

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 6th JULY 2011

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[9:32]

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

PUBLIC BUSINESS - Resumption

Deputy C.F. Labey of Grouville:

Might I ask the Assembly if they would consider bringing my proposition up in the Order Paper? Before people frown and discard the request, I have had it brought to my attention that the Privy Council will be meeting on 13th July, that is next week, and I do not want them ... I think it would be a very bad state of affairs for Jersey to put them into a position to decide for this Assembly one way or another whether they grant Royal Assent or not because it is on the Order Paper. So I think that we ought to debate this and have it decided one way or another. I would like to test the mood of the Assembly to see if it is.

The Bailiff:

What are you proposing?

The Deputy of Grouville:

I am proposing that we take it after the Names and Addresses, P.38.

Deputy T.M. Pitman of St. Helier:

We had this vote last session and I totally object. This would completely ruin my own proposition, so I do think that is really unfair. I lodged it many weeks before and this is the type of navel-gazing that the people want us to get away from.

The Bailiff:

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

Deputy I.J. Gorst of St. Clement:

Perhaps I could go so far as to say I suspect there are many Members who would support Deputy Pitman's proposition after this session is over. The decision that the Deputy of Grouville is asking us to make must be made as soon as possible so that it can be then certain, once and for all, and then we can support Deputy Pitman and say that is it put to bed, until the Electoral Commission has made its finding.

Deputy M.R. Higgins of St. Helier:

I must say I object to this. This House has made a decision on 3 occasions on this matter and we keep on being jockeyed, trying to bring it again forward. The Privy Council, they should be considering what was put to them by this House. We should not change the order just to suit the Deputy.

Deputy M. Tadier of St. Brelade:

It seems to me if the Privy Council are meeting on the 13th then they would want to know what the latest thoughts are of the States Assembly on this issue. Also I would encourage Members who perhaps do not agree with the Deputy of Grouville's stance to make their own representations directly to the Privy Council, as a very small minority of Islanders have been doing, so that the Island's view will not be misrepresented.

Connétable J. Gallichan of St. Mary:

I do not know if I am able to amend the Deputy of Grouville's proposition. Certainly what she says, we do need to make a decision, we need to make it soon, but if the only objections are the fact that it would jump ahead of Deputy Pitman's proposition, which we already know is advisory and

does not bind, why not move Deputy Pitman's up and then the Deputy of Grouville's immediately after?

The Bailiff:

At the moment we have a proposition from the Deputy that hers should go first followed by Deputy Pitman.

Senator A.J.H. Maclean:

Just a comment to Members; the Jersey Harbours and Airport Shadow Board: terms of reference have been moved on several occasions. **[Laughter]** It was due to be heard next. All I would say is I am very happy for it to drop down to accommodate the Deputy. It is not a problem from my point of view. I am sure Members would be accommodating of it moving yet again just by a space or 2.

Deputy J.A.N. Le Fondré of St. Lawrence:

Just a comment, we always seem to get into this pickle from time to time. I would support, ahead of P.P.C. (Privileges and Procedures Committee), in that if this matter is to be urgent then they should be both brought up and debated in the order they were lodged. That would seem to be procedurally the right way. The alternative would surely be for the people who have got amendments before them to withdraw them or postpone them, and that would also solve the problem

The Bailiff:

Very well, the matter before the Assembly is the proposition of the Deputy of Grouville that P.99 be moved up the list by about 3, so that it will be heard after P.38 and before P.47. Those in favour will vote pour, those against will vote contre. Is the appel called for? The Greffier will open the voting for the appel.

POUR: 30		CONTRE: 19		ABSTAIN: 0
Senator T.A. Le Sueur		Senator A. Breckon		
Senator P.F. Routier		Senator B.I. Le Marquand		
Senator P.F.C. Ozouf		Senator F. du H. Le Gresley		
Senator T.J. Le Main		Connétable of St. Saviour		
Senator B.E. Shenton		Connétable of St. Mary		
Senator F.E. Cohen		Deputy of St. Martin		
Senator J.L. Perchard		Deputy R.G. Le Hérissier (S)		
Senator S.C. Ferguson		Deputy J.B. Fox (H)		
Senator A.J.H. Maclean		Deputy G.P. Southern (H)		
Connétable of Trinity		Deputy J.A. Hilton (H)		
Connétable of Grouville		Deputy P.V.F. Le Claire (H)		
Connétable of St. Brelade		Deputy J.A.N. Le Fondré (L)		

Connétable of St. Martin		Deputy S.S.P.A. Power (B)		
Connétable of St. John		Deputy of St. John		
Connétable of St. Clement		Deputy A.E. Jeune (B)		
Connétable of St. Peter		Deputy T.M. Pitman (H)		
Connétable of St. Lawrence		Deputy M.R. Higgins (H)		
Deputy R.C. Duhamel (S)		Deputy D.J. De Sousa (H)		
Deputy of St. Ouen		Deputy J.M. Maçon (S)		
Deputy of Grouville				
Deputy of St. Peter				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				

The Connétable of St. Mary:

May I make another proposition, maybe move Deputy Pitman's up the Order Paper too, above the Deputy of Grouville, Sir, simply to maintain the order? Simply out of procedural practice this vote was had at the last Assembly and the Assembly voted not to jump one over the other.

The Bailiff:

The States have just voted to put P.99 immediately after P.38, I do not think we can now vote for another one up there.

Deputy M. Tadier:

I do not think that was the understanding of Members though. It may be Members' fault but it seemed ... I think most Members, from what I can gather, would like to debate Deputy Pitman's first and then the Deputy of Grouville.

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

Can I move a proposition that P.78 be taken before P.38?

Deputy T.M. Pitman:

We cannot have ex-States Members running the ...

The Bailiff:

It is a matter for Members. Is somebody proposing now that Deputy Pitman's be taken after the Register of Names Bill but before the Deputy of Grouville's? Deputy Le Hérissier, what exactly was your proposition? When do you want Deputy Pitman's proposition to be held?

Deputy R.G. Le Hérissier:

My overall aim is that because of the logic involved that Deputy Pitman's precedes the Deputy of Grouville's.

The Bailiff:

Are you happy to do it after P.38, which is the Register of Names and Addresses?

Deputy R.G. Le Hérissier:

Yes, Sir, I am, if that is procedurally possible.

The Bailiff:

It is a matter entirely for Members, so that proposition is put.

Senator J.L. Perchard:

Sorry, to interrupt, could I ask for a ruling from the Chair, would Deputy Pitman's proposition fall away if the Deputy of Grouville's proposition were debated and be successful?

[9:45]

The Bailiff:

Not at all, no. What the Chair said previously was first of all clearly Deputy Pitman's would not fall away if the Deputy of Grouville's is heard first and passed. Similarly, if it is in reverse, the passing of Deputy Pitman's does not prevent the Deputy of Grouville's being debated. It is a matter then for Members.

The Deputy of Grouville:

Could I just make an observation on what you have just said. The reason why I asked for mine, I have had nothing to do with the Privy Council and I want to make that perfectly clear. I have used our system to have something debated that I feel quite strongly about, and I have not asked for Standing Orders to be lifted, to have it voted sooner. I have gone through our procedures here. All I am asking today is so that we do not put ourselves in an embarrassing position ... we are a deliberating Chamber, this is what we do here. We have debated G.S.T. (Goods and Services Tax) exemptions, other things, several times. I do not see what the difference is. But today I am asking if my proposition could be taken because we will put Privy Council in a difficult position, and they may have to make a decision for us, and that to my mind is not right. It is not right. It does not make any difference to Deputy Pitman's proposition, whether it is taken before or after. Indeed I am very minded to vote for his proposition, so that makes no difference, but mine it does with Privy Council, and that is all I am asking.

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

Can I just throw some balance on this? The Privy Council were approached by some members of the public. We are not putting Privy Council in an embarrassing situation. The States of Jersey has deliberated. The States of Jersey has progressed and asked in advance the Privy Council to approve the law. If we continue to abide by our previous decision and the Privy Council overrules us because it believes, in its infinite wisdom, the petition before them is of greater significance than

this Assembly's decisions then there needs to be a decision about how we pass laws because we certainly should not be held to a position where unelected people in a foreign jurisdiction can hold such sway over a directly-elected Assembly. To put people in an embarrassing situation, whether I support either of these positions, I think we need to be quite clear. We were advised quite strongly by the former Bailiff that we should not put matters before the Privy Council because it is not in our best interests for the United Kingdom Government to be deciding what Jersey should be doing. **[Approbation]**

The Bailiff:

Can I, from the Chair ... I think it is proper for the Chair to make a comment here because I regard it as one of my duties to uphold this Assembly's position. It seems to me that the best thing for this Assembly is, one way or another, to reach a decision on the proposition of the Deputy of Grouville. If it is passed then the position is clear, it will be withdrawn. If, on the other hand, the States reaffirm their previous decision that will send an extraordinarily powerful message and I would be surprised if the Privy Council would go against the stated wishes of our democratic Assembly and if they were to it would certainly cause a tremendous constitutional ripple. If I may, from the Chair, it seems to me that for this Assembly as a whole best interests are served in making a decision and telling the Privy Council what that decision is in the expectation the Privy Council should go along with the wishes of this democratically-elected Assembly. **[Approbation]**

Deputy T.M. Pitman:

After my proposition; it has been lodged 3 weeks before, Sir, otherwise it makes a mockery of Standing Orders. This is going to happen all the time, and I do think I have the right to speak.

The Bailiff:

Sorry, I could not hear what you said with the ...

Deputy T.M. Pitman:

I said this makes a mockery of Standing Orders. What is 2 hours, perhaps, going to make a difference. This is jockeying. The proposer has been in touch with the person in the Privy Council, she was on the phone the very day that it was lodged.

The Bailiff:

Can we just be clear then? At the moment the position is that the Deputy of Grouville is to be heard after P.38 but now Deputy Le Hérissier has proposed that Deputy Pitman's should be heard after P.38 and before the Deputy of Grouville. **[Seconded]** Does any Member wish to speak very briefly on that? It is a matter for Members.

Deputy M. Tadier:

I do have a question but it is a matter of more general nature, which I would like to ask after the vote.

The Bailiff:

Is the appel called for then? The appel is called for as to whether to take Deputy Pitman's before the Deputy of Grouville's. If you want to you vote pour, if you do not you vote contre, and the Greffier will open the voting. If all Members have had an opportunity of voting, the Greffier will close the voting.

POUR: 29		CONTRE: 19		ABSTAIN: 1
Senator A. Breckon		Senator T.A. Le Sueur		Connétable of St. Mary
Senator B.I. Le Marquand		Senator P.F. Routier		
Senator F. du H. Le Gresley		Senator P.F.C. Ozouf		
Connétable of Trinity		Senator T.J. Le Main		

Connétable of St. Brelade		Senator B.E. Shenton		
Connétable of St. John		Senator F.E. Cohen		
Connétable of St. Lawrence		Senator J.L. Perchard		
Deputy R.C. Duhamel (S)		Senator S.C. Ferguson		
Deputy of St. Martin		Senator A.J.H. Maclean		
Deputy R.G. Le Hérisier (S)		Connétable of Grouville		
Deputy J.B. Fox (H)		Connétable of St. Martin		
Deputy G.P. Southern (H)		Connétable of St. Saviour		
Deputy of St. Ouen		Connétable of St. Clement		
Deputy of St. Peter		Connétable of St. Peter		
Deputy J.A. Hilton (H)		Deputy of Grouville		
Deputy P.V.F. Le Claire (H)		Deputy I.J. Gorst (C)		
Deputy J.A.N. Le Fondré (L)		Deputy of St. Mary		
Deputy of Trinity		Deputy A.T. Dupré (C)		
Deputy S.S.P.A. Power (B)		Deputy E.J. Noel (L)		
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

That is the decision of the Assembly, so now we will return to ... sorry, Deputy Tadier, did you say you wanted to raise something?

Deputy M. Tadier:

It would be interesting if that is the actual vote after the 3 days of debate or however long it takes to re-debate the Senator's. My question is, it seems to me that if any member of the public or more than one member of the public who disagree with any decision the States have made are able to go to the Privy Council simply because they disagree with it, and then if we have to re-debate that same proposition because we do not want to put the Privy Council in an invidious position then what is to stop any member of the public doing that on anything that they do not agree with? Could that happen on any other issue, because it seems to set a dangerous precedent?

The Bailiff:

The fact that there has been a petition has nothing to do with re-debating it; that is a matter for a Member. There has long been a right for people to petition against Royal sanction. It is always considered by the Privy Council. I am not sure that it has ever been successful because, of course, it is the democratic will, which the Privy Council should respect. But nevertheless there is an individual right of petition and that does exist at present.

Deputy S. Power of St. Brelade:

Is there not a conflict that the person petitioning the Privy Council is also going to be a candidate for Senator?

The Bailiff:

We are not going to get into it. It is not for me to comment upon the [Laughter] actions of somebody who is not even a Member.

Deputy S. Power:

Sorry, it was a rhetorical question.

The Bailiff:

Rhetorical questions do not necessarily need to be raised as we try to press on. Senator Le Gresley, do you have some particular point you wanted to raise?

Senator F. du H. Le Gresley:

I just wanted to speak on the ...

The Bailiff:

You wanted to speak in the ...

Senator F. du H. Le Gresley:

Yes, Sir. [Laughter]

1. Draft Control of Housing and Work (Jersey) Law 201- (P.37/2011): amendment (P.37/2011 Amd.) – amendment (P.37/2011 Amd.Amd.) - resumption

The Bailiff:

Very well, so we now return to the debate upon the amendment lodged by the Corporate Services Scrutiny Panel. I had in fact seen the Deputy of St. Ouen next, and then Senator Le Gresley.

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

The question that has been raised by this amendment and indeed in other ones is in fact who should be responsible for the law, and I would like to make a number of observations. In the comments presented by the Chief Minister on page 2, we are told that in 2005 this Assembly overwhelmingly approved a proposition directing that the Chief Minister should be responsible. We were also told what the reasons were, and the reasons were that decisions should not be directed by any single need alone, whether the economy, housing or any other matter, rather the balanced needs of the Island as a whole should prevail. The report then goes on to suggest that it is best done by the Chief Minister as elected by the Assembly on the basis that he or she will have to follow the States immigration and population targets as set by the Strategic Plan, indeed it is one of the functions of the Assembly to hold the Chief Minister to account. I would like to draw Members' attention to the States of Jersey Law and the functions of the Chief Minister, and indeed the Council of Ministers in providing the sufficient checks and balances that we as an Assembly seek to achieve. Indeed, the function of the Chief Minister includes co-ordinating through the Council of Ministers, the discharge of the common functions described in paragraph 2, which are the functions of the Council of Ministers, and furthermore conducting external relations in accordance with the common policy agreed by the Council of Ministers. So that is the point: that the common strategic policy is indeed the Council of Ministers common strategic policy, which is adopted by this Assembly, although it is absolutely right that the Chief Minister, as one of the Members of the Council of Ministers, takes responsibility for it. So the functions of the Council of Ministers, and it is good that we remind ourselves of what those are, it is to co-ordinate the policies and administration which they are individually responsible for as Ministers, discussing and agreeing policy which affects 2 or more of them. That is the point, that this migration policy does include a number of different elements. It does include housing matters. It does include economic matters. It does include matters that will affect social security. I believe that the relevant checks and balances are already in place, ascribed in the States of Jersey Law that holds not only the Chief Minister to account, but equally the Council of Ministers to account as they oversee and monitor and progress policy that has been agreed by this Assembly. The question is, why should the Chief Minister, in this particular case, be directly responsible for this law when ... and following 2005, we have demonstrated and implemented the new ministerial form of government, where we have set up a number of different groups to oversee a number of policies that interact with different

departments. One is the Children's Policy Group where we have 3 Ministers that are held responsible to the Council of Ministers for overseeing all matters to do with children and young people that goes way beyond just Education matters, Social Services matters and others. Indeed, that particular group is already speaking and including the Minister for Social Security and the Minister for Housing in their deliberations as they pursue and promote the policies that will be and have been agreed by this Assembly. Also, we have an income support scheme that certainly is not just the responsibility of one department, and impacts on others. Yes, we have a Minister that is directly responsible for it because he is indeed the main individual that is responsible for implementing and overseeing that particular policy. I also question whether it should be the Minister for Social Security or, indeed, the Minister for Housing. I think that that is ultimately a decision which rests with this Assembly, but I firmly believe, for one, that we do have sufficient checks and balances in place that does not mean that the Chief Minister has to take responsibility for everything or any particular policy that it will impact on other ... and will include necessarily other departments. Furthermore, I am equally uncomfortable with the fact that the law suggests that an Assistant Minister will chair a particular advisory group. It is right that responsibility needs to be taken for the advisory group, but let us remind ourselves that Assistant Ministers do not have any powers. It is the Minister and Ministers that are ultimately responsible and will be held to account, and it is fine and okay that a particular Minister will choose to delegate responsibilities but ultimately he is the individual responsible, so why complicate matters further? I think that it is unnecessary, now that the policy and the laws are in place that the Chief Minister takes and retains direct responsibility for this law, and I would ask the States Members to consider the comments I have made as they determine the outcome of this particular debate.

[10:00]

1.1.1 Senator F. du H. Le Gresley:

I must admit when I was listening to the last speaker I thought he was going to say he was in favour of the Chief Minister, but at the end I realised he was not going to say that. Last night we heard from 3 job applicants. We heard from the Minister for Social Security, the Minister for Housing and also the Chief Minister, who all want to have responsibility for the Control of Housing and Work (Jersey) Law; most unusual situation, I would have thought, where 3 people are bidding for the same role. In my opinion, the best applicant for the job was the Minister for Social Security. His speech was the most convincing. It just happens that when I received the amendment of Deputy Power I wrote alongside it: "Minister for Social Security would be better." So obviously I was hoping that the Minister for Social Security would convince me all the more that that is the right way to go. The reason I say that, is that we have to remember the history of how the Minister for Social Security is responsible really for employment on this Island and we go back to, as far as I can recall, when the Industrial Relations Committee of the day was responsible for employment matters, and when that committee disappeared it became the Employment and Social Security Committee, and from that committee developed, under ministerial government, the Social Security Department under the current Minister. That department and that Minister has responsibility for the employment law, for the employment services and his departments. He also works obviously in conjunction with Education and Economic Development Department, so I think personally that he has very much hands-on involvement in employment in Jersey. What is particularly important, I believe, is that the speech of the Minister for Housing seemed to emphasise that there was a big role here for his department; but if we agree this new law the role of Housing will diminish significantly because everybody will be given a card when they arrive and they will just be dealing with landlords or with property agents or estate agents. The Housing Department will not get involved, as I see it, other than perhaps for the exceptional cases, the 1(1)(k)s and the hardship cases. So I really do not see that although this is called Housing and Work (Jersey) Law it really should be flipped over and it should be Work and Housing (Jersey) Law because work is the main reason that we need this law to replace the 3 pieces of legislation that will be repealed. So basically I am

convinced by the speech from the Minister for Social Security and I would also endorse what Deputy De Sousa said yesterday: whenever you put something like this into place you should always think of the end-user rather than what we think is best. I believe that newcomers to the Island would go to the Social Security Department, quite logically, to collect their registration card; to deal with any matters about social security. The department will have control of all these matters and it seems perfectly logical for that Minister to have supervision of this law. The final point I would like to make is surely the role of the Chief Minister is to delegate wherever possible. As the Deputy of St. Ouen has just said, this is exactly what we want him to do; now that we have this law ready to go and when it comes into force surely a new Chief Minister would want to delegate this to one of his Ministers. After all, he delegates the control of the finances of the Island to the Minister for Treasury and Resources, which are equally as important, in my opinion, as dealing with immigration. Thank you.

1.1.2 Deputy J.A.N. Le Fondré:

Just briefly, again I am happy to follow the previous speaker in terms of 3 job applicants, I thought that was a great analogy. But it occurred to me that I wanted to address a couple of comments that were made yesterday because I was trying to square them into the debate. I know one comment was made that it implied that we were desperately trying to change things; but all this debate is about is the law says Minister X is going to be responsible and what the amendments are is that Ministers Y and Z should be responsible. There is no actual change in the law; it is purely the person who is going to be doing it. So I could not see why this was not a matter for the Assembly to be debating and it seemed to be implied that it was not quite the case. Deputy Power argued in his comments, and I agree with his aspect which was about the parishes and the constables in relation to the income support and the in depth knowledge they had, the difficulty I had is I could not make that leap for Housing and Migration. So I agree with him entirely on the views of the in-depth knowledge of the constables and income support, or welfare in those days; but I could not quite make that leap to Housing having the necessarily in-depth knowledge of migration that Social Security, for example, would not achieve as well or would not have because of their very detailed records that they have. Indeed, Deputy Green, if I understood it correctly, on the one hand said this was not the time to be changing Ministers and then, having said that, it should not be sitting in the Chief Ministers Department; so there was kind of an incongruity between the 2 statements. What did focus my mind (and again one has to be very careful that this is not about personalities, this is something for the longer term) was the comments from the Chief Minister; and all they say is that: "In future the Social Security Department will be registering new arrivals, issuing registration cards and deregistering leavers on behalf of the Population Office. There will also continue to be high levels of co-ordination to ensure ..." and it goes on about locally qualified people and unemployed people and things like work and training. It does put a "however" in there, it says: "Not all responsibilities will overlap." But it seems to me that of a sort of 3 paragraph comment at least half of one paragraph is devoted to Social Security which then seems to me to sort of again, depending which way you want to look, enforce the argument for putting it into the Social Security Department. So just where I am on this, I will support shifting it to Social Security, I think that seems to be a logical conclusion. I would have to say if that amendment does not work then I will go for the status quo and leave it where is, or propose it to be in the Chief Minister, because it seems odd that if Housing are going to be restructuring we should not be putting it into a department that is trying to restructure and potentially reduce its size. But my major preference would be for it to go to Social Security and on that basis I will support this amendment and will go from there.

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

As has been said by previous speakers, Social Security has been working in an advisory capacity with the Migration Advisory Group. I must say I believe we have worked very well together and I would expect that wherever the responsibility for the population office is that collaborative work

would continue. However, like my Minister, Deputy Gorst, following attendance at the Scrutiny Panel recently I gave what I realised was a second serious thought as to where this responsibility is best placed; and recall that when I first read this report I believed Social Security was the right place. But one additional thought in respect of the Scrutiny Panel's report is they made reference to having a photograph on the card; and given that so many of the cards we have today hold a photograph - just think of your driving licence, for example - I seriously think that would be worth considering and going back to the point I will be voting for this to go with Social Security.

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

I intend to give my support to this law wherever it ends up, if it stays with the Chief Minister. I am not doing that on the basis that I think this law is the best thing since sliced bread because I certainly think that it can be improved and tightened up on. So since becoming Assistant Minister for Housing I have been sitting on the Migratory Advisory Panel and have been amazed at how many J-cat applications have come forward from States departments fully expecting a rubber stamp. Certainly that has not been happening, it has been mentioned in the Scrutiny report under Deputy Green; and it was exactly the same under Deputy Power, a lot of these things were sent back for further investigation. So the whole system there is tightening up. The Corporate Services Scrutiny Panel seem to have made their decision to amend Deputy Power's amendment largely on the basis of the Housing Department's transformation programme coming through; and I think there is a feeling that there will not be a need for a Minister for Housing. I do not believe for one moment that this Assembly, or indeed the public, will tolerate not having a Minister for Housing in this Assembly. It has been mentioned on a number of occasions that the Chief Minister should have an overarching responsibility for the law. In my view it is more that he wants an overarching control, that it is required by the Chief Minister's Department; after all, the Chief Minister's Department has the responsibility for all staffing in the public sector, many of which are Js. Therefore, the Chief Minister may be conflicted in this. I have got great concerns over where the responsibility will sit for this law; should it be Chief Minister, Minister for Housing or Minister for Social Security? I am 100 per cent convinced that it should remain with Housing and working closely with the Social Security Department, as we do now. I would urge Members to reject this amendment and support Deputy Power's amendment.

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

Well, have we not got ourselves in a bit of a pickle with this? I have a bit of an issue with putting it to the Minister for Social Security; I have an issue with putting it to the Minister for Housing, but then I have an issue with putting it with the Chief Minister. I think that is purely not because of personalities, if we just take the whole personality issue out of this and look at the roles. The problem that we have is the set up we have of the States, is the way the ministerial Government is going at the moment and the fact that the Chief Minister does not have any power of his Ministers. It has come from that point of view where there is an issue. I have a problem with it sitting with Social Security because although it would be nice to have the Employment Law fully enforced through that it is biased because it does not take into accounting all the licensing laws and the economic development. I could not support Housing because Housing would be fully endorsed et cetera; but we are taking away 3 separate laws and putting it all into one and we are requiring a coordination of Ministers to work together. In order to do that ... and I think people will find in the actual law itself, Article 48, there is a requirement by law to have a Housing and Work Advisory Group. So legally the Ministers are to work together and there is an opportunity for the Chief Minister (if it is the Chief Minister, or Minister for Housing or Minister for Social Security, whoever it may be) to appoint other Members of the States on to that group. It is a legal requirement. Not like the Migration Advisory Group at the moment which is just a group that is set up to bring this law together. I think things do need to be tightened in the Chief Minister's Department to ensure that this law is complied with fully. I do not particularly agree with an Assistant Minister taking responsibility for this legislation; especially the current Assistant Minister

who is proposing this because he is an Assistant Minister for Economic Development, which shows some form of bias. If we are looking at the Chief Minister's Department as a way of co-ordinating all areas it should be somebody that is not in another department and it should be purely from the Chief Minister's Department to ensure that the Chief Minister carries out this Assembly's strategic policy of meeting the heads of households and the population policy that we all agree. So in that case at the moment I am more towards the Chief Minister's Department on the basis that things are tightened up.

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

Just briefly; the clue clearly to this is in the title "Control of housing and work", quite simply, the 2 key elements as far as the economy is concerned and feed very much into the success of the economy in the Island.

[10:15]

Obviously what we are debating here is who we should give the key to the henhouse to, in many respects. Listening yesterday to Deputy Power's comments I think he very much favoured the fox having the key to the henhouse; I am not sure that is entirely the correct way. Indeed I would say that Deputy Gorst made a very powerful and passionate speech yesterday about why Social Security should perhaps have the key. But I thought it was interesting in his speech that he emphasised in particular the importance of jobs and the importance of young people getting into work and of course he is absolutely right. Members, I am sure, would fully support as I do everything that Deputy Gorst said, but in the same way it emphasised to me exactly the reason why a future Minister for Social Security should not have the key because indeed it is putting that responsibility into one focused area. A very important responsibility it may well be, but there is too much responsibility on one particular Minister as far as decision-making is concerned. Now, Members might be surprised that there was not a third amendment brought, one from the Minister for Economic Development who would suggest that indeed he should be the one holding the keys to the henhouse. I trust that Members will appreciate that I chose not to bring such an amendment forward, or indeed to encourage anybody else to do so on my behalf. Of course, it was a realistic consideration in many respects; what it would have guaranteed is that the foot would have been very much on the accelerator of economic growth should indeed all the controls have been with my department. But at what price? I think, to be fair, Members in the past have debated these issues and have realised that to put such controls in a focused way in one department is not right for the Island; it does indeed have unintended consequences that are not acceptable on the wider sphere. So I do not think that Housing or Social Security ... what I believe is that neither should be supported, that both these amendments should be rejected, however important they are, and they will feed into what we have been discussing. But, nevertheless, we are looking for a long-term and balanced solution and we should not forget that there has been extensive consultation on this matter. A great deal of consideration has been given to it and indeed this Assembly has voted on the matter in the past; back in 2005 overwhelming supporting the principle that the Chief Minister's Department should have overriding responsibility. The vote at that stage was something like 32 to 8. Members opined on the matter and to give the balance and to ensure that there was third party impartiality, it is right in my view that the Chief Minister's Department should be the place where this resides and hence the reason that the proposition is put in the way that it is. There are good examples; I think M.A.G. (Migratory Advisory Panel) has worked quite well. I think there is room for improvement, one or 2 Members have picked up on this; Deputy Vallois made some valid points a moment ago, Deputy Power yesterday raised some concerns he had had in the past with M.A.G. I accept that M.A.G. has room for improvement but, nevertheless, it is not bust in any shape or form; there are ways in which it can be reformed and improved to deliver what I believe the Assembly requires it to do. There are of course other areas that we can draw on departments working effectively and in a coherent manner together; the skills executive I believe is one, although I would

equally say there, there is room for improvement; in fact we are discussing at the moment how the skills executive can move on to another level. But the departments, in principle, do work well together but there is always room to make the processes even more effective. This really is what the key is; my believe is the Chief Minister's Department is the right place but I think we need to get the processes correctly refined to make sure that it works in the future under this new law, which I have no doubt that Members are going to support overwhelming. It is a step in the right direction; we do not need to get into the detail at this particular stage. So I would urge Members to reject this amendment and the Housing amendment; revert back to the main proposition. All the consultation has been undertaken, it is the right independent third party of the Chief Minister's Department that should have oversight and I hope Members will support that position.

Deputy A.E. Jeune:

May I just ask a point of clarity from the last speaker because it did concern me? Would the Minister not accept that it is the responsibility of all Members, not just a Minister for Social Security being biased, when it comes to ensuring that we have our resident population employed?

Senator A.J.H. Maclean:

I think that is more of a question and I do not think I used the word "biased" either.

1.1.7 Senator A. Breckon:

I will not stray into the amendment or to the proposition, but it is not that easy.

The Bailiff:

I think, Senator, clearly the way this debate is going, because the Assembly is faced with 3 alternatives and certainly the main debate, it seems to me, is taking place now and any subsequent debates should be free(?).

Senator A. Breckon:

We have an unusual situation; that is, that we have 3 candidates for a job and the usual format that we have is 2 of them would be locked away while the other one is speaking and questioned but we do not have that. Then we are going to have some second past-the-post voting system where we vote for one thing and another, but what we vote for might not be for what we want in the first instance and then we do it in the second. Now, what I would like to do is relate something that happened: the first Chief Minister said that with Scrutiny panels, although it was not his direct responsibility (and this instance I have in mind Health, Housing and Social Security) he would attend upon them in a public hearing and answer questions as best he could about really the joined-up government. The present Chief Minister went somewhat in the same way; his first response is: "I do not know what I am doing here because this stuff has nothing to do with me, really, I have got people who do this thing and it is not me." So we said: "Well maybe we should look at employment, unemployment, youth training, elderly care, health care, which Ministers are working together." He said: "Well really that is their responsibility." So I am not sure where this lies there and the concern that some people have had for a number of years is about the "go for growth" and who then, as the Minister for Economic Development just mentioned as: "Put your foot on the accelerator." The question then is: where are the checks and the balances between doing that and being fair to the existing population? The other thing that a number of Members have mentioned is the Minister for Housing will not be there for ever more but somebody has to be responsible for law and regulation; we are still going to have things that people need to comply with and somebody is still going to need to be accountable - maybe at arm's length - for the properties we own, States rental properties. That is probably something we need to do, we need to build that in so that somebody is accountable for that. So there will be still responsibilities for that. The other thing that the Constable of St. John has just mentioned about his experience and that of Deputy Power quite recently was the pressure that is put on to the Minister for Housing. The message I was getting there was that they were able, to some extent, to step back from that and look at the housing

aspect and soak up some of that pressure and make informed decisions; even perhaps to States departments who were saying: “We must have, we must have, we must have.” So the question is: who is best placed to do that, whether it is Housing, whether it is Social Security or whether it is the Chief Minister. But then under this law, something that the Chief Minister might have the powers to do, but there again where is the crossover with the other responsibilities of Social Security and Housing. I hope I am not confusing Members but I think there is some confusion there about where this will sit. The other thing that Members have mentioned is the Population Office and where that sits under this system, and it needs to have a degree of independence but also a degree of transparency so that people who do have something to go before them are confident that what happens is based on evidence and fact and the outcome and not because somebody knows somebody. Now, that is always difficult when that happens but then people have their stories about that. So the whole thing needs balance. I am not convinced it lies with the Chief Minister’s Department, or the Chief Minister at all; so it is with one of the other and at the moment I am swaying with the Minister for Housing unless somebody can convince me otherwise. I think Social Security have got enough on their plate although, as somebody mentioned, at the moment it is a good point of contact because if somebody comes to the Island, if they are seeking work or they need the documentation that enables them to do that then that is where they are; they are in La Motte Street. They would not necessarily do that with Housing and we must be careful that if we are going to put this system in place we do not leave too many gaps where if we want to have this system then people comply with it and it happens. But Social Security, I think, would be effective but I think Housing for me is the better backstop, as it were, to do this. So for that reason I will be voting against the amendment to the amendment for the amendment.

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

I have been listening to this debate and what appears to me is that each of the 3 options, if you like, are kind of almost sectional. If it goes to the Minister for Housing then the assumption is that somehow that person, with or without advisers, will prioritise the question of where to live and have we got enough stock and so on and so on and so on. If it lives with E.D. (Economic Development) which in fact at the moment there is a very strong influence from Economic Development, then the emphasis is on jobs and growth and so on. It seems to me that if we are talking about letting people into the Island or controlling the in and out, the flow of people in and out, what we are really talking about is the community, the whole community; who are the people who are going to make up our community and what are the implications of thinking like that? When you think of the word community which is bandied around so often: “We have got a wonderful community and the parish is a community and we all live in a community and there are different communities within a community.” It is quite a complicated scenario anyway thinking about all the different memberships we have of different groups within society. But on the big scale we have the ageing population which is a huge issue of how we deal with that; how we value old people properly, how we give them a good life and particularly end of life and so on. There are all kinds of issues around that, not only cost but if we are thinking in terms of cost then you have got social care, you have got the role of the third sector, you have got how does the community care for the members of the community who need support? Then, of course, at the other end you have got young people and many times it has been said that really young people lack a champion in this House. The Minister for Education, fine, he looks after very much education and then the youth service sort of tacked on to that. But the holistic, the overall promoting youth and E.Y.C.P. (Early Years and Childcare Partnership) have started doing that, the partnership of early years; but to take youth from zero to establishing households ...

1.1.9 The Connétable of St. John:

I wonder if the Deputy would give way just for a moment, sorry to take you off your throw but you just stated ...

The Bailiff:

Through the Chair please, Connétable.

The Connétable of St. John:

Sorry, Sir. The Deputy just stated that if it sits with E.D.; that is not one of the options, it is Chief Minister, Housing or Social Security.

1.1.10 The Deputy of St. Mary:

I am aware of that; what I said was that the present situation is that E.D. has quite a say because its Regulation of Undertakings and the focus is quite a lot on jobs and one of the criteria is even economic growth and so on. So I think E.D. has at present a large role and I am questioning whether the emphasis should be in this whole matter sectional; whether the emphasis should be a Housing emphasis or an economic growth emphasis and so on. I am suggesting that what this is really about is the make up of our community and if you think about it that is what it is about. It is about which people are going to live here and in fact which people are not; so this is a powerful set of laws and we do have to keep in mind what this is really about and it is about our community. These other things, sometimes we are led to believe that somehow life is about jobs; it is the other way around. A job is something that you do which enables you to live a more fulfilled life or a better life and if we saw it like that then clearly one would have different views on different kinds of jobs. But I am just pointing out that it is about living and life and the quality of life and these other things like jobs and a home and so on, they are very important elements but they are part of a wider package. What I am coming to is that I have long thought (and it just came to me downstairs, this really connects to this debate) that what this House lacks is a ministry for community. We have section things: we deal with the housing, we deal with the jobs, we deal with this, we deal with that; but we do not have this feel that there is anyone here representing how are we going to make this work and how can we promote the third sector?

[10:30]

Because that is one of the ways out of our budgetary difficulties, to promote voluntary action or paid action that is outside the States. So we have to grasp that and we have got no way of ensuring that happens in our present set up. I know it is another ministry and I know there are problems with that but I still just want to put that in front of Members as a future possibility because it is underrepresented; we do not look at all at what it is really all about. So I would suggest that ultimately that would be the home for this kind of legislation. As it is, we do not have a Minister for Community or a ministry for living through the generations or whatever you would want to call it; so then the question for me is what is the nearest option? Is it Social Security, is it Housing or is it the Chief Minister? I do have to say that I come down in favour of Social Security because they deal with people through the stages of their lives, they deal with income support, they deal with housing needs, they deal with ageing populations through the elderly care situation and so on; and they are busy grappling with all those issues all the time. So they are the nearest thing we have got to a government department that looks at the whole picture. I know it is almost money-based, what do you need in terms of the amount of money to live on, but they do take into account how many children have you got, what about elderly dependants, and so on and so on. So I think they have a closer connection to the idea of community than any of our other ministries. So that is the way I think I am going to vote, unless I hear anything to the contrary, but I hope I have helped Members to put a few ideas out there that possibly we should have a wider view at some point in the near future and put our community values in the hands of a ministry so that we could really build our community which is going to be so important in the near and medium term.

1.1.11 Senator P.F. Routier:

This debate has swung 3 ways so it has been obviously a difficult decision for people to settle on what is the best option to go for. We have heard from the previous Minister for Housing and the

current Minister for Housing that it is very clear that to them it is important that we are protecting housing for our local community and that, of course, is right. They have to do that, that is their focus. But I know we are not debating housing at the moment, we are debating whether it should be going to Social Security or not and I listened very carefully to my good friend, the Minister for Social Security, and there were 2 telling things that he said. He opened up by explaining his visit to the Scrutiny Panel Hearing and he gave the impression, I think, that it was a very relaxed and jovial occasion **[Laughter]** **[Aside]** and it sounded as if the comment that he made, the responsibility for this possibly going to his department, as just a throw-away comment. It had not really had a lot of thought **[Aside]** **[Members: Oh!]** and it was just something that had ... that is the way that it came over in the way that ... it was an off-the-cuff remark and it was just unguarded: "Oh, I could do that." That is the way it certainly came over. I think, secondly but importantly, it was the point that Deputy Tadier picked up on yesterday and that was that the Minister has made some very, very strong comments in his speech regarding a desire to look after the interests of young, unemployed people. That came out very strongly from his speech and, of course, he has to do that. That is his job, he must do that but this law is wider than that. It is a lot wider than what the Housing Department needs to do, what the Social Security Department needs to do. It is wider than that. People might not like it but it does include the economy as well. It includes the need to look at licences for business and to decide whether it is right for the economy or not. So it is not focused in those 2 narrow areas of Social Security and Housing. Deputy Rondel, and I am sorry he is not here because I was going to apologise to him because yesterday he gave a very passionate speech and he said some things which were a little bit off-beam unfortunately, I am glad the Deputy has come back. I just want to pick up on one point he made. He implied that we need to stop people arriving here and turning up at Social Security and getting income support. We should be giving them a brush to sweep the streets, that we should be going back to that sort of route. But I think the Deputy has missed the point that income support is not available to anybody unless they have been here 5 years but that is not what was said yesterday. But I have to say the Deputy of St. John gave a very passionate speech about ensuring young people were able to find jobs and find housing and I can assure the Deputy that this new law will do that. With the basis of having a lot of the decision making done by the Housing and Work Advisory Group, there will be that cross overview of how that can happen in an appropriate way. It was the Chief Minister yesterday who made the point, which probably I had not given a lot of focus to, it was about accountability. Is the Minister for Social Security going to be able to be accountable to Members for perhaps housing matters? Are we going to haul him over the coals for saying: "There is not sufficient housing for our Island community"? Are we going to be able to do that? I am not sure that we would be able to do that. Are Members going to be able to question the Minister for Housing about Social Security matters? That is going to be difficult to do. It is only really the line of accountability for this piece of legislation has got to be through the Strategic Plan. The Strategic Plan is we set out the population goals for targets which have to be decided by this Assembly and the Chief Minister has the responsibility for that and it is the Chief Minister who is the one we can haul over the coals if that is not followed well. Deputy Power spoke about the existing close working relationship with the Migration Advisory Group. It does work well and Deputy Vallois highlighted that as well. What is being proposed in this legislation is the formalisation of that. We are going to have a Housing and Work Advisory Group which will include the other Ministers and it can be widened to include even other Members of this House if that is what is wanted. That is what the legislation will provide for. So we will have the ability to have the safeguards that all those things that we are really interested in about work and housing matters can be fed into that decision making process when an application is being made. So following from what the Deputy of St. Mary said about our community, those community-type decisions because of the structure of the Housing and Work Advisory Group, I believe that those considerations can be taken hold of. The Minister for Social Security spoke about his rottweiler and then I will now talk about the value of Deputy Jeune's being in the Advisory Group. She fights her corner for the unemployed, she really does. She does a marvellous job and she is to be commended for that. Tenaciously she advises us on the

availability of skills for the unemployed and we do make decisions that are based on the information she provides to us. She does call us to account for that and I think it is really very, very good and that can still happen in this new structure. The proposed structure in the law places this with the Assistant Chief Minister. There was a comment that Deputy Vallois said or perhaps it has not been right, well, I currently have 2 positions, Assistant Chief Minister and Assistant Minister for Economic Development. I believe that, I think I hope the other members of the Migration Advisory Group will verify this, but I certainly have my hat firmly on in the Chief Minister's neutral position when I am in that Migration Advisory Group and that is too, I have to say, there have been occasions when perhaps the Minister for Economic Development might not have been too happy with some of the decisions we have made because we have been tighter on it because of the concerns of what the Assistant Minister for Social Security has enforced. So I believe that we will have the safeguards with the structure we are putting in place and I believe that it is right that we should have the decision-making with the Chief Minister's Department and I ask Members to reject this amendment and the one that follows.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon the Chairman of the Scrutiny Panel to reply.

1.1.12 Senator S.C. Ferguson:

I thank everybody who spoke. I am not going to go through all of the replies. I think basically Members have queried that this is an afterthought. No, the Panel discussed the fact and it was apparent from the legislation that the role of Housing will be much diminished by this law. The change in categorisation of houses means that Housing also will not have the sort of environmental supplementary evidence which they have had over the years. If you have got to categorise all new houses as "(a) to (h) ... (j)", 1(1)(k), it is a whole different ballgame. There are comments about the Chief Minister and his position in this whole set-up. The Chief Minister, to coin a phrase, is *primus inter pares*; he is there to co-ordinate the Council of Ministers and ultimately responsible for the policy as expressed in the Strategic Plan. Now, this is a detailed law with a lot of emphasis on information gathering requirements and should the Chief Minister be getting into the detail when he should be looking at the policy? I do have a problem that too many Ministers are micro-managing their department rather than dealing with the policy aspects and this, I think, would be exacerbating the situation for the Chief Minister. Other jurisdictions do run this particular aspect of migration in the way we suggest and my favourite competitor, Singapore, certainly does. In fact, looking at their website, they also make a levy on foreign workers for skills development, for developing skills for locals. These are things that the Migration Advisory Group sadly did not look at when it was looking at these things, a question of lateral thinking but, anyway, that is all part of the work for the future. I thank everybody who has spoken and I ask for the appel.

The Bailiff:

The appel is called for, then, in relation to the amendment by the Corporate Services Scrutiny Panel to the amendment of Deputy Power. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 15		CONTRE: 29		ABSTAIN: 0
Senator S.C. Ferguson		Senator T.A. Le Sueur		
Senator F. du H. Le Gresley		Senator P.F. Routier		
Connétable of St. Brelade		Senator P.F.C. Ozouf		

Connétable of St. Mary		Senator T.J. Le Main		
Deputy of St. Martin		Senator B.E. Shenton		
Deputy R.G. Le Hérisier (S)		Senator J.L. Perchard		
Deputy of St. Ouen		Senator A. Breckon		
Deputy of Grouville		Senator A.J.H. Maclean		
Deputy P.V.F. Le Claire (H)		Senator B.I. Le Marquand		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Ouen		
Deputy I.J. Gorst (C)		Connétable of Trinity		
Deputy A.E. Jeune (B)		Connétable of Grouville		
Deputy A.T. Dupré (C)		Connétable of St. Martin		
Deputy D.J. De Sousa (H)		Connétable of St. John		
Deputy J.M. Maçon (S)		Connétable of St. Saviour		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Deputy R.C. Duhamel (S)		
		Deputy J.B. Fox (H)		
		Deputy G.P. Southern (H)		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy of St. John		
		Deputy T.A. Vallois (S)		
		Deputy M.R. Higgins (H)		
		Deputy A.K.F. Green (H)		

2. Draft Control of Housing and Work (Jersey) Law 201- (P.37/2011): amendment (P.37/2011 Amd.) - resumption
The Bailiff:

Very well. Then we return to the debate upon the amendment of Deputy Power. As I said earlier, it seems to me that during the last debate, Members quite rightly compared all 3 and therefore I would invite them not to repeat anything on this one. That debate has been had and really the choice is now between the Minister for Housing and the Chief Minister.

[10:45]

2.1 Deputy P.V.F. Le Claire:

Default position A is the only option for me, I am afraid. I was hoping it was going to be the Minister for Social Security and I really would like to congratulate him for his speech yesterday. I thought it was terrific and also it was great to see the Assistant Minister supporting him. I would like to thank the Chairman of Corporate Scrutiny for allowing me to take what was my work permit proposition and work with her and her colleagues on the Scrutiny Panel. I did think it was the right decision. We have lost that now. I would like to thank them for allowing me to be part of that team, it was very interesting. However, I am very concerned that what we are going to see now, if we are not careful, is this fall into the lap of the Chief Minister. It was interesting I was looking in the shed the other day and a little voice in my head said: "Look in this box" and among one of the boxes I have got full of papers, I came across a newspaper from 19th January 2001, the *Jersey Evening Post*, and it celebrated the life of my late cousin, Gerard Le Claire who died while on the United Nations Mission and I was caught by the front page which said: "Population debate is delayed again" and that was 19th January 2001. Now, at this stage, I had already practically given up the ghost so I do not know where I am now. It is interesting ... go back to my shed, they are saying **[Laughter]** it is not my shed, it is just the one I rent. **[Aside]** Maybe Senator Perchard will lend me one of his sheds and I can go and live there. What it did say though at the end of that ... I have sent a copy round to a couple of Members just to ... the last sentence in the Article: "It is not good enough. It is quite clear what we expect and what they were charged to do." These are the words of the Deputy of St. John, Deputy Phil Rondel at the time: "It is quite clear what they were charged to do: go away and bring back a report and proposition for a Population and Immigration Policy for the Island." What we have got is a Housing and Work Law and, in my view, that does not tick the box all the way although I am supporting it obviously and I think what we are now in danger of seeing is a reversion to where we were in 2001, which is basically the Policy and Resource person of the day, Senator Pierre Horsfall, saying: "All of these alarmists saying the population is out of control. It is 87,000 and all signs look like it is falling" (Members can see the article) "and all these alarmists saying it is going to go over 100,000." Well, it is quite clearly going to go over 100,000 and as long as we leave it in the domain of those whose responsibility it is to grow the economy, then that is inevitable. You cannot blame the Chief Minister and you cannot blame the Minister for Economic Development and you cannot blame the Minister for Treasury and Resources because if they were not doing that, if they were not trying to grow our economy, we would sack them. So they are only doing what they know and what we know they need to do but what we need to do is to decouple from their work, make it a little bit harder for them, we need to decouple the availability of just opening the doors and letting all in and letting rip. We need to be careful about who we are letting in and these arguments that the Chief Minister has responsibility for the Strategic Plan that he made yesterday, I have heard some very good speeches from the Chief Minister and I have heard some very strong arguments but I am afraid to say, without being disrespectful, that was the weakest argument I have ever heard from him. There are a number of policies in the Strategic Plan and they are segregated out among the different ministries and the Chief Minister's role at the moment is not all encompassing, it is a co-ordination role. It is the Minister's responsibilities. This is our last chance to do something about getting this in the right direction. Now, we did not get it around the track, as I said yesterday. The wheels have come off already. It is not going to be in the hands of those that are going to inform people. We have already got duplication which means more civil servants instantly, more taxes because civil servants generally do not generate income. They manage taxes. They do not create wealth. That is

not the job of the civil service. The job of the civil service is to try to manage the resources of the Island and attribute the taxes that they raise but they are not wealth generators. We have now created a system whereby it will not be the Minister for Social Security who had, for all the other previous arguments, the information, the ability, the understanding and the resources to equip those that first arrive. Now we have got another group, it may be the Minister for Housing, it may be the Chief Minister, who are going to say: "We are the king makers and you have to be nice to us." I would say the people that have a far better understanding of the position in Jersey in terms of resources and overbearing of resources in the vast majority of people's minds is in relation to Housing. On the third page of the newspaper that I looked at, funnily enough, it was the day that they did the double spread on: "No, no, no, Minister Portelet." I looked back at this newspaper of my cousin when it said: "Population debate is delayed again" on 19th January and the only letter that day, the only letter in that newspaper was from a woman with a picture of Portelet and she was talking about agreeing with the newspaper's comments that the Island had gone bananas on greed, greed, greed, greed, and she spoke about the cost of housing. She said: "You would have to be blind not to notice that almost every day there is a letter of complaint in the *J.E.P. (Jersey Evening Post)* about the problems many people have with the price of Jersey houses giving the impression that the Island has fallen into the hands of sharks ready to exploit the Island at any cost." It goes on, it is quite a good letter, but it sets out a great general expression of concern about the way the Island was heading in 2001. Now in 2001 when that lady wrote about the population issues and Senator Horsfall was telling us there was no need to panic because the population was all under control, we had at that time an estimate given to us. It was being worked up by Senator Horsfall and the Policy and Resources Committee, which was the predecessor of the Council of Ministers and the Policy and Resources President, Pierre Horsfall, former Senator, I think O.B.E. (Order of the British Empire) he was the predecessor of the Chief Minister. That was his office. It says here: "The Senator repeated comments made on Tuesday that initial findings from the David Cootie Survey on the housing in the Island showed that the population was nearer 87,000." That was his estimate and if we go to the statistics in the book which I drew upon yesterday for that period, we see in 2001 that the population was indeed 87,186 and statistically the Head of Statistics, a doctor there whose name I will not mention, says that these figures are accurate to plus or minus 100. So the survey that was done on housing in the Island at the time by an independent group was pretty much on the money. We have not got this year's figures although we are going to get them but we do know by 2009 that number had increased to 92,500; so from 87,186 to 92,500 in less than 10 years. I would submit to Members as long as we keep putting all of the controls in the hands of these politicians who lead our Island, who are keen to keep business up and running and we want them to, as long as we keep doing that, as long as we give them the freedom to achieve their targets and their targets are basically "sky is the limit", as long as we give them that opportunity, we are going to continually fail the vast majority of people in this Island who want to see population addressed. They want population addressed primarily because of the cost of housing, the unaffordability of housing and the conditions of housing and the lives that people have to live here to pay rents to never afford housing. We can all share in the lovely green open space (we have made a lot more of it recently) when the weather is fine and we can all share in the lovely wonderful services, et cetera, but what we cannot all share in is a quality of life that is enjoyed by the very wealthy and wealthy and the gap is growing. If we do not support now as a default position Deputy Power's amendment to place this control in Housing, then in 10 years' time, maybe I or some other politician will be standing here picking up the *Hansard* and they will be talking about the numbers then and the numbers in 10 years' time. My belief is, by the end of the year, I confirmed with the Head of Statistics yesterday, the headline numbers will be out and if we have not cracked 100,000, we are certainly getting close to it and that is because we have a policy of: "Go get the money, go get the money, go bring the money in, go bring it in any way you can, in any way you can, go get the money" and we need to because we have changed our tax position. If Members believe in population issues and if Members want to do something about the 48 per cent of people that do not have housing in Jersey and if they want an equal and fair society, this is a

policy about making life fair in Jersey. I went home last night and I thought as soon as everything is equal the better it all will be because our qualifications are not worth the paper they are written on and they are not even written on paper. This makes it the case that they will be written but they are worthless because what is happening at the moment is we have divided society at the lower echelons. "You have 'quallies', I have 'quallies'. I do not like you, you do not like me, you have got an advantage over me, I do not like this Island, it is not treating me fairly." That is all going to go but what will not change is the advantages of the wealthy and at the moment, if we leave this with the Chief Minister, they are not going to go out and bring in musicians, they are not going to go out and bring in painters, they are not going to go out and bring in plumbers, carpenters, et cetera, they are going to go out and bring in wealthy people and wealth generators and big companies and those as a consequence will bring in all of those other trades. If you bring in a painter, he does not have 47 people that work for him. If you bring in a millionaire, he does. This is our last chance to do something about population and housing. If you give it to the Chief Minister, kiss it goodbye.

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

That was very succinct: "If you give it to the Chief Minister, kiss it goodbye." Let us focus on what we are doing here. The essential question is we are down to a 2-horse race. Who best to put this particular law into operation? In particular, I refer Members to page 10 of the document, the purpose clause. The purpose clause is very clear: "The purpose clause recognises the need to control the overall population of Jersey." That is what we are talking about and the law itself says: "Whereas it is recognised that in the furtherance of these aims, which is to preserve and maximise the benefits of its resources, including housing, provision is needed for controlling the overall population density of Jersey." Clear as a bell. We are talking about controlling the population. It does not say that in the law but that is what it is about. There are 2 things to look at. Who has got a vested interest in ensuring that that population is controlled and what is the track record of the Chief Minister so far?

[11:00]

The target has been 200 heads of households. We overshot it by a mile, consistently year on year. We were told that is because we were in boom years so that is all right we had to do that to maintain the economy. We are now in recession years, we are now out and waiting for recovery and yet, what do we see? The target is now 150 heads of household. What did we hit? We overshot it by a mile, by a country mile, 325 heads of household. That is the track record of giving the control to the Chief Minister. The evidence says it fails. So who has a vested interest? Who has an automatically built-in negative feedback mechanism? Who takes the buck if whatever the target is, let us call it 150, is overshot? The Minister for Housing immediately has a problem. He has got to provide that housing, one way or another, for those 150 heads of household and more while taking into consideration the currently 250 excess of births over deaths which is already built into the system which needs housing sooner or later. He has got a problem. If he lets the target go and overshoot, the Minister for Housing has a problem and he can come to the Council of Ministers and say: "I have a problem" and he has. The Chief Minister can say: "We want to grow the economy, that is my priority, let us grow the economy and you have a problem, Minister for Housing, because you have got to house the number of people that we let into this Island." He does not have a direct problem, the Minister for Housing has. He delegates the problem while dictating the policy whereas the Minister for Housing, give it to the Minister for Housing, it is automatic. If he sees that 150 being exceeded, he has got a problem, he has to do something about it or go to the Council of Ministers and say: "I have got a problem." That is the reality. Who is most likely to sit there and say: "We have got a problem, I am going to do something about it otherwise my problem gets worse"? The Minister for Housing. Give it to the Minister for Housing and we build in the check and balance automatically into the system. It is more likely to work with the Minister for

Housing than it is with any other, including the Chief Minister, who has got an abysmal track record of controlling population.

2.1.2 The Deputy of St. John:

I have to take issue with Deputy Le Claire and his shed. Millionaires come from all walks of life. They are entrepreneurs and they all come and they all contribute and they may be a farmer who has worked very hard all his life and done well but they may be the ilk of Richard Branson and the like. You may be somebody who has run a series of garages of which we have got a number over here. It may be somebody who has run a brewery; they are not all from the finance industry, they are ordinary people who have done well. They may even be a plumber and there are plumbers who make money. **[Approbation]** So I have to take issue when the Deputy is speaking about other people. These people in the main have started with absolutely nothing and wish to come to Jersey and contribute (whether it is through their wealth or whether it is through other means) and they do it generally very quietly. I know I am going off the point slightly but I had to say that because I think we are getting too often in the last few weeks in this House debates where Members are hitting out at people who are doing good in this Island and willing to put their money into this Island and make things happen when we are, at the moment, with our back to the wall and it is good to see people who are willing to support Jersey.

Deputy P.V.F. Le Claire:

I was not inferring that I did not think that rich people from any walk of life should not be allowed into Jersey. What I was saying is that the amount of people being allowed into Jersey, if it is not controlled, will have a negative impact upon those already here from all walks of life, rich or poor.

2.1.3 Senator T.A. Le Sueur:

I have to take issue with the comments of Deputy Southern. I had hoped I might not have had to speak again in this debate but he makes comments which are so far wide of the mark that they do need to be refuted. He says that the Chief Minister has set targets and overshoot those targets by a mile. The targets were set by this House in the Strategic Plan and for the 2006-2011 Strategic Plan. That target was that the working population growth should not exceed 1 per cent per annum over the period 2006 to 2011. We are not yet at the end of 2011 but the figure for the 4 years to 2010 is 1.06 per cent. Those are not my figures, those are the figures of the Deputy of St. Mary discussed with the Statistics Department and I have no reason to doubt them. So if we have overshoot the 1 per cent and it is 1.06 per cent, I do not regard that as overshooting by a mile or a country mile. It must be one of these new metric miles. He asks who takes the criticism if the target is overshoot; as far as I am concerned, the Chief Minister does and I am quite prepared to stand here and justify if a mistake has been made if we have overshoot but I believe that we are in fact adhering to the States' policies and I repeat, it is the States' policies. Deputy Le Claire in his speech suggested that the target of the Chief Minister's Department was: "The sky is the limit." I have to correct him. The target of the Chief Minister is to ensure that the Strategic Plan is delivered and the Strategic Plan seeks a balance between the needs for economic growth, for housing the population and providing all the other services which the Island requires. It is in providing that balance that I am confident and convinced that this law has to stay under the aegis of the Chief Minister. Could I just remind Members who sometimes like to think that things never change that this is going to be a new law? It is going to replace the existing Housing Law. Categories (a) to (j) will go. We will have new forms of housing status. The whole operation will change and we will not have housing controls as we know them today. We have to abide by a new law and it will not be for a Chief Minister or a Minister for Housing or any other Minister to make his own decisions. He or she will have to make those decisions in accordance with the terms of the law and if they fail to adhere to the law, the remedies are there. I think it is up to Members to remember that we are moving into a new era where, in fact, the main responsibility of the Minister for Housing as it is now will be to provide housing for those in need who cannot otherwise be accommodated. That is his job. It is our job as

a whole, all 53 of us, to ensure that there is sufficient accommodation and enough of a balanced population to house everyone on the Island. So I do believe that there is a danger that the Chief Minister is being looked at by some people simply as a whipping boy. The duty of a Chief Minister, any Chief Minister not just myself, is to ensure that the law is adhered to and that the States Strategic Policies are adhered to and that will be done within this law as it currently stands and I urge Members to reject the amendment.

The Deputy of St. Mary:

May I ask a point of clarification? The Chief Minister said that in accordance with my figures from the Statistics Unit, the population has increased 1.06 per cent annually since in the period of the last Strategic Plan. Could he confirm to the House whether there was not a very dramatic drop at the time of the biggest global recession since the Great Depression of 1929?

Senator T.A. Le Sueur:

I believe what I said was quite correct, that the working population growth should not exceed 1 per cent per annum and that will be affected by upswings and downswings in the economy and we have had a significant downswing in the economy in recent times as indeed there were in 1929. It may be in his view fortuitous that we have managed to achieve those targets. Nonetheless, the target has been so far adhered to.

2.1.4 Deputy A.E. Jeune:

We all seem to be standing up and saying we are going to take issue and I must take issue with a comment from Deputy Le Claire. I am very supportive and have absolute confidence in my Minister, the Minister for Social Security.

2.1.5 Deputy P.V.F. Le Claire:

May I apologise, Sir, to the Deputy of St. Brelade? I did make a *faux pas* and I would like to apologise.

Deputy A.E. Jeune:

I smiled at it, Sir, I did not mind because the Minister and I have very healthy debate and can agree to disagree and I believe in terms of policy within the Minister's remit, we have only really failed to stand together once and that was in respect of the Health Department wanting to put their sticky fingers into the Health Insurance Fund. **[Laughter]** **[Approbation]** Oh, I do take offence at that. I have got very clean ones. I have full confidence in the current Minister for Housing and in the short time he has been there, from what I have observed, he fulfils his role in an extremely professional manner. **[Approbation]** Housing rights, employment, unemployment and population, like most people in the Island, really does concern me and I believe this law will make a big move towards sorting some of these matters. So while I could agree with the responsibility being at Social Security, I will now fall to the default position of leaving it under the Chief Minister's remit.

2.1.6 Connétable L. Norman of St. Clement:

I think it is rather sweet that so many Members seem to think that we can do something significant about controlling population levels because the truth is, in reality, we cannot and no other nation in the world has ever been able to do it because population levels are the function of 2 things and 2 things only: one is demographics, that is the result of births over deaths and people living longer or shorter, depending on their health conditions. So I am absolutely amazed that no one has proposed that the Minister for Health and Social Services should not be in charge of population. **[Laughter]** The other thing which has an impact on population levels is economic activity because people are in Jersey, people stay in Jersey if there is work, if they are able to do something productive and earn a living to maintain their families. If they cannot do that, if we do not allow economic activity or some recession like we have just been through which stops economic activity, which we have got very little control over although we have done very well during it, then people will leave the Island

to search for work to maintain and look after their families. That surely is a statement of the obvious which no one seems to have grasped. This new law does give us tools to enable us to control at a reasonable level but to think at the end of the day we can control demographics and we can control world economic activity, is naïve in the extreme. What we are really talking about in this amendment is who does this work? The functions of the Chief Minister include the discharge of the common functions of the Council of Ministers and I think it is hard not to conclude that population is not a common function and, indeed, that the Migration Advisory Group is not a good instrument for assisting with that co-ordination.

[11:15]

Under Standing Orders, the Chief Minister is responsible for answering questions on matters that are the responsibility of the Council of Ministers, for example, the Strategic Plan under which this comes. If population is a matter of strategic importance and from the debate this morning, I do not think anybody would deny that it is not a matter of strategic importance, which cuts across not just Social Security and Housing but all ministries, population impacts on Home Affairs, it impacts on the Treasury, it impacts on Education, it impacts on everybody. So it is a co-ordinating role so there can be no doubt, it is absolutely clear, that this law lies properly with the Chief Minister to co-ordinate.

2.1.7 Deputy D.J. De Sousa of St. Helier:

I have an issue but I think it comes right back I am afraid to ministerial government and we really do need the Electoral Commission and a review of government. I will stand by what I said though and the fact that I have changed my mind about Housing having responsibility for this due to the restructuring process that they will go through. Therefore, I too, like Deputy Jeune, will have to go into the default position and go with the status quo and agree that this needs to be left with the Chief Minister's Department. So I will therefore be voting against the Housing Amendment.

2.1.8 Deputy T.A. Vallois:

I will not repeat anything I have already said because I think I made it quite clear where my views are. Article 42 provides that statistical information is to be provided in assisting in the development and evaluation of public policy and informing the public about social and economic matters. I think the reason why we are, as they say, where we are today is because the Chief Minister quite unfortunately showed yesterday when I asked him a question in Questions Without Notice about the Social Policy Framework, it was quite blatantly dismissed and unfortunately the position that he is placed in now is one of a certain amount of mistrust because nobody sees the Social Policy coming out of the Chief Minister's Department. There has been a lot of emphasis on economic growth and there is a feeling that the Social Policy just does not exist. I know that there is one but I think there needs to be placed much more emphasis, especially in 12 months' time if this law is approved and comes into force, the Social Policy is out there for the people to see forthright and ensured that every single Minister has had their say within that Social Policy and it comes from the workings of the Strategic Plan and then there may be a little bit more confidence in the way that this law will be enforced going forward.

The Bailiff:

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

2.1.9 Deputy S. Power:

I will be as brief as possible. I am not going to go back over the amendment to the amendment and I am not going to quote what people said. I want to just kind of wrap this up as quickly as I can. One of the things I would like to refer to is what the Constable of St. Clement just said, that the track record of any Western nation and its ability to deal with inward migration is very limited. I

agree with that. The issues we have in Jersey are not dissimilar to what is happening in the U.K. (United Kingdom), Ireland, France, Germany or anywhere else but what I do think is happening on this Island is that the repeated responsibility for migration and population within Policy and Resources and then the Chief Minister's Department has suffered as a result of a diffuse approach to this and I think that is the price the Island is paying. I want, just for 2 or 3 brief minutes, to go back to 1995. In 1995, the Policy and Resources Committee then commissioned a working party chaired by Mark Boleat to look at the issues of migration. They decided then in the report that was published in 1996 that there was general agreement that all other things being equal, it would be better if the population was lower than was the case in 1996. But it went on to say that things were not equal and the policy objective had to be balanced together against other things. They made 2 recommendations: that policy objective had to maintain the population in Jersey at 84,000 as of 1995 and that housing regulations should continue to be used to discourage immigration by people attracted by the lifestyle in Jersey but who have nothing to contribute economically to the Island or who have less ties or have no ties to Jersey. That was 1995-1996. There was another report produced in 2002 by the Policy and Resources Committee and it noted that the States had decided in 1995 that there should be a resident population of no more than 85,000. They then decided that it was the limited ability to control the population. The Committee had commissioned an economics consultancy, Oxera, to examine the economics of the population issue from first principles. The report came to no firm conclusions but the analysis represented a significant leap forward from previous work so there is a lot of information. Then in 2009, the Council of Ministers published another report. Again they used Oxera and they said that unless there was net inward migration, the population of the Island would drop to 72,000 by 2065 and the Council of Ministers 2009 set out its long-term policy, maintain the level of the working age population in the Island, ensure the population does not exceed not 84,000 but 100,000, ensure the population levels do not increase continuously in the long term, protect the countryside and green fields (we have just done that) and in the short term, Deputy Le Claire will be listening to this, allow maximum inward migration at a rolling 5-year rate of no more than 150 heads of household a year. It then says targets set out the Council are achieved. It was estimated the population would rise to 97,000 by 2035 and then decline to 95,000 in 2065 and it says finally the targets will not be easy to meet. That was a part of the history of where we are. My argument is this. Senator Maclean referred to the fox having the key to the henhouse. I would say that if migration and migration control stays with the Chief Minister's Department, it will be the magpie that will peck away at all of the priorities that the Chief Minister's Department will have and I would say that if we lose the Housing Department to an Assistant Minister in the Chief Minister's Department, matters will only get worse. There is absolute confusion out there in the eyes of the public as to who controls migration on this Island. Even States Members have difficulty deciding what does the Minister for Housing do, what does the Minister for Housing regulate and what does the Population Office do? There is no clear image of who is responsible for what on this Island. Senator Breckon said that Housing Law and Regulation has to be maintained. Absolutely, and I fear for Housing Law and Housing Regulation being lost in the Chief Minister's Department. I said yesterday and at the fear of repeating myself today I would say I worry about the whole function of Housing being subsumed into a large department that is the Chief Minister's Department. I ask Members to consider this question. What is Jersey's scarce resource? Is it gold? Is it gas? Is it oil? It is the provision of adequate housing; that is our scarce resource. The 2006 Strategic Plan says we will adequately house the population. Well, we do not do that and as Senator Breckon said and Deputy Green, the Minister for Housing knows, Senator Le Main knows, anyone who visits the lodging house sector on this Island will know that we do not adequately house the population and I fear that if this gets lost in the Chief Minister's Department, matters will only get worse. So the proposition before you is to reject my amendment. The proposition before you under the new P.37 Control of Work and Housing is for this to be parked in the Chief Minister's Department. This is the Chief Minister that recently visited China to garner economic investment into the Island and I say to Members if you have a Chief Minister's Department which legitimately and rightly garners and

supports factors that are economic drivers to the Island, is it correct and proper that control of migration and population be in the same department that is part of the economic driver to the Island and I say, no, it cannot be. I have said that the Chief Minister's Department has control at the moment, Policy and Resources had control, and in my 2-minute review of where we are since 1995, it has not worked. I do accept what the Constable of St. Clement has said but I do think also that we have lost control of net inward migration into the Island. I made the argument yesterday that there are tradesmen and subcontractors and people coming into this Island for days and weeks at a time that make no contribution to the Island and then disappear again. The Deputy of St. Mary made a very good comment a few minutes ago. He said that the Island needs a Communities Minister. I would link that to what I said yesterday in merging Housing and Population that that is a start in having a Communities Minister, a ministry that has responsibility for social development on the Island and I went so far as to say yesterday that if this House at some time in the future were to consider merging Planning, Housing and Population, you are getting towards a Department of Social Development or Communities. I think I accept that. I could speak for the next 10 minutes but I do not think it is appropriate. Members have already made their minds up. I ask Members to support my amendment and I call for the appel.

The Bailiff:

The appel is called for then in relation to the amendment lodged by Deputy Power. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 17		CONTRE: 30		ABSTAIN: 0
Senator T.J. Le Main		Senator T.A. Le Sueur		
Senator A. Breckon		Senator P.F. Routier		
Connétable of Trinity		Senator P.F.C. Ozouf		
Connétable of St. John		Senator F.E. Cohen		
Deputy G.P. Southern (H)		Senator J.L. Perchard		
Deputy of St. Ouen		Senator S.C. Ferguson		
Deputy of St. Peter		Senator A.J.H. Maclean		
Deputy J.A. Hilton (H)		Senator B.I. Le Marquand		
Deputy P.V.F. Le Claire (H)		Senator F. du H. Le Gresley		
Deputy S.S.P.A. Power (B)		Connétable of St. Ouen		
Deputy K.C. Lewis (S)		Connétable of Grouville		
Deputy of St. John		Connétable of St. Brelade		
Deputy of St. Mary		Connétable of St. Martin		
Deputy T.M. Pitman (H)		Connétable of St. Saviour		
Deputy M.R. Higgins (H)		Connétable of St. Clement		
Deputy A.K.F. Green (H)		Connétable of St. Peter		

Deputy J.M. Maçon (S)		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy R.C. Duhamel (S)		
		Deputy of St. Martin		
		Deputy J.B. Fox (H)		
		Deputy of Grouville		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy I.J. Gorst (C)		
		Deputy M. Tadier (B)		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy T.A. Vallois (S)		
		Deputy D.J. De Sousa (H)		

3. Draft Control of Housing and Work (Jersey) Law 201- (P.37/2011)

The Bailiff:

Very well. Then we revert to the proposition of Article 1. Does any Member wish to speak on Article 1? All those in favour of adopting Article 1, kindly show? Those against? Article 1 is adopted. Now, Senator Routier, would you wish to propose all the Articles in Part 2 then?

3.1 Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):

Yes, I do propose Articles 2 to 6. Part 2 deals with the issue of a residential and employment status and how it will be established. It sets out 4 categories of residential and employment status which is entitled, licensed, entitled to work, and registered. The States by Regulation can specify the conditions applicable to each category of residential and employment status. Paragraphs 3 to 5 require the Minister to issue guidance as to the effect of any temporary absence from Jersey on a person's residential and employment status. This is an improvement on the current system because at the moment no official guidance on this is issued at all. Paragraphs 6 to 8, the Minister may in writing at any time require a person to provide information for the purpose of determining or verifying that person's status. Paragraph 9 clarifies that any reference throughout the law to the status of entitled to work, licensed or registered is taken to be the status as defined in accordance with the Regulations. Article 3 is about how to apply for a registration card. Article 4 is regarding the registration card itself. The Article deals with the details to be found on the registration card. It requires the Minister to issue an individual with a registration card once he has made a decision as to his or her residential and employment status in accordance with Article 3.

[11:30]

Article 4 paragraph 3, the registration card may also include other information on the card that the Minister considers necessary. Paragraphs 5 to 6, the States may also specify by regulation other information to be included on the card concerning the cardholder. This could at a later date be decided to have a photograph if that is what the States decided but that can be done by regulation at a later stage. Article 5, this Article sets out the provisions relating to the expiry of a registration card. Article 6 creates various offences in relation to a registration card. These include selling, defacing, destroying or forging a registration card or making a false statement. I propose Part 2, Articles 2 to 6.

The Bailiff:

Are Articles 2 to 6 seconded? **[Seconded]** Does any Member wish to speak on any of the Articles 2 to 6?

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

I would like to speak to Article 4 and I am surprised at how easily the principles of this new law were adopted yesterday because there was no mention made, as far as I can recall, to use a favourite phrase of Deputy Le Hérisier, of “the elephant in the room.” When I refer to Article 4 and the registration card, that is, I believe, the elephant in the room. I intend to be brief because I know that opinions on the registration card have been aired but I do think it is important to raise them during the debate itself. As we know, many people have said that the proposed registration card will be (or in fact could become) nothing other than an identity card and I am sure the Assistant Minister has been expecting someone to raise this today, and I raised it because people have spoken to me about it, particularly (and I am sure I am not the only Member) the more elderly residents of this Island. We know that many Islanders can remember The Occupation when they were compelled to carry an identity card but, before I move to that, what I would just like to touch on is the ...

The Bailiff:

I think the Greffier has just noted a fine of Deputy Trevor Pitman.

The Connétable of St. Lawrence:

Yes. I think possibly, Sir, it is a Member of the public phoning to support me. **[Laughter]** So just to come back to the U.K. they planned, as we know, an ID card scheme which was part of the proposed national identity register proposed by the previous Labour Government but extremely unpopular with the public. Many argued that it was associated with bureaucratic interference and regulation and subsequently, as we know, the new U.K. Coalition Government elected in 2010 announced that they would scrap the proposals as part of their measures to reverse what they saw as a substantial erosion of civil liberties under the previous Labour Government and to roll back state intrusion, and I see the Minister for Treasury and Resources nodding his head because what I am saying is correct, this did happen. The Coalition Government achieved this scrapping of the proposal when the repeal of the Identity Cards Act became effective in January of this year. So much for the U.K., and I come back now to speak about Jersey and to refer again to those Islanders who may be of a certain age (and I class my mother among them) and those parishioners, I would say, who have spoken to me of their concern at what could become a form of identity card if we agree to this proposed registration card. What worries some of them (and it worries me as well) is that, as the Assistant Minister has just said, there is provision under this Article by regulation for the adding to this registration card of a photograph of the bearer. So not only will we be required to have a registration card to show our status under this new law but there is the possibility that in the future by regulation we would also be required to add a photograph to that card. Now, the Council of Ministers have denied continually that this registration card is intended to be any form of identity card and will not become so. I said I would not speak for too long but what I do want to say is that the proposed national identity register in the U.K. was to include a number or quite a few items of

information on individuals but chiefly their name, their address and their National Insurance number. I believe it is incumbent upon the Assistant Minister today to explain to us in this Chamber and to the listening public how an essential government database (containing the names, addresses and Social Security number of all Islanders, which will be linked to a registration card which could in the future bear a photograph of the holder) will not be used as an identity card and, more importantly, I think what he must do is explain the difference between a registration card and an identity card, and I very much look forward to hearing his explanation and the way I vote on this will depend entirely upon his response.

3.1.2 Deputy G.P. Southern:

There are a number of questions and a number of warnings, I think. Having looked at the issues surrounding the ... I nearly called it an "identity card", the registration card, the first warning is: "Beware of mission creep", we have talked already about any other information on the card that may be included there including at some stage the possibility of a photograph. What we have got here is the bare minimum of a registration card, it has barely advanced from the social security card; I do not know about the security on that but, nonetheless, it is a little more than that, but that is all it is. We have got the bare minimum registration card here, we must beware of mission creep, that it becomes used for something else, particularly used as an identity card because that takes it into a whole different field of meaning. While this law may be appropriate for something as minimal as this registration card, it is certainly inappropriate for something that has wider range. In particular, we must be very careful that it becomes the access to services. If, at any stage, somebody thinks it is a good idea that we very simply see who can have treatment at the hospital quite easily by the showing of their registration card, then again, that is taking a quantum leap in terms of the need for safeguards around this particular registration card. So that would be one, it certainly should not be used as an identity card, and we want assurances from the Minister that any extension of the use of this registration card will be brought to this House and thoroughly explored before it happens. Secondly, I am looking at the 4 bullet points, the 4 types of card that we are talking about here and we have got: "A Jersey-born entitled person will have a permanent registration card which they must present when accessing work and housing" and a category: "A newly-entitled non-Jersey-born person will have a 5-year valid card as they cannot lose their status within 5 years" and I wonder what is happening there. "Entitled" to me sounds like pretty permanent: "I am entitled, therefore I expect that I will have a permanent registration card." Where is this temporary entitlement that becomes involved? Because that is an additional category, I think, to what we have now. Then we have got: "A licensed employee will have a card with no expiry date because their card will always need to be verified when purchasing or leasing property or starting new work, as they may have lost their employment." So we are talking about a licensed person now; this is the replacement for the old J-cat. Look at the terms, this is "permanent" not temporary. J-cats, where you were brought in and employed for 3 or 5 years to train up people, thing of the past, now dead and buried, these are permanent. It says here, I can see the Minister ... would you like me to sit down? The Assistant Minister is shaking his head but it says here: "A licensed employee will have a card with no expiry date because their card will always need to be verified when purchasing or leasing property or starting new work, as they may have lost their employment." So this is a new type of J-cat who comes to the Island, gets one job, gets a licence, it is permanent, then changes job, stays with it. Stays with the company? Oh, of course, we have given the companies the right to say who gets licences; so more of the government's job. Okay. So that is the explanation of that and I am sure we will get that. "As a registered person with no preferential housing or work rights their cards also will be permanent." But an explanation of the temporary nature of entitled people would be gratefully received. Now, one of the key issues to the registration card and the system we are about to adopt is how do we get from the registration card to the list, the list of names and addresses, how do you do that? Is it proposed that people will not need a card until they either change job or change housing? In which case, let us be very clear, we will not have a comprehensive names and address list for years because some people will have no

interaction like that and not need a card. So it will not be overnight, some time down the road we may have a list of people that we think is here but we will not know immediately. So how do people get on to it and how accurate will it be at any stage, because the corollary to who gets on to it and at what stage and when will it become a definitive list so we know who is here, we know what they are doing and we know, above all, how many of them there are, is some way down the line. So the basic function of how many people are here will not necessarily be known through this system. The other issue is when do people get taken off the list? Because in terms of data protection the accuracy of the list is fundamental, especially if we see in the future that it becomes the key to accessing services; absolutely vital, if it is, that it is accurate. The question is how do people get taken off the list at the very end? If they do not interact with particular services, how do we know they are here or if they are not here? Do people have to sign off as they leave the Island, say: "Bye bye", how will we ensure that happens? I do not think we are doing that so how will the Minister ensure that this list, such as it is with its limited function, is fundamentally accurate? I think the answer is: "With difficulty."

[11:45]

3.1.3 Senator A. Breckon:

Just a couple of points. In Article 2 it makes reference under 3 about guidance being published, and that looks to be a bit specific. I will just ask the Assistant Minister as rapporteur, and whoever else is involved with this, to make sure that wider guidance is given to the general public about the implications of what has been proposed here otherwise I think there is a possible recipe for disaster here, they will be missing representation, especially elderly people. They will be telling you: "You have to do this, that and the other, you need this, that and the other" and some way or other the information needs to go to the public in simple terms exactly what this about and what needs to be complied with. It does also mention there: "Guidance to be published" and I know the word "published" is a debate it itself, but then it needs to be in such a way that people have access to it, it is not just good enough to say: "Well, we have done it so therefore people have got it" they need to have and be informed of it in some way or other. So I just ask the rapporteur to note that because I think the whole concept of this needs some quality information attached to it when it gets into the public domain so that people are not misled, misinformed, or worried about it, because that is not the idea of it, the idea is that we are putting in place a framework that works for the people and we must some way or other get that information out, so I would ask the rapporteur to note that.

3.1.4 Deputy A.E. Jeune:

A number of the questions that I had, in fact, have been raised by Deputy Southern. But in respect of what the Connétable of St. Lawrence was saying, these cards do not have to be unpopular. Where do we stand in civil liberties with our driving licence, our photographs are on that and, to be fair, how many of us use that licence when we are travelling through the airport or ports? You do not need to carry your passport if you are only going to England, you can use your driving licence and it can be so effective. But it was in the 1980s that I was doing work on smart cards so these cards should not be seen negatively, it should be seen as a start of the way going forward. You can have all your medical information on it going forward. How many times do we hear about people (and I know it is slightly off the subject) leaving hospital, going home and then the district nurse calling in but not knowing what is going on? If we had good individual cards ... and I still feel they need a photograph on them, but they do not need to be unpopular, I think it is a good thing going forward and this is only the start.

3.1.5 Deputy M. Tadier:

I will just talk firstly about ID cards, as it has come up. It seems to me that the issue about ID cards in general is not specifically about the card itself, it is about any associated police or state powers surrounding the issuing of that card. So, for example, let us have a reality check first of all, we are

not talking about ID cards now but I think it is right that it has been raised because this is a possibility in the future. I am not one who fears identity cards per se, but the point is there is a difference between having an identity card which is for pragmatic reasons which is for the benefit of those who hold it as well as for practical reasons for those who seek valid information, but it seems that it would be completely different if then, on top of that, we gave the police or the state automatic powers to demand an ID card just for identity purposes without the relevant safeguards being put in place. But I think that is an argument for another day and I think that we have sufficient intelligence and sensitivity within the Assembly or in any future Assembly, hopefully, to be aware of those issues. With regard to photographic identification being on the card itself, I do not think we necessarily need to be hung up on that. It is probably more important, I think, that you can have a photograph electronically, as we know those of us who are Active card-holders, but the example extends to other uses. If you have an Active card and you swipe it, there is no information at all on the card, apart from perhaps a signature on the back, but at the sports centre they will bring up your identification and they have a photograph of yourself so they can see it is you. So I think the whole area of worrying that somebody else is going to take your card and then that is going to be passed around to somebody who wants to come in and do a bit of work in Jersey and then leave, is a red herring because there should be sufficient safeguards within the system whenever that card is used to identify who the person is without necessarily needing the photograph itself to appear on the card, which can be faked, incidentally; I know that in Central Bank Op I recall that there was a street peddler who provided very convincing student ID cards which could then be used back in the U.K. (for those who were unscrupulous enough to do so) to gain discounts and entry to student residences, shame on those who took advantage of that. I think we also have to be mindful of other uses for the cards, and I think the law has been drafted in such a way that it can be done, but why just have one card to do with housing or to do with work when we should be looking at the same card which would give you an automatic right to be able to vote for those who have been here for 2 years so that, as soon as your information is on the system, it should be sent to parish halls, it should be sent to the Central Judicial Greffe so that that information automatically puts people on the voting register. It could also be used as a library card, it could also be combined as an Active card and, if possible if it is not too complicated, why not have that as a driving licence as well? That may be one step too far but I think, if we are going to go down this road, we have to be making life as easy as possible for residents.

3.1.6 Connétable D.J. Murphy of Grouville:

Sir, could I ask the Deputy to give way, please? He did query, and Deputy Jeune also queried the use of the driving licences. I can assure you when we brought in these driving licences, I was leading the panel that designed them and brought them in and the whole reason for having these driving licences with a photographic identity on was because the European Union insisted on it, in other words, you would not have been able to use any licences within the E.U. that did not conform with this standard, and that is the standard that we have at the moment. Part of the reasoning on that is that it could not be used for any other purpose as well, so I do not think that is a hope.

3.1.7 Deputy M. Tadier:

That is why I qualified that statement by saying that perhaps the driving licence was one step too far, there is already a significant amount of information contained on that licence and I am grateful that the Constable of Grouville interjected there rather than having to wait till his speech just to make that one point. I think those are just the points to be made, I do not think we need to be paranoid about this turning into an ID card and we do not need to be paranoid about ID cards in general, it is to do with the management of information and I would hope that the relevant safeguards are in place. But the one point I would emphasise, if we can make this card as flexible and as useful as possible, if we are going to impose something on a population (which is an inconvenience, let us be honest about it) we should also make sure that it has as many advantages for the user, wherever they come from.

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

While I quite understand the concerns of my fellow Connétable from St. Lawrence, I think that we are leading into a society where some form of identification is going to be necessary. I have recently had 2 elderly people in the Parish of St. Ouen who have voluntarily given up their driving licences because they felt incapable of continuing to drive, but then have gone to their bank and had no means of identifying themselves because the driving licence was all they had; they do not hold a passport, they see no reason to hold a passport, they are not going to use it. At the end of the day, the passport is quite an expensive way of identifying themselves. So I agree with Deputy Tadier, we must not get hung up on the registration card and what it might or might not do in the future, we need to accept what it is trying to achieve now but I think that some time in the future it may well be that something like what Deputy Tadier is mentioning might well have to be looked at.

3.1.9 Deputy P.V.F. Le Claire:

I think the Constable of St. Ouen has really hit the nail on the head, that this debate about whether or not this should be an ID card or whether or not there should be a photograph on the registration card is really a matter for another day. There will be a debate in due course if ever that surfaces. Obviously, this legislation has taken some skill to put together so I commend the people at the Law Officers' Department for their work, if they have been working (I am sure they have) in getting this together. It is not an easy thing to get your head around and I only wanted to speak because Deputy Southern raised an issue that I thought was of some import for the application of how registration cards could be used in relation to J-cats from a health perspective. A couple of days ago I was at the hospital and I noticed on the wall that people would be required to pay for their medical treatments if they were not from within a country that had a reciprocal health agreement with Jersey or unless they had lived in the Island for 12 months or alternatively were a J-category employee who automatically, because of that J-category, were entitled to have free medical treatment from day 1. I do not think there is anybody for the Assistant Minister for Health ... they are not here, so I will just have to hope that the Minister for Health is listening in the ante-Chamber, that because they have got the system in place at the moment where they are saying: "If you have got a J-category, that is fine, you can have your free medical" I just think that we need to be cautious of making sure (and I am sure Senator Routier will take this to the Minister for Health) that their practices from an internal perspective have to bear in mind the legitimate uses of this card in terms of registration. All of the other arguments that we have been having, and I hope we get off them, about whether or not we need an ID card, what an ID card does and a photograph et cetera, that is a debate for another day.

3.1.10 Senator P.F.C. Ozouf:

I want to just say that I have considerable sympathy with the remarks of the Connétable of St. Lawrence and it is something that I have struggled with from the start of this whole debate in terms of what was originally called "managing migration." There was an interesting column in the newspaper yesterday, one thing that is guaranteed to catalyse remarks from Members in this Assembly over the years that I have been here is immigration, and Members rise to their feet and they demand control of immigration. On the other side, the Constable is absolutely right that we also need to be guardians of civil liberties. If I may say to Deputy Tadier, this is not an Active card, this is a compulsory database of all Islanders and that, in the wrong hands and not properly controlled, not properly safeguarded, not properly secured, is powerful information which other governments in other places would handle in other ways. On balance, I support this, we have had some very good discussions at the Council of Ministers on precisely this issue on identity cards, on balance it is the right decision, I think, to move towards this database. I am sure the Assistant Minister will sum up very eloquently but I just rise to support the ongoing requirement of guardians of civil liberties, guardians of those people who do not believe that there should be an intrusive state, that the state needs to know and must know everything about one. On the other side, we need appropriately to understand population flows and to make properly-judged decisions. But she is

absolutely right, there is a long way to go before this legislation comes before us in an Appointed Day Act and people like the Constable, who are clearly guardians of civil liberties, need to be part of the implementation phase and the public information phase, not to worry people about big-brother state in terms of getting a database that could be misused. **[Approbation]**

[12:00]

3.1.11 Deputy D.J. De Sousa of St. Helier:

I will be brief because a lot of the points I wanted to make have been made. Just to clarify for Deputy Southern when he was querying about what is now the J-cats, the entitled and the permanency, those will be held with the employers and they will permanently have those to give out to the person that has the position so when the person moves on to another job that will stay with the employer not the person, okay. I wonder if, in the summing up, the Assistant Minister could clarify exactly how the compilation of the register will be made because as we know people living here, unless they move job or house, they will not necessarily register, so if he can clarify on how those people that do not move and do not change job will register. That, basically, is it; if he can just clarify that part.

3.1.12 Deputy T.M. Pitman:

Just a couple of points. I have got no problem generally with registration cards, what I would seek reassurance over is how that information is handled because I remember sitting and listening to debates a couple of years before I got in where it was being put forward by a previous P.P.C. that people who are members of political parties should have to have their details registered and known, and that is an absolute outrage, it might be okay in Zimbabwe, but where would that go? What I would just seek from the Assistant Minister is that all such registration cards will have the bare essential information on it, it will be tightly-controlled so as not to be exploited in the wrong hands, but what really jumps out at me more even than that is that we can do this and yet we cannot even have a central electoral register which could be tied in and make it very easy for people to be registered and to stay registered and we would save ourselves a lot of money, a lot of time and a lot of problems because it would be so simple, it would be in place. If we can do this (and I know it is not down to this particular Assistant Minister) but surely again we come back to what the Deputy of St. John was on about the other day and a silo mentality; these things should be done together, tied up, because we could save ourselves a fortune and we could make life better for our people, so that is all I really want to say.

3.1.13 Senator J.L. Perchard:

Just briefly. I am just inspired to speak after the Minister for Treasury and Deputy Trevor Pitman. I saw no problem with the introduction of a registration card and will be supporting it, but the Minister for Treasury said something: "We must be very careful to protect civil liberties" and he is absolutely right and we must be very careful if we produce a database that could be misused. The previous speaker said: "Information that could be exploited in the wrong hands." Obviously, I am terribly innocent, I would like the Assistant Minister to explain if he had considered or the group had considered how this information could be exploited in the wrong hands and could be misused and have I missed something?

The Deputy of St. John:

I hope I am not ahead of things. Are we including part 4, Sir, in this part of the debate?

The Bailiff:

No. Only part 3.

The Deputy of St. John:

Okay. Thank you, Sir, I will wait.

The Bailiff:

Part 2, I do beg your pardon. Does any other Member wish to speak? Very well, I call upon Senator Routier to reply.

3.1.14 Senator P.F. Routier:

I anticipated that this would be a hot issue to discuss because during all the consultations that we had with the public and a lot of the organisations, that was one of the issues which was raised and I think even the media at the outset started talking about this being an identity card and I understand that certainly all the consultation groups that I went to I believe I was able to satisfy them that this was not an identity card and hopefully I can do the same today. This is nowhere near an identity card, all it has is some basic information on it and it is, as has been described, just a step on from the current Social Security card, that is all it is. It just has additional information on and it has the name, the social security number, the residential and employment status, the date of issue of the card and either of the following: the expiry date or whether the residential and employment status is recorded on the card as well. The issue with regard to worried elderly people, anybody who is not moving home, moving their accommodation, or is not changing job, do not have to have a card, they do not need a card, it is not necessary for the purposes of this law. That is all we are proposing today, for the purposes of this law, they do not need a card. I might cover off various people who have spoken in the way I am going to answer this because there was a question about how the register is going to be collated for all those people who do not have a card. Later on we will be discussing Article 10 which enables existing departments who have names and addresses of individuals ... and that is all we are talking about is to be able to share that data across departments so there will just be a clear sharing of that very basic data information, that is all. So if anybody is transacting with the Health Department or Social Security Department and does not have card, they will be automatically entered into the register. So it might not be 100 per cent that we will have everybody on the register, but the vast majority of people will be on the register. I think what we need to be aware of is that what this is about is for us to have information for us to be able to provide services for people and if we do not know about them, we are obviously not providing any services for them so it becomes less of an issue about whether we know that individual if there was the odd one out there that we do not know about. But certainly, for the purposes of what this law is about as to providing services for people and to make sure we have the information for them, that is the process that will be gone through. No elderly person need be worried about this card, it is something which is very straightforward, very innocuous and it is just only if they were to move or change jobs, they would need to have a card. Sorry, my paper has stuck together ... Deputy Southern was concerned about mission creep, but he was the one who made the point about this just being a slightly advanced Social Security card. The way this legislation is brought forward, for the purposes of this legislation, we only need that basic information and if, for instance, the Health Department wanted to do a screening programme for cancer, what they would have to do is they would have to come this House to ask permission of this House if they were able to use that information for that purpose because it is not within the ability of this legislation to do anything other than to do what is proposed: to control working and housing. But if any department wanted to do anything more than that, they would have to come to this House to get a democratic decision of this House. So mission creep is not possible unless we make a democratic decision to do that, and that is not what is intended today. Deputy Southern was speaking about the 4 types of cards and I think he got a little bit mixed up on the way he understood that, and was identified by Deputy De Sousa. Each of the cards does give a clear indication to an employer or a landlord what the qualification of that person is, so they will know if they are entitled to employ them, if they have been here long enough, are they a qualified person. There will be those people who will have written on their card that it has to be verified, so particularly those who have a licensed position, they will need to get in touch with the department to clarify exactly what the position is because if their licence was only given for a particular position in a particular business and if they were to leave that business, they would lose their licence. So that is the way that will work. Deputy

Southern also asked about when people are going to be taken off the lists. That will be difficult, we have not got barriers at the airport so that people have got to hand their cards back and say: "We have left the Island" but what we will have is we will know when they are not using services. For instance, if they have been working somewhere, from the manpower returns we will know that they are not there, if they are not paying Social Security, we will know they are not there, if they have not gone to the doctor ... probably that is less of a one. But if they have had no interaction with any States department, there will be a sweeping process through the system to take people away out of the register. I do make the point that the Scrutiny Panel have looked at it and given it quite some thought and they have said to us that they are satisfied that it is a sustainable system. Deputy Tadier made the point about the cards and lots of future uses of it, and some of them he described perhaps are a step too far, and we are not even going there today, all we are doing is being very focused on what we need to achieve for controlling the access to work and housing. Deputy Le Claire obviously spoke about access to health things, well, that is not within this but it could be looked at at a later stage. Senator Ozouf, importantly, talked civil liberties and we have to take care, and that is how we have approached this right from day 1, we have not gone down the route of wanting a photograph on the card, although there has been a lot of discussion about it, but we have brought forward a system which does not have a photograph on the card because we do not believe that we want to go down that route for our purposes, we do not need that. Senator Breckon wanted me to assure him that we were going to widely publicise how people can get guidance and obviously, if the legislation is approved today, there is a 12-month lead-up programme to when the system will come into place and we will have a roll out to ensure that people are aware of how the system will work. Deputy Pitman was asking about the controls over the information. Certainly, the States have experience of looking after information and I cannot recall that we have ever had a breach of information that has been held within the States departments, certainly at Social Security in my time there I never had a situation where somebody has brought to my attention that their data has been accessed at all, so I think we have a very good record of ensuring that information is kept securely so I do not believe that should be a concern, but we have to keep that high in our minds to make sure that is not possible. Senator Perchard was concerned about how we could ensure this data is protected. Later on in the legislation, we have putting in place the provision for the data protection registrar to give an annual report to the States about how the information is handled. So if any member of the public or anybody has a concern about any data protection, any of the information being used inappropriately, the Data Protection Officer will be the person who will take an overview of that and make some sort of judgment and have to report to the States on an annual basis. So I think I have covered everybody's points, I hope I have reassured people that we are not going down the road of a full-blown identity card and the card is appropriate for what we wanted to do and I maintain the Article, Sir.

[12:15]

Deputy A.E. Jeune

Sir, may I ask for a point of clarity from the Assistant Minister? I have got really anxious in listening to the answers to some of the questions that have been raised this morning. I do believe this is the right way forward, but I want to be reassured that, because there is a year before this will come into being, will the Assistant Minister look at the anomalies that were raised, which I do not believe he has answered in terms of how do you know if somebody is still in the Island, because the rationale to that did not answer it. Would he please reassure me that all the tweaks and things will be done in the year?

Senator P.F. Routier:

Yes. The Computer Services Department, if that is what they are called these days, I am not sure, certainly are working on bringing forward the I.T. (Information Technology) system to ensure that the information sharing between the departments is top notch that we can achieve that, and I have

every confidence that they will be able to achieve that. The only tweak that we will never be able to stop is if somebody is in the Island who has never had any services, never done anything at all that we have had any notice of and they come and go, we will never know about that, but the vast majority of the Island we will know about. But, certainly, the work will be going on during the year to ensure that we have that.

The Bailiff:

Very well, then the matter before the Assembly is Articles 2 to 6, all those in favour ...

Female Speaker:

Sir, can we have the appel for Article 4, please?

The Bailiff:

Yes. The appel is called for then in relation Article 4. In relation to Articles 2 and 3, all those in favour of adopting those 2 Articles kindly show? Those against? They are adopted. Then the appel has been called for in relation to Article 4. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 42		CONTRE: 2		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy R.G. Le Hérisssier (S)		
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of St. Clement				

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

Deputy T.M. Pitman:

Sir, before we move on, could I just apologise for my phone going off. What makes it even worse it is a lawyer who phoned me, so I am particularly angry, and I am going to ask him for the money.
[Laughter]

The Bailiff:

Well, no doubt, you will be remitting the usual sum to the Greffier, Deputy.

Deputy M. Tadier:

Sir, can I suggest that Deputy Pitman sends the invoice to his lawyer and perhaps adds a bit on top?
[Laughter]

The Bailiff:

Very well. Then Articles 5 and 6, all those in favour of adopting those 2 Articles, kindly show? Those against? They are adopted. Then there is an amendment to Article 7, so that must be taken separately, so I invite you, Senator Routier, to propose Article 7.

3.2 Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):

This Article sets out the requirements placed on newcomers with regards to obtaining a registration card. Article 7, as I say, talks about the requirements for the card. Paragraphs 1 to 6 together mean that any person who arrives in Jersey after the age of 16, who starts a period of ordinary residence of 3 months or more in Jersey must apply for a registration card in the 3-month period immediately after Article 7 comes into force. The requirements under this Article do not apply if the person has an appropriate valid registration card within that period for the purpose of starting a new job. As already approved in Article 3, there are 3 triggers for needing a registration card, one being for residence, another for starting work, so for anybody who comes into the Island from day 1, if they could get a job that first day, they will get a card, and the same as if anybody takes accommodation at any time within that 3 months, they will need a card as well, so they will be registered. So that clears that. There is no desire to spend, obviously, administrative resources individually registering people who come to the Island for a short period of time, for example a holiday. The period of 3 months has been chosen as a cut-off point as being one that will exempt the vast majority of tourists and those coming to stay with friends or relatives and also those who come to the Island perhaps intending to stay but, within a short period, decide to go. Paragraph 6 makes it clear that the temporary absences away from the Island during the first 3-month period will be disregarded when calculating the 3-month period. That is if a newcomer comes to the Island, goes home for a few days, that is disregarded. Paragraph 8, the failure to apply for a card as required by this Article is an offence punishable with a maximum fine at the level of a standard scale of £2,000. Sir, I propose Article 7.

The Bailiff:

Is Article 7 seconded? [Seconded] All right. Then there is an amendment to Article 7 lodged by Deputy Power and I will ask the Greffier to read that amendment.

The Greffier of the States:

Part 2, page 65, Article 7 (a) in paragraphs 4, 5, 6 and 7 for the words: “3 months” in each place where those words appears substitute the words: “7 days” (b) in paragraph 6, for the words: “3 months” substitute the words: “7 days.”

3.2.1 Deputy S. Power:

Yes. I lodged this amendment because of my over 2 years’ experience at the Housing Department and sitting on the Migration Advisory Group. I have to make a confession here, I share a common interest with the Rector of St. Brelade, I am the owner of a white van, but it is used for leisure purposes [Laughter] so it is not used for commercial purposes ... I am in trouble already. I will have to speak to my rector. I am going to get back to the amendment, please, one of the issues I have is the fundamental lack of control on what I call the revolving-door policy that exists in the grey sector of the economy, some people will call it the black sector of the economy, where people come and go and they work in the Island for 7, 10 or 20 days then they disappear, they go back to the U.K. they go back to Northern Ireland, they go to Ireland, they go to wherever and then they come back again, and that is a continuous thing. I remember when I was on Scrutiny between 2005

and 2008, I will not say where, but there was a shop-fitting contract going on in the middle of St. Helier and I took an interest in that shop-fitting contract because all the vans parked outside the shop were from the Czech Republic. I got talking to some of the guys that were on that team and they were saying that they were in Jersey for approximately 9 weeks, they would spend 10 days on and 10 days off and then a new crew would come in and carry out the work. In that period, I found out afterwards, that 2 of them had been through the court process and also been through accident and emergency but that none of them had ever registered for employment in Jersey, for residency in Jersey or for residency under a contractor or a subcontractor under Regulation Undertakings. Members may feel that this is a small issue but I feel it is a bigger issue and I think one of the things I learnt from visiting in the Isle of Man was they have a very robust policy on arrival in the Isle of Man, you must register almost immediately, and they feel in the Isle of Man that their problem is particularly true in the construction industry and in the hospitality industry. I mentioned this yesterday in one of my speeches. So my amendment is largely based on this minority of people (and I will say it is a minority) who do use Jersey for pecuniary gain, they come and go and they use our services and they have no intention of ever settling here but they do not pay any tax and they do not pay any social security and, in the end, it is the taxpayer in Jersey who picks up the tab for what they do or what they do not do. I use the phrase in my amendment: "White-van man" and these are people who turn up at the port at Jersey for days, weeks or months at a time to carry out work on the Island and they take away work from local contractors and local subcontractors. These migratory workers sometimes stay, sometimes go and, as I have said, they end up in A. and E. (accident and emergency) or in the court system and I call this a migratory revolving door of unregistered labour entering the Jersey labour market, the construction industry and the hospitality industry and I feel that 90 days is far too lax. I heard Senator Routier say that we now do not propose to register people who come here for a holiday; I have never heard of anyone coming for a holiday for 90 days, I think 90 days is far too long. I also heard Senator Routier say that from day 1 they must register for employment; it is not day 1, it is day 91 so, Sir, I make the amendment, it should be 7 days.

The Bailiff:

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

3.2.2 Senator P.F. Routier:

Firstly, I should say how much I valued Deputy Power's contribution when he was Minister for Housing on the Migration Advisory Group and I appreciate what he has said about the existing failing of the Regulation Undertakings, I think we do recognise that the existing Regulation Undertakings Law does have those issues that he has highlighted. He is right to say in his report during last year the Population Office went to the harbour with the Customs and Immigration Department, Social Security at the harbour and they had no power to stop and detain the contractors; that is the current legislation. Well, I am pleased to say that under this new legislation there will be the power to take that instant action by serving a cessation notice on people who do not have the licence to come in and do that work, that is available within this legislation. Because the existing system is that a case has to be put together and submitted to the Law Officers for prosecution and that all takes time and the white-van man will have come and gone and we will have not been able to stop that activity, but under this new system we will be able to handle that a lot better. If Members were to just take a look at Article 37, you will see the strength of the cessation notice, it is very strong so we can deal with that. So white-van man arriving under this new legislation, he will either have had to have permission to do business or he will be served a cessation notice. However, I think that perhaps the Deputy has aimed this amendment at the wrong Article (or any Article, really) because amending Article 7 only affects those who have not already registered. Anyone arriving in the Island and starting work I still maintain that from day 1 needs to register; if they are going to be employed, they need to register and if they are carrying out any work, they need to register and have that permission from day 1, that is what the system is and so

we will know about them. Anybody obtaining their own property at any time will have to register and we will know about them. This amendment only affects people who are described as: “Ordinarily resident” for more than (which is what the Deputy is asking) 7 days, which is less than the 3 months that we are talking about. It will be aimed at any of them who do not work or obtain their own housing. I do not believe that we really want to place so much effort in registering those types of people, people who are not working, are not in housing and just who happen to be here for a period up to 7 days.

[12:30]

The registration does not stop ... if somebody comes along and even if we were to register them, it does not stop them accessing A. and E. or our parks, our gardens, our roads or our courts but it does cause more work dealing with the inquiries and registering people, so I am not sure if we really want to spend such money registering that type of person. I think what it really does, it would create some uncertainty because, in the minds of anybody who comes to the Island, for example, an elderly relative may come to stay with a family for a period of time, it could be more than 7 days, it could be anything up to 2 or 3 months, do we want to register an elderly person coming to stay with their family? That is what this is proposing. Do we want to catch students who perhaps are over the age of 16 who are studying for A. (Advanced) levels in the U.K. and come back to visit their family for summer holidays? I think the question mark is that it is not clear enough what is “ordinarily resident”, that is the issue. So I think that it does create perhaps some legal issues which I might like to ask the Solicitor General to perhaps make some indication of how he would see that situation, perhaps ... would he be prepared to?

The Bailiff:

I do not think that is legal question you have proposed, really, Senator Routier, is it?

Senator P.F. Routier:

Yes, what is “ordinarily resident”, Sir, for the purposes of ...

The Bailiff:

You are referring to “ordinarily resident”, right.

3.2.3 Mr. H. Sharp, H.M. Solicitor General:

“Ordinarily resident” is a term that is used in a lot of different laws and one must construe it against the background and the purpose of the law that we are considering and, with that in mind, it seems to me that “ordinarily resident” in this context means it connotes some sort of residence in a place with a degree of a continuity, save for perhaps incidental or temporary absence. One would look at the way in which a person’s life is usually ordered and what is the regular order of that person’s life, adopted voluntarily, for settled purposes; that is, where as a matter of commonsense is the person ordinarily resident, giving those words their ordinary meaning.

Deputy S. Power:

Sir, might I be allowed to ask the Solicitor ...?

The Bailiff:

Yes, you can.

3.2.4 Deputy S. Power:

This question is directed at the Solicitor General: the phrase “ordinarily resident”, does that mean that somebody who has been, has established a pattern over a period of time of say 3 or 4 weeks at a time in a hotel or in a guest house or in a B. and B. (bed and breakfast) and repeats that pattern

over a period of time, would the Solicitor General say that would be ordinarily resident, if it extended over many repetitive patterns or established an identifiable pattern?

3.2.5 The Solicitor General:

Unfortunately, it may or may not. It depends on all the facts of a person's life. I am remembering, there is a case where a particular person's residence was in Scotland, I think, but he spent a lot of his time travelling and staying in hotels but he was deemed ordinarily resident in Scotland, albeit he spent most of the year somewhere else. It depends on the whole facts of somebody's life and how they usually order their affairs.

3.2.6 Senator S.C. Ferguson:

Sir, may I ask a question of the Solicitor General, please? In the instance that is quoted, would a university student who obviously is ordinarily resident with his parents in Jersey then be caught by this requirement to register within 7 days when he comes home for the long vac?

3.2.7 The Solicitor General:

The person in Jersey who grows up in Jersey and goes off to university, in my view, remains ordinarily resident in Jersey even if they may be spending particular periods of time at a university. That would only change in my view if perhaps they got a job at the end of their education in, say, London, moved to London and bought a flat. But it seems to me the mere fact that they spend a part of their time in an educational institution in England does not change their ordinary residence.

Deputy P.V.F. Le Claire:

Sir, may I ask ...?

The Bailiff:

I am sorry, I think the question was whether as a result, when they come back for the long vacation, they have to get one of these cards.

The Solicitor General:

No, because I think they have already been ordinarily resident for the 3 months before the law came into force so they do not need to get one when they come back.

3.2.8 Deputy P.V.F. Le Claire:

May I ask for clarification because we have got an amendment that is being debated at the moment with the intention of the proposer of the amendment to introduce a reduction in days from 3 months to 7 as a requirement to register (and Senator Routier is in mid-speech so I do ask him to excuse me while I get clarification for my own understanding) and it is saying that we have got a cessation order that will allow us to negate that concern. But I am just wondering, under Article 24, I would like to ask the Solicitor General ... there is a requirement for anybody starting work in Jersey to have a registration card and a person who is going to work under Article 24(1) or (2) or appoint another person to work must have a registration card. So it would seem to me if the Deputy to my left, Deputy Power, is trying to negate white-van man coming in and working, really, I would like to understand, there must be a mechanism for stopping that from occurring and that would rely upon, I would imagine, Article 24, that you are required to have a registration card. Also (and this is the tricky bit) what aspect of this law requires for that individual or that company to prove or to supply that registration card to the person for whom they are carrying out the work? In which case, it does seem to me that the cessation order, or the application within 30 days in respect of white-van man, is tortuous to understand, really.

3.2.9 The Solicitor General:

Yes. If I may respectfully say, I do not believe that Article 7 is geared towards dealing with people who are working in the Island and I respectfully agree that Article 24 is the more appropriate mechanism because it requires you from day 1, if you want to work in the Island, that (a) you must have a registration card and (b) if you want to employ someone, you should see their registration card and see it is a criminal offence if you do not do the first 2 things. So, really, Article 24 is geared towards making sure that someone who comes to the Island has the relevant qualifications and has the proper registration card. The additional weapon, of course, is Article 37, which is the cessation notice, and it is a combination of both Article 24 and Article 37 that are geared towards the “man in the white van” scenario, not Article 7. If I may say as an aside, I can see great difficulties in suggesting that somebody is ordinarily resident if you are going to reduce the number of days down to just 7; that, in my view, would be very difficult to prove or establish. The beauty of Article 24 and of 37 is it removes all questions about whether or not someone is resident, it is purely whether they are entitled to work or not.

Deputy P.V.F. Le Claire:

I thank the Solicitor General.

3.2.10 Senator P.F. Routier:

I think that has helped certainly me, and I hope Members, to recognise that establishing whether somebody is ordinarily resident for such a short period is extremely difficult. Not only would that be extremely difficult, it will create an inordinate amount of work for the department and, for what benefit, I am not sure. I would hope, on reflection, perhaps the Deputy might consider withdrawing this amendment [**Approbation**] because I cannot see it does what he is hoping it to achieve but there is the safeguard of the other matters within this law which will help to resolve the matter of white-van man.

Deputy P.V.F. Le Claire:

Sir, my points have now been addressed by the Solicitor General. Thank you.

3.2.11 Senator B.I. Le Marquand:

My points have almost been addressed by the Solicitor General. I was going to rise to try and explain the nature of the test in relation to “ordinary residence” which, as the Solicitor General has said, is quite complicated, it varies in different areas and in addition to the taxation area (where that is the normal test for residence for taxation purposes) it also has effect in relation to when people need to change their licenses, if they have got a foreign licence to change it for a Jersey licence, and also, peculiarly, in relation to the area of security for costs, which used to be one of my specialisations. This is quite a high test and I too would check Deputy Power to withdraw his amendment on this because it simply does not work. It is quite impossible to prove that somebody who has been here for only 7 days is ordinarily resident, unless they are coming for a settled contract of some sort of employment for a number of years. So, as I say, ordinary residence is a high test. I understand what the Deputy is trying to achieve; in any eventuality, if it was not referring to ordinary residence, I regret that I think a 7-day period is much too short to be a workable period.

3.2.12 Deputy S. Power:

With the leave of the Assembly, Sir, I will withdraw but I would like to make one comment, if that is permitted. Sir, do I need to ...?

The Bailiff:

I should make a quick comment and then ask leave to withdraw it.

Deputy S. Power:

Okay. In the evolution of the Draft Control of Housing and Work which was then the Migration Policy, I had reservations about the enforcement procedure and the cessation procedure and if Members read Article 37 on page 90, it is very woolly, very diffuse and, in my view, there are no teeth in it, and that is why I wanted to reduce the number of days from 90 to 37. I am not going to go into detail now, I tried to make it far tougher, but on the Migration Advisory Group discussions on migration, it was not accepted. So, Sir, with the leave of the Assembly and based on the explanation of the Solicitor General and Senator Le Marquand, I will withdraw the amendment.

The Bailiff:

Very well, does the Assembly agree that the Deputy may withdraw his amendment? Those in favour? The against?

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

Well, wait a moment, let us just announce the decision. The amendment is withdrawn. Now, very well, the adjournment is proposed so then the Assembly will adjourn and reconvene at 2.15 p.m.

[14:15]

LUNCHEON ADJOURNMENT

The Greffier of the States (in the Chair):

Very well. Well, with the amendment having been withdrawn just before the adjournment, debate resumes on Article 7 as proposed by the Assistant Minister. Does any other Member wish to speak on Article 7? Deputy Le Claire?

3.2.13 Deputy P.V.F. Le Claire:

As has been said by the Assistant Minister, Senator Routier, that this relates to newcomers and there will be a body of work to do in the year before this comes into play. I wonder if any thought could be given, if it has not already, to making videos available, maybe produced by the States media group ... I cannot remember the name of them now ... Communications Unit, so that there would be infomercials available for people to watch; everybody remembers a certain amount of what they read, a certain amount more about what they see and hear and a certain amount more about what they experience. But if it were possible, I think in order to help those people coming to Jersey or who wish to come to Jersey, to understand our systems (they have been complicated in the past) I do not think it is beyond the realm of technology now for us to make a short series of infomercials that could be made available on the websites, in particular for these reasons: businesses and business people who are in business, the issues they need to be cognisant of about registering, et cetera, landlords, how they have to manage and notify and how they notify, and people who wish to employ and, most importantly, the average user who will come to Jersey who may benefit from that kind of a service. I think it is something that could be done, I do not think it would be too onerous, I do not believe it would be too expensive and I think that would be a very positive way of getting this quite complex information out in a meaningful and understandable format. There was something else, but I will leave it for now.

The Greffier of the States (in the Chair):

Does anyone wish to speak on Article 7? I call on the Assistant Minister to reply.

3.2.14 Senator P.F. Routier:

I think the Deputy raises an important issue about the communications, I will certainly pass on that suggestion to the Communications Unit who will be developing a communications plan for the coming year. I maintain the Article, Sir.

The Greffier of the States (in the Chair):

All those in favour of adopting Article 7, kindly show? Those against? The Article is adopted. Do you propose Article 8, Assistant Minister?

3.3 Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):

Article 8 is the registration requirements for children not born in Jersey, I think it is fairly self-explanatory and I propose the Article, Sir.

The Greffier of the States (in the Chair):

Is the Article seconded? [**Seconded**] Does any other Member wish to speak on Article 8? All those in favour of adopting Article 8, kindly show? Those against? Article 8 is adopted. Do you wish to propose part 4, Assistant Minister, Articles 9 and 10?

3.4 Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):

Yes, Sir, if I may. Certainly, Articles 9 and 10, yes. This is about the information to a Minister, the purpose of this part is to ensure that accurate and updated information is recorded with regards to individuals who move to Jersey or who have a change to their address. Paragraph 9 makes a requirement to give information to the Minister upon the change of address, paragraph 1 requires any person moving to an address in Jersey, whether or not from another address within Jersey, who is or expects to be ordinarily resident at least at the address for 3 months, to notify the Minister. Paragraph 2 requires the person to also notify the Minister of the name and date of birth of any other individual who moved to that address with that person. Paragraph 3, a similar obligation also applies to a person who is in control of a unit as a dwelling accommodation. Paragraph 4 describes who is a person in control of a unit. Paragraph 11, in order to save unnecessary inconvenience, the Minister is able to bring an order to exempt individuals from making notifications under Article 9 if the information has already been provided under another enactment. This obviously supports the streamlining of the change of address procedures and will reduce some bureaucracy. Article 10 is the power to obtain information from other departments. Article 10 allows the Minister to obtain information from any department or administration but only relates to name, date of birth and current address; that is for purposes of facilitating compliance with the law. I propose Articles 9 and 10, Sir.

The Greffier of the States (in the Chair):

Are these Articles seconded? [**Seconded**] Does anyone wish to speak on Articles 9 or 10? Deputy Vallois?

3.4.1 Deputy T.A. Vallois:

Yes. I was just wondering if the Assistant Minister could advise how Article 9 will be enforced from the Chief Minister's Department?

3.4.2 Deputy P.V.F. Le Claire:

The rapporteur has indicated that there is a need to, in some instances, try to curtail bureaucracy in respect to this section. I did not manage to ask this during Scrutiny, or at least I have not got this bit clear in my head, the notification to the Minister of the vacation and change of occupation of accommodation could be occurring 2 or 3 times a week in some instances, but it could be occurring quite regularly and over a very large proportion of, certainly, the rented sector. I am just wondering how it is envisaged by the Minister that this is going to be notified, will it be as he had indicated earlier, there was going to be an investment in I.T.? Is it going to be something that somebody can do online like a manpower return survey, or is it something that is going to be a little bit more arduous in relation to the occupancy and the vacancy of a unit?

3.4.3 Deputy R.G. Le Hérisier:

It has been partly covered, but there are enormous obligations laid upon the Minister. We read continually in the paper about people, for example, failing to notify D.V.S. (Driver and Vehicle Standards) of changes of address. There is an enormous faith being placed in people just coming forward to the Minister or his officers or her officers, and we have also seen, of course (and we know anecdotally) of all the issues with the census and people evading it because of what they fear is government oversight of their activities. Could the Minister say how, without being overbearing, he expects this to be enforced, as Deputy Vallois said?

3.4.4 Senator F. du H. Le Gresley:

Yes. Very much along the same track. I am aware that the proprietors of registered lodging houses are very concerned with this part of the new law given the high turnover of occupants of lodging houses and concerned about the fines that could be imposed. Also, in respect of Article 10, the obtaining of information from any department, Deputy Le Hérissier has just mentioned the D.V.S. Department, what would happen in a situation where the D.V.S. information was contrary to that on the register, would D.V.S. be informed, which would then trigger fines for failure to notify a change of address?

3.4.5 The Deputy of St. John:

Similar to others, I have concerns on page 8 under part 4(9)(11): “Individuals who reside at an address for 3 months or more would be required to inform the Minister of that address and those in control of the property, e.g. the owner, the managing agent, will be jointly responsible.” For instance, in my case, I have a number of properties which are let on lease or on annual rental, I rely on the housing qualifications that the owner of that property would have but, the way that is written, it looks to me that I could be liable for somebody who has gone to stay with a next of kin or somebody takes in a partner, that is, instead of getting married as we know they live together nowadays, and I would be responsible for making sure that this return is made, although the property is let on a monthly or annual tenancy. I have got a little concern on this, and I sincerely hope the Assistant Minister can put my mind on that because otherwise we could be criminalising an awful lot of property owners unbeknowingly.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on Articles 9 or 10? Very well, I call on the Assistant Minister to reply.

3.4.6 Senator P.F. Routier:

I was asked how the Chief Minister was going to be able to enforce that provision. With the amount of information which is going to be shared across the various departments, what will happen is there will be some exception reports coming out of a particular department and when that is identified, that there is something that is different from one department or the other, that is when it will be able to be enforced and we are sure that we have the right information. I hope that helps the Deputy because that is how it will be, there will be the exception reports which will achieve the compliance. Deputy Le Claire was asking about the reduction in bureaucracy. There is going to be a number of areas where there is going to be a reduction in bureaucracy because for someone currently to move into a new property, to buy a new house or whatever, they have to get a permit from the Housing Department. In the future, all they will need to do is to show their card to their lawyer, or whatever, and that will be sufficient. Obviously it has to be verified as well, the card, but once they show that, that is going to reduce a tremendous amount of bureaucracy for landlords, owners, people moving into ... yes, and costs for the department, certainly.

3.4.7 Deputy P.V.F. Le Claire:

Could I ask the Minister to give way for a second? I appreciated that, I did understand that during the Scrutiny, but the part I am a bit unclear about is how is it intended the landlord of a tenant occupying or vacating notifies, in what manner will they notify the Minister?

3.4.8 Senator P.F. Routier:

There is a duty for them to inform the department that they are moving by attending at the department.

The Greffier of the States (in the Chair):

The Deputy asked if, for example, there was an Internet option, I think that was ...

Senator P.F. Routier:

That may well be an option that will come at some stage, but that is being developed, certainly.

3.4.9 Deputy P.V.F. Le Claire:

Could I just ... maybe to help, what I was trying to suggest in relation to the reduction of bureaucracy is that if everybody had to come down to the Population Office to tell the Assistant Minister that somebody had moved in or moved out, then they would need a very large lobby with a large number of chairs for people waiting. What I was suggesting was that perhaps, like the manpower return service that can be done online, it might be an idea to consider in the year coming up in order to reduce bureaucracy that no actual physical activity is taken other than notification by mail in person, but predominantly online.

3.4.10 Senator P.F. Routier:

The notification can be made any time up to 3 months, there is a good amount of time for them to make that known to the department. There are various ways that can happen because it is not only accommodation, it is also to do with their work as well. If, for instance, they change their job, that will help to identify ... all it is is identifying a person, it is not necessarily all the time where they are working and where they are living in a particular place, all we are really interested in is an individual as opposed to the ... I do not know if I have explained that particularly well, but I hope that clarifies it.

[14:30]

Deputy Le Hérissier was speaking about the compliance as well. It is bringing together all these systems, all this information from across the departments because that is what is going to create the compliance. When, for instance, the existing Social Security Department have to filter through all their people who leave the Island, on a regular basis they will filter out those people who have left the Island, and they are taken out of the system, and that will happen on a regular basis but with all the information which is collated from the other departments. Deputy Le Gresley raised the issue of lodging houses. There is an order making provision which will allow for large lodging houses for tourism accommodation and for other large organisations like that such that they do not have to respond to the changes every time there is a change, what they will be doing perhaps is a quarterly response to the department to say that those people have changed during that quarter, they do not have to continually be in touch with everybody coming and going, and that has been a negotiation we have had with the tourism sector who have raised that issue with us about the hospitality industry. Senator Le Gresley also mentioned about the information, perhaps if D.V.S. was to find out from another department that there has been a change of address. The information data sharing, D.V.S. will have access to the names and address register and it will be for them to decide how they go about prosecuting, if they feel that is the way they want to go but, certainly, all the departments will have access to the names and address register. The Deputy of St. John raised an issue particularly about individual ... well, he said he had a number of properties and to monitor those. It is a duty of the landlord, it is shared responsibility, it is the tenant and the owner of the property that need to make a response if somebody has moved.

3.4.11 The Deputy of St. John:

Could we have the definition, please, given to us from the Solicitor General, because I have got some real concerns with this one because, if that is the case, you are going to be criminalising a lot of people, so I would like the Solicitor General's views, please.

The Greffier of the States (in the Chair):

What is the precise question, Deputy?

The Deputy of St. John:

The question is on page 8: "Individuals who reside at an address for 3 months or more will be required to inform the Minister of that address and those in control of the property, e.g. an owner, a managing agent, will be jointly responsible." So that concerns me because once an owner of a property has leased a place or let it to a person and they fill the necessary housing forms in, the people he has in his house should not be the responsibility of the owner of the property, but it should be the responsibility of the tenant who he wishes to have staying with him. The owner should not really be getting involved in who is staying at a house for any length of time because the person might decide to bring in and cohabit with another person. That is of concern, and I would like the Solicitor General's comments on it, please.

The Solicitor General:

I am sorry, I am still not quite sure what the question is.

The Greffier of the States (in the Chair):

I am sorry, when you say page, I am lost, Deputy ...

The Deputy of St. John:

Look on page 8, Sir, at the very top, part 4, Articles 9 to 11. The first paragraph, Sir, on the bullet points.

The Greffier of the States (in the Chair):

This is across the report rather than the legislation itself. Yes.

The Deputy of St. John:

Yes, I know, but it has come out in the report and that is what I have based my question on because I have got real concerns that we could be criminalising the landlord of a property, unbeknown to himself. We have a number of landlords with multiple properties and I am sure they do not want to be poking their nose into their tenants' way of life.

The Greffier of the States (in the Chair):

I think the question, if I have understood it then, Deputy and solicitor General, is in Article 9.3(a) the reference to: "A person who has control of a unit of dwelling accommodation" and who that person would be, I think.

The Solicitor General:

That will include an owner or a landlord.

The Deputy of St. John:

In fact, Sir, we would criminalising that person.

Senator B.I. Le Marquand:

Can I point the Solicitor General to Article 9.4, he might wish to look at Article 9.4 which seems to have a wider definition than an owner and the landlord.

The Solicitor General:

That is why I said it includes landlord and owner but that is not an exhaustive definition.

The Greffier of the States (in the Chair):

Very well, the Assistant Minister?

3.4.12 Senator P.F. Routier:

This is a situation where many people have obligations to make returns on various things, we hear that the D.V.S. (Driver and Vehicle Standards) is your responsibility, when you change your address, it is your obligation to make that known. It is nothing particularly new as an onerous obligation on people to notify that there has been a change of address.

3.4.13 The Deputy of St. John:

I can understand where the Minister is coming from in relation to the person concerned but it is how would I or anybody here who is a landlord, know who is living in that property at any one time? Other than as long as the rent is paid and the place is well run and we have no complaints we leave our tenants to get on with their lives, we do not go and ask them after 3 months: "Who else is in the property?"

3.4.14 Senator P.F. Routier:

I can only repeat that it is the person who is leaving that property; it is their responsibility to notify. I have just had a note to say that, for Deputy Le Claire's benefit, it will be possible to do this online in as well in the future, that has been confirmed, but certainly without that legislation there is a responsibility for people to let the departments know.

Senator T.J. Le Main:

Could I just seek clarification?

The Greffier of the States (in the Chair):

No. Well you did not speak in the ... the Assistant Minister has summed up and other Members cannot at this stage ...

Senator T.J. Le Main:

Surely we can ask for a point of clarification?

The Greffier of the States (in the Chair):

Well, only clarification of something that you think the Minister has not addressed in his summing up, but you did not speak.

Senator T.J. Le Main:

That should not make ... [Laughter]

The Greffier of the States (in the Chair):

That is the rule that is traditionally followed.

Senator T.J. Le Main:

Well, I might as well go home then. [Laughter]

The Greffier of the States (in the Chair):

Deputy Le Hérissier, you did ask a query but is your query ...?

Deputy R.G. Le Hérissier:

I wonder if I could ask the Assistant Minister to clarify when he said: "It would be managed by management by exception" what did he mean, and can he envisage any situations where people would turn up with another person's card?

The Greffier of the States (in the Chair):

I think that is a new point, Deputy, it is not ...

Deputy A.E. Jeune:

Excuse me, Sir, I do not believe that the question of the Deputy of St. John has been clarified. The Deputy, as I understood it, was asking for clarification on in the event that a landlord gives a lease to somebody ...

The Greffier of the States (in the Chair):

I think the question is clear, let us ask the Assistant Minister if he can clarify further the point that Deputy of St. John ...

Deputy A.E. Juene:

Yes, because if somebody moves in afterwards ...

Deputy M.R. Higgins:

He could also clarify the first part of Deputy Le Hérissier's question.

The Greffier of the States (in the Chair):

It is not question time but we will try and help Members by getting some answers.

Senator P.F. Routier:

The question about who is responsible for a landlord, whether he is responsible if a tenant leaves and does not tell him. Firstly you have got the one step, you have got the tenant who needs to inform the department whether it be by a form or online or whatever, that it is their responsibility so if they fail to do that they are at fault and are subject to a fine. The owner is in the same position and that is what is being proposed and that is I believe a fair thing. If the property is empty for that period of time that is something the owner should be aware of.

The Greffier of the States (in the Chair):

I think the question, if I can assist, Assistant Minister, is more so if somebody else, for example a partner, were to move in with a tenant and come and go, who is then responsible? Is it that tenant or is it the landlord?

Senator P.F. Routier:

Subject to the Solicitor General putting me right I believe it is both, that there is the obligation on both.

Deputy M.R. Higgins:

Can we have the answer to the first part of Deputy Le Hérissier's question?

The Greffier of the States (in the Chair):

Which was?

Deputy R.G. Le Hérissier:

Management by exception, could the Minister explain how it works?

Senator P.F. Routier:

Every department will have information given to them about a name and address, and if that person does not have any activity within that particular department it will be recognised that that person may no longer be in existence. That is what we are interested in, whether that person does exist. So, what would happen is that they would check with the other departments to see if that is the fact,

if there is any information available about that person so that by exception we will be able to have a better compliance with this system.

Male Speaker:

I will ask for the appel on this please, Sir.

Deputy I.J. Gorst:

Sorry, I know I have not spoken but it is a matter of what the Assistant Minister has just said.

The Greffier of the States (in the Chair):

Well this is the problem, Deputy. It is not traditionally allowed for Members that jump up and subsequently ...

3.4.15 Deputy M. Tadier:

This is a question for the Solicitor General because I think it is an outstanding point of clarification although I did not raise it. I think that what Members want to seek clarification on, is if a landlord does not know that somebody is residing in the property, for example it is a one bedroom property; they stipulated you can only have one person in there. A second person then moves in, will the landlord then be prosecuted for information that he does not possess? Or could he be literally liable?

3.4.16 The Solicitor General:

He could be investigated. Whether or not he would in fact be prosecuted, one would have to consider on a case-by-case basis but if he or she genuinely had no idea then it would be very surprising if there were in fact a prosecution, and I am sure common sense would apply. May I also add while I am on my feet, it is only relevant to people who are ordinarily resident in that property for 3 months or more. So, it is not for the landlord to monitor night and day to see if someone is staying there for a week or 10 days. It is 3 months or more, and it might be thought that a landlord maintaining a property properly would visit the property at least 4 times a year.

3.4.17 Deputy M.R. Higgins:

Could the Solicitor General please confirm that it is not a strict liability offence then for the landlord not to notify?

3.4.18 The Solicitor General:

I do not see how it could be a strict liability offence. I do not see how it could be an offence to not report something that you do not know about. The obligation is on him to report what he knows I agree with that but if it turns out that he does not know something then it is very difficult to see how he would be prosecuted.

3.4.19 Deputy J.A.N. Le Fondré:

Can I do a follow up on that? The query then arises that, is there not an assumption that the landlord or whoever must be taking steps to make sure he does know?

3.4.20 The Solicitor General:

Yes, as I have said but is not the whole point of this, the mischief that has been directed here as to insofar as this does occur is to stop landlords either not worrying or indeed turning a blind eye to who may or may not be residing in their premises? The whole point of this if it is adopted, is to ensure that they take a more responsible attitude and ensure that there is nobody in their flat or house that should not be there.

3.4.21 The Deputy of St. John:

May I ask a question of the Solicitor General? Given the comments made by the Solicitor General, is he implying that the majority of landlords are not responsible by not speaking or going into each of the premises they own 4 times a year, quarterly, if they only do it 3 times a year or twice a year? Then they are having to question the tenant as to who the people are living in that house other than him and his immediate family, if they have got a mother-in-law who has just moved, in for instance, and has been there for 4 months instead of 3. Is that basically what he is telling us, Sir?

3.4.22 The Solicitor General:

No, I am not implying anything. All I am saying is that the law, if Members choose to pass it, is plainly putting an onus on a landlord to know who is and who is not residing in that premises but the key as I have said is that we are only concerned here with people who are ordinarily resident. That is to say, coming back to what we were talking about before lunch, someone who has a settled residence in the Island for 3 or more months. So the landlord is not required to worry about visitors and people staying for very short periods of time.

[14:45]

Male Speaker:

May we have the appel on this one please, Sir?

The Bailiff:

Senator Routier, had you finished replying?

Senator P.F. Routier:

One final point, I should just say that this is nothing that is particularly new because the existing housing controls have exactly the same provisions. They do, the existing housing controls have the same provisions but this is something, which has been consulted upon for months and months and months and for it to be suddenly being worried about now seems to be rather strange but I maintain the Articles, Sir.

The Bailiff:

This is Articles 9 and 10, is it? Yes, very well.

3.4.23 The Connétable of St. Mary:

I am a little confused. May I just ask one quick question of the Solicitor General because 9(4), does that not say that the person who has control over the unit has control over the unit if that person is responsible for allowing the other person to use it as an ordinary residence? So if a tenant lets someone else live there then it is the tenant's responsibility surely?

3.4.24 The Solicitor General:

That might be right on a factual basis but yes I agree it may be that a sub-tenancy may be the responsibility of the tenant but equally one can see argument it is also the landlord's responsibility.

The Bailiff:

Very well, so the matter before the Assembly on which the appel has been called for is the proposition to adopt Articles 9 and 10. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 41		CONTRE: 4		ABSTAIN: 2
Senator T.A. Le Sueur		Deputy of Grouville		Deputy I.J. Gorst (C)
Senator P.F. Routier		Deputy J.A.N. Le Fondré (L)		Deputy A.E. Jeune (B)

Senator T.J. Le Main		Deputy of St. John		
Senator F.E. Cohen		Deputy M.R. Higgins (H)		
Senator J.L. Perchard				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				

Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

Very well, we now come to part 5. Deputy Power, although you had an amendment to it, it was consequential so it has fallen away so there are no amendments to part 5 so do you wish to propose all the Articles in part 5, Senator?

3.5 Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):

I can certainly, Sir. Part 5, these Articles describe how in future there will be just 2 housing categories, that is qualified and registered, and the process by which property will be categorised. During the most recent consultation concerns were raised as to the future status of conditions and concessions currently applicable to property under the Housing Law and regulations. Considerable thought has been given to this issue to ensure that property owners are not disadvantaged by the introduction of this law. This Article is drafted to ensure that the status quo will remain with regards such conditions and concessions when the new law comes into force. Insofar as any units not already controlled by the Housing Law will remain unqualified and become classified as registered. All the various categories of controlled housing will fall into one single qualified category. Article 14, this Article deals with tourism and nursing home premises and lodging houses, and all will be subject to registration provisions under the legislation dealing specifically with those premises. Article 15, this Article effectively carries forward the Minister for Housing’s powers under the Housing Law, to categorise property. Article 16, this is a new provision whereby a public register of property will be established. It requires the Minister to keep a public register showing the housing category of each unit of dwelling accommodation whether there are any conditions or concessions to which the categorisation is subject. This register will be established using the Jersey Land and Property Index managed by the Planning and Environment Department. The availability of the public register, which records all units of residential accommodation, will be of benefit to those who are involved in property transactions. The register will be available online. Article 17, carries us forward current policies as to how people can occupy different categories of property, that is entitled and licensed people will be able to live in any property whether it is qualified or registered, while registered people can obviously only live in registered property. I think that is all of part 5, Sir.

The Bailiff:

Are Articles 11-17 seconded? **[Seconded]** Does any Member wish to speak on any of those Articles? Deputy Le Claire.

3.5.1 Deputy P.V.F. Le Claire:

Again I apologise, we only had so much time on Scrutiny to do what we needed to do at the same time the Island Plan was going through. There was an incidence in the last few months where in my research for the Island Plan I managed to discover that share transfer of properties made up just over half of the previous quarter's transactions but in the last period that they were measured share transfer of properties made up two-thirds of all transactions in relation to flats. Can the Minister just talk to us please, about how this very large section of our community who are living as qualified residents in share transfer accommodation owned by people who may or may not necessarily have housing qualifications, how that section of the market is going to be affected if at all, and whether or not this parallel universe of share transfer occupancy buy-to-let is going to be maintained in the same manner as it has been set up to do at the moment? At the moment it has been something that has been introduced to help facilitate housing in a unique way. It has become historically an investment opportunity and it has become a pension. It has become an active pension pot for people, and yet arguably on the other hand provides accommodation for local people without them having to invest in the property themselves in a manner in which they can occupy and rent. There are benefits obviously but there is also the criticism that nothing seems to be getting built except for share transfers these days and that is going to be our lot. There is some concern. I do not want to be misconstrued here because there are obviously 2 sides to the coin, but could he just when he is summing up, explain how these share transfer properties and the people living in them, how they are going to dovetail into the new legislation and which section of the 2 definitions will they dovetail into, so we can get clarity on that as I am a little bit cloudy on this one as well, I am afraid?

3.5.2 Senator F. du H. Le Gresley:

I would be grateful if the Assistant Minister could just clarify transactions relating to inherited property. There is mention on page 16, in Article 17: "Exceptions where registered persons can live in property they have inherited or by Ministerial dispensation will continue." My understanding, and it may be a bit rusty now, is that if you inherit a property and you do not live in the Island you can come and live in it but you cannot sell it and move downmarket, in other words to a cheaper property, you can only go to a more expensive property. Is all this going to be controlled in the same way by this Ministerial dispensation?

The Bailiff:

Does any other Member wish to speak? Very well then, I call upon Senator Routier to reply.

3.5.3 Senator P.F. Routier:

Share transfer is something, which does not really change the availability to anybody in the Island. The legislation does not change that. Any previous shared transfer of properties, which were (a) to (j) or (a) to (h) will now be just moved to "qualified" so they will only be available to people who are qualified. That is fairly straightforward. With regard to the dégrèvement-inherited situation, that continues straight through into this legislation as well, it is the same provisions. I maintain the Articles, Sir.

The Bailiff:

Very well, all those in favour of adopting Articles 11 to 17 kindly show. Those against. They are adopted. We then come to Part 6, Articles 18 to 21. Do you wish to propose them, Senator Routier?

3.6 Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):

Yes, Sir. Article 18, this Article focuses on transactions involving land. It is intended that parties to purchase or lease will rely on registration cards when transacting, and that this will reduce the bureaucracy as I have mentioned earlier for it will no longer be necessary for such individuals to apply for consent before transacting, and for this consent to then be prepared. All parties transacting will be responsible for ensuring the existence of a valid, appropriate registration card. Article 19 defines who can enter into a purchase, a transfer or a lease. Paragraph 1 of that prohibits any person from being a contracting party to a specified transaction unless the person acquiring the land that is the subject of the transaction has an appropriate valid registration card, and is not prohibited under this Article from being party to such a transaction. Paragraph 2, this Article defines an appropriate registration card as one that accurately records the person's residential and employment status on the date of the specified transaction. Paragraph 3 places a general prohibition on registered, or entitled for work only, from entering into a sale or transfer of land. Paragraph 4 places a general prohibition on registered or entitled for work people from entering into a registered contract or lease. Paragraph 5 is important, it provides a new exemption whereby a registered or entitled for work person can enter into a lease for less than 9 years duration, of registered property, on condition that the person will live in the accommodation as his sole or principal place of residence in Jersey. With the repeal of the housing law, that will result if this law is passed, the barrier to registered persons being able to lease will go. Although such people will be able to lease accommodation in the registered sector it will mean that many more individuals will gain security of tenure. For those who lease accommodation that falls under the Residential Tenancy (Jersey) Law, they will also gain the protections offered by a new updated law designed to introduce a modern framework of standards to which both landlord and tenants should adhere. Paragraph 7 is also important for it removes the current requirements that a licensed person must buy a property through a company and not in their own name. This policy was reviewed and considered administratively onerous on licensed persons, government and business. It also made the human rights position potentially complex. As a result it has been removed leaving licensed persons free to buy in their own name. However, sub-paragraphs 7(a) and (b) retain previous restrictions placed on licensed persons who purchase, namely that the property must be their principal place of residence and be vacated and sold on their ceasing to have a licence for employment. Article 20, this Article deals with land transactions entered into by entities who will not have a registration card such as companies. Essentially a Ministerial consent system, which operates under the current housing law will be maintained.

[15:00]

Paragraph 4 introduces a new criterion, which requires the Minister when making a decision relating to a company ownership of property to consider the supply and demand of property, and the need to promote ownership of residential property by persons with entitled status. This criterion has been specifically included in recognition of the need to make adequate provision of residential property for entitled persons while also noting that supply and demand issues generally are important. As in Article 15(7) above dealing with the change of categorisation, this provision reflects the purpose of the law. Under the housing law there is a general presumption against freestanding property i.e. houses, being owned by companies but in exceptions that companies can own flats i.e. shared transfer properties, where ownership of the unit of accommodation is by shares in owning the property as a whole. Article 21 makes it an offence for any person to be party to a specified transaction in contradiction of the previous Part 6. Therefore every person selling, leasing or transferring the land must be appropriately residentially qualified to do so. Sir, I propose Part 6, that is Articles 18 to 21.

The Bailiff:

Are they seconded? **[Seconded]** Senator Le Main.

3.6.1 Senator T.J. Le Main:

Just one point, and I am clearly well versed with the whole idea of this new law. If a J-category for instance on a short term contract, say a 3 year contract, and it has been known that 3-year Js have bought through companies in Jersey already at this present time, but a 3 year J-contract, a person who then buys in their own name, with a family, children, small children, otherwise and the 3-year J-contract finishes, the Assistant Minister is saying that this family will have to vacate and dispose and sell of this property. I question under the Human Rights legislation how tight is this, and how compliant will it be when you have got a family in serious trouble with no work, no job, own a house, and I would like to know how easily or how compliant is it in saying to someone: "You have to leave your home"?

3.6.2 Deputy M. Tadier:

I am glad that Senator Le Main raised that because that does seem like a fundamental issue, which is inevitable by essentially still having non-qualified and J-cats although under different names. It seems to me, for example, that family, which would have to sell up after 3 years under the technical requirements of the law, may still wish to remain in Jersey. They may be able to find another gainful employment in Jersey in a non-qualified sector, which accepts those under 5 years. We know there are many jobs for people who have been here under 5 years, perhaps in the fulfilment industry, and they could therefore contribute to society. It seems strange that they would have to then sell up that property and maybe move into what will be the unqualified sector. The other point, which I think needs to be raised here is the apparent inequity. Now, I understand that we are saying that housing in Jersey is scarce and so it needs to be prioritised to those who have a commitment to Jersey but another issue, which just seems to be completely here iniquitous, is that a Jersey couple for example who may have got to a certain age in their life can leave Jersey with no intention of ever coming back who are therefore not really Jersey residents who can hold on to a property; they can rent that property out for the remainder of their lives, get the income from it even though they have got no intention of returning to the Island. Whereas a couple in this J-category which will be renamed, who have every intention of remaining in the Island will not be able to do so. I cannot see any particularly viable options at the moment because we have done this deliberately because of course this could be used as a way for people to come here on very short term contracts then buy into the market and then be allowed to keep their houses. So what that leads me to think is that we are going to have to be continually moving towards a more perfect system. I think what we have got here is just transitional and I think that, in the long term, it is not viable to have all these different segregations of accommodation in the Island. I think what we will move to logically is a work permit system where we control who comes to Jersey and once you are here as long as you are allowed to live in the Island then you get equality of arms with everybody. If you can come to Jersey then everyone gets treated the same and if you cannot come to Jersey then that is not an issue. These are obviously the complications of living in a small Island, wanting to remain as open as possible, not to have excessive red tape but also wanting to be able to control finite resources. I think that in this sense Senator Le Main and I have the same concerns but there is not an easy solution because we are having to deal with what we have inherited.

The Bailiff:

Apologies because I had seen you before Deputy Tadier, Senator Le Gresley.

3.6.3 Senator F. du H. Le Gresley:

During the debate on the preamble to this law I noticed a number of Members welcomed the security of tenure rights being transferred to registered people for the first time but there seemed to be an indication that this would be available within lodging houses and private houses. I would be

grateful if the Minister could confirm absolutely that this would only apply to a self-contained unit, which is classified as a residential unit under the Residential Tenancy (Jersey) Law.

The Bailiff:

Senator Le Main, you have already spoken, Senator, so I am afraid you cannot speak again. Does any other Member wish to speak? Very well, I call upon Senator Routier to reply.

3.6.4 Senator P.F. Routier:

Senator Le Main obviously has a lot of experience of dealing with the situations, hard decisions that we have to make with regard to J-category decisions. He particularly raised the issue of somebody who had come here with a 3 year contract and buys their house, but they would know that if they bought their house that they bought that under those conditions; that if they lost their job they would go into that knowingly and openly and that is what the situation would be. But the Senator also knows that if there was a particular hardship case with regard to a family with children that there is the ability, which will follow through into this law, for the Minister to make a decision on hardship grounds. But if somebody comes here openly and knowingly that they have got a 3-year contract and they would need to leave after that; that is a decision that they make. It is hard, I understand, that is what our legislation is but with the proviso that there is the ability to make a hardship decision by the Minister, I believe that it is the way to go. This has been verified in the H.R. (Human Rights) audit as being something that is appropriate to have within the legislation so I believe that that is the way we are going forward with this. Deputy Tadier also highlighted similar issues about our Jersey position with regard to housing, and people owning houses and moving out. People owning houses, how they live in them or not, is a decision for them. What we are interested in is how they are occupied. It is who lives in them is what we are trying to have a view on and control over. So if somebody owns the house and lets it to somebody else, as long as it is an appropriate person to live in the house; if it is a qualified house a qualified person needs to live in it. As Senator Le Main says: "They could leave it empty." The point, which Senator Le Gresley made about security of tenure (which I am very pleased that this is coming forward within this legislation) does just apply to self-contained units. There is a description, which the Senator has highlighted in the Residential Tenancy (Jersey) Law, that people have to have a separate door and kitchen and all the various things, which give them their own privacy so that it is a unit that is able to be a lease attached to it and that is what follows through into this law. I maintain the Articles, Sir.

The Bailiff:

All those in favour of adopting Articles 18 to 21 kindly show. Those against. They are adopted. We come then to Part 7 and there is an amendment to Article 25, so may I suggest you propose Articles 22, 23 and 24, Senator?

3.7 Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):

Yes, Sir. One of the criticisms of our existing R.U.D. (Regulation of Undertakings and Development) (Jersey) Law is that often it is not clear when an undertaking exists and how it should be treated. This law creates an amount of uncertainty for everybody. A further criticism is that the R.U.D. (Jersey) Law captures very small activities or those without any real impact on immigration, for example locally qualified persons working one evening a week, or entities wholly administered by licensed businesses. Such regulation is impractical and unnecessary. Another big issue with the R.U.D. (Jersey) Law is that it is difficult to enforce. This law will remedy that. Finally the opportunity has been taken to update the current legislation affecting hawkers and non-resident traders. If adopted this law will result in the repeal of the Hawkers and Non-Resident Traders (Jersey) Law. All licences issued to such individuals will now be subject to controls in this part of the law where relevant. Apart from streamlining and updating the licensing process

affecting such traders, the particular difference is that offering to buy goods and offering to sell goods in public places are now brought into the law. So for example, people coming to buy gold or something like that, they will now need to have a licence. Article 22 in particular revolves around business premises, so business premises are defined to include a person's place of residence if they use their home in connection with their business activities. This is a similar situation to the R.U.D. (Jersey) Law. Article 22 refers to payments of any type of remuneration including any commission or benefits in kind offered, and any rents and receipts for the provision of accommodation. Article 23, when we were discussing this in earlier consultation we were told that there needed to be a clear definition of the word, "undertaking" and I believe we have come forward with a very clear definition now, which makes people aware what trade or businesses need to have a licence. Paragraph 4 talks about physical presence. It makes it clear that to be carrying on an undertaking in Jersey, what is important is that the undertaking has a physical presence here. It is irrelevant whether an undertaking has an address in Jersey or operates from a business address or from a dwelling house provided it has a physical presence. It is also irrelevant whether the activity being carried on by an undertaking in Jersey is ancillary to any trade or business being carried on by the undertaking outside Jersey. Paragraph 7, for the first time the States is to be subject to regulation. The States Administration will be treated as a single undertaking for manpower purposes. Parishes, States trading operations and any States-funded bodies, for instance the J.C.R.A. (Jersey Competition Regulatory Authority) will all be requiring a licence.

[15:15]

Article 24 makes it a requirement to have a registration card when anybody is commencing new work. The Article therefore defines new work and, in doing so, deals with such matters as contracts of employment, breaks in employment, working for related group entities and the intention is for it to be clear as to whom a person works, so that it is clear that you must have a licence. You must make the return and who and when the card needs to be shown confirming that the person has the appropriate residential status. Sir, I propose Articles 22, 23 and 24.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on any of those Articles? Very well, all those in favour of adopting those Articles kindly show. Those against. Those Articles are adopted. Now there is an amendment lodged by the Chief Minister himself for Article 25. Will you be wishing to propose this as amended?

Senator P.F. Routier:

If I may, Sir, yes.

The Bailiff:

I will ask the Greffier to read the amendment.

The Deputy Greffier of the States:

On page 80, Article 25, (a) for paragraph 3 substitute the following paragraph: "(3) Subject to paragraphs (4) to (7), an undertaking, which does not have a non-resident trading licence, does not have an appropriate licence if (a) there is any significant change in the ownership of the undertaking after the date that this Article comes into force (b) more than 60 days have elapsed since that change took place and (c) the person carrying on the undertaking did not make an application by the date of the expiry of that 60-day period for the grant of a licence or, if such an application was made, it was withdrawn or, under Article 26(7) treated as having been withdrawn." (b) for paragraph (10) substitute the following paragraphs: "(10) The Minister may by order (a) amend any expression of time referred to in sub-paragraphs (b) and (c) of paragraph (3), (b) amend paragraphs (4) to (7) in respect of the circumstances in which there is deemed to be a significant

change in the ownership of an undertaking for the purposes of paragraph (3). (b) (11) The States may by Regulations repeal paragraphs (3) to (7), (10) and this paragraph.”

The Bailiff:

I invite you to propose Article 25 in its amended form.

3.8 Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):

This Article makes it clear that an undertaking must have the appropriate licence to operate. It also clarifies circumstances in which a licence can become invalid. Paragraphs 3 to 7 talk about the beneficial ownership. Since around the year 2000 new licences have had beneficial ownership clauses attached as a condition on their licence. Such a clause requires the owners to seek permission every time the business or part of the business is sold. This policy provides government with a means of preventing persons who would represent reputational damage acquiring undertakings or more commonly, deters person who otherwise might buy a business so they can move to Jersey and to work. The amended Article outlines the significant change of ownership in an undertaking means a licence is no longer valid and therefore the significant change of ownership needs to be approved. The licence ceases to be valid after 60 days unless the application has been made. Paragraph 4 describes what constitutes significant change in respect of companies. No permission is required where the ownership changes between entitled, or entitled for work, or licensed persons. Any person or company ownership that results in the company ownership of the business falling below 60 per cent does require permission. Listed companies do not need permission. Paragraph 5, an undertaking listed on a recognised stock exchange is exempt from ownership controls as it would be impossible to control such change of ownership. I think I will leave it at that, Sir. I propose the Article.

The Bailiff:

Is Article 25 seconded? **[Seconded]** Does any Member wish to speak on Article 25? Deputy Jeune.

3.8.1 Deputy A. E. Jeune:

What I do not quite understand is why we are allowing as many as 60 days for somebody to give notice that they are taking over a business? I would have thought that if you were taking over a business, in order to be able to know that you can continue more than 60 days you would want to get it in rather quickly. If not, certainly you have made inquiries before you can take over the business. So, why is one allowed up to the 59th day to put the application in if it is a 60-day limit? Surely that is rather a long period of time and if perhaps the Assistant Minister could explain why it is 60 days. Thank you, Sir.

The Bailiff:

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

3.8.2 Senator P.F. Routier:

In consultation we had with the Law Society and with a number of the business community, they represented to us that 60 days was a more appropriate level to use. I think they had a valid case but we did originally propose a lot shorter time, and it was to do with their procedures really within the legal organisation to do that. I hope that answers the Deputy’s question.

The Bailiff:

All those in favour of adopting Article 25 kindly show. Those against. Article 25 is adopted. Do you wish then to propose Articles 26 to 39, Minister?

3.9 Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):

I would love to, Sir. Article 26 sets out the process for a grant and duration of licence, it gives the Minister powers to grant a licence with or without conditions, or to refuse it. It sets out the criteria that the Minister must take into account when deciding whether to grant a licence. These relate to various matters promoting the interests of Jersey. The Minister is able to set a fee payable by anyone submitting an application for a licence. Anyone who breaches a licence condition is liable to a term of up to 2 years imprisonment and an unlimited fine. I will just focus on paragraph 9 of Article 26, in order to provide clarity to applicants the criteria that the Minister must consider when deciding a licence application have been updated and are now included in the law as opposed to being addressed in policy statements as is currently the case. So the criteria include the current ones under the R.U. D. (Jersey) Law but they have been expanded to include relevant policies of the States, i.e. policies, aims, contained in the Strategic Plan, and whether the grant would be in the public best interest. In addition with regards to the issue of hawker's licence a fit and proper person test is included. The Minister will be required to decide an application on balance with reference to these factors. Article 27 states that a condition of all licences with a maximum number, which could be nil of registered or licensed employees that may be engaged. No permission is required for entitled or entitled to work individuals. This will be administrative saving both to employers and government, and a major improvement. I would like to really enforce that because businesses just employing local people will be able to take them on whenever they so wish, as they currently have to make an application. This Article also requires that a description of the roles undertaken by licensed employees to be included. Furthermore, conditions can be attached with regards to licensed or registered individuals, and a requirement for periodic review of business licences. In these ways licences can be made specific in a particular way so they are able to attach things to the licence and to review them. Article 27, paragraph 2 gives the Minister specific powers to place conditions on a business licence over and above the general power to place conditions on a licence granted in the previous paragraph. The type of condition that can be added is listed, such as the ability to specify the accommodation to be occupied by a licensed person. These conditions are similar to those, which the Minister can apply currently to licences issued under the R.U.D. (Jersey) Law, where an employee's name can be named on the face of a licence. Article 28 deals with the additional requirements placed on hawkers and non-resident traders for public safety and public order reasons, for example that a hawker will carry his licence on him at all times. Articles 29 and 30 provide powers to review or vary licences and to revoke licences. These are important new provisions, which will assist the effective management of the new business licensing system with compliance. A variation of a licence cannot result in a post holder in losing their employment. Licence holders themselves can apply for variation or revocation of their licence, or the Minister can revoke the licence where, for example the licence is of significant detriment to the interests of Jersey, thus providing some reserve power. Rights of appeal obviously will exist and notice is required. Article 31, this Article makes provision for annual charges to be paid by the undertaking for a business licence in respect of each licensed person working for it. Consultation will take place on the level of the fee over the next year or so, however it is felt appropriate that a charge to be levied on licensed personnel who tend to be the higher paid will be appropriate. Income received will go towards the administration costs involved in managing the law. The Article also makes provision for the States by regulation to make provision for a similar charge to be levied on registered persons. Article 32 carries forward into the new law the current obligation placed on businesses, to submit manpower returns. However, the new provision will deliver a full listing of employees for each undertaking as opposed to the current system where the employer only records the total number of employees in each category. The current system makes checking licence compliance very time consuming and difficult, whereas under the new system compliance with licence conditions can be easily checked. This goes to the heart of having a more effective system. Article 33 provides the Minister with the necessary powers to delegate his compliance powers, under the Articles that follow, to others to act on his behalf. For example, the Minister may appoint officers from the Population Office or from the Social Security Department or from Customs or

Immigration, as compliance officers in general to assist on specific occasions like to perform checks at the harbour. This will be really effective in the administration and compliance. Articles 34, 35 and 36, these 3 Articles give the compliance powers to those enforcing the business licensing controls put into place by the law. The power to obtain information has been clarified and extended in the new law to provide a specific power to obtain information from persons generally. These powers will be more effective in ensuring compliance.

[15:30]

Article 37, this Article introduces a new power, which enables the Minister to serve notices requiring cessation of an unauthorised activity. The lack of a power to serve cessation notices in the current R.U.D. (Jersey) Law has limited the Minister's ability to control those businesses that operate either without a licence or beyond the authority of their licence. For example, when an unlicensed activity is identified under the R.U.D. (Jersey) Law the unlicensed undertaking may well have left the Island by the time the prosecution eventually takes place. In contrast, the new law will enable the activity to be ceased immediately. Article 38 requires the Minister to keep a public register of each undertaking granted a licence under this part of the law. Currently no such register exists. The intention in creating such a register is to confirm to any interested person, especially someone considering entering into a contract with the undertaking, that a licence has been issued. The register will be online and available. Article 39, the application of this Article to certain offices provides that the business licensing parts of the law do not apply to any Member of the States, Judge, Jurat or Royal Court Commissioner acting in his or her official capacity. Sir, I propose Articles 25 to 39.

The Bailiff:

Are Articles 26 to 39 seconded? **[Seconded]** Does any Member wish to speak on any of those Articles? Deputy Le Hérissier.

3.9.1 Deputy R.G. Le Hérissier:

I cannot find the financial statements, I wonder if the Minister could say how much of the law will be financed by fees. What is the estimate, 20 per cent, 30 per cent, 40 per cent? Thank you, Sir.

3.9.2 Deputy T.A. Vallois:

Article 26 particularly concerns me and I am wondering if the Assistant Minister could explain, when the licences are conditions by the Chief Minister, will he be taking into account the licensing laws, which are under the statutory obligation of the Minister for Economic Development when looking at these licences? Because the move over, when this legislation comes into force for the Regulation of Undertakings there are already businesses obviously with licences under the Regulation of Undertakings and Development (Jersey) Law. I know from personal experience and the problems that we have had with particular licences, I was wondering what is going change with regards to enforcement of breaking conditions on licences? I know the complications that have come about within Economic Development of that. I was also wondering whether the licensing unit that is under Economic Development, whether any of those staffing areas will be moving to the Chief Minister's Department in order to compensate for the enforcement with the Population Office, for particularly Article 26? Also in the report, when it talks about this particular Article it talks about an economic test and I was wondering whether the Assistant Minister could advise what the factors will be to determine this economic test, and whether there will be any form of supplementary guidelines to put in place that will be put under regular review or whether that will be part of the up and coming Economic Growth Plan, which will be produced by Economic Development? Thank you, Sir.

3.9.3 Deputy D.J. De Sousa:

I wonder also in his summing up, if the Assistant Minister with responsibility for proposing this will clarify about existing businesses that possibly through the recession are holding the business and not operating but will resume in such time as the economic outlook improves?

3.9.4 Senator F. du H. Le Gresley:

I have some concern with Article 31(6), albeit it is something probably for another day, but nowhere in the introduction or the discussion about each of the Articles does it mention this could happen, that an annual charge could be levied for any registered person who is permitted by a business licence to work, which of course will be the bulk of the registered persons who come to the Island. My concern is, is this an enabling law for a new tax on jobs? I trust, and perhaps the Assistant Minister could confirm, that if the States were minded to go this way that there would be full consultation with employer groups such as the Institute of Directors, Chamber of Commerce et cetera?

3.9.5 The Deputy of St. Mary:

I just want to ask the Minister a couple of questions if he could deal with them in his reply. I think it is Article 30 which refers to revoking a licence. I am not quite sure, I have not got it in front of me but I heard what the Minister was saying downstairs, up to 30, is it? Yes. First of all, it refers back to Article 26, paragraph 9 and I have no quarrel with the criteria there that are used for assessing whether a business should be allowed to have a licence in Jersey. But just a couple of questions: one is that if a business was solely here to avoid tax, would that have an impact on the way that the Minister would look at reputational damage? Would that be considered as a reputational damage issue? If I give an example maybe that would help the Minister to explain how this all would work. If a porn T.V. (television) channel was based in Jersey (I happen to know one was a while back, I do not know if it is still here) then would that be considered as bringing reputational damage to the Island or would it fail on any of the criteria in 26 paragraph 9? I think if some people knew that that was here they would be quite shocked. At the time I got a, sort of, hand-off of a reply from various agencies, going back a bit now. Third, which, sort of, wraps them together really (so that is 2 questions which have become 3); if the answer to the first question about reputational damage is: "No, no, no, no, no. It is all right if the business is not trading here," then that does not come under this law at all. The thing with the T.V. channel, which would have had one or 2 people here, it would have very, very few people here; they were not making the films or anything, they were doing, I think, a bit of bookkeeping and pretending, if you like, that the business was based here. So I just want the Minister to unpack those various issues as to how they would pan out in reality.

The Bailiff:

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

3.9.6 Senator P.F. Routier:

Deputy Le Hérissier asked about the financial statement regarding this law. The Minister for Treasury and Resources has challenged us to ensure that this legislation watches its space and its cost recovery and so there will be, as already discussed, some charges made for licences for licensed people, so there will be that. I will just go straight to the question of Senator Le Gresley as well because he has identified that within Article 31.6 there is the ability to raise an annual charge for people who are registered. The position we are in at the current time is that we have identified that there is going to be a charge for licensed people. That fee will be consulted upon during this next year; we need to do that. In saying we are going to make a charge to businesses for licensed people ... I think Senator Ferguson this morning suggested about the Singapore model of people who are coming to the Island, well we should perhaps put the charge on and so that is the intention but it has to be recognised that there is a benefit also for those businesses as well. There are other cost savings within this law which they are going to make through not having to make returns and

all the rest of it on a regular basis. So there is a bit of a cost saving for the businesses as well and a lot of manpower saving for them with regard to administering this law, if it is a big business. There is the intention for licensed people to have a fee and that is going to be consulted upon. We have put in the legislation the ability to set an annual charge for registered people but there is no intention at the present time to use that. But we are trying to future-proof the legislation so who knows if there could be a desire another time that we do want to make the charge but at the present time there is not the intention to do that. Deputy Vallois asked about how existing licences which are operating for businesses will transfer into this new legislation. There is a transition Article within here which moves the existing licences straight through into the new legislation, so they will just carry on as per usual. She also asked about guidelines for the economic test. Obviously when this law is operating we will have to look at what we want to have in operation at that time but they will be available to businesses to know what they need to be achieving to get a successful licence application. That will be available to the community to make a judgment whether they feel that they will get a licence; so there will be some guidelines for that. I hope the answer I gave to Deputy Vallois about the transition of licences is appropriate for Deputy De Sousa, because any existing licences carry through to the new operation, until obviously their licence expires. So, if, for instance, somebody was given a 3-year licence 2 years ago, they would need to be renewing it in a year's time or whenever the transition is. No one has got a licence which carries on for more than 3 years currently, so people will have to make an application when the time is due.

Deputy D.J. De Sousa:

Just for clarification; I was on about an entity that is registered with regulations and undertakings that, for some reason in the current economic downturn, possibly may not be carrying out that entity and may decide to, in an upturn in the economic climate, may decide then to pick that entity up. Will they automatically be carried over?

Senator P.F. Routier:

The licence would reflect the number of staff that that entity had, so if the business has not been operating in recent times it will have made manpower returns to say that it had no staff, so it would need to be in touch with the department to say: "Well, we are going to be re-employing staff." But if local people are going to be employed that should not be an issue really. The Deputy of St. Mary has raised the game by moving us into the world of porn T.V. channels. The test about reputational damage; the example he gave, if somebody wanted to come here to establish a porn channel, reputationally we would decide that that is not possible. If it was declared in the business plan that that is what they were going to be doing they would certainly get a no from me. I do not know the circumstances of the particular case he gave; if somebody came along and asked for permission to employ 2 people to operate a television station, until you knew the content it would be very difficult, but after the event you could look at that **[Laughter]** ... you could be informed to say that there was this going on and you could revoke the licence if you felt that it was damaging the reputation of the Island. I hope that answers the question.

Deputy T.A. Vallois:

The Assistant Minister did not answer my question about enforcement of conditions and whether there will be any movement of any persons from the licensing unit within Economic Development to the Chief Minister's Department to help with enforcement.

[15:45]

Senator P.F. Routier:

Could the Deputy just define which licensing units that could be affected?

Deputy T.A. Vallois:

There is a licensing area within Economic Development that deal with the licensing laws.

Senator P.F. Routier:

Is this alcohol licensing you are talking about?

Deputy T.A. Vallois:

The main licensing laws that are a statutory obligation of the Economic Development.

The Bailiff:

Do you mean licences under the Regulation of Undertakings Law? Is that what you mean?

Deputy T.A. Vallois:

No, there are licensing laws, which there was a *Green Paper* out for back in 2009.

The Bailiff:

The Liquor Licensing Law?

Senator P.F. Routier:

That is liquor.

Deputy T.A. Vallois:

Licensing laws that are part of E.D.D. (Economic Development Department) and there is a licensing area within E.D. that deals with those laws.

Senator P.F. Routier:

For this legislation it would not be affecting the licensing which the Deputy is referring to with regard to liquor licensing. That is not part of this legislation at all. If you are talking about licences which are under the Regulation of Undertakings, which had conditions attached to them, they will be transferring through to the new legislation, so there is no staff that would be attached to a licensing unit that would be moving anywhere.

Deputy D.J. De Sousa:

Just for clarification; what the Deputy is trying to get at is, there is an area within E.D.D. that give out licences for, say, a restaurant takeaway to carry out their business and restrictions are put on that with hours of opening and that sort of thing, not necessarily a liquor licence. There are conditions on the licence that they have to adhere to. Will this move to the Chief Minister's Department and those people who cover that within E.D.D. or will it stay within E.D.D.?

Senator P.F. Routier:

I can confirm that it will stay in E.D.D. It is a separate thing completely; it is nothing to do with manpower returns. It currently is separate from Regulation of Undertakings and it will continue to be separate from Regulation of Undertakings.

The Deputy of St. Mary:

I have a point of clarification also, or really just reminding the Minister that he has not answered one of my questions. If the business was solely here to avoid tax, would that count as a reputational damage issue?

Senator P.F. Routier:

I honestly do not know. I could not answer that question; that would be a decision that would be made on an individual basis. I would need to know the detail exactly of the whole of the business case really. It is such a wide question; I honestly could not answer that.

Senator J.L. Perchard:

I just saw the S.G. (Solicitor General) flashing.

The Bailiff:

I do not know where we are going on this. [Laughter] Can we then come to the vote? Would all those in favour of adopting Articles 26 to 39 kindly show? Those against? They are adopted. Minister, the rest of the provisions would appear to be fairly conventional and routine. Do you wish to propose en bloc and simply take questions?

3.10 Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):

I will be very happy to do that; I will propose them en bloc.

The Bailiff:

So, do you propose Articles 40 to 53?

Senator P.F. Routier:

Yes.

The Bailiff:

They are seconded. [Seconded] Does any Member wish to speak on any of those Articles?

3.10.1 Deputy A.E. Jeune:

Just on Article 48, the Housing and Work Advisory Group. Earlier today the Assistant Minister acknowledged the relevance of Social Security having a political presence in this group, however, I note that there is no inclusion within any of the text here of Social Security other than: "With attendance as appropriate by other Members as invited." Perhaps he could just elaborate slightly on that?

3.10.2 Deputy R.G. Le Hérissier:

Can the Assistant Minister confirm that right of appeal is, indeed, only to the Royal Court; there is no other route available to people?

3.10.3 Deputy S. Power:

Just on the comments, I would just like to observe on Article 48, which is the proposed Housing and Work Advisory Group, in relation to Deputy Jeune's question, I am wondering why the Assistant Minister, given that this was lodged on the 15th of March, did not amend it?

The Greffier of the States (in the Chair):

I call upon the Assistant Minister to reply.

3.10.4 Senator P.F. Routier:

I think that the basis of this legislation was because it was based on replacing the Housing legislation and the Registration of Undertakings Law. That is why those Ministers who have been quoted in the legislation are in there but certainly the intention is and I know for myself and I know the existing Chief Minister, is that the Social Security Minister or Assistant Minister would be part of that group and hopefully possibly some other Members as well. That is why we made it as wide as we possibly can, rather than it being too confined into just sticking to those 2 Ministers. The right of appeal, could I ask the Solicitor General just to respond to that? Is it solely to the Royal Court?

3.10.5 The Solicitor General:

Yes.

Senator P.F. Routier:

I maintain the Article.

The Greffier of the States (in the Chair):

Would all those in favour of adopting Articles 40 to 53 kindly show? The appel is called for on those Articles. Members are in their seats. The Greffier will open the voting.

POUR: 34		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator J.L. Perchard				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				

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

The Greffier of the States (in the Chair):

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

3.11 Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):

Yes.

The Greffier of the States (in the Chair):

That is seconded. [**Seconded**] Does any Member wish speak?

3.11.1 Deputy P.V.F. Le Claire:

Just briefly, I would like to congratulate Senator Routier and all of his team in the Population Office and those at Housing and the Law Offices for doing this work. Obviously it has taken an enormous period of time to get it right, M.A.G. especially obviously having to work on several drafts, something like 20 or 28 drafts, and just to once again thank Senator Ferguson for allowing me to be part of her Scrutiny Panel. I think it is an important first step in the right direction but as it said in our Scrutiny report that the ongoing need for Scrutiny to keep a watch on this as it progresses is not something that we should just give lip service to and I would hope and anticipate that the Minister, while he is progressing these issues forwards and he is reviewing *Hansard* as to the suggestions we gave him, that perhaps he might look at trying to run in tandem not only the advisory panel that he is going to set up with the authority to do this but also in which ways that can be held to account by Scrutiny. So, just to stand once again and to personally congratulate Senator Routier for a sterling amount of work over a very difficult period of time and a very complex issue.

3.11.2 The Deputy of Grouville:

Much the same as my opening remarks when we debated the principles, I would just like to say that, having been on the Corporate Services Scrutiny Panel, I know exactly what this law does and it does not control and I would just like to stand here and say I very, very much look forward to seeing some controls over our population brought forward, because what we have here I can best describe as we still have a queue outside Social Security. All this law does is to identify who we have got in the queue, nothing more than that and I really look forward to some controls, I look forward to looking at protocol 3 and various other measures. I would just like to make that point and I would like to see them come forward sooner than later.

3.11.3 Deputy D.J. De Sousa:

I, too, would like to echo the comments of my 2 previous colleagues who were on the sub-panel with me. This is the bones; now let us see the meat put on it, please?

3.11.4 Deputy T. M. Pitman:

I just want to agree with every word that the Deputy of Grouville said, because I will not be agreeing with anything with her tomorrow.

3.11.5 Senator T.J. Le Main:

I think I ought to say a few words, having been in the thick of it for a number of years. Having worked with Senator Routier and Constable Norman and the Deputy of St. Brelade on this new law, I would particularly like to congratulate Senator Routier and officers for their huge amount of work; it has been meeting after meeting after discussion after discussion. This new legislation will really make a huge difference to everyone and with commonsense there will be some positive outcome out of all this and I very much welcome it.

3.11.6 The Deputy of St. Mary:

I have just a couple of comments, although I totally agree with what the Deputy of Grouville said. One of the issues is people coming in under the radar, so to speak, who would now be, I suppose, in the registered category but coming in under the radar completely non-local with completely no connection to the Island at all, but they are here (for themselves) for very good reasons. Whether that is what Jersey needs or wants is another matter. So, I just want to make a couple of observations which are linked. One is that it might be helpful if we set a much higher minimum wage. I had a conversation with our previous Economic Adviser, John Christiansen, about this. No sharp intakes of breath because he is a good professional economist, and what he said was if you have a higher minimum wage (in fact, at that time he was advocating, I think, a minimum wage because I do not think there was one) first, it is important to have one, and second, it is important to set it at a reasonably high rate because that will lead to better utilisation of labour. It will make you get value out of someone you are paying £8 or £9 an hour, whereas for £6 an hour you can employ people on quite marginal tasks. So, it does do what the Minister for Economic Development is always shouting for, which is increase productivity. If you have higher wages automatically you are going to invest in people; automatically you are going to try and get more value. That, too, might have an impact on people coming in, because why pay £9 for someone from Romania, when you can pay a local £9? I am not saying £9; I am just saying that a higher rate might be part of the solution as we go down this track of controlling work in the Island. Together with that you need compliance; you need someone checking the building sites and the hotels and so on and I do not know that we have heard enough about the arrangements for compliance. Maybe the Assistant Minister will address that in his closing comments. Who is going to police all this regulation? Who is going to make sure that a firm that says: "We have so many employees and this is who they are," that those are the employees at that firm? What are the resources going to be put in to compliance?

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

I have just a few words. I would like to first of all say obviously this is the start of a journey, not the end of it, and there is a lot more work to be done but particularly to place on record my thanks. When I was first elected as Minister for Housing, the Director of Population and the staff and Senator Router were very patient with me, taking me through all the work they have done over the years and I was very grateful for the time they spent with me explaining the new draft law. Okay, we had a slight difference of opinion on one area but I am very grateful for the amount of time they gave me.

The Greffier of the States (in the Chair):

I call on the Assistant Minister to reply.

3.11.8 Senator P.F. Routier:

I was not anticipating a long speech for this bit; it will not be. I really just want to thank everybody who has been part of getting this legislation to where we are. The previous M.A.G. members who set out on this route ... I was a part of the original group many years ago but I just want to pay a real special tribute to the team who I have been working with over the last 2 and a half years. The team at the Population Office, the Director of Population, and I will mention by name Melanie Cavey as well, the law officers and especially the law draftsman, Liz Walsh (she has been absolutely fantastic in the way she has carried out her work, it has been exceptional). **[Approbation]** With regards to some of the comments which have just been made; I do believe that what we have before us today is a far better law than we had previously.

[16:00]

It will enable us to make clearer decisions about when people come to us to set up a business and they want to employ people or they want to take on new staff, whether they be immigrants ... we will be able to have that information to know exactly how that decision should be made. I am sure, with the assistance of the Advisory Group, those decisions will be made in an even-handed way. I think we have had a long debate about where it should sit but I believe we have come to the right decision but as I say with the assistance of the Advisory Group we will be able to make those decisions correctly. The Deputy of St. Mary made the point that he still could not see how the compliance was going to happen. The system itself is going to achieve so much compliance. With the returns from income tax and the returns from social security, which are done on a very regular basis; with that information we will know about those people, whereas previously, with the administration of the decision-making process, some of the decisions were being made blind. Now we will have that information and we will be able to make far better decisions. I maintain this in third reading and I have to say it has been an absolute privilege to have been part of leading this forward. It has been a wonderful team to have worked with and I thank them all.

The Bailiff:

The appel is called for in third reading. Members are in their seats. The Greffier will open the voting.

POUR: 42		CONTRE: 0		ABSTAIN: 0
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				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				

Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				

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

The Bailiff:

Just before we move to the next item, the Register of Names and Addresses Law, I can notify Members that Deputy Gorst has lodged an amendment to P.95, the Draft Shops Regulation of Opening (Jersey) Regulations. Members will also find in their pigeonholes a proposition P.121 from Deputy Tadier that relates to a petition, Clos des Sables, that he wishes to present to the Assembly. I will ask the usher to collect the petition. Do you want to say a few brief words, Deputy?

Deputy M. Tadier:

The petition relates to some parcels of land in Le Clos des Sabres. The petition was initiated by residents of that area who have concerns about property holdings and had identified some areas not in Clos des Sabre and Le Quennevais Park for development to which they are opposed, and which I and my colleague, Deputy Power, are supportive of. That is to say we are supportive of the views of the residents (surprise, surprise). Briefly to say I have submitted a report as required in Standing Orders, because I do not necessarily anticipate that will require a debate in the Assembly and I hope to be able to talk to the Minister for Treasury, primarily to the Assistant Minister with responsibility for that area so that we can come to what I think would be an amicable arrangement for all parties involved. I submit the petition.

The Bailiff:

Very well, Standing Orders require the petition to be referred to the relevant Minister (who in this case clearly is the Minister for Treasury and Resources) for a report, and it is so referred. Very well, we come now to the next item, the Draft Register of Names and Addresses (Jersey) Law, also in the name of the Chief Minister, and I will ask the Greffier to read the citation.

4. Draft Register of Names and Addresses (Jersey) Law 201- (P.38/2011)

The Greffier of the States:

Draft Register of Names and Addresses (Jersey) Law; a law to make provision for the establishment of a register of names and addresses of individuals in Jersey for use by public authorities for specified purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

The Bailiff:

Assistant Minister, once again this falls to you.

4.1.1 Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):

This will make everything happen. This law will enable public authorities to share very basic information regarding Island residents and that is specifically their name, address, date and place of birth, date of arrival, gender and Social Security number. The law will also help Islanders in their dealings with the States and help the States become more efficient. It will importantly also mean we have good quality statistics to help make good decisions about many policy matters across the States. No personal data such as health or financial information can be shared; that is because the

law is first and foremost about helping Islanders, providing services to them and helping them to meet their obligations. I stress that the purpose of this law is not to spy on people. It will not create a big brother state; it is to help Islanders with reference to the laws this Assembly has passed and I have to say it is really high time that we could do this very, very basic thing. Simply, if a person changes their address, the fewer forms they will have to complete in the future and the fewer departments they will have to tell, the easier their life is and the more confident departments can be that they can have an up-to-date address. Why, for example, when someone tells the Population Office of their new address, should the D.V.S. also not be told, or the Income Tax, or Social Security departments or, indeed, the parishes. The same applies when someone first arrives in Jersey and registers with one department but does not go on to tell others when it is really their duty to do so. In turning to perhaps things which are on an anonymous basis; the register can also be used for statistical purposes so that we have as full a record as possible of the population of the Island at any time, including how old they are, which parish they live in, when they arrived, when they were born and matters like that. This will tremendously help the Assembly in our decision-making. As to where the information on the register comes from and how it is maintained; the Minister is able to obtain registerable facts (and that is the registerable facts only) from anywhere else in the States, although as this law has been developed alongside the Control of Housing and Work Law, it has always been the intention to use the processes and systems under that law to administer this law. In that way, the law itself comes at no extra cost in terms of collecting and maintaining the information. Members will note I have only used the small set of examples of the use of the register, mainly centred around the population office, income tax, social security, D.V.S. and the parishes. This is because these departments either provide services to customers or place obligations on Islanders to make notifications or returns. The law does not say that any public authority can use registerable facts for any purpose. Should a public authority wish to use the information for a purpose which is not statutory and that does not help an individual, they would need the Assembly to approve a regulation authorising such a use. For example, if the Health and Social Services Department wanted to use this information for the purposes of conducting a cancer-screening programme, the States would need to approve that purpose. I should say that no public authority is compelled to use the register. The Ministerial Departments will use the information as part of creating a more streamlined approach to our customers but, for example, it will be a matter for each parish as to whether they wish to participate. As an Assembly we can also, after consideration, add other public authorities by regulation, perhaps, for example, the Viscount to assist them in executing judgments. In this way we have a narrow primary law limiting uses but one that can be expanded over time through States decisions. This, I believe, is a sound principle and one that meets data protection requirements and protects Islanders by requiring a democratic mandate as to how the States shares and uses their data. One further protection is that an independent commissioner is established. In an age where data security is paramount, this person will report on the security arrangements in place to ensure confidentiality, integrity and to respond to complaints from Islanders. The Commissioner has powers to obtain any information they need and must report to the Minister at least annually and the Minister must lay this report before the States. These are transparent and independent controls, which is right and proper. No additional costs are envisaged in achieving this as the existing Data Protection Commissioner, with whom we have consulted heavily, has agreed to undertake this role. Finally, Islanders can also have access to their information on request so that they can check that the data being maintained is accurate. This legislation that establishes the register is of real benefit to the Island and also to the States. I propose the principles.

The Bailiff:

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

4.1.2 Senator F. du H. Le Gresley:

I may have missed it somewhere in all the paperwork but the Home and Affairs Department and in particular the police, would they have access to this register?

4.1.3 Deputy A.E. Pryke of Trinity:

I will just be brief and follow-up what the Assistant Minister said about the health benefits. I take Islanders' health very importantly, as you know, especially in health promotion. The proposed register will have benefits in this regard and especially the 2-screening programmes (for breast screening and cervical screening). As you know, these take a central role in preventing ill health. We do not, as at present, know where people live (addresses or dates of birth) and we simply cannot always send a letter inviting them to cancer screening at the right age. If this does go through then my department will seek permission from this Assembly by way of regulation to access the register for health screening purposes and a data protection commissioner is assured that using the register in this way would fit into current data protection.

4.1.4 The Deputy of St. John:

I know this goes back to P.25 or 205. If I recall, then the concerns were that this was part of big brother and I have to ask how safe ... we have heard earlier on this afternoon about other information going to be held by the Chief Minister's Department. We see other parts of the world where entire blocks of supposedly safe information where the next thing we know they are sold off to unscrupulous people who use that information. We need to know that there are sufficient firewalls in place, because if people can get into places like the Pentagon or things put on sticks and left on trains as happens in the U.K. where very sensitive information gets into the public domain ... and we are for ever reading about this. It sounds to me as if one department to another will be exchanging information. Within the firewall system (and I do not know sufficient about computers and the like, although I can just about do my emails), I have got concerns that big brother, with all this information; some of this stuff will be getting out through somebody, for instance, who may be a whistleblower. We saw somebody's bank details in Switzerland recently; the entire section of a bank's portfolio was given to the media. I do worry that a little Island like Jersey may not have all the necessary checks and balances. Only this afternoon I went into an office and an officer was testing Windows 2007, because Windows 2001 or 2002 that is in use was being updated. I know that we are a few years behind in getting things in place but I do worry that by having so much sensitive information in one place (and I can see the Senator in the back row shaking his head), I am a little bit sceptical and have real worries about this and I hope the Minister can put my mind and possibly others' at rest in the way forward that this is going. I think I have said sufficient.

[16:15]

4.1.5 The Deputy of St. Mary:

I am glad to follow on from the Deputy of St. John because on this occasion I think we are singing from the same song sheet. Half of me says: "Hurray, at last a tool for all departments to make life easier, to make life more efficient," and I would imagine there would be administrative savings in here somewhere but I am alarmed in a sense in the same way that he is, particularly when I read under financial and manpower implications that the law will not have any. That is somewhat surprising when we are talking about setting up a database with 90,000 records, all of which might and will change and be used by multiple users who will have to have clearance as to their access to it and when they can access it and when they cannot access it, so I would have thought that that would be a considerable cost. As I said, it might lead to savings elsewhere in the government apparatus but I would have thought that setting up the register itself must entail a cost, in particular the security aspects. As the previous speaker said, I doubt if our security protocols are like the Pentagon's and yet they were hacked and any number of agencies were hacked and so on. So, the security aspect is very concerning and it would be good if the Minister could clarify that. In the financial and manpower implications it talks about: "A dedicated commissioner to support

integrity. In this way the obligations of this law do not increase costs.” I just do not understand this because if you are setting this up there must be some costs and I think we are not being told quite the whole story. That is my first question. The second question is when does the Minister envisage this being complete? The first half of me at the beginning of what I said thinks this is possibly a wonderful idea and it might be useful, so when does the Minister envisage the register being complete. My understanding is that it is additive; your name, your address, your age and all the rest of it only goes on here when you do a transaction which involves ending up on the register. So, how many years is it going to take for the register to give us the information that the Minister said it would give us in terms of informing our decisions and knowing how many people there are who are 72 or knowing how many rising-5s there are for entrance into school and so on? That is the second question. The third question is the relationship to voter registration. When are we going to see this register used in that connection so that at last everyone who lives in Jersey who is over 16 is automatically on the voting list, including a notation of whether they are disabled in any way so that they might need a home visitor to facilitate them voting or whatever; some kind of annotation. So, what is the connection between this and voter and registration? The last question is possibly a minor matter but it affects probably a lot of people. Will this see the end of having to fill in on forms like the Income Tax form, information that the Income Tax office knows already. It does annoy me when I fill in my name, my address, my wife’s name; all this stuff which they know. I just wonder whether this will be a cure for this waste of my time and lots of other people’s time or whether that will carry on just the same.

4.1.6 Deputy A.K.F. Green:

I am perhaps less concerned than many on this because to me most of this information exists now but it sits in different silos in different departments. All it is doing is allowing different departments to access the bits that they need, for example, if a department wants information that only requires the name and address then they can only get at the name and address. Much of that information, let us be honest, is in the telephone book or whatever now. It will be as secure as the current system. I do not think people need to worry about it but I can tell you and I am sure that most Members know, how incredibly frustrating it is, for example, when my son came home from his special school in the U.K. and I had to traipse around department to department to department filling in similar forms, giving the same information; and hopefully this will be prevented with this sort of system. [Approbation]

4.1.7 Deputy T.A. Vallois:

Could the Assistant Minister, in terms of transparency, explain whether there will be any obligation upon departments to ensure there is some form of register, so that the public will be able to identify what is and is not a statutory requirement of a department, because there are statutory requirements of departments and also discretionary requirements and if a department is saying something to one member of the public that it is a statutory requirement and then it is to somebody else saying no, that it is not, it can become extremely confusing for that individual. So, I would like some clarification on that, please?

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

My question is about the appeals process with information on this database, in that whenever you are dealing with databases when you input the data you have got to question how it is keyed in. For example, if a name is spelt wrong, if an accent is missed off, how do you challenge that? Obviously you would only want access to your own personal information, you would not want to see anyone else’s but I am interested in when information is input into computers there is always the chance and it always happens that something is input incorrectly and there has to be some way of being able to remedy that.

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

This has been touched on before. Basically I would like to know what safeguards will be in place where an officer, for instance, in one department will be able to interrogate the system and gain information on anyone living in Jersey. For instance, my own department of D.V.S. holds information on car registrations, names, addresses, et cetera, but there is an obligation of sorts. If there is a collision, information will be given to, say, an insurance company and such like, but this is obviously strictly limited. Basically, I would just like to know what is in place to prevent information going astray; what security systems are there?

4.1.10 Deputy M. Tadier:

To address some of the concerns that have been raised by the Deputy of St. John and others to do with the big brother state, what I would say is simply that if we do live in a big brother state (I am not saying we do) then this information does not make any difference because if sections of society ... we know in the past States Members have had files kept on them for good or for bad reasons, that was done anyway. We will never be in a position to know when and if we are being watched, because the police can make applications to monitor you if they have good reason and of course the response when you ask would be neither confirm nor deny, because that information cannot be given out. So, if the Deputy is concerned that he is being monitored incorrectly, this database will not change anything; they will carry on doing that. That is why we speak to them when we are on the phone, Deputy; that is why we say: "Hello," to them when we are having private conversations just to let them know that we know that they are listening to us (of course if you buy into that kind of conspiracy). I found some of the arguments strange because surely if we want a database it has to be centralised. The Deputy said that he had concerns about all the information being in one place but presumably the information needs to be in one place to access it. I had these images of the department acting like a squirrel and squirreling away little bits of information in different places where they cannot find it which is of no use to anybody. Also, I hope that in summing up the Assistant Minister will make a comment because it seems to me that no system which deals with information is entirely secure; it cannot be. I think the other concern raised by the Deputy was what kind of safeguards are there in place to stop some kind of hypothetical rogue employee who wanted to access information and make it public or misuse that information, from doing so. Of course there are probably technological monitoring ways that a department could make sure that their staff are not accessing and misusing information but in an extreme case where somebody wanted to access information and publish it on a website, other than criminal proceedings there is nothing to stop that person doing it. So, I think these are issues which generally affect modern society; the use of the Internet and the very small minority in often hypothetical situations which can misuse and contravene and circumvent security. I think we have to legislate for what are the most likely scenarios and that there may be some scenarios which are so freakish and so hard to legislate against that we cannot do that.

The Bailiff:

Does any other Member wish to speak?

4.1.11 Senator T.A. Le Sueur:

While I accept and respect people's need for security and making sure that we have the proper procedures in place, I do think we need to get a sense of proportion over this. We are, I think, straying on to the Articles themselves but the facts to be held in this central database are very basic facts: name, address, date of birth, gender, social security number. That information is probably already held by 10 different departments in 10 different organisations and all this is doing is ensure that that information is collated in one place. It does not go into details of people's blood groups and health difficulties or any disabilities and it is to be used only for statutory purposes, so I think we have to give a sense of proportion to what this law is intending to do, and that is why I go back

to the principles which we are still discussing which is to establish a register of names and addresses for use by public authorities for specified purposes.

The Bailiff:

Does any other Member wish to speak? Very well, then I call upon Senator Routier to reply.

4.1.12 Senator P.F. Routier:

I am grateful to the Chief Minister for focusing on what is exactly the information that is been talked about; the registerable facts, because it is a very basic set of information. The first question came from Senator Le Gresley to ask about whether the police would have access to this. No, they will not, because they do not have any statutory responsibility within this legislation at all. They have no access to it at all. If they were wanting to, they would have to apply to this Assembly through regulation to have that ability to have access to it. The Minister for Health, I think, welcomed this legislation because it will enable various screening programmes and I think that is one of the real benefits of what we are proposing today; that we will have those sorts of benefits for our customers. The Deputy of St. John has, I think, some concerns and needs to be assured that big brother is not out there and sharing information inappropriately and gave some worrying concerns about bank details floating around on the Internet, et cetera, but this is not that sort of information at all. What we do have is the independent Data Protection Commissioner who will be reviewing all the arrangements. I will pick up on the issue that Deputy Maçon made at the same time; if anybody sees that any information that is on the register is incorrect, they approach the Data Protection Commissioner and the Data Protection Commissioner tells the Minister to change the information, that has to be done. There is a concern that the information may not be secure. All, I think, we can do is to give an example of what we currently have; our Social Security Department. Our Social Security Department looks after our information very securely. Can you recall a time when that information has become an issue? I think that they have a very, very good record of ensuring that information is kept securely. Of course information within the department is not available to every member of staff; it is just certain levels of members of staff who will have access to certain levels of information. So, it is not something which is going to be freely available to all. The Deputy of St. Mary was concerned because he thought we were not being told the full picture about the costs of this system. The cost of the system was in the previous law that we have just approved. Everything was going to be covered in the previous control of Housing and Work legislation.

[16:30]

All this piece of legislation does is to enable the sharing. The costs were involved in the previous piece of legislation. As far as any costs involving the Data Protection Commissioner; we have been told that she will be able to fit that in to her existing workload so that is an assurance we have been given. He also asked when it will be complete. It will probably not ever be complete because it will be an evolving, dynamic register. I do not think you will be able to say on one day: "This is it," because as he is well aware, the population ebbs and flows. So, we will find that this dynamic information will be what it is. The Deputy spoke about when it is going to be used for voter registration; well, I am afraid that is beyond me at the present time but obviously if we have this data-sharing information, if we want to use it in a future stage for enabling that sort of thing, all well and good. Deputy Vallois was speaking about the statutory requirements; that it needs to be clearer which departments have what statutory rights. Every statutory right is based on a law. Access to laws is something that we all need to be able to better than we currently do. They are available out there; they are on the legal information website. All the laws are there so if there is a challenge to be made, that is the place to check if there is a statutory provision for it. Deputy Lewis was asking about the integration of the information; whether people can interrogate across departments. The only thing that can be shared is the names and address register; I think the

example you gave was insurance in the D.V.S. and whether that can be seen by somebody at Social Security. That cannot be seen at all at Social Security; that cannot be seen at all. It is focused solely on names and addresses. Deputy Tadier talked about the rogue employee; well the States have very, very strong employment rules about what employees can and cannot do and I would anticipate that they need to be brought to account if anybody were to break those rules. I can say no more than that really. I think that probably covers everybody's points and I maintain the principle.

The Bailiff:

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

The Deputy of St. Mary:

Crumbs, it is only the register of names and addresses. I have felt that one of my questions was not answered by the Minister. He jokingly said that the register will never be complete. Well, clearly, it will never be perfect but I still ask him, in view of the fact that it is created bit by bit, when will he think that it will be good enough to guide policy decisions. When will the information be good enough to guide policy decisions?

Senator P.F. Routier:

I should imagine fairly soon, because the information will be collated across the various departments. I think as soon as we go live in 12 months' time, there will obviously be a good volume of information there. But as I say it is an evolving register, which we will have to look at all the time. As people use services ... there may be perhaps someone in our community who there is no record of in any department, but eventually they will use a service and we will get to know them. But those people are going to be very few and far between if you really think about it, because the people who go to the doctor, the people who use pensions, there are so many things with which people interact with our Government that they will be known.

The Bailiff:

Very well, the appel is called for then, in relation to the principles. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 47		CONTRE: 1		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy of St. John		
Senator P.F. Routier				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				

Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				

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

The Bailiff:

Very well, now this matter has already been reviewed by Scrutiny and therefore I will not ask the Chairman whether she wishes to refer it again.

Senator S.C. Ferguson:

We may want to have another look at it. [Laughter]

The Bailiff:

The other matter, just to be clear at the beginning, Deputy Power, it just seems to me your amendments fall away; the debate took place on the last Bill. Thank you very much. So then we come to Article 1 where there is an amendment lodged by the Chief Minister himself. I will ask the Greffier to read it.

5. Draft Register of Names and Addresses (Jersey) Law 201- (P.38/2011): amendment (P.38/2011 Amd.) – comments (P.38/2011 Amd.Com.)

The Deputy Greffier of the States:

Page 13, Article 1: (a) number the existing text as paragraph (1); (b) for the definition “public authority” substitute the following definition: “public authority means any of the following (a) a Minister, (b) a parish.” (c) after paragraph (1) insert the following paragraph: “(2) The States may by Regulations amend the definition ‘public authority’ in paragraph (1).”

6. Draft Register of Names and Addresses (Jersey) Law 201- as amended (P.38/2011)

The Bailiff:

Assistant Minister, I invite you propose Article 1 in its amended form.

6.1.1 Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):

This is an interpretation clause. These are largely self-explanatory but I just highlight a few. For the purposes of this law an adult is defined as someone over the age of 16, although minors under 16 will have their details recorded on the register, they will have no personal duties to this law to provide the information until they are 16. Parents or those responsible for minors will carry that duty out on their behalf. The Minister for the law is the Chief Minister and as we have already discussed today this decision is that this register is designed for use as a central corporate tool and therefore it was thought appropriate that the Chief Minister is a responsible Minister under this law. This is quite clearly a central register of names and addresses and I propose Article 1.

The Bailiff:

Is Article 1 seconded? [**Seconded**] Does any Member wish to speak on Article 1?

Deputy P.V.F. Le Claire:

That is as amended, is it?

The Bailiff:

Yes, as amended.

Deputy P.V.F. Le Claire:

It did not seem to me that there was an explanation as to why there was an amendment.

The Bailiff:

No doubt the Minister can deal with it in reply. Does any other Member want to speak on Article 1? Senator Le Gresley.

6.1.2 Senator F. du H. Le Gresley:

I must confess to being a little bit confused because I am sure I heard the Minister say earlier that he would like the Viscount's Department to have access to this register and yet this amendment is designed to remove certain departments of the States, including the Viscount's Department so I am a little bit confused.

6.1.3 Senator B.I. Le Marquand:

I have a similar confusion because the Assistant Minister did earlier say that it would be possible for the police to gain access to this provided that there were regulations but as I read the amendment, which is now down to a Minister or a parish, that would not include the police because the police do not operate under delegated powers from the Minister for Home Affairs. Paradoxically, it would include the Customs and Immigration Department who do operate under delegated powers effectively as part of the administration. So I am not sure, with respect, it has been very well thought through as to which groups should be in and which groups should not be in. I am not sure how I am going to vote but I am merely highlighting that there is a problem here because once something is not a public authority it then does not fall within the ambit of Article 5(1) or 5(2) which are the 2 subsections that I have found so far which deal with access. I may have missed something but if it is 5(1) and 5(2) only which give access then only public authorities could, and in my view the police now could not. Whether or not that was the intention I know not.

The Bailiff:

Does any other Member wish to speak on Article 1?

6.1.4 Deputy P.V.F. Le Claire:

Could we seek clarification from the Solicitor General as to this issue, because I did raise the issue that it was not explained by the Assistant Minister?

The Bailiff:

What exactly is the question, then?

Deputy P.V.F. Le Claire:

The proposition has been amended and in the amendment the Chief Minister has sought to remove States Departments as one of the public authorities. A department of the States is now going to be deleted and be substituted by a parish and I am just wondering with this amendment will that affect the other laws in a manner which has been brought out by the Minister for Home Affairs and prohibit the interaction that was earlier envisaged?

6.1.5 The Solicitor General:

I think it is right to say that the police force does not fall under the original draft or the amended version. That is the first thing I should say. The second thing I should say is that if the amendment is adopted then the regulations can be passed which can increase or widen the definition of public authority to catch any other entity that the States see fit. But I agree until such time only those defined as a public authority pursuant to this law can gain access to the information or use the information.

The Deputy of St. Mary:

May I ask also then, does that mean that in the sense that the Minister or his delegates of powers is not going to go and ask to look at so and so's records, so will that mean that there will have to be a whole raft of delegated powers written as soon as this goes through?

The Solicitor General:

No, I do not see that as being right. It seems to me that the Minister is entitled to use the information and there it is. I do not really see how you need to draft delegated powers to accompany that.

Senator B.I. Marquand:

At the risk of disagreeing with the Solicitor General, could I ask him if he could kindly specify where is the regulation making powers which enables organisations that are not public authorities to come in as if they were, because the only power I have been able to find so far is Article 5(2) and that only refers to specified public authorities. Therefore presumably they have to be public authorities already. I may have missed something.

The Solicitor General:

I may have misheard but I understood the amendment, the proposed amendment, included or was to include a power to create regulations and therefore the States has the power to pass regulations defining what is and what is not a public authority. But I quite accept that only a defined public authority may exercise the powers pursuant to Article 5.

The Bailiff:

Yes, just for clarity, the amendment does include a power in the States by regulation to amend the definition of public authority so if there are some gaps presumably they can be filled later.

6.1.6 Senator T.A. Le Sueur:

I would say that this amendment makes the law a bit more flexible than it previously was because whereas in the past it restricted it to a department of the States, whatever that may mean, it could now be any public authority as agreed by this House. So I think it gives the flexibility and resolves the issue with which Senator Le Marquand was concerned. Other than that, I think the other reason for doing this, as the report says, is simply to distinguish between the use of the register in supporting public administration as opposed to the administration of justice. That may be a detail, should it be felt appropriate that a department, such as the Viscount's Department, be included that can be done at any time by regulation.

The Bailiff:

Does any other Member wish to speak on Article 1? Then I invite the Assistant Minister to reply.

6.1.7 Senator P.F. Routier:

I think everybody has spoken and cleared up the issues for me. I think the point I would like to make, the reason the original amendment was made to remove a department of the States is because from investigation there does not appear to be a definition of a department of the States so the law drafters recommended that we change it to that.

[16:45]

Certainly it also, as has been highlighted, because of the ability to bring forward a regulation to amend or introduce a department that gives a flexibility that the law requires. So I maintain the Article.

The Bailiff:

All those in favour of adopting Article 1, kindly show. Those against? Article 1 is adopted. Would you wish then, Assistant Minister, to propose the remaining Articles?

6.2 Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):

Article 2 places a duty on the Minister to establish and maintain a register of individuals, it describes the purpose for which the register is to be established and specifies the specific fields of data that can be recorded. The law is drafted to strictly limit those bodies who have access to the register and also to tightly define the purpose for which they can have access. Paragraph 4 of Article 2 goes on to describe what public administration and customer services means. The definition provided is quite specific and restricts the use of the data. Paragraph 6 and 7 provide that the Minister must make an entry on the register of registerable facts of every individual described by regulation of the States. We have already discussed in Article 8 what those registerable facts are. Article 3, this Article provides how changes will be made to the register data and how individuals may have access to their own registerable facts as recorded on the register. Article 4, this Article requires anyone who has been ordinarily resident in Jersey for more than 3 months to notify the Minister of any change of name by which the person is ordinarily known. Article 5, paragraphs 4 and 5, the Minister is authorised to use any registerable facts providing statistical information to any other Minister for the purpose of assisting with public policy developments and evaluation, and for informing the public about social and economic matters, for example the statistics unit publications. Article 6 includes various provisions dealing with unauthorised disclosure of data on the register by individuals who have access to the register. The severity of the penalty for being in breach of these provisions reflects the potential gravity of any circumstances were the data to be misused or stolen; particularly if it is related to anybody's individual records. The Data Protection Commissioner has been consulted with regards to these provisions and she is satisfied that they provide the necessary safeguards. Article 7 is about the appointment for the Commissioner. These provisions are introduced specifically to deal with the issue of security of the data to be held on the register and to provide Islanders with a reassurance as to how the data will be managed. Paragraphs 6 and 7 of Article 7, these paragraphs require the Commissioner to submit an annual report to the Minister and also permit the Commissioner to submit any other report relating to any matter for which he or she has responsibility as he or she sees fit. Paragraph 8, the Minister must lay before the States a copy of every report he receives from the Commissioner within one month of receiving it. Article 8 allows the making of any regulations and orders and Article 9 provides for the title of this draft law and for it to come into force on whatever day the States may decide. I propose Articles 7, 8 and 9, all of them, sorry.

The Bailiff:

Very well, are Articles 2 to 9 seconded? **[Seconded]** Does any Member wish to speak of any of these Articles? The Deputy of St. Mary.

6.2.1 The Deputy of St. Mary:

Yes, just 2 things. One is Article 3 on page 15: "An individual may apply to the Minister for a copy of the registerable facts in respect of themselves." That is perfectly reasonable, and then paragraph 2 says that this application should be accompanied by the fee that the Minister may prescribe, and I just want the Minister to confirm that if anyone wants to check their own data then it is not specified in the law and it should be, I think, that that is free. There certainly should not be a charge. In fact you should be encouraging people to check their own data and make sure they are

correct. So that is one issue that I would like the Minister to comment on. The other is, I suppose, the whole of Article 7, appointment of Commissioner. I am not quite clear from these regulations, is it stated that the Commissioner will be the same person as the Data Commissioner, only with different powers, with a different hat on if you like, or do these regulations imply that it might be a different person because there is talk of them being paid a salary and so on and I would like that whole area clarified.

6.2.2 Deputy M.R. Higgins:

The Deputy of St. Mary came up with the point I was going to make about the fee. Could I just double check one thing, though. I have been going through the law again and again looking, is there any power contained to change the registerable facts that are listed in the interpretation clause? We list what the register is supposed to contain but I do not see any power here to vary any of those requirements or whether it is a requirement for them to come back to the States, or whether it gives the Minister the power to put in additional registerable facts. I would like that point clarified, please.

The Bailiff:

Does any other Member wish to speak? Deputy Le Hérisier.

6.2.3 Deputy R.G. Le Hérisier:

Very quickly, 5(1) is phrased in such a way as to suggest that the public authority is doing the member of the public a favour. Could the Minister define how giving openness to these registerable facts will assist customer service?

The Bailiff:

Does any other Member wish to speak? Senator.

6.2.4 Senator T.A. Le Sueur:

Just to explain, I think, that in terms of the fee which Members have raised, Members also ought to be aware of Article 3(1)(b) that it is not only the facts in respect of an individual but we could, if we made regulations, which we do not have any particular desire to at the moment, it could deal with any individual under paragraph 8, which is any individual description or class of individual. Now if one were to broaden the scope of doing those matters, then I think it is appropriate there should be a power to levy a fee in those instances. I do not think it was intended necessarily that the fee should relate to the individual finding out his own information but if there were a different situation that might occur. I think that is the main point that I would comment on. As far as Deputy Higgins is concerned, registerable facts could only be changed via an amendment to the law but they could be changed in that way.

The Bailiff:

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

6.2.5 Senator P.F. Routier:

As the Chief Minister has just said about the fee, there is certainly no intention for an individual to have to pay a fee to look at his own facts. With regard to the appointment of the Commissioner, this law stands alone and creates the position of a commissioner. In practice what is happening is that the Data Protection Commissioner will take on that role. That is the practicality of the matter but the law is a standalone law to say there needs to be a commissioner for this law. Deputy Higgins, I think the Chief Minister also responded to that as well but just to take it a stage further, the reason there is no ability to change the registerable facts within this legislation is because we want to keep it very tight and we do not want to stop function creep and people getting ... we just want to keep those registerable facts very, very tight, because that is all that is needed to provide for what Deputy Le Hérisier wants to know about customer service. The customer service ... there is

going to be so many benefits for people with regard to for instance just changing a name, very simply, they can go to one place and they can just tell that to the department, I have moved or I have changed my name and that can just be done in one place, that is going to be far, far better. I will not go on because we have all had a long, long day but we have ... there are a great number of opportunities for customer service to be improved.

Male Speaker:

It will be dynamic.

Senator P.F. Routier:

I maintain the Articles and ask for the appel.

Senator F. du H. Le Gresley:

Could I just obtain some clarification, reference the ...

The Bailiff:

Senator, I am sorry, but I do not think you spoke, did you?

Senator F. du H. Le Gresley:

It is in reference to something that the Minister may have inadvertently said.

The Bailiff:

All right, let us see.

Senator F. du H. Le Gresley:

Thank you, Sir. It is referenced when this law comes into force the rights that individuals have under the Data Protection (Jersey) Law 2005 would enable them to access information. I think that is the fact of the issue. If he could just agree with me.

Senator P.F. Routier:

Yes. [Laughter]

The Bailiff:

Very well, the appel has been called for then in relation to Articles 2 to 9 of the draft law. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 44		CONTRE: 0		ABSTAIN: 1
Senator T.A. Le Sueur				Deputy of St. John
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				

Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				

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

The Bailiff:

Very well, do you propose the Bill in third reading, Minister?

6.3 Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):

Yes.

The Bailiff:

Seconded. **[Seconded]** Does any Member wish to speak in third reading? Chief Minister.

6.3.1 Senator T.A. Le Sueur:

I did not rise at the end of Projet 37 to express my thanks to my Assistant Minister because I felt it was right that we should do both of these pieces of work, which are very much linked to one and another, before doing so. Having now passed both of them I do want to express my thanks to Senator Routier for all his assistance in doing this. This has been a long process since 2005, and even earlier, there has been many iterations and many hours of work and reams of paper and we are still not finished by any means. But this is a tremendous step forward and my thanks go to him and to officers of the Population Office and the law draftsmen for the quite difficult task of trying to amalgamate 2 very different laws into one fit for purpose and I think we have managed to achieve that and I am very grateful to all concerned.

The Bailiff:

Does any other Member wish to speak in third reading? Very well, all those in favour of adopting the Bill in third reading.

Male Speaker:

Appel, please, Sir.

The Bailiff:

Very well, the appel is called for in relation to the third reading. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 43		CONTRE: 1		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy of St. John		
Senator P.F. Routier				

Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				

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

The Bailiff:

We move next to Project 78 lodged by Deputy Pitman entitled Composition of the States: further debates before the outcome of the Electoral Commission, and I will ask the Greffier to reads the proposition.

7. Composition of the States: further debates before the outcome of the Electoral Commission (P.78/2011)

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to refer to their Act dated 15th March 2011 in which they agreed that an electoral commission should be established, and to agree that it is undesirable that further proposals seeking to change the composition of the elected membership of the States Assembly, or to overturn decisions already taken in relation to the composition of the elected membership, should be debated by the States until after the findings of the Electoral Commission have been reported to, and considered by, the States (other than any proposition(s) needed to take forward the Commission’s recommendations) and to agree that all Members be requested not to lodge any propositions on these matters until the Electoral Commission has concluded its work.

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

The graveyard shift is always good to start. I will do my utmost to carry on until 5.31 p.m. I do have to say that after this morning’s shenanigans I was beginning to think that we would never get here. Nevertheless, this will be a short speech.

[17:00]

In fact it will be a speech so short that I think even Senator Shenton might be able to stay right through it. It will be a short speech because this is all the proposition needs. Its basis is so simple,

so commonsense and so what the majority of the people want. If you listen to all the talk of being reformed out that we hear from each other over the time I have been here then I think it must be what we all want. We could say: "Why have a debate about a debate or several debates" but it is about saving an awful lot of time. As I have said in the past, no one is more committed to the need for electorate form than me. I believe passionately we do still need more reform but we have finally taken the long overdue decision to implement fully an independent electoral commission. All credit for that must go to the Deputy of St. Mary and to those who supported him. We have finally got to a position where we have got some fairly substantial reforms in place. Reforms which, I think ... I was not on P.P.C. (Privileges and Procedures Committee) at the time ... Sir, shall I shut up while some people are ...

The Bailiff:

No, just carry on, Deputy.

Deputy T.M. Pitman:

We have got some reforms in place which I think the Constable of St. Mary deserves a lot of credit for. The *J.E.P. (Jersey Evening Post)* do not seem to like it very much but she deserves some credit, it is a difficult job. I was not on P.P.C. at the time but I say credit is due to them. Of course they are reforms that we have finally, almost, got in place. We have certainly agreed with them that I am afraid the Deputy of Grouville's proposition will completely destroy. What this should really tell us is that it is time to put all these debates on hold. Put them on hold until after the election in October, until after the Electoral Commission has done its work. That is really the bottom line of my position. If I can use the words of one of my constituents, she told me that people are sick to the back teeth of constant navel gazing, they are sick to the back teeth of us going on to talk about ourselves rather than tax, education, our children's future, population control, diversifying the economy, almost everything else. Like her, many people have said that we have lost our credibility. Perhaps we never had any in the first place, but I think our decision to let that Electoral Commission do its work, to put things on hold until after the election and that Commission are finished can regain some of that credibility. As I said, it is not going to be a long speech but I am afraid I have to refer to why I strongly opposed allowing the Deputy of Grouville's proposition to be moved before mine. I have got every respect for the proposer and we are still good friends, I am pleased to say, but the fact is I lodged this many weeks ago and if we are going to be serious about this then it has got to be supported as it stands. It is impossible, I believe, that anyone could want to support this proposition yet still want to support the Deputy of Grouville's. Now, everyone has got the right to support things on principle but anyone does follow that route then to me what it says is we are going to cherry pick and we should all know where we get from cherry picking. So what I would like to say to Members and it might be very unusual to hear a proposer speak and ask Members to vote against his proposition but if you think things like taxation, education, population are more important than talking about ourselves, please do support me. But if any Member also intends to support the Deputy of Grouville then please vote against me because the 2 are completely incompatible. We cannot cherry pick. The message we would then be sending out is: "Yes, we will commit to no more discussions about reform in theory but we will only hold to that if it is bits of reform we do not like." That I say is just not right and proper. I think that is where I want to end it. I do think that those issues I have talked about more important. I am prepared to put my passion for reform on hold. I do believe the public are sick of hearing us discuss it. The Electoral Commission has been set in place. Whether we do the same all over again and it is Clothier 100 or whatever, that remains to be seen and probably Members would say I am a bit naïve if I think it will be any different. So we put this in place, we have got an election which has got a lot of reforms in October, only 2 and a half months away, people are sick of listening to us talk about ourselves, this is about the height of democracy because it cannot bind any of you, any Member, what it asks is Members to make a mature and a consensus decision to agree that we will get on to the real jobs of government and put this on the back burner for a while. So it does not

bind anyone, it is the height of democracy. If those are views that you share then I would ask that Members please support me. Thank you.

The Bailiff:

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

7.1.2 The Deputy of Grouville:

If nobody is going to speak now, I do not know what sort of games people are playing but I am just going to speak very, very briefly. For the Deputy to say that this is democratic, I have to take issue with; I think it is a very anti-democratic thing to do. We are a debating Chamber and Back-Benchers, panels, Ministers, anyone, has the right to bring forward propositions to this Chamber to be debated. That is democracy. For the Deputy to bring forward such a proposition I am surprised at. I can understand the sentiments behind it but at the same time I do feel it is anti-democratic. At the same time as I do not agree with the fact that you could support one and the other. My proposition has been lodged ... well, it is a rescindment of business that was done rather than a proposition which I do not agree with. We have got the Electoral Commission set up, that is a view that Members can take but he has had the right to bring forward this proposition just as I think it is the right of every Member in here to bring forward propositions if they feel that it serves their electoral. Thank you.

7.1.3 Deputy D.J. De Sousa:

I will be brief. This proposition is brought to establish a clear fact that we have decided as a House to move forward with an Electoral Commission because we are incapable of making reforms for ourselves. It has been brought forward in the same vein as our pay was taken out of our hands, because, again, we should not be doing this. I have seconded this proposition because I feel, as the proposer, that we should now just hold fire, wait, let the Electoral Commission do their job and then we will take it from there. We have made the decision to move forward with some reforms for the elections this year. There is no reason why, even after the elections this year, that if it is decided that everybody should have an Island-wide vote, that cannot be altered. There is no reason why we cannot bring back at a later date, even after the elections this year, to replace those 2 Senatorial seats that will be lost this year. Therefore I would encourage Members to go with this proposition, leave it how it is and if they feel that strongly then after the Commission have done their report, if they are not satisfied with it, and if it is decided that we will still have the same make up of the Chamber, and they want the Senators brought back, then anybody is welcome to do that. So therefore I would encourage Members to stay with the status quo and vote for this proposition.

The Bailiff:

Does any Member wish to speak? Deputy Jeune.

7.1.4 Deputy A.E. Jeune:

I can understand where the proposer is coming from in this but what I do not really understand is why he has brought the proposition as such rather than bringing one which meant that once the spirit of subject has been debated it could not be brought back again during the term of the Assembly. We have seen it in things like G.S.T. also where that has been a recurring feature. But I do understand where the proposer is coming from.

7.1.5 Deputy M.R. Higgins:

I shall also be brief because I happen to agree with the words of Deputy Pitman, the public are fed up with us talking about electoral reform, which in some ways I find a little bit sad because I stood for election wanting to see electoral reform and I sat as a member of P.P.C. to try and achieve electoral reform. I do believe even now this House needs reforming. But also as Deputy De Sousa has said, we are incapable of reforming this House ourselves. There are too many vested interests

in this House to bring about anything. For this reason we set up the Electoral Commission. I believe now that we have done that we would leave it to the Electoral Commission to come up with its recommendations and findings. It is also ... the public will have the opportunity also to give their views yet again. We are talking about dated material, different views, the public have not experienced, for example, ministerial government in the past, now they have. They had the old committee system when Clothier was reporting, now they have ministerial government, they have perhaps a different perspective on how politics is being done on this Island, let us hear what the Electoral Commission will get from the public on that issue, and their own reviews. Now I want to mention something about the role of the media in this because one of the things I have been disappointed with is the role of the media when it comes to reporting on this Chamber. This is not a direct criticism of individual journalists. I know quite a number of them, I like them, I have got no axe to grind against them but I do find it rather hard when they report on the Chamber: "Oh, that House, they were talking about themselves again, the navel gazing" and in one sense they are lowering the reputation of this House. If Members are bringing these issues up it is because they believe we have problems and that if this Chamber is going to be able to carry out in an efficient way what the public want then we have to address these issues, we cannot not. But I do believe that it is a mistake to keep on going over the old ground. I know the next proposition we are going to have, I think we have debated 5 times and to be honest we are all sick and tired of it. I would have thought that this House had made a decision and we should stick by it. Let the Electoral Commission then move on to the next stage. So I do believe that it is time that each one of us showed restraint and said: "Let the Electoral Commission get on with it."

7.1.6 Deputy R.G. Le Hérisier:

In a way it is very difficult to avoid spilling over into debate 2 but a lot of us have received a lot of feedback and I have certainly received a lot of feedback, probably more than on most issues, basically saying we are anti-democratic. I think that is partly because it is a very nuanced set of proposals which either stand or fall totally and that is the real problem and the public they have just seen this as a raid upon the group that they see as the most democratic, or that a lot of them see, namely the Senators. But what they do not realise until one explains, and it is a very difficult job to explain I have to say, is that the whole thing is totally interconnected and if you pull this particular measure in regard to 2 Senators you are in fact pulling all the proposals, many of which are highly eminently suitable, you are pulling all the proposals which are due in October. So in terms of the least bad alternative, what you are doing is you are ostensibly saving democracy or saving the democratic numbers, so to speak, but you are undermining the whole validity of a whole range of other measures which will bring it about in a broader basis.

The Bailiff:

Deputy, as you rightly said, this is a speech which relates to the next proposition.

Deputy R.G. Le Hérisier:

But that is why it has been very difficult. I am reluctant, I have to say, to bar other Members from bringing it up.

[17:15]

I think it is very poor political judgment on the Deputy of Grouville's part to do so because people are fed up with the whole thing. But I am reluctant to come up with a measure, even though it is couched in the most persuasive of terms, for which I praise Deputy Pitman, the point still remains we are trying to stop it. I am afraid I do not think we can do it in the way the House is structured and the way our business is structured. It is total chaos, it is totally time consuming but that is the way we do things. For that reason, I will be very reluctant to support it but no doubt there will be a rousing speech from the Deputy that could change my mind.

The Bailiff:

Does any other Member wish to speak? Deputy Lewis.

7.1.7 Deputy K.C. Lewis:

Yes, just briefly. I was a bit confused by the previous speaker who was more or less saying: "Do not worry, we can put 2 Senators back at a later date, bring a proposition" but we cannot bring 2 Senators back midterm if that were the case. We have to do it now. Once they are gone they are gone.

The Bailiff:

I must emphasize to Members, although clearly Members have in mind the next proposition, this is not the debate of that proposition and if this proposition is passed it does not rule out the debate upon the next one. The Deputy will be free to bring it forward. The Chair ruled that it was not in order to pass a resolution which sought to prevent a Member exercising his or her right to lodge a proposition. Senator Perchard.

7.1.8 Senator J.L. Perchard:

Just briefly, I completely concur with the proposer, the seconder and Deputy Higgins. This House, and I quote the proposer exactly: "Is incapable of making decisions on reform for ourselves." Deputy De Sousa says we must hold fire and let the Electoral Commission do their job, and Deputy Higgins, we are incapable upon deciding upon reform. He went on to talk about some other things which I agreed with. The 3 of them are absolutely right, and I think I have been consistent all along during this debate, this House should not be debating electoral reform. That is why whether we support this proposal or we do not, we need to revert to where we were ... I will be supporting the Deputy of Grouville, I have been consistent since the year dot on this one. We hand over this whole problem to an independent body and, if it does take 3 or 6 years longer to reform the Assembly so be it, but let us not drive a nail into a piece of putty that it is against the will of the people that we represent and does not stand for democracy in any way, shape or form. This is right, we must ask the Electoral Commission to do a job, we must stand by their recommendations, take it to a referendum and implement the views of the people we represent. This tinkering that we have attempted to do and the tactics that we have invoked over the last few debates are embarrassing and I agree. I think revert back to square one and I do not agree with Deputy Le Hérisier, I think tomorrow that we can wrangle out an option that does not mean that we abandon all the reforms put in place as the P.P.C. claim in their report. I have spoken to the Attorney General at lunch time today, I expect him to be in the Chamber tomorrow to advise the Assembly that in fact Senators elected this time, in 3 months' time, who if the Electoral Commission so thought that we required a general election could be, after a referendum endorsed by the people of Jersey, could be bound to stand for election at that time, and their 6-year term would no longer stand if it was endorsed by a referendum. The Attorney General was to consider this overnight and I expect he will advise us accordingly tomorrow, but his advice to me was very positive in that respect. Let us start with a blank sheet of paper, an Electoral Commission, referendum and invoke the views and the wishes of the people that we represent at the end of the process.

Senator A. Breckon:

I wonder if I may ask a question of the last speaker. Can he tell the House where a referendum is binding on this House, where he has got that information?

Senator J.L. Perchard:

There is no information as such but I think this House will be very unlikely, or a future House, to ignore the views of an electoral commission and not go to a referendum. I think the commission will recommend that the matter be put for a referendum and they are almost certainly likely to do that. We need to conclude this. We need positive advice from a third party, and we are incapable, as we have already found out, of dealing with it ourselves.

7.1.9 Deputy P.V.F. Le Claire:

There have been very few times in my life where I have been put in a position such as this. In fact I can only recall a couple of other unpalatable incidences and I would liken this debate to what, in my view from what I am experiencing right now, I would describe as a Mexican standoff. A “Mexican standoff” for Members that are not familiar with the term is basically when one person is holding a gun to another person and the other person is returning that position by holding a gun to them. That Mexican standoff occurred ... in one particular incidence I remember being in the Marines during the Falklands and it was customary for the submariners and the skimmers, which are the ordinary sailors on the water, to get together in discos, at the time, and the submariners would stand on one side of the room and the skimmers would stand on the other and they would taunt each other to try to encourage each other’s wrath and initiate a fight or an exchange of buns and beer. So the Marines used to walk into the middle and taunt them both and get the job started. This is a very unpalatable position to be in and I did not enjoy it then and I am not enjoying it now. What is certainly of significance is the fact that we have a very large number of people in this Island that do not vote. That is the issue that we are faced with as we move forwards with our democracy. I very much appreciated your advice today to Members. You are representing Her Majesty the Queen and you gave us clear advice this morning when I challenged the view that the Privy Council may be embarrassed; I stood up and challenged that insinuation by stating quite clearly that it troubled me to put over our concerns of how to govern this Island into whether or not the Privy Council would be embarrassed. You, Sir, if I may say, gave it your usual clear, straight-bat advice, very sage words and very sound words. As usual, you delivered in my opinion your excellent advice. That is there for everybody to see in terms of *Hansard*. But if we are to go forwards and to have the right and the legitimacy to represent the people of Jersey then I am sorry to say we have to get away from these types of debates. We have this debate right now which is being put before us by Deputy Pitman, correctly so in precedence, and on the tail end of that we have the proposition of the Deputy of Grouville, which also represents a legitimate proposition. We have a House that is divided. It will be decided obviously at the end of the debate of the Deputy of Grouville’s proposition as to which way the States wishes to go. But we have been divided, and I have made this point, since we adopted ministerial government and we did not take that to a referendum of the people. In the Local Government Act we were all given an opportunity, or at least the United Kingdom was given an opportunity, for a directly elected Mayor if its population was below a certain level. Ours during that period magically crept above the magical number of a committee system into a ministerial system, amazingly. We did not go to a referendum. I brought a proposition saying that no changes should be made to the role of Senators or Deputies until and unless there had been a referendum of the people. That was defeated. It was not supported at the time by Senator Horsfall, it was not supported at the time by Mr. Farnham, it was not supported at the time by Senator Le Sueur, I believe. In reviewing documents recently in the Island Plan I found reference to a statement that former Senator Shenton made about the fact that the differences between Senators and Deputies should be eradicated and there should be no difference. What a particular difficult position we are in today. We are all here trying to do the best thing for Jersey [**Approbation**] and I do not think there is anybody in here that is trying to work against Jersey. I really do not believe that. I think everybody is here trying to do their best for Jersey. We may all have different experiences of Jersey but I certainly believe we are trying to our best for ourselves and for our children and for our grandchildren and for the elderly. I certainly believe that. These series of debates have been the most unsavoury, the most lengthy and the most vitriolic that have occurred in my 10 years of this Assembly. What we need to do now, and I would put this to Deputy Pitman, we could possibly support this, it sends out a signal in 2 parts. It is unsatisfactory that we debate these issues and it is unsatisfactory and is irresponsible that we take much more time in debating these issues, especially as we have given our view that there should be an electoral commission. But it is time for us to put the guns down and stop this Mexican standoff that we have got going on here. It is time for us to stop fighting with each other and start figuring out how we can encourage more people to become engaged as a willing electorate because, at the

moment, every person I speak to in the main are asking the same sorts of questions: “How can we afford to live here? Where can we go to get another job? How can we move away? Where can we live?” The others are saying: “Why is it costing so much to run the Island? Why is the Island being spoiled and why are the States spending so much time talking about themselves?” I would contend that if we stopped pulling in opposite directions and started pulling together perhaps we could all come up with some of the answers that we need to come up with. We have got difficult challenging times ahead of us and we are in the middle of those right now. This setting about against each other, and I have been told: “You have changed your mind, I will be voting against you, I will be standing against you and I will be making sure you do not get re-elected.” Bring it on. Bring it on, I am not even certain if I am going to stand. Bring it on. That is not the issue. It is not the issue about whether or not you can get more votes than me or somebody else is better than me. The issue is about are we spending our time trying to achieve the best thing for Jersey. I would suggest in the intervening period of this evening and tomorrow morning, those parties most directly affected need to go downstairs in the big room and sit around the table and have an honest discussion about what we are trying to achieve here because to grandstand and to listen to any more speeches that are as bad as this one **[Laughter]** is not the best way.

Male Speaker:

I propose the adjournment, Sir.

The Bailiff:

The adjournment then is proposed and so the Assembly will reconvene ...

Senator A.J.H. Mclean:

Sir, if I may, looking at the Order Paper and the amount of business still to be undertaken, I just want to test the mood of the House as to whether the Members might consider starting early tomorrow **[Laughter]** I thought it was very unfair before I had finished, and shortening lunch as well.

The Bailiff:

How far do you want to test the mood, Senator?

Senator A.J.H. Mclean:

I would like to suggest starting at 9.00 a.m. and shortening lunch by one hour so we have lunch between 1.15 p.m. and 2.15 p.m.

Deputy T.M. Pitman:

Some of us have meetings, Sir, at lunchtime, it is difficult to change those now.

The Deputy of St. John:

Can I just say in the morning I will not be here first thing because I have a doctor's appointment.

Deputy D.J. De Sousa:

I think we have proved, because we have got through a fairly chunky debate on the Control of Housing and Work and also the Names and Addresses, that could have really extended. If we end up going 9.00 a.m. until 6.00 p.m. we will be in danger of simply talking to take up that time. I am sure everybody here and the public out there have realised that speeches have been relatively short this time and I think we can keep it that way by sticking to the times.

[17:30]

Deputy M. Tadier:

2 things: the first one is I had my light on to speak but can I scratch that request and reserve the right to speak tomorrow.

The Bailiff:

We are going to adjourn so I had you first for tomorrow.

Deputy M. Tadier:

Okay, I was asking if that could not be the case because I am not that good in the morning.
[Laughter]

The Bailiff:

I take it you will not be voting for 9.00 a.m., then?

Deputy M. Tadier:

I will be here. Can I make a counter proposition that we sit from 10.00 a.m. to 4.00 p.m. with a 2 hour lunch because, as we know, work expands to fill the time, so maybe we will all make shorter speeches.

The Bailiff:

Can we be clear, Senator Mclean, do you wish to put a proposition?

Senator A.J.H. Mclean:

Can I put a proposition to start at 9.00 a.m.?

The Bailiff:

With an ordinary lunch?

Senator A.J.H. Mclean:

An ordinary lunch.

The Bailiff:

So you want to start at 9.00 a.m. and finish at?

Senator A.J.H. Mclean:

As normal.

The Bailiff:

5.30 p.m. and normal lunch. Very well. That is the proposition. Is that seconded? [Seconded] It is a simple matter. The appel is called for then, so if you wish to sit at 9.00 a.m. tomorrow vote pour, if you do not, vote contre. The Greffier will open the voting.

POUR: 15		CONTRE: 32		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator T.A. Le Sueur		
Senator F.E. Cohen		Senator T.J. Le Main		
Senator S.C. Ferguson		Senator J.L. Perchard		
Senator A.J.H. Maclean		Senator A. Breckon		
Connétable of Grouville		Senator B.I. Le Marquand		
Connétable of St. Martin		Senator F. du H. Le Gresley		

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

The Bailiff:

Therefore the Assembly will reconvene at 9.30 a.m.

[17:32]

ADJOURNMENT