licence or excluded from requiring one, but they, too, must apply for a visitor's permit. It should be noted that many years ago Jersey used to issue visitors' driving licences in a process not dissimilar from the one mentioned above. However, common sense has prevailed and that bit of bureaucratic nonsense no longer exists. Visiting domestic driving licences are now accepted and also no visitors' permits are required for visiting vehicles. In this context, it is interesting to note that visiting drivers are involved in accidents causing injuries each year. However, there is no known instance of a visiting shooting competitor ever having been involved in an accident of any sort. I would also argue that the issue of visitors' permits for licensed firearms holders is discriminatory and unfair. Members of the archery and fencing fraternity are able to travel to and from the Island without any requirement to license their weapons, let alone inform the police or apply for a visitor's permit. Bows and arrows and swords can just as well be used to kill or maim people, yet such owners are not required to license them and do not need a permit to visit this Island or leave the Island. If Members approve my amendment, in future holders of firearms will still be required, if requested, to produce their documents for their weapons and ammunition on arrival, as is the procedure for holders of driving licences. It will save thousands of unnecessary hours of duplication and a saving on manpower and financial resources which could be diverted to a more efficient service being given to the local applicants applying for or renewing their firearms certificates. In summary, Home Affairs claims incorrectly that visitors' permits are not required to travel between the U.K. and Europe. They are required because the U.K. chose to opt out of the scheme. Secondly, Home Affairs states that a better solution would be reciprocal rights between Jersey and the U.K. This would eliminate visitors' permits, so by definition it accepts that visitors' permits are not necessary. Third, Home Affairs accept that the issue of visiting permits is cumbersome and time consuming. We heard during Question Time yesterday of the delays in processing local applications through new rules. I also accept that the Connétable of St. Ouen said this morning that they are not responsible for processing visitors' permits. Fourth, over 1,200 visitors' permits have been granted since 2000 with no known refusals; therefore, it is apparent that the whole issue of visitors' permits is an unnecessary rubber-stamping exercise. Five, Home Affairs acknowledges that if a person is fit to hold a U.K. firearms certificate it would seem that they should be able to be used in Jersey for the purpose of their certificate and, similarly, for Jersey residents to go into the U.K. Six, there is no record of any visiting shooter being involved in anything untoward. Seven, visiting motorists do not need to apply for a visitor's permit to either drive or own their vehicle or anyone else's while in the Island. Archers and fencers do not require visitors' permits. Finally, it is States policy to reduce the need for red tape. Visitors' permits provide no measurable benefits, but they consume resources and generate delay and inconvenience. I propose my amendment.

The Bailiff:

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

10.12.1 The Deputy of St. John:

The Deputy of St. Martin put his case very eloquently there. He is missing some fairly vital points here, though. He uses arguments that are consistently rolled out as arguments not to have any gun licensing at all, and he disappoints me in that because he is using the same arguments here. He uses a comparison with driving licences, which is frankly absurd. I have had this argument before with people who do not want to have licensing at all, the fact that cars do kill more people every year than guns, but that is not a reason for not having any licensing of guns. Frankly, the comparison is

absurd. The reason why we wish to have a permit regime for visitors coming to Jersey with firearms is simple, and I will give you a scenario. Air weapons are not licensed in the U.K. and we have quite a large number of shooting groups coming to Jersey for sports shooting with our clubs in Jersey with a gun that is not licensed in the U.K. So there are no checks or balances at all on that person. This amendment allows with a sponsor the opportunity to acquire a visitor's permit, and the reason why we would want that, I will give you a scenario whereby a competitor in a shooting competition arrives in Jersey, checks into his hotel, does what all good gun-keeping people should do, checks his weapon, cleans it, gets it ready for the next day. Behind the curtain in his bedroom is the silhouette of a man holding a weapon as he walks around the room. The passer-by sees a man at a window with a gun and calls the police. A quite legitimate call. They call the police. The police will then check their records and see from the visitor permit that this person is staying at that hotel and possesses a weapon. So there is not a major shout, there is not a major callout of the Firearms Unit. There is a perfectly legitimate reason to have that firearm. He is simply preparing it for the next day's shooting competition. That is perhaps an illustration of why we need to know where weapons that are licensed in Jersey are at any time. The other advantage, of course, to the licence or permit holder is that when they come to Jersey they can then - certainly in the case of other weapons - obtain ammunition that is licensed, which would not necessarily be licensed in the U.K. in certain situations. They cannot purchase ammunition for that weapon unless they have a visitor's permit or permit from Jersey. They would then have to bring ammunition on the aircraft, which a lot of airlines will not permit. So there is an advantage there as well. The other advantage, of course, is when you are coming through Customs, through the airport, if you have no legitimate documentation for owning that weapon because it is not certificated in your own country, there would be hold-ups at the airport, whereas you apply in advance for this permit with a sponsor so when you get to the airport there is no hold-up, you go straight through because you have appropriate documentation. There are lots of reasons for having this permit in place. It is not a matter of having unnecessary bureaucracy. I am sorry that some people feel that having licensing for guns at all is over-bureaucratic. There are some very good reasons for it and some very good reasons as to why we would want to know in Jersey where any weapon was at any time. It does help enormously the police to react or the Honorary Police to react if an incident was called in an appropriate way. There are no incidents, as the Deputy says, with visitors or gun crime of any kind. That is not the reason for this. This is good, regulatory procedure which is not over-bureaucratic. I am sorry, there is a Firearms Law in Jersey; it needs to be policed properly. It is there for a good reason and when visitors come to our Island they should have to abide by the permit regime that we have here, not necessarily the one they have in their own country. This will simply facilitate that in a much more organised manner without it being an overburden on the bureaucracy that we currently have. If I thought there was an opportunity to reduce bureaucracy in Jersey, yet not damage the issue of public safety in the Island, I would do it, but this is a balance between public safety and the necessity for some bureaucracy. I am sorry that the Deputy feels that we should abolish it completely. I do not have that opinion and I will be opposing the amendment.

10.12.2 The Connétable of St. Ouen:

I have to say that on the face of it this amendment seemed quite reasonable, but when the Connétables looked at it they found a number of things with it which they could not support. Firstly, the fact that it says in (1)(c) that the firearm and ammunition remains in the person's possession throughout the visit. Certainly, we could not support that. We could not support someone holding a firearm and ammunition in their hotel room, for instance. We certainly could not support it with someone holding that firearm and ammunition in a mobile home parked somewhere around the Island because we do not believe that there would be sufficient security in cases like that. As the Connétable of St. Brelade said yesterday, the Connétables are very keen to ensure that anyone who has the ability to hold a firearm in the Island does so and we have to be mindful of the fact that public security must be high on our agenda. At the moment, anyone found in possession of firearms in Jersey who is not the holder of a local firearms licence or a visitor

permit is in breach of our law. Should this amendment be brought in, we could conceivably have people on the Island who are not in possession of either but in possession of firearms. This is one of the concerns which was raised by the Connétables. The Deputy of St. Martin in his proposition said that I did not say that the Connétables were not responsible for delays. I said, in fact, that delays were inevitable if the proper checks were to be undertaken. I did not put blame on any particular element of the checks. I said that we were mindful of the fact that the proper checks had to be undertaken and that sometimes these do cause delay. The Connétables are minded not to support this amendment because we do not believe that it does anything to add to the security of the public.

10.12.3 Deputy G.C.L. Baudains:

I am slightly concerned about the comments from the Minister. Apparently, according to him, if I heard him correctly, comparing gun licences with driving licences is “absurd”. I believe that is the adjective he used. He went on to say - I paraphrase his words - we know that cars kill many people. He said something to that effect. As far as I am aware, very few cars have ever killed anyone. It is usually the driver of the car that makes the mistake and is the cause of the injury or the death. Of course ...

The Deputy of St. John:

That was what I was implying.

Deputy G.C.L. Baudains:

It is no different to that of a firearm. I am not aware of a gun killing anybody. It may be the case if it fell off a shelf on to your head it might kill you, but what normally happens in deaths in which a firearm is used, of course, is it is the person using the firearm who creates the death or injury; exactly the same as with a car. Yet, according to the Minister, it is absurd to compare them. I contend it is not. In both cases the safety revolves around the person, not the instrument. My main concern with the visitor’s permit is the very real possibility of an unfortunate visiting competitor finding himself arrested or charged for unlawful possession of a firearm simply because he did not have the firearm certificate. The reason why he would not have a firearm certificate is because he had one but it did not have his particular gun on that certificate. The reason it did not have that particular gun on his certificate is because somebody at police headquarters did not transcribe the particulars of his firearm certificate accurately on to the visitor’s certificate. Now, it happens that a visiting competitor may very well bring 3 or 4 different firearms with him, whether it is shotguns, pistols or whatever. For those Members who are familiar with firearms, the serial number of a firearm is generally somewhere between 6 and a dozen digits long. It usually has one or 2 letters of the alphabet in it as well. It is fairly easy to make a mistake in transcribing. You could have XYZ12345678910. If the officer puts 12345678109, you are guilty of a serious offence because you now have a firearm in your possession for which you do not have a certificate. That is my concern.

10.12.3 Deputy J.B. Fox:

There is a need to reduce bureaucracy, there is no argument about that. I, too, have sympathy for the reason that this amendment has been brought, but I also accept the argument that is given by the Connétable of St. Ouen that you cannot have people running around with ammunition, especially if you do not know that they are in the Island. I would like to take up a couple of points, though. I used to stop as part of my responsibilities when I was on Port Special Branch and I do not think there was one occasion when I ever came across anybody that was not a responsible firearms holder. They were all responsible people. They were coming to the Island to participate in their sport. They provided good tourism, obviously, and often they brought their families, et cetera. I think that without a doubt the one thing that they complained about was the time and the bureaucracy that it took and that you could not change things around or you could not deviate from

the regulation because it would either be too cumbersome, too late or whatever. I can see the relevant points about that. I can also see the arguments that if because of the specialised nature ... and I am not a firearms person myself, never have been, never wanted to be, but I do understand that there is specialist ammunition, that a lot of people make up their own ammunition, et cetera, and also they purchase. Having ammunition running around the Island that you cannot control is not a good idea, but that does not stop local gun dealers and gun clubs from holding such ammunition for any visitors coming in. Yes, that probably needs some predetermination. As far as someone cleaning a rifle in bedrooms of hotels, et cetera, well, a police officer is always going to be cautious until that police officer is certain that it is in the right hands, bearing in mind that most instances nowadays is not of genuine firearms, it is from replicas that you can buy in any shop. They will treat it with caution and even if somebody has a genuine firearm, et cetera, there should be a security requirement. Left in bedrooms is not a proper security requirement. It used to be my responsibility at one time for the whole of the Island's security standards for firearms and that would certainly not be acceptable. Another thing that we hear about is the difference between the U.K. and Europe. Yes, there is a complete difference. There was an instance in the past where you could go in and buy yourself a Kalashnikov in France and 2 hours later show your passport and buy the ammunition. Those days are gone. The whole of Europe, and I would suggest to you expanding to most parts of the world, take much more responsibility. From what I have heard today and the arguments that are being considered today, I think there are ways forward, but I do not see it in the present amendment or in the present proposition that is before us. What I would like and what I would ask is that even if I cannot support this particular amendment today that the Minister for Home Affairs would advise his department for his successor to please look at this piece of legislation again. It can be made much more user friendly. At the same time, it can provide the safeguards that both the police and the Island require, at the same time encouraging what predominantly is upstanding citizens enjoying a sport that is both good for them and the Island.

10.12.4 Deputy R.G. Le Hérisier:

Deputy Fox has reached the point I was trying to get to. I do in principle approve of what the Deputy of St. Martin is doing. There is one worry. It is people walking around without certificates because their country of origin apparently does not require them. I would hope the Deputy would deal with this because it is a big gap in his argument. He has argued constantly that if you have a permit from essentially a reputable jurisdiction, then all is well. But the point I wanted to make, one to which Deputy Fox alluded, was this notion of the shadowy person behind the curtain in a hotel room. The notion that if the police spot such a person, or a passer-by does, and then the person shouts out: "Oh, it is okay, I have a certificate" and people go away, even though the chap may be, I do not know, having a mental breakdown, seems quite ridiculous. That is the logic of what the Minister was telling us, and I am sure there are lots of ways in which the police assess a situation, of which, as Deputy Fox said, being able to sort of wave your certificate from the hotel room would be but one step in the procedure. I find that a rather odd scenario to be used to justify this additional bureaucracy. It does strike me a point that the Deputy of St. Martin should emphasise is these numerous European countries - and Guernsey until the late 1990s - who were able to survive with proof of certificates from the originating country, if these people can do this I fail to see why we cannot do the same thing. I do find some of the arguments of the Minister are somewhat specious.

The Bailiff:

I call upon the Deputy to reply.

10.12.5 The Deputy of St. Martin:

I thought I might have had a contribution from someone with responsibility for tourism, but unfortunately we did not, but I think there is a great value for tourism for the free use of the ... able

to come in and out of the Island without the need for the bureaucracy of a firearm certificate. Could I start off by addressing some of the concerns the Minister had and I am grateful for Deputy Le Hérisssier for addressing the issue about the man behind the curtain. It really was scraping the barrel for an excuse, I must say.

The Deputy of St. John:

If the Deputy would give way, I am sorry that they seem to have misinterpreted me, but the fact is that if that was the scene that a passer by or a guest saw at a hotel they would obviously inform the police. The police would react in a very different way if they knew from permits that that person was here for a shooting club activity, rather than somebody that had a weapon that was not certificated. That was what I was saying and that was the intention of the illustration.

The Deputy of St. Martin:

I still think he is scraping the barrel. We heard that I am opposed to firearms or people holding a licence for firearms. I have never mentioned that one bit. I do not have a problem with people being licensed. I think the concern I have is about the people who have not got licences and it is those people who are causing the amount of grief for responsible firearms people. Of course, the additional grief now of also requiring permits and that is what the issue is all about. Indeed, if someone came into Jersey and he was stopped by police without having a firearm permit, as indeed I would be looking for, as I said in my speech, they would still be required to prove ownership, that they are entitled to have the gun of which they have got possession of, and indeed the ammunition as well. Again, I think that argument is very, very weak. One very important piece that the Minister forgot to mention about was the fact ... it is on page 3 of his own comments; the comments of Home Affairs. It says they would be happy to have a reciprocal arrangement whereby a permit would not be required; however, the U.K. do not have one. Because the U.K. do not have one it means that we must have visitor permits to the Island. The argument there again is very, very weak. I can understand the concerns expressed by the Connétable of St. Ouen and no doubt he may well be speaking for all the Connétales. I would hope he is not, because I would hope each Connétable is able to come to his own opinion. The concern I think - the main concern - the Connétable of St. Ouen had, and I can understand it could be there, but by good fortune, as the Connétable of St. Ouen would like to see an actual visitors' permit, you will see that his visitors' permit gives the visit to the Island no more guarantee that he needs to have possession. I will read out what it says; this is the third criteria, the third option. It says: "Reasonable precaution shall be taken to ensure the safe custody of the firearms and ammunition and any loss or theft shall be reported at once to the Chief Officer of Police." That is an issue that we covered with a law draftsman under here when it says that: "A firearm or ammunition remains in a person's possession throughout the visit." In other words, that is the responsibility of the firearm's holder. One knows that firearms people are responsible people and they will ensure that their firearms and ammunition are retained in a responsible place, as indeed that is all they are required to do by the existing permit. My amendment should not fall because of that concern because that matter has been addressed. Deputy Baudains has covered the issue about guns in cars. They do not kill; it is the people who use them. I do not think I have really got much more to add because I think the arguments put up have really been one of very sympathetic ones, almost saying: "We would like to support it but maybe Home Affairs could go back and tinker with it so we could have something which is then user-friendly for everybody." The whole argument, at the end of the day, is that whether we have permits or not it does not guarantee that those who wish to go and cause harm to people can still do so. The records show that very, very few, if any, people who have firearms' licences or certificates of any sort go out and injure people. What I would ask us, again in line with States policy, do we really need to have a permit? Where has the evidence been shown today by the Minister for Home Affairs that by having a visitors' permit it is going to make the Island any more unsafe than it is now, or any safer than it is now? All we have got is a bit of bureaucratic nonsense and I would ask that Members do support my amendment. I ask for the appel.

The Deputy of St. John:

Can I raise a point of clarification? The Deputy suggested that under the idea of a reciprocal arrangement would solve this issue. You can only have a reciprocal arrangement with licences if you have a licence in both countries. If there is no licence in that country you cannot reciprocate it because there is not one. That is the very issue here. Also, I would also add that this is supported by the firearm user groups.

The Bailiff:

Wait a minute, Minister. Are you asking the Deputy to clarify something or are you ...

The Deputy of St. John:

I am pointing out that he seems to have his facts wrong. The reciprocal arrangement is only reciprocal if you have a licence to share. If there is no licence it is not reciprocal.

The Bailiff:

Deputy, do you wish to respond to that?

The Deputy of St. Martin:

I was trying to find the little piece here in the comments, but it is quite clear from the comments that we have had from the Minister ... I had them here in my hand a second ago. I would like to read out from here because it really clarifies the point that the Minister has been saying and I just ask why he was asking the question. Have we got the comments, please? It is the final paragraph. It says: "However, changes to the reciprocal arrangement with the U.K. are beyond the scope of amendment 2, but would need to be pursued separately." It is quite open for the new Minister for Home Affairs to open up that arrangement. As it stands there is not one, so we cannot have that until, of course, we have had the further discussion with the U.K.

The Bailiff:

The vote is for or against the amendment of the Deputy of St. Martin.

POUR: 15		CONTRE: 31		ABSTAIN: 0
Deputy R.C. Duhamel (S)		Senator S. Syvret		
Deputy of St. Martin		Senator L. Norman		
Deputy G.C.L. Baudains (C)		Senator F.H. Walker		
Deputy R.G. Le Hérisier (S)		Senator T.A. Le Sueur		
Deputy J.A. Martin (H)		Senator P.F. Routier		
Deputy of St. Ouen		Senator T.J. Le Main		
Deputy of St. Peter		Senator B.E. Shenton		
Deputy G.W.J. de Faye (H)		Senator F.E. Cohen		
Deputy P.V.F. Le Claire (H)		Senator J.L. Perchard		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Ouen		
Deputy S.S.P.A. Power (B)		Connétable of St. Mary		

Deputy S. Pitman (H)		Connétable of St. Clement		
Deputy A.J.D. Maclean (H)		Connétable of St. Helier		
Deputy K.C. Lewis (S)		Connétable of Trinity		
Deputy I.J. Gorst (C)		Connétable of St. Lawrence		
		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of St. John		
		Connétable of St. Saviour		
		Deputy J.J. Huet (H)		
		Deputy P.N. Troy (B)		
		Deputy C.J. Scott Warren (S)		
		Deputy J.B. Fox (H)		
		Deputy S.C. Ferguson (B)		
		Deputy of Grouville		
		Deputy J.A. Hilton (H)		
		Deputy D.W. Mezbourian (L)		
		Deputy of Trinity		
		Deputy of St. John		
		Deputy of St. Mary		

The Bailiff:

The debate now returns to Article 21 of the bill. Does any Member wish to speak on Article 21? I call upon the Minister to sum up, if he wishes to? Sorry, Constable of St. Martin?

10.13 The Connétable of St. Martin:

I am a bit tardy. I gather that this article will give a visitor a permit for one year. Again, as the person responsible for the issue of local firearm certificates and having the responsibility of putting my name at the bottom of the certificate issued to local people I just see this as a situation where you might have visiting shooters coming into the Island with one, 2, 3, half a dozen guns, they are checked in but they are not going to be checked out because the permit lasts for a year, the visitor may not be staying here for a year, he will go back to ... and he might transfer some of his weapons while he is here. I do not think this is a responsible situation not to know what firearms are in the Island. I shall not be supporting this article. I think it is again probably badly conceived. I do wish that this whole proposition was not being pushed through in a hurry as it seemed to be pushed through the Chamber in order to get it through the procedures before the next session. I really,

really, truly believe that the new Minister for Home Affairs should have cast his eye or her eye over this because I think most of these articles are going through on the nod and this is not the way to deal with firearms. We will not know the possibility of what firearms are in the Island. They are on a permit for a year, the owner may not be here, where are the firearms? They have not been checked out of the Island. No, I am not going to support this.

10.13.1 Deputy G.C.L. Baudains:

In relation to the comments from the previous speaker I think I should point out that in the case of a visiting sportsman who will unfortunately need a visitors' permit, of course, when he leaves the Island he is unlikely to leave his firearms behind because as a licensed firearms person he will need to have his firearms checked at some stage in the country from which he came, and if he cannot account for them he will be in trouble in the country from which he came. The other issue I would like to raise, of course I am sad that the Deputy of St. Martin's amendment did not succeed because if you read the visitors' permit it does not offer one iota of safety above that which would already exist with the person's own firearm certificate. I would like perhaps the Minister to address that because when I look at it the requirements for the visitors are merely a fraction of those required from a local firearms' owner. Just to conclude, I would also say of course we must not forget, especially in relation to the comments of the Constable of St. Martin, that of course we have no idea about either the comings or the goings of unlicensed firearms.

10.13.2 The Deputy of St. Martin:

Really, the only difference between the current law on Article 50 with what is being proposed is that the fact that it wants to ... the Home Affairs is seeking to set out an opportunity for a fee for an arrangement. Of course, I stand corrected, but I do not think we have had any information at all given to us today as what the fee will be, what the charge will be now, for the issue of this permit. What we are doing, we are voting for something completely blind. If one looks at the report accompanying it, I cannot see it is going to be somewhere about £10 to £60, which is the information, I think, I gave in my speech. Maybe in summing up the Minister could give us some indication as to what the fee will be and the justification for that fee. After all, it should be ... if we are looking for a user pays, no doubt there will be some justification for that fee. Again, I just repeat, for the want of repeating, what Deputy Baudains said. This bit of flimsy paper here, which has no doubt caused many, many hours to produce and will now cost several pounds, I suppose, for the benefit to have it, it does absolutely nothing for any ... it does not increase safety at all of anybody. I would just ask Members to think carefully about it and I think I may well join my Connétable of St. Martin in voting against this particular amendment.

The Bailiff:

I call upon the Minister to reply.

10.13.3 The Deputy of St. John:

I would like to add here that this amendment does have the full support of firearms' user groups. Those are the people that are constantly inviting groups over to shoot in competitions and so on. They do not have an issue with this. It has been widely discussed at the Firearms Law Liaison Group meetings where they have attended. I have had emails here quite recently from key people in that community that did not find the Deputy of St. Martin's amendment terribly palatable and were content with ours. What they did say though, and the Deputy made some play of this, is that they would like to see a reciprocal arrangement. In case the reciprocal idea has been lost on some people, it is only reciprocal if you have got a licence in one country and a licence in the other; therefore, we would recognise the licence in the U.K. If that particular firearm is not licensed, like an air weapon, for example, then you cannot reciprocate it because there is nothing to licence it against, so the visitor permit would still apply even if there was a reciprocal arrangement. You would not have to issue a visitors' permit to somebody that already had a certificate for that item.

In the case of an airgun, that simply would not be the case. That would be a big step in progressing the objective of the Deputy of St. Martin's amendment, which was to reduce bureaucracy. I will be recommending to my successor to pursue that further and that has already been discussed with the Firearms Law Liaison Group. The other issue was that when you apply for a permit you will need to give the reason for your visit, where you are staying, what competition you are shooting in and when you are leaving the Island. All that information is there and it will be cross-checked to see that that person has left the Island and hopefully has taken their weapon with them. As Deputy Baudains suggested, it would be unlikely that they would not want to take it with them. The other issue was the speed at which it has gone through. I do not really think that 10 years of some of these amendments being progressed is terribly quick. When I took over the Firearm Law Liaison Group as chairman I was frankly a little bit concerned that some of these things had been sitting around for so long, so I thought it would be quite easy to produce these things and get them through the States quite quickly. The reason why I have not brought them sooner is because the desire for further consultation, so I am completely consulted out on guns over the last 3 years, but it was worth it because today I think we have an informed debate and I thank Members for their contributions. That only happens if you take time and consult and that, in this case, has taken 3 years. This has not been rushed. I did, however, offer to put this through myself because I had been guiding it through for the last 3 years. It would be quite unfair to suddenly dump this on somebody else's desk at this stage when there was really no necessity. It was lodged for a number of weeks and Members have come forward with comments and amendments, as did the Connétable. If other Members were concerned about it, such as the Constable of St. Martin, he could have come forward with some amendments but has chosen not to do so. I would like to think that we have not rushed this in the slightest. I think that answers the questions that were posed on this particular article. I thank Members for their support on it and I propose the article.

The Deputy of St. Martin:

I did ask specifically about the fee, how much it was going to cost and how that fee could be justified.

The Deputy of St. John:

The proposed fee at the moment will be between £10 and £12 and £60 for a group of I think it is 6 or 8 more, again, which would work out between £10 and £12.

The Bailiff:

I put the Article. Will all those ...

The Deputy of St. Martin:

Can we have the appel?

The Bailiff:

The appel, yes.

POUR: 29		CONTRE: 12		ABSTAIN: 0
Senator L. Norman		Connétable of St. Martin		
Senator F.H. Walker		Deputy R.C. Duhamel (S)		
Senator T.A. Le Sueur		Deputy of St. Martin		
Senator P.F.C. Ozouf		Deputy G.C.L. Baudains (C)		
Senator T.J. Le Main		Deputy R.G. Le Hérisssier (S)		

Senator B.E. Shenton		Deputy J.B. Fox (H)		
Senator J.L. Perchard		Deputy of St. Peter		
Connétable of St. Ouen		Deputy P.V.F. Le Claire (H)		
Connétable of St. Mary		Deputy J.A.N. Le Fondré (L)		
Connétable of St. Clement		Deputy S.S.P.A. Power (B)		
Connétable of St. Helier		Deputy A.J.D. Maclean (H)		
Connétable of Trinity		Deputy I.J. Gorst (C)		
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Deputy J.J. Huet (H)				
Deputy C.J. Scott Warren (S)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
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. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy of St. Mary				

The Bailiff:

Minister, you come to Article 22?

The Deputy of St. John:

Article 22 is simply a consolidation of a number of other articles, so I am happy to then take 23, 24 and 25 *en bloc* and explain why.

The Bailiff:

I am not sure whether Articles 23 and 24 do not now fall away?

The Deputy of St. John:

Unfortunately, yes; certainly one of them does.

The Bailiff:

Those are consequential to the objection of Article.

The Deputy of St. John:

Yes, 43A. 43B fell away, did it not?

The Bailiff:

43A and 43B, do they not?

The Deputy of St. John:

Yes.

The Bailiff:

May I ask you perhaps to move Articles 22 and 25?

10.14 The Deputy of St. John:

Article 2 is consolidation of a number of other articles. Article 25 provides for the law to come into force by the (Appointed Day) Act, 7 days after registration.

The Bailiff:

Are the Articles seconded? **[Seconded]** Does any Member wish to speak on either of these Articles? Deputy Baudains?

10.14.1 Deputy G.C.L. Baudains:

Just a quick query and we are looking at appeals 55(1)(v). Just below that it says: "May, within 28 days after the day on which the person received notice of the decision in question, appeal to the court." I wonder if the Minister could clarify for me - maybe I have missed it somewhere - what if the grievance is because no decision has been forthcoming? I am thinking perhaps somebody ... we have just been speaking about visitors' permits. What happens if a competition is drawing close but no decisional permit has arrived? I do not believe there is a time limit in which ... maybe the Minister can correct me, but I am not aware there is a time limit in which the visitors' permit, for example, has to be determined. We know that, for instance, the firearm certificate is now including shotguns and are taking an extraordinary length of time, as we discussed this morning. I am afraid, thanks to the Constable's amendment, these will probably take even longer now as the time available ... the job will expand to fit the time available, so 8 weeks will now become 6 months. At what stage does this delay equate to a refusal? I am just concerned that there are cases when people are waiting for a decision for or against and nothing is forthcoming so the person is in limbo. I do not see an appeal available to a person for that situation.

The Bailiff:

I call upon the Minister to reply.

10.14.2 The Deputy of St. John:

I am working on the hoof here a little a bit with the various articles on appeal. The Deputy may well be right there; it is not specified in the articles for appeal. I wonder if I can ask the Solicitor General if he could clarify as to whether such appeals can be considered outside of the prescribed articles that can be appealed against?

The Solicitor General:

The article that is being considered at the moment lists all of the various decisions that might be taken against which a right of appeal lies. If there is no right of appeal specified in a statute then the only recourse is to the courts by way of an application for judicial review. There is, however, an obligation on a decision maker, in my view, to act within a reasonable time in order to communicate a decision. What precisely is a reasonable time will inevitably depend upon the nature of the decision that has to be taken. I think although there does not appear to me to be any prescribed period in which any decision has to be taken - for example, for a visitors' permit - the nature of the application and the nature for which the permit is to be granted I would suggest would mean that there would have to be quite a short time within which the decision would have to be taken for it to make any sense.

The Deputy of St. John:

What most applicants do with visitor permits is that they do apply in good time. The trips to Jersey are arranged in good time. We usually recommend that they apply at least a month before. If in exceptional circumstances there is a change, for example, to the team then the ... essentially, the police will do everything they possibly can to accommodate such a request. We certainly do not want to get in the way of a competition occurring in Jersey; that is not the intention at all.

The Bailiff:

Very well, I put Articles 22 and 25. Those Members in favour of adopting them kindly show? Those against? The articles are adopted and the bill is adopted in the second reading. Do you move the bill in the third reading?

10.15 The Deputy of St. John:

Yes, Sir.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on the bill in the third reading? The Deputy of St. Martin?

10.15.1 The Deputy of St. Martin:

I would like to compliment the Minister on getting through this particular issue and I can understand him having spent that amount of time over the 3 years trying to get over the final hurdle, even though he did not have the good sense, really, to accept my permit. I would like to make a plea because hopefully there will be someone within this House who will be the new Minister for Home Affairs, that they will address the issue of getting the firearms right because quite clearly there is a lot of work to be done and there are a lot of anomalies. We do seem to be continually hounding the law-abiding firearms' owner. Those are not the people you ought to be looking at. Certainly, we mentioned earlier - in fact, it did not get through - but I think again there is a need for looking at a law which deals with offensive weapons. Because, again, what we have got here today is mish-mash, it is not quite right. Again, in complimenting the Minister on succeeding with a majority of his amendments, I would echo or renew my request for the new Minister to give particular attention to a number of issues which are outstanding and, indeed, that is what has come out of this debate today, which I think has been a very useful exercise. Thank you.

The Bailiff:

I call upon the Minister to reply.

10.15.2 The Deputy of St. John:

I thank the Deputy of St. Martin for his kind words. I would also like to thank the user groups that we have consulted with greatly. They have taught me an awful lot about this issue and I thank them particularly for that. One person in particular that I hope I can name, that is Bob Blake, who

unfortunately is very unwell at the moment and I send him our best wishes of recovery, but he has had an outstanding track record of performance in this arena and it has been recognised by a number of people in the Island and across the world. I think Jersey should be very proud of him. His commitment to this process has been quite inspiring. I would also like to give the House the assurance that I will certainly be attempting to progress things like reciprocal agreements with other States and also an offensive weapons law. It will not be me, but I will be hopefully briefing my Chief Officer to this effect shortly after today in the hope that the new Minister will take such things forward. This is probably the last proposition that I will be presenting to the States. **[Approbation]** I would like to thank Members for their support on this. Also, if I could use this opportunity to thank Members for their support for me over the last couple of months in a difficult period which I inherited quite recently. I thank Members for their support and understanding as I scrambled to pick up the pieces a little bit. I would like to thank Members for their understanding at certain times. It has been a challenging and interesting few months and one I shall not be forgetting for some time and that maybe I will walk these boards one day again in the future. Thank you.

The Bailiff:

I put the bill in the third reading. Those Members in favour of adopting it kindly show? Those against? The bill is adopted in the third reading.

11. Financial Services Compensation Scheme (P.150/2008)

The Bailiff:

The Assembly returns to Projet 150, Financial Services Compensation Scheme, in the name of Deputy Le Claire 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 request the Minister for Economic Development to present proposals prior to July 2009 for a Financial Compensation Scheme for Jersey, with aims and objectives along the lines of, or similar to, the U.K. scheme known as the Financial Services Compensation Scheme (F.S.C.S.).

11.1 Deputy P.V.F. Le Claire:

Members will be delighted to know that I am not going to spend a long time in introducing this. I would like to just cover it very briefly by saying I have had some very productive talks with the Minister for Economic Development. I am very pleased and grateful for his comments that were circulated today saying that he will accept the proposition. If Members wish to understand why I have been suggesting the Financial Services Compensation Scheme then they can go to the internet; they are all web-wise, and they can download the information from the web as to what that scheme is and why I was suggesting it. We have been told by the Minister in his comments, and I think it is very reasonable of him to say so, that he does not want to be too tied down to a particular scheme; although he is willing to accept this proposal and I thank him very much for that. I have also been in contact with you yourself, Sir, in writing with the Minister today to ask if the proposition can still stand given that I will be basically asking Members to accept the proposition is accepted by the Minister, that a scheme will be coming forth before July 2009 and not necessarily similar to the F.S.C. scheme. There is a great need for us to retain confidence in the finance industry. I am confident that the first of the 2 parts of the Foot Review which undertake an investigation into this issue will find that the work has been done to their satisfaction. I am confident that the message that will go out from the Chamber this afternoon by agreeing this is that we are on target and it is not just merely words and reassurances, but it is the House speaking. I make the proposition.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak? Senator Ozouf?

11.1.1 Senator P.F.C. Ozouf:

The world financial turbulence resulted, as we all know, in unprecedented turmoil, particularly for financial institutions. The breakdown of debt markets around the world resulted in a number of institutions facing extreme difficulty. The difficulties arose even for those enormous institutions that one would never have dreamed would have faced difficulties. Governments from all quarters of the globe had to bolster their banks and put in liquidity. Some institutions, not Jersey institutions, also failed. I want to say that there has been a great deal of work done on depositor schemes. I do want to say that a scheme is, however, there to deal with a problem after it happens. The schemes, banking compensation schemes, depositor compensation schemes, are funded by the institutions that remain after the bank failure. There is no magic solution to a banking compensation scheme. The reality is that if they are called upon they have to be funded and, most importantly, funded by the remaining institutions. However, there is no better protection for depositors, whether they be in Jersey or any other jurisdiction, from good and sound banking regulations. We have tough banking regulations. In some quarters there has been some criticism of our rule of only accepting the top 500 banks; in fact, it is not only simply top 500 banks, it is a great deal more complicated than that. Suffice it to say that our banking regulations have stood the test of time and have ensured that we have not seen difficulties that some other places have faced. In accepting the proposition for bringing forward legislation for a banking compensation scheme, I do want to say that that does not mean to say that I am in any way less confident of the strength of the banks that we have in Jersey. However, I do recognise the requirement for some additional reassurance and that is why we have been discussing the additional reassurance required in some form of compensation scheme. The comment, which I apologise to Members has only been circulated today, and not impugning the reputation of the Greffe, I did submit it to the Greffe this morning at 10.00 a.m. and they got it around to Members just as soon as they could and I am grateful for that. It does say that we will accept the proposition and commit to bringing forward a scheme of some sort prior to July 2009. I say in my comment that the world is changing and, indeed, some of the comments that Deputy Le Claire makes in his proposition are also out of date. There have been a number of moves by a number of governments around the world to bring in schemes or to change their schemes. In the Isle of Man a scheme was in place, it was hastily raised from a level of £15,000 to £50,000 in the days, in fact, leading up to the collapse of the Icelandic banks. Guernsey has, last week, introduced a scheme that will cover ordinary depositors, that is individuals just as we are only dealing with here with individual depositors, as with all depositor compensation schemes, and they have put forward a scheme which will cover depositors up to £50,000. We are looking in detail at that scheme to see whether or not that could provide some sort of a template for Jersey. I am also aware that even this afternoon in the U.K. Parliament some changes have been made to the banking regulations and to the various different types of compensation schemes. With all of that in mind, and indeed Deputy Le Claire will be aware, we had already asked O.X.E.R.A. (Oxford Economic Research Associates) to come and to review the circumstances for a scheme for Jersey and that work has been underway for a number of weeks and a number of options are being worked through at the moment. There is the additional factor that the Foot Review announced last week, in co-operation and full communication with the Crown Dependency Governments, is also going to look at the issue of a depositor compensation scheme. It may well be that there will be some relevance to the recommendations and to the research that will be carried out in that review that will have a bearing on some sort of scheme in Jersey. It may well be we will move as soon as we practically can, but we will need to have regard to some of the perhaps new thinking that the various different reviews and the moves by various different governments have. Therefore, I accept the substance of the proposition, accept the fact that we will come forward with a scheme, but what I cannot say, I cannot say with any degree of certainty, I cannot prescribe or hold the future Minister - whoever that may be - to the precise details of a scheme because the detail will have to be worked out. What I can say is that I envisage that one element of the scheme would remain and that is that it would be in the region of £50,000

compensation for personal deposit. The scope of it, of precisely who will be entitled to be covered by that, will need to be worked out. With those remarks I am happy to support the proposition.

11.1.2 The Deputy of St. Martin:

Can I compliment both Deputy Le Claire and Senator Ozouf, but just one question maybe I could ask either ... Deputy Le Claire will answer, or indeed the Minister? It is just a concern about the newspaper article that talked about the savings of Islanders who used the Co-op Society as the bank are not currently covered by the States Deposit Protection Scheme. Maybe in summing up Deputy Le Claire could give an assurance that in fact these will be considered as part of the overall review and with the possibility of them being included?

Senator P.F.C. Ozouf:

If the Deputy would give way before he sits down? I was contacted by the Co-op as they do not directly fall within the definition of a bank. I said when that question was raised 2 things: first of all, I believe that we should have confidence in the Co-op as an organisation. They are a substantial organisation with good and appropriate controls and regulations in their own governance and I do not think that anybody should suggest that there is any issue with the Co-op. However, in terms of their savings scheme and in terms of the arrangements that people have with money able to be drawn down as a result of a dividend payment, they are not precisely a bank. I take the comments of the Deputy of St. Martin and we will ensure that they are covered in an appropriate way in some way, but I would not wish to have any ... and I am sure that he did not intend to suggest that the Co-op is a greater risk than any other financial institution.

The Deputy of St. Martin:

I am grateful for the comments from the Minister. Indeed, I think a lot of other people are around the Island. This particular point was raised by my Parishioner, but indeed I am satisfied from what the Minister says and I look forward to the report that follows.

11.1.3 Deputy J.A. Martin:

Sorry I could not speak before the Minister because he is probably the one with the answer, but if not it will be the Chief Minister maybe. I really need to be clear in my mind, the Deputy of St. Martin has just said the Co-op is not covered by the States Protection Bank and Deposit Scheme. I asked this question yesterday: do we have a protection scheme? Up to a certain amount it was passed through the U.K. Government with lightning speed from £35,000 to £50,000. I am not saying that is the right scheme, but I think we are sending out completely mixed messages to depositors in Jersey and to me, from now, the beginning of December to - and we do seem to find things slipping - July 2009, what is the status of Jersey deposits in Jersey subsidiary banks? Can somebody please answer me directly? Thank you.

11.1.4 Senator F.H. Walker:

I thought I answered the Deputy yesterday when I said that all locally resident depositors with deposits in locally registered banks are fully protected. That was the answer I gave yesterday, that was the case yesterday, it is still the case today.

11.1.5 Deputy C.J. Scott Warren:

I just wanted to add to what I was going to say about the still continuing concern about the Co-op and whether it is locally registered. I would like to say that I welcome this proposition by Deputy Le Claire and the work being done already by the Minister for Economic Development and O.X.E.R.A. I just would like to ask, I appreciate this has got to be done thoroughly, this review, but whether there is any chance of ... as the U.K. seem to have managed to bring in measures quickly, can we not do something and get this in place well before July? Thank you.

11.1.6 Deputy I.J. Gorst:

I have been a long-term supporter of a compensation scheme and believe that it is something that we should have in place, but we must be clear that it is only one of the tools that we might have in our armoury in regard to being a responsible jurisdiction. A number of Members have just indicated that they believe that the U.K. acted quickly to increase their level of compensation from £35,000 to £50,000 and unfortunately that is what politicians would have us believe. The reality is that the F.S.A. (Financial Services Authority) were consulting on increasing the amount to £50,000 some months before we encountered the difficulties that the international banks have now encountered. It is not fair to say that they increased it quickly; they made their final decision fairly quickly after the first banks had started to fail. They have reasonably looked at this, they have considered it. We must remember that a financial compensation scheme is not the be all and end all; it still leaves gaps, but it is something that we should have. We must be certain about what it is and what it is not and we should not give people false hope. Thank you.

The Bailiff:

I call upon Deputy Le Claire to reply.

11.1.7 Deputy P.V.F. Le Claire:

I would like to thank those that have spoken and for Members of the States and members of the public I would like to reiterate the words of the Chief Minister and the Minister for Economic Development. We are in a much stronger position than most other jurisdictions. We have only allowed in the best financial institutions to the Island; therefore, we are in a better position to be able to safeguard our futures and the futures of people that do business in Jersey. I do take on board the issues of concern in regards to the Co-op, but as has been said today by the Minister for Economic Development, those are taken on board and they will form part of his proposals or his successor's proposals. Deputy Gorst is quite right and I believe the first time that I started to pay attention to any of this was because of questions in the States about 6 months ago put by Deputy Gorst to the Minister for Finance and Economics, I believe. It is absolutely right that he has been interested in it. He has been pushing for it. He is absolutely right in saying it is only one tool in a toolbox of good financial measures that this jurisdiction needs, just as with anti-crime or drugs, money laundering laws, et cetera. All of these make up the package to give us a good position to stand on our 2 feet in the global arena and so we are a well and well-regulated jurisdiction. The F.S.A. directive, the F.S.C. (Financial Services Commission) in October, I believe it was, some months after some serious considerations to up their limit, and there are limits for compensation. It is not a complete reimbursement of funds and it is not a guarantee for people who invest in different areas. It covers many facets of business, personal, and company, so it will be something that I would hope the new States Assembly asks its Economic Scrutiny Panel to consider in great detail when it is proposed because it will have an impact not only upon the people that have their deposits here, but the people who bank here. Because the last thing we want to do is send out a signal that they should be banking elsewhere. The financial institutions in Jersey now need our support more than they ever have done and I think that we need to rise to that support. I make the proposition. I ask Members and members of the public if they are uncertain about issues ask their bank for the details of which banks are subsidiaries of which banks and get the information from them because they will have that information if they request it and they will be able to explain it to them. I make the proposition and ask for the appel.

The Bailiff:

I ask any Member who wishes to vote who is in the precinct to return to his or her seat. I ask the Greffier to open the voting which is for or against Deputy Le Claire's proposition.

POUR: 33		CONTRE: 0		ABSTAIN: 0
Senator F.H. Walker				

Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator F.E. Cohen				
Senator J.L. Perchard				
Connétable of St. Mary				
Connétable of St. Peter				
Connétable of St. Clement				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy J.J. Huet (H)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy C.J. Scott Warren (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (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 of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

12. Speed Limits: creation of a review working group (P.166/2008)

The Bailiff:

We now come to projet 166, Speed Limits: creation of a review working group 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 request the Minister for Transport and Technical Services (a) to establish a Review Working Group to review the implementation, operation and suitability of the current Speed Limits Policy (P.1/2004) as approved by the States on 15th March 2005 (set out in Appendix 1), (b) to appoint 3 States Members as members of the Review Working Group of whom at least 2, including the Chairman, shall not be Ministers or Assistant Ministers, with the Working Group to receive appropriate assistance from relevant officers and (c) to present the conclusions of the Review Working Group with any associated recommendations for change to the Assembly before 30th June 2009.

12.1 Deputy I.J. Gorst:

This is a straightforward proposition and it should do exactly what it says on the tin and therefore I will keep it short. I could of course regale Members with concerns and stories of near misses and accidents on many Parish roads and I am sure that other Members could do exactly the same. I hope that Members found my report relatively straightforward and understand what I am aiming to do with the setting up of this review group. I also accept that this is just one of the elements that would surround making or improving road safety; another element of primary importance is that of sufficient and appropriate policing of roads and road users. I hope - of course it is entirely up to Members - that Members might refrain also from regaling as with particular dangerous roads or areas of their own Parish, but I leave that to them. I would just say that I thank the Minister for supporting this review and accepting this proposition and I maintain the proposition. Thank you.

The Bailiff:

Is the proposition seconded? [**Seconded**] Does any Member wish to speak? Deputy de Faye?

12.1.1 Deputy G.W.J. de Faye:

I am very grateful to Deputy Gorst for this in my last States meeting to be able to vent my spleen on a subject that has become unexpectedly close to my heart. Speed limits are an ultimately subjective matter. It is a matter for law enforcement. Clearly - and I have, I must say, been inspired by the Minister for Home Affairs today - one clear solution, in the same way as we want to tackle firearms and guns, is to remove cars. Take away the object and you will immediately improve human behaviour. Indeed, perhaps the working party remit should consider whether policemen should be able to stop cars and ask drivers whether they have a valid reason for being in the car as opposed to should they be catching a bus or being on a bicycle or walking. There really are some extraordinary strides forward that this working party could take. It is fair to say that over time I have acquired, as Minister for Transport and Technical Services, some fascinating complaints, interesting inquiries, and I have now determined that Jersey, as a community, has adopted a specific approach and philosophy to speed limits. That is to say that all car drivers who are residents of the Island believe that the speed limit in the road immediately outside their home should be in the order

of 15-20 miles an hour. Nevertheless, whenever they leave their home in the car it has become apparent to me that all drivers believe that the speed limit is purely relevant to the purposes applying to them at the time: are they in a hurry; are they not; are they sightseeing, or in a rush? Therefore, speed limits should be variable. That, of course, does create a problem when the driver returns to their particular road. Naturally speaking, although their road is a 20 or 15-mile-an-hour road, that speed limit does not apply to them. That, I am afraid to say, is generally speaking the mentality of our driving public. It is, on a more serious note, the experience of the department that speed limits are as valid as they are enforceable. In fact, it is important for all of us when considering the matter of speed limits - it is now enshrined in law only recently - that the primary elements for reducing traffic speed are in fact physical obstruction - chicanes, sleeping policemen and so on - and I will come on to that a little later. There will be some interesting areas within the Island for the working party to review. St. Peter's Village will be one of them. I can probably reveal now that the Connétable and I have crossed swords on the matter on a number of occasions. I, speaking on behalf of the generality of the public, know the 20-mile-an-hour speed limit is very popular in St. Peter's Village; it is just not very popular with people who drive through St. Peter's Village. The Connétable and his roads committee would like to see a 30-mile-an-hour limit as well as a 20. I have for some time extended an olive branch and said: "You can have a bigger 30 as long as you get rid of the 20", but we have not got there yet. St. Mary, of course, has a similar 20-mile-an-hour limit, but I am still trying ... I struggle to find out where the village is that the 20-mile-an-hour limit relates to. Trinity - and I know that Trinity is a different Parish - I see the Connétable and I know that Trinity is a Parish that has a father of the Parish, a son in the Parish, and probably even the Holy Ghost [Laughter] in the Parish. They strenuously resisted green lanes, and indeed there is a speed limit issue with green lanes. Should they be 15? Should they be 20? My understanding is they were 15 because it was a general belief that everyone would abuse 15 miles an hour and travel at 20 anyway. These are the sort of issues that the working party, I am sure, will devote their minds to. Just to add to the flavour of what the review team, I think, will have to grapple with, I know in the Deputy's home Parish of Grouville there are some fascinating road traffic management issues ... [Aside] St. Clement; I do beg your pardon, Deputy Gorst, and I beg your pardon of his Parishioners as well. St. Clement, where there is, to use common parlance, a dodgy corner at the church, and we have been the department local residents have been struggling with now for many years. Maybe the team will come up with a solution; although quite how to be resolved in St. Clement where my understanding is that renegade Parishioners want an all-Parish 30-mile-an-hour limit and they have had a Parish meeting to that effect. Although, veterans of the Parish tell me it was not a proper Parish meeting; it was only a meeting, but not a Parish meeting. I understand that Parish authorities are not necessarily enthusiastic about an all-St. Clement 30-mile-an-hour limit. Then again, this will all be fuel to the fire. Just to end on a note and again with a reference, I was absolutely fascinated to hear the Minister for Home Affairs describe how the rabbits in St. John chew their cud. I had no idea that in fact rabbits in St. John were that big. [Laughter] I have to say, the prospect of running into a late-night rabbit in St. John chewing their cud sounds positively dangerous. Nevertheless, this may again be something we may be able to look at, given the size of perhaps an alternative to sleeping policemen, which may indeed be St. John's sleeping rabbits which we can leave in the roadways to slow down the traffic. It is a great pleasure to be able to support Deputy Gorst's initiative and he, in his turn, has agreed with me that it is also appropriate for either the Minister or Assistant Minister for Transport and Technical Services to have an *ex officio* relationship with the working party for the very obvious reasons. Unless any Member thinks they can be funnier we will wrap this one up quickly. Thank you.

12.1.2 The Deputy of St. John:

I think this proposition is very timely. When I became a Deputy in a country Parish the first phone calls I got were, as a newly elected Deputy, from people about speed limits. I think exactly the same thing will happen to the Minister for T.T.S. (Transport and Technical Services) when he takes up his new seat; he will get the calls from those Parish Deputies and some other Deputies as well.

Well done to Deputy Gorst for bringing it in such a timely manner. It was a constant source of frustration with me as a Parish Deputy because, unfortunately, T.T.S. were simply not funded enough so that they could assist with some schemes they thought were a very good idea. I do hope that part of the review will be about funding as well because it is impossible for T.T.S. to implement schemes that maybe this group come up with without adequate funding. The other issue which needs to be properly funded as well would be enforcement. If you come up with this great scheme, which I am sure the group will in terms of a proper Island Plan for speed limits, they do need to be enforced and properly policed. For that you will need technology; otherwise you will simply not have the resource to do it. I would urge Members to rethink the debate that you had about technology in terms of detecting speed, because that will have to be included in this review because if you want to make it work it needs to be enforced and you will not be able to do it with current resources. I would urge Members to think about that one, as and when the review is finally published. I do congratulate the Deputy for bringing this forward in a very timely fashion. Thank you.

12.1.3 The Connétable of St. Peter:

Having been invited, I think, by the Minister for Transport and Technical Services to perhaps get to my feet I think there are a couple of matters I should draw to everyone's notice. Circumstances have dictated that I am having to stand down, regrettably, from my position, but I can assure everyone that my successor has got no intention of relinquishing or easing off the pressure on the speed limits that we are looking for in the Parish of St. Peter and principally, for the one most important aspect alone, that of road safety, not for the success rate of a department wanting to resist measures taken in the wisdom of the respective roads committee of that Parish to try and improve everyone's use and everyone's safety on the public highway. Our aim is to make the roads safer, not to cause any greater problems to the community that travel on its roads. Anyway, there is good news for the department. I will not be in office, but I can assure everyone that I will not be fading away either. I will still be very much in the wings of activity and interests within the Parish and indeed within the Island. It may interest road users to have seen a speed box appear on Beaumont, between the roundabout and the canon, recently. I have been badgering away at the department to try and make improvements for safety along that stretch of the road, which is probably the most heavily used section in the entire Island, I would suggest, other than maybe the Victoria Avenue/Route de la Haule sector. The department resisted after one little breakage with a speed box some 2 years ago to proceed with any other safety measures. I gained permission from the department to place a Parish-owned speed box on there and much to my pleasure, after a little bit of badgering on the red-tape circuit, they conceded that we could put one on the actual standard that is halfway on that road. Anyway, that was the good news. The bad news came after it was erected and prior to the connection of the electricity to make it operate that I had a phone call to say: "Oh, by the way, the Transport and Technical Services Traffic Department will not on any account accept payment of the electricity", which I tell you ranges approximately £30 per annum. This is the sort of pettiness that I hope will be shut out and there will be a new and enlightened view taken on the road users for predominantly, as I repeat again, the safety of everyone and not for the particular desires of individuals. Thank you.

12.1.4 Senator J.L. Perchard:

Just briefly, I congratulate the Deputy for bringing this forward. I just want to ask him about part (b) of his proposition where it says: "The majority of the membership of the committee, if not all of the 3-person committee, should not be Ministers or Assistant Ministers." I just wanted to know his thinking on this; whether he could explain that if you are in the non-executive of the States of Jersey that it is more likely that you will make a more sound report and judgment?

12.1.5 Deputy C.J. Scott Warren:

Like the Connétable of St. Peter, I will not be fading away either. Firstly, with the old Safer Routes to Schools hat on, I welcome the work that has already been initiated by the Minister for Transport and Technical Services Department with the restricted times in position of 20-mile-per-hour speed limits around the first tranche at schools. Also, we know that speeding concerns, volume of traffic and pedestrian safety issues are linked. I will be expecting Deputy Duhamel and Deputy-elect Maçon to keep banging on about Longueville Road and other traffic areas, major traffic areas, in the Parish of concern to pedestrians. I very much thank Deputy Gorst for bringing this speedy review within 6 months. It is certainly needed and I shall look forward to hearing the outcome. Thank you.

12.1.6 Deputy G.C.L. Baudains:

I do not envy the task faced by the working group. Deputy de Faye's speech was, as usual, humorous, but I have to say - and perhaps not the only time but certainly recently - accurate. It is a fact that almost everyone wants traffic to move at a crawl outside their own property, but they expect to be able to drive at whatever speed, flat out, everywhere else. I do recall a Connétable once telling me about the occasion he was obliged to leap into a hedge to miss a car coming down the road at quite some pace. As he told me with a smile on his face, he said: "That was the same person that just a few days previously had complained about the speed of traffic on that road." I did recently try to get a flashing speed camera for my own Parish but the cost, as has just been mentioned, was, I thought, prohibitive and I think that is something that the group might consider. It seems to me that the logical thing would be for Transport and Technical Services to have perhaps half a dozen cameras - because obviously you do not want to leave them in one place for too long; they need to be moved around - which could be lent out to Parishes as required. At the moment I think it was somewhere around about £3,000 I was quoted for one for St. Clement. I would just close with one word of ... perhaps caution is not the right word, but speed is relative. We must not forget that by directing drivers to drive at a speed perhaps slower than they feel is justified is telling drivers that they cannot drive because the idea of having a driving licence is that you drive appropriate to the road conditions at all times, whether that is a road at night when there is nobody around and no traffic where it is probably quite safe to do 40 miles an hour, perhaps even more; during the day time when there are children walking on the road, no, it is not safe to drive perhaps more than 20 miles an hour. When there is ice on the road, well, it may be even slower. You have to drive according to the road conditions and by stipulating: "This will be 40 miles an hour, that will be 30, oh, we want 50 in there, sorry, 20 over there", you are telling drivers they cannot drive. Thank you.

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

Just one quick point. I wonder why the Deputy of St. Clement has requested that this review working group be set up by the Minister for Transport and Technical Services? We do have a Scrutiny process and it does surprise me somewhat that perhaps another way around this might well have been to request the Environment Scrutiny Panel, who does have the remit for the subject area, to have taken it on board and adopted it as one of its reviews in the next work programme.

The Bailiff:

I call upon Deputy Gorst to reply.

12.1.8 Deputy I.J. Gorst:

I would like to thank the Minister for highlighting a number of concerns at various Parishes, not least of which was obviously what appears to be the intractable problem around the church in St. Clement. It was suggested to me perhaps by a fellow Deputy that if were any tunnel left over from the Waterfront we might have a bit for that, but there we are, we will have to look at that one. Yes, some of the problems that Parishes face are difficult and will require innovative and perhaps in some cases costly solutions, but we must balance that with the safety benefits that they might bring.

With regard to Senator Perchard, I am not really sure exactly what he was driving at there. I think that I have long felt that one of the problems and one of the issues that needed and needs addressing after 3 years of Ministerial government is working together, ensuring that executive and non-executive work together and people's talents across this Chamber are harnessed and we find appropriate solutions to problems and that is why I have suggested this particular mix. I have obviously conceded that the Minister is right, that either the Minister or an Assistant Minister from his department should sit on this group as well. There will be departmental officers, which I would expect, who would put forward the view of the department and therefore it is a matter of balance. That is why I suggested what I have suggested and I suppose that that also answers Deputy Duhamel's question about Scrutiny as a joined up approach. Of course we will shortly know who the new chairman of that particular Scrutiny Panel is to be and I would expect that they too would want to question the new Minister and perhaps there is some joint working that can be undertaken there, but let us at least get this process started. I believe that this is a positive way forward to deal with some of these issues. I would like to finally thank the Connétable of St. Peter for his words and just reiterate what he said. This is about road safety for all road users and I ask that Members might now support this proposition. Thank you and I call for the appel. Thank you.

The Bailiff:

I put the proposition.

POUR: 46		CONTRE: 0		ABSTAIN: 0
Senator S. Syvret				
Senator L. Norman				
Senator F.H. Walker				
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator M.E. Vibert				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
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 Grouville				

Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Deputy R.C. Duhamel (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 R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
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)				

Deputy of St. Mary				
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13. Statutory Nuisances Law: review (P.167/2008)

The Bailiff:

Next projet 167, Statutory Nuisances Law: review. May 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 request the Minister for Health and Social Services to review the current provisions of the Statutory Nuisances (Jersey) Law 1999, and in particular the provisions relating to the service of abatement notices under Article 5, as they relate to: (a) industrial activities conducted by the public sector; (b) industrial activities conducted by the private sector; (c) premises providing a venue for wedding receptions; (d) premises providing a venue for similar events; and (e) businesses located in close proximity to residences, with a view to ascertaining whether the current provisions are operating appropriately and to bring forward to the Assembly for approval any amendments that may be deemed necessary as a result of the review.

13.1 Deputy P.V.F. Le Claire:

I feel I am in a bit of a bind. I have been told today by 2 Ministers that they have accepted my proposition and I could have been bowled over by a feather because it has never happened before. The Minister for Health and Social Services has said that he is willing to accept this, and I appreciate that it is late, but I do not want to just live with this as Members would probably like me to. I would like to take a couple of minutes just to talk about some of the issues, but I will try to keep it as brief as I can. The fact of the matter is that I am not going to stand up here this afternoon and harp on about the compost sites and the problems related with that and the 4 or 5 years or so that I have been harping on about it. I have with me this afternoon a list of signatures that formed a petition that I was going to bring to the States; in excess of 1,000 signatures of people that were complaining about the compost site and their desire not to have Bellozanne incinerator sited at La Collette. The issues in regard to the composting site and the work that was undertaken on the Environment Scrutiny Panel and the Havre des Pas residents' panel met with some difficulties at first; in fact met with some difficulties in the beginning and the middle, but towards the end of his tenure the Minister for Transport and Technical Services in the last few weeks has said that his department has acknowledged that some of the port use that will be required has called into serious question the location of the compost site and it has already been accepted that the in-vessel composting approach is the best way. So, I thank the outgoing Minister for Transport and Technical Services and applaud his staff for the efforts they do take in trying to ameliorate the nuisances and disturbances that have been affecting residents. Sometimes when we stick up for one section of society we do not realise that we are coming down on another section of society and I have been guilty in the past of perhaps not taking into account as much as I should have done the hard work that the department and the workers do down there. So, I apologise to them for that. However, it is not just about the different polluting elements in the Assembly, or with the States of Jersey, that I am bringing this forward today for because there are many. There are polluting incidents occurring on a regular basis; from the fuel farm, which has been admitted by the Head of the Health Protection Department, from the J.E.C. (Jersey Electricity Company) chimney, which is regularly admitted by the company themselves when they have smuts on boats that they pay to have cleaned, and grounding issues that affect residents and also in the all too-well categorised issues relating to the incinerator in not only the emissions, but also the handling and storage or treatment of the ash that comes out of it. I believe that the Statutory Nuisance Law was introduced into Jersey to protect the public's health and to make sure that the private sector, as well as the state sectors, were well-regulated for the better living conditions and standards of people in general in

Jersey. Recently I was called to the west of the Island to help somebody who was coming into difficulty with the Health Protection Department that was using the law to its full effect and it struck me as rather strange that in such a very minor circumstance, in my view with only one complainant, that the full weight of the department was forced down upon this individual. I thought: "How is it possible that after years and years and years of being accused of electioneering on the compost site, with thousands of signatures and hundreds of questions and countless hours in this Assembly, can the compost site and the effects that it has had on the residents of St. Helier with the Constable taking propositions, have been so glibly stepped over or side-stepped by the Health Department, along with the emissions from the fuel farm and the known carcinogenic issues relating to the incinerator, when on the other hand, when they encounter a small operation it is all, gung ho forwards, charge, full steam ahead let us get them into court as quickly as we can?" Now, I thought the best thing to do was not to go on at length, so I have just put the majority of my speech to one side. I have with me an electronic device, and I know electronic devices are not normally permitted in the Assembly. I wondered if it was possible to use this this afternoon. It is a noise register which captures the level of the noise, the decibels in an area. I wondered if, with permission, I might be able to circulate this to Members so that they can see the kinds of levels of noise that are being emitted in this very Chamber this afternoon. I do not know if I can request that.

The Bailiff:

As long as it does not bite back or make a noise.

Deputy P.V.F. Le Claire:

I will try not to conduct any more Perry Mason tactics in the Assembly. I will pass it to Members. If it turns off after a while they just have to push the big green button and they will start to see the sorts of readings that occur on it, somewhere between 66 and 70 decibels. I ask Members to consider how it is possible that in a group of circumstances where measurements of less than 60 decibels, less than this noise, are being recorded by one measurement of the department; how can those noise levels be used when in town the majority of that noise is background noise? In town I have often made the joke, and it is not very funny, but I would not mind them singing outside my window at 3.00 a.m. in the morning, if they knew the words, but that is what is so annoying as in town we are surrounded by noise, and how would it be if we suddenly said: "Right, okay, the Health Protection Department are using this as a setting, all we need to do is have one complainant make a regular diary and we can close it down." We could close down the fair, we could close down the churches, we could close down the takeaways, we could close down just about everything if that was a law that was applied equally, but it is not. I do not want it to be taken to the extreme. I do not want the law to be applied without equity and I do not want the law to be applied in a stupid manner. What I do want is I want the States and the new Assembly to seriously review this law because I believe that it is not working properly; it is not being policed properly and it is not being enacted upon and I do not believe the statutory duties of the Minister and the actions that have been taken by him, or inactions in some cases, are for the best of the Island. No blame on Senator Shenton because he has come with me and he has made a big effort to try to carry out his functions under his duties and he has done what he has been able to do, but the law is deficient. I cannot understand why though, and this is the "though", the department has chosen to act in some cases, knowing that the law needs fixing, even knowing when I was bringing this proposition they have acted ahead of me to cut me off when there are serious issues that date back, nothing to do with the West of the Island but to the centre of the Parish of St. Helier. I received a letter from a lady and I was quite surprised because when I phoned her up to tell her I welcomed her letter she pleaded with me not to give her name out in this Assembly debate today and not to give reference to where she lived because she thought it would devalue her property. I have letters from this lady and letters from her neighbours dating back with poorly-run interventions and support, in my view, and I think it is borne out by these departmental letters, since 1984. They have issued hundreds

upon thousands of complaints by telephone and by writing to the department and the department have done pretty much what they have done with the compost site: "Oh, well, you know, they are doing something for the State so we have to manage it." I cannot understand how the department can manage these issues where there are hundreds and thousands of people complaining in town and yet one sole individual in the countryside can suddenly get the full support of the department. It is difficult for me because I know Members want to get on with the day and I am trying to stop speaking, but I did have a lot to say. I will just finish by saying I hope, I really do hope, that the Health Protection Team are jolly well upset about what I wrote in my report, because I have heard they are, because I meant every word of it. There are standards and there are guidelines that I have seen that the Health Protection Department runs and follows in the United Kingdom and from the evidence that I have seen they have not been carried out by the department. I am quite happy to show in confidence or to read through some of these letters when people are talking about their lives having been ruined since 3rd August 1984. The department writes back: "We apologise again for the delay ..." la la la la. Hundreds of thousands of letters; thousands of signatures from town and instead of doing something about the serious pollution, instead of doing something about the serious concerns, and we are talking about carcinogenic emissions; we are not talking about champagne and music and top hats and wedding dresses. I make the proposition. I apologise the speech is not as well as it could have been. I have cut it down because I appreciate Members have had a long session but I urge the Minister, although he has accepted this, to take a real interest if he is going for the health position in the future and the Scrutiny Panel to make sure that this issue, which is not about what is happening now, or what happened before, it is about protecting the health of the public and acting upon the concerns of the public, and when hundreds of people complain then at the very least a survey is undertaken on their behalf because hundreds and thousands are dismissed and single individuals receive the full support of the department. It is completely wrong. I make the proposition.

The Bailiff:

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

13.1.1 Senator B.E. Shenton:

The department has in fact been reviewing this law throughout the course of 2008 and working on one amendment which is necessary because we found that the law was slightly deficient in one area and a proposition will be brought to this Assembly concerning that in the New Year. The Statutory Nuisance Law as it stands was approved by the States Assembly back in 1999 and it is therefore quite a new law so we have not really had the benefit of a test of time or any Royal Court actions to test the law from a judicial point of view. The law is very much based on the U.K. law for nuisance and it does take into account the needs of businesses and the needs of the infrastructure of the Island. It works very much towards the best practice mechanism with regard to industry and so on and so forth and I can understand the frustration of the Deputy and also the residents around Green Island and La Collette, but the States have placed an open windrow compost in operation and we have to test the law with regard to the best practice of operating an open windrow composting operation. The department is not happy that there is an open windrow composting operation down at La Collette and we feel, as a department, the States should move the compost site or provide an in-vessel facility at a very short juncture. With regard to the Deputy's other complaints, I was a little bit confused because he seemed to be implying that we were too heavy-handed in some cases and not heavy-handed enough in others, which is a very difficult balance to serve. The department operates in accordance with the laws set by this Assembly and, as Minister, my job is to make sure that the department carries out the wishes of the Assembly. If the laws are deficient in any way we therefore need to review the laws and make sure the wishes of the Assembly are changed, but at the moment we are operating in accordance with the law and, as I said before, we have already identified one common sense amendment which we need to make and the proposition will be

coming to the House shortly. So, in short, we accept the proposition. We are very happy to review the law and will take on board all the comments that the Deputy has made.

13.1.2 The Deputy of St. Martin:

By pure coincidence I have been calling for such a nuisance law way before it came into being and by the time it came into being I was a member of Senator Shenton's father's Health Committee that brought it through and I was rapporteur and I can remember, as indeed the Minister for Home Affairs just said, it was quite a difficult piece of legislation to bring through because there were so many questions that I could not answer, in fact no one could really answer because really it was not a cure all. We knew there were going to be some deficiencies in it and really what had to be done is a bedding in time and as the Minister has now said 9 years have elapsed. It probably is time we did give it a review. I have had a number of complaints myself of Parishioners complaining about offences and I can honestly say that I have a tremendous amount of admiration for the officers from the Health Department who have always dealt with them efficiently. They have not always come up with the answers that the complainants wanted, but at the same time I must compliment the officers on the actions they have taken. One thing I would like to seek reassurance on from the Minister was that there will be some degree of independence in reviewing this because I would hope it will not just be officers from within the department itself, so we can have people who maybe even have an axe to grind that may well be part of the review team. So, if the review is going to have any credibility I think it is very important that there is some degree of independence and maybe I could seek that assurance from someone before we take the vote.

13.1.3 Deputy G.W.J. de Faye:

I do feel I need to make a few comments, but first of all I welcome a review. The Minister for Health and Social Services and myself have been, as it were, on opposite sides of the law here and I did not find when I read the law the law was particularly helpful and I think that the call for review is most opportune, but first, just to clarify, I am afraid before it becomes legend there is a difference between the compost smell generated by open windrow composting, the smells generated by the Bellozanne sewerage treatment works, and what the incinerator exhaust gases give out. These are all very different things and I just wish to correct the Deputy because he did link the compost smell with the incinerator. The new incinerator at La Collette will not smell.

Deputy P.V.F. Le Claire:

What I was suggesting, on a point of order, was that the signatures on the petition did not want the compost site and they certainly did not want the new incinerator. That is the link I made. Nothing to do with the smells.

Deputy G.W.J. de Faye:

I thank the Deputy for that clarification, but it is important that not only Members but the public do not conflate these different issues. They are very different things. The compost smell, for example, is not linked to the potential compost health risk from the spongiforms that may emanate from the windrows when they are turned. The spongiforms have a degree of weight and will tend, if shaken out, as it were, when the rows are aerated, will fall close to that location. Smell is of a different order of biochemistry and you can smell smells at very extreme distances because noses are much more finely-tuned to smells as opposed to effectively small bio forms. The old incinerator, and I do want to emphasise this, should not be regarded, even though it does not comply with E.U. directives, as a health risk. The Medical Officer of Health has been quite clear about this; it does not constitute a health risk and there have been tests. People have supplied blood tests to clarify this area. The new incinerator will be dramatically different in terms of the quality of exhaust gases and again it is not a health risk. But are all these things a nuisance? Yes, I am sure they are, and I am very sympathetic to some people, and there clearly are some people, not just at Havre des Pas, but Bellozanne and other areas, who apparently are more susceptible to smells than others and it is

probably to be expected that one or 2 in every so many thousand people are going to find things, sense things in a different way to the rest of us and despite the fact they will not believe this, they have my sympathy, but operations have to continue clearly in the best public interests of the Island and, as the Minister for Health and Social Services has found out, where a department is following best practice it is very difficult, not to say potentially impossible, to establish a case of nuisance when you are doing the best thing that could be achieved in the circumstances. Certainly, when I looked into the laws that I was required to do at the time, the first problem that I encountered was trying to establish an understandable definition of nuisance because nuisance is a very wide embodiment of terminology and in some respects one person's nuisance is not necessarily a nuisance for somebody else. So, I think this review needs to pay very close attention to what is the definition, or definitions, of nuisance because clearly we do not necessarily want to wait around for the case law to decide what Jersey nuisances are going to be. That brings me on to while the public relations exercises in many respects might have been carried out around the compost smell at Havre des Pas, as I have reminded Members on a number of occasions, it is the residents at Bellozanne First Tower who suffer a smell of a really different order, which I am very pleased to say we have now, as a department, begun to tackle and the first phase of the smell, aroma, attenuation has begun. I am happy to report the smell is now different, but it is still a smell. It is not as bad as it was. It does not have as much sulphurous content. It has now gone a bit more bio-cabbage, but the smell is nevertheless still there and it does underline another element, which I think should be part of the review which is, what is the degree of nuisance? Because clearly this is one of the points that Deputy Le Claire has brought up. How do we assess nuisance? Is it a priority where, for example, hundreds, or indeed thousands of people are affected by the nuisance, or does this apply just to one person? Are there therefore degrees of nuisance? I hope the Solicitor General and indeed you, Sir, will correct me if I really have my Latin wrong here but I do believe *caveat emptor* is buyer beware. I do think that that in some respects, or at least a variation on that theme, should again be part of this nuisance review. I recall a case of a pub in the Island that had a very successful music night, enjoyed by many local residents. No complaints whatsoever, until it appears a property changed hands relatively close to that location and the new owner said: "This is a nuisance" and I imagine indeed Deputy Le Claire's decibel metre was probably wheeled in on a Saturday night. I dare say it shot off the scale when the band started to play and Saturday music nights were packed in. I think that any reasonable person would accept that if the decibel metre came up to certain readings we did in fact move into what would be regarded as an area of nuisance, but should arrivals to a nuisance be treated in some sort of different way? I think they probably should. Where a community has established, or indeed accepted a nuisance and decided: "It might be a high decibel metre reading until 11.00 p.m. on a Saturday night, but that is okay with us." It does seem to me that we have an issue here when someone who is new to the community turns up and says: "I do not like this. It is a nuisance" and then the nuisance is terminated. That again seems to be a problem with the law. So, I welcome the review and I hope that there will be some matters there, certainly within my experience of dealing with this law that those who carry out the review may care to look into. But if I can end on a high note, given that we have a decibel metre in the Chamber it is important to realise that decibel metres measure loudness and not quality. So, perhaps I should suggest, while thanking Deputy Le Claire for producing this fascinating instrument, while it is absolutely clear that the sound of States Members seem to register around 59 to 60 on his metre, I do need to remind him that as far as the public are concerned the sound of a States Member is one of the most extremely irritating noises that any member of the public could be possibly subjected to. So, it is important to understand that whatever the register may indicate it is the quality of the noise that is the determining factor or nuisance. But with that, I support Deputy Le Claire's proposition.

13.1.4 Deputy J.B. Fox:

The one thing a Deputy does and has as part of his or her responsibilities in a district is to receive numerous complaints at times about noise, about smells, about everything else. If you live in 3 and

4 district, or indeed in No. 1 District you are probably more converse to those types of complaints. All I wanted to say at this particular moment in time is that I welcome this review but I just want to emphasise to the people who are carrying out the review that the smells are not necessarily to do with health directly; sometimes it is indirectly and, yes, sometimes it can be large, as already has been said. Often it can be with a density and certainly in St. Helier and the other urban areas that we are placing residents in now, the encouragement is also to have the convenience of amenities such as takeaways also put into those areas. These takeaways, especially when they have the, shall we say, Oriental food, or the chips, et cetera, the smells linger on and they pass through the little narrow streets, the little alleyways, et cetera, and depending on what the wind does it can be a nuisance, not necessarily to a whole area, but to one or 2 persons in that area. So, what I would ask is that as part of the review, if the Minister would be kind enough, is to ensure that there are planning considerations and obviously Parish considerations when there are applications in certain respects and consideration as to these noises and smells. In one particular case the Minister is already aware of a longstanding dispute. Because one of the problems is identifying the equipment of how effective it is when it goes in and how much maintenance it requires, and does anybody have any responsibility to ensure that someone has the right equipment installed, as opposed to just telling somebody: "You should do it" and then make sure that equipment is maintained and serviced to a level that it does not cause a nuisance to others. I think I will leave it at that, thank you, but the Ministers and the Parish Constables will already be aware from various applications in their vicinity that this is an area very sensitive and as we build more and more residences it will become acute if we do not keep the checks and balances. Thank you.

13.1.5 The Connétable of St. Brelade:

It rather concerns me that we seem to be drifting down the route of what should be Scrutiny's tasks with not only this proposition but the previous one. I note that in the financial and manpower implications, an element of the Deputy's proposition, that it is suggested that a Scrutiny Panel could assist in driving down the costs. I wonder in his summing up whether he could indicate what approaches he has made to, I suppose, the Environmental Scrutiny Panel, with regard to this element, with which incidentally I sympathise and agree with, but I rather feel that this is not the route that we should be going down.

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

The Medical Officer of Health did express concerns regarding Bellozanne emissions and in previous debates about the incinerator I have said that Transport and Technical Services should have been prosecuted years ago and that there needs to be within Government the actual intention to prosecute other departments where a department is failing in a certain area and I think that Transport and Technical Services has definitely failed in looking at safety of residents of that area and I was advised after one of the debates that we had a few months ago that in fact Transport and Technical Services about 10 years ago did get a quotation for a bolt-on flue filter for the incinerator but it was never purchased because of the cost. Now, I do not know whether anything came to the States. I would have to do some research on that, but I was advised that this was the case, and if that is true Transport and Technical Services had the option of doing something and never did and that demonstrates a total lack of interest in the health for the residents of that area and I think that where I have said several months ago that Transport and Technical Services should have been prosecuted then the fact that they had considered a bolt-on flue at a date at some point in time and never did anything then absolutely they should have been prosecuted. They never purchased what they could have purchased because of the cost.

The Bailiff:

Deputy, if you can come back to the proposition please.

Deputy P.N. Troy:

My point is that Deputy Le Claire's proposition is all about nuisance and whether it is about nuisance or whether it is about health issues and government departments, one thing that Deputy Le Claire was getting across is that government departments are being treated differently to those out in the community and I think that this is a major area of concern, if that is the case. Scrutiny, I think my Constable just said he was worried about the fact that we are going down the road of what Scrutiny should be doing, but I would absolutely say that Scrutiny should be looking at what the Government is not doing right and they should be coming out with reports calling for complaints against incinerators, complaints against any activity that the Government is doing; those should all be logged, they should then be available, statistics should be available on the Government website about the number of complaints that we have had, and about actions that are being taken in response to those complaints. All these things which a responsible government should be doing and we are not doing, they should be implemented. Scrutiny, what are you doing? You need to come out and look at some of the practices that are going on and bring out reports which make changes in the future. I will not be here but there are others here in Scrutiny who will be coming through and they need to be looking at what the Government is doing and what it is not doing right and putting forward cases for change in practices, because I think in many ways the public are being let down by these things where they are complaining and they are being absolutely, totally ignored. No wonder so many people out there do not have faith in Government. They feel that they are not being taken seriously. So, I do ask that the new Scrutiny Panel Chairman, whoever they may be in the new Assembly, that they look at some of the practices, the core things that are happening and review what should be happening to make things better because there are so many things that are just not recorded properly, they are not made public, and there is not some of the transparency that there should be. In the U.K. incinerators have guidelines on these sort of things. So do electricity, power stations and so on. They all have codes of practice to which they have to adhere to and very much more information is made public and scrutiny, you need to take action in the new Assembly. That is all I am going to say on the matter.

13.1.7 Deputy C.J. Scott Warren:

Over many years I have been involved in discussions with health protection on behalf of constituents and only a few weeks ago I contacted an officer there regarding a constituent who was concerned about a commercial operation in the vicinity of their home. I have to say that I always receive good advice from the officers in the department. That said, I do believe that this review will be useful and help for the future good operation of this law, so I will be supporting this proposition.

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

I was not going to talk this afternoon, but Deputy Troy made me rise to my feet because I have to say that Technical Services Department, I personally think is extremely well-run. I think the officers in that department are excellent and so are the men but what I would say, he is completely correct; for years they have been telling us, and putting it in writing, and telling everyone that has been in charge that it needs to be done and for years we have all known that. What I am trying to say is we cannot blame the department. The blame lies in this Chamber because for years we have asked for extra money to do incinerator, to do capping, to do roads, to do drains, and for years the money has not been available. The money has been used elsewhere. It is not the department's fault. We all know the way that it was done in this Chamber. It was he who shouted loudest got the money. I am sure the money was used to very good cause, whether it was used to build beautiful schools, or whether it was used on the hospital, for health, or housing, but drains has never been anybody's favourite subject. Nobody wants to know about drains. Nobody wants to know about incinerators. I remember Vernon Tomes sending me in once, he was not well, to argue for money and do you know what? We topped the whole poll on that meeting because every time anybody asked for housing I would say: "Well, yes, that is a good idea, but do not forget the drains and the roads" and somebody wanted a school. I would say: "Yes, that is a good idea, but do not

forget the drains and the roads.” Do you know that at the end of the day the drains and the roads got the highest award? What was I told? “Do not even think about it because you certainly will not be getting all that money. Even though you won it fair and square you will not get it.” So, what I am trying to say, is please do not lay the blame on the Technical Services Department. The blame, if there is any, lies in this House by not giving those people the money to do what was needed to have been done for many, many years.

The Bailiff:

I call upon Deputy Le Claire to reply.

13.1.9 Deputy P.V.F. Le Claire:

I am delighted to follow Deputy Huet because she is 100 per cent absolutely right. Absolutely right. I remember when I first came to the Chamber and I sat next to Deputy Huet and Deputy Routier in the way the States worked in those days. I went from the Health Committee to the Public Services Committee and we were told in those days, early 2000, that we needed a new incinerator and like the keen idiot that I was I said: “Right, come on then, let us go and get the money. Let us do it, if it is not good, if it is polluting, if it is bad for the environment.” I was immediately told: “No, sit down, relax, do not worry. We still have to explain away a couple of other things called the Cavern and the Marina before we get to that and we have a number of other things such as the prison that needs sorting out.” So, Deputy Huet is 100 per cent correct. It is not the department to blame; it is this Assembly to blame for not giving them the money over the years. Equally, it is this Assembly to blame for not giving health the money over the years either to have been policing these laws. It is late. We are all going home. Some of us are being driven out of our homes by the emissions of smells, et cetera. So, while I have tried to keep the form short I know it has run over probably what Members would have wanted to have spent on it, but I ask Members to think about the fact that many hundreds of people in Jersey over the last 4 to 5 years have been driven out of their homes because of obnoxious smells and noises that are monitored, licensed and run by the States. Senator Shenton said that he is due to bring a necessary amendment to the Assembly, one that he reckons has been identified that is valuable and I am wondering what that is. I am told by the lady that wrote to me and the reply she received recently ... I will not read it. We do not have the time for it. After 20 years have passed and their lives have been ruined and excuses have been made and promises have been broken time and time and time again by States Members, departments, and the operators of the facility that have moved on, they are now being told lo and behold, that in the future it is going to be licensed under a different section and their complaints will fall within the Environment Department. That is where their file will be transferred. So, maybe that is the amendment that is coming forward. It is no longer the Health Department’s job to monitor it; we are moving it over to environment and she can look forward to another 20 years of complaining to a new civil servant. It is absolutely terrible. It is a review but it is also appropriate, I think that I took some time this afternoon to make Members realise, as I have voiced today, there is a genuine belief among many members of the Island that it is one rule for them and another rule for us. Top that off with what Deputy Huet said, we are to blame, we are the ones who did not put the money there. I urge Members to keep this fresh in their minds. It is Scrutiny’s job, we have been looking at it in the Environment Scrutiny Panel already for years and we are still looking at it now. We are going to pass that on to the next Environment Scrutiny Panel to keep conducting these issues, to keep looking at these issues because that is what Scrutiny is for. It is meant to add value to Government. It is meant to drive down costs and it is meant to be there, especially in the environment Scrutiny Panel to make sure that the environment from a natural living and built perspective is a better one. The only thing I would say is I urge Senator Shenton and Senator Perchard, if they are going for health in the future, I know they are going to be upset, or their department certainly was upset with what I wrote, but I stand by what I wrote in the report and they have to start taking more cognisance of the fact that people’s lives are being affected. If the Environment Department is taking on these responsibilities because the buck is being passed then I

look to Senator Cohen to do what no one else has done yet. I make the proposition. I ask for the appel.

The Bailiff:

I ask the Greffier to open the voting which is for or against the proposition of Deputy Le Claire.

POUR: 49		CONTRE: 0		ABSTAIN: 0
Senator S. Syvret				
Senator L. Norman				
Senator F.H. Walker				
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				
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 St. Helier				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
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 R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
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 of St. Mary				

Senator S. Syvret:

If it may help the Assembly I am going to seek the deferral of the item concerning the Christmas speeches. I think everyone has had quite enough for the time being and I believe this matter, if it

remains a matter of dispute and it does need to be determined, it is best and more appropriate that it be determined at some point by the new Assembly.

The Bailiff:

Can I be quite clear, Senator, are you withdrawing your proposition?

Senator S. Syvret:

No, sir. For the time being I am deferring it because if the question remains a matter of dispute then the matter will need to be debated but I did email Senator Le Main some time ago asking him whether he would be prepared to abandon his attempts to change the procedure and in exchange I would withdraw the proposition and leave the matter.

The Bailiff:

If you are not seeking to debate it today that is your prerogative, Senator, but we have to fix a date for it under the new rules. So, do you want it in February, or something like that?

Senator S. Syvret:

Well, if it remains a matter of dispute I would assume that it would need to be debated at the conclusion of all of the procedure of electing committees and panels.

The Bailiff:

The Greffier reminds me that there is no provision for public business on those days. There is only the election of committees and so on. Do you want to adjourn it to a date in January?

Senator S. Syvret:

If I have to. I would just wish it to be noted for the record that I was willing and ready to have it debated by the new Assembly prior to the matter needing to be resolved.

Senator J.L. Perchard:

We do not want the good Senator to be offended by this. I suggest to the Senator we take it now and like that he will not be able to claim an injustice.

The Bailiff:

Senator, I think you are placing the Assembly in a difficulty. Either you withdraw your proposition or you have it debated as you had originally intended to have it debated.

Senator S. Syvret:

My position is that if it has to be deferred and cannot be debated until January then so be it.

The Bailiff:

Very well. I ask the Greffier to read the proposition.

Senator S. Syvret:

Sorry, Sir, I am not seeking to have it debated now. I am saying that if January is the earliest it could be debated then that will have to be the date.

The Bailiff:

Senator Syvret is entirely within his rights to seek to defer the proposition if he does not wish to have it debated today. It is just that the Standing Orders, I think, require us to fix another date for the hearing of the debate of the proposition. I am just trying to find the first date in January. Very well. The debate on Projet 168 is deferred.

14. Draft Civil Aviation (Jersey) Law 2008 (Appointed Day) Act 200- (P.173/2008)

The Bailiff:

We come finally then to projet 173/2008, the Draft Civil Aviation (Jersey) Law 2008 (Appointed Day) Act and I ask the Greffier to read the long title.

The Greffier of the States:

The Draft Civil Aviation (Jersey) Law 2008 (Appointed Day) Act 200-; the States in pursuance of Article 25(2) of the Civil Aviation (Jersey) Law 2008 have made the following Act.

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

This Appointed Day Act provides for the Civil Aviation (Jersey) Law 2008 to be brought into force with effect from 1st January 2009. The Civil Aviation Law was adopted by the States on 13th May, approved by the Privy Council on 9th October and registered in the Royal Court on 24th October. The law establishes an independent safety regulator for international civil aviation in Jersey. It is now a requirement to have an independent regulator for aerodromes in order to comply with Jersey's obligations under the convention on civil international aviation, made in Chicago in 1944. So, it is an Appointed Day Act of a law already approved by the States and I have pleasure in moving it.

The Bailiff:

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

14.1.1 Deputy R.G. Le Hérissier:

Very quickly, as the Chief Minister knows this was highly contentious at the time. It is said it will be paid for by licence fees. Do we have a clear estimate of what it will indeed cost to run this office on an annual basis?

14.1.2 The Deputy of St. John:

In the last debate we discussed sharing this post with Guernsey at a later date. Has dialogue continued with Guernsey, and is that a possibility moving forward? Although I accept the legislation needs to be properly sorted before you can finally do that.

14.1.3 The Connétable of St. Peter:

With regard to the licences meeting the costs of this position, does that mean that the existing licences will be increased substantially to do it, or will it be the creation of new licences altogether that user groups will have to conform to?

The Bailiff:

I call upon the Chief Minister to reply.

14.1.4 Senator F.H. Walker:

First of all, Deputy Le Hérissier's point. There is no significant additional cost. The post involved, as we discussed during the original debate, is in fact a transfer from another post within the airport. There will be the usual administrative costs but they are insignificant. The Deputy of St. John asked about sharing the post with Guernsey. Yes, that is an ongoing live debate, however, Guernsey have taken their own decision which covers us for a period of another 3 years and I believe that the end of 2009 would be the appropriate time to open that debate, or re-open that debate seriously. So, the Constable of St. Peter, I would remind him that we did debate all of this in May. It is not anticipated, as I said, that there will be any great additional cost. I move the proposition.

The Bailiff:

I put the proposition therefore. Those Members in favour of adopting it kindly show. Those against. The proposition is adopted. We come now to the arrangement of future public business.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

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

It is a very simple one this time and my last time as chairman. I would like to propose, for 20th January, the list as outlined under M under the Consolidated Order Paper with the addition for the 20th January of the one we have just agreed to, P168/2008, the traditional delivery of Christmas addresses. Also, P176/2008 and P177/2008 which are regulations for the Public Employers Contributory Retirement Scheme. On 24th February, P178/2008, the Draft Sexual Offences Law. I propose that as amended.

The Bailiff:

I have not yet advised Members, and perhaps I can take the opportunity of doing so, that the Sexual Offences (Jersey) Law 200-, Projet 178 has been lodged by the Minister for Home Affairs today and an Order made by the Minister for Treasury and Resources has been made. The Public Finances (Accounting Standards) (Amendment) (Jersey) Order 2008. Are Members content to accept the arrangements set out by the chairman for future public business?

PERSONAL STATEMENTS

16.1 The Bailiff:

May I add one final matter before we close. This is the last meeting of the States for a number of Members and although there will be an opportunity on a social occasion later this week for fond farewells I should like to take this opportunity publicly to thank all the retiring Members of the States for their respective contributions to parliamentary democracy [**Approbation**]. May I just say that some of those contributions have been very longstanding, but all of them have been valuable in different ways. From the chair I should like to wish all those Members a long and happy retirement. [**Approbation**]

17.1 The Connétable of St. Peter:

Could I take the liberty perhaps of extending thanks on behalf of everyone who is about to retire for various reasons and extend my sincere thanks to yourself, Sir, the Deputy Bailiff, the Greffier Assistant and all the Crown Officers and everyone associated with this Assembly, and not forgetting very importantly the players in the game that you have to keep order with, Sir, and that is the Members themselves. It has been my pleasure to go back to the days of the giants, as they were described recently, in honouring the work carried out by past Members and I refer to Senators Ralph Vibert and John Le Marquand, to name just 2. They were in the House and very active when I started and if you spoke out of turn or behaved in a manner unbecoming, you were soon put in your place and I think quite rightly so, and it is a great shame that all the good habits have not extended in the recent years. But nevertheless I thank you most sincerely, Sir, and all the Members for the rapport that has existed throughout all the time that it has been my pleasure to serve this Island, my Parish, and everyone that I have come across in that time. Thank you very much indeed. [**Approbation**]

18.1 Senator F.H. Walker:

I was going to make a very similar speech, but the Constable has beaten me to it. I think it would be appropriate if I just said what a privilege it has been to serve the Island in this House and I know again I speak on behalf of all 14 of us who are leaving. What a privilege it has been, what an honour it has been. It has not always been enjoyable. Some times more enjoyable than others, but it has indeed been a privilege and honour and I would like to add again, on behalf of all 14, my thanks to those of the Constable of St. Peter and also to include, I did not pick up who he included, I hope that he included the Law Officers. Certainly we should thank the Greffier and his team most warmly, [**Approbation**] the ushers, who have given, in my experience, unbelievable service over an extended period of time [**Approbation**] and not least Norma. [**Approbation**] What would we

have done without her? It used to be a case of we are where we are. Can I now say, we were where we were. I leave with tremendous memories, obviously with mixed feelings, but always with the knowledge that this has been a life-changing experience and one for which I am very grateful. I know all 13 other Members who are leaving are very grateful as well. So, thank you, Sir, and thank you all Members of the House. **[Approbation]**

The Bailiff:

Thank you, Chief Minister. May the exchange of Christmas greetings be equally harmonious **[Laughter]**. The meeting is closed and we reconvene, differently constituted, in due course.

ADJOURNMENT