

# STATES OF JERSEY

## OFFICIAL REPORT

TUESDAY, 21 APRIL 2009

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

### **PUBLIC BUSINESS**

#### **1. Request for additional Meeting**

##### **The Deputy Bailiff:**

As Members have heard the Bailiff received, under standing order 5.1, a request for an additional meeting from 7 Members. That is Deputy Southern, Deputy Vallois, Deputy Tadier, Deputy Trevor Pitman, Deputy of St. Martins, Senator Breckon and Deputy Higgins. Under standing orders as they now are the Bailiff has no discretion in the matter and, therefore, this Assembly has been fixed pursuant to that request. May I welcome His Excellency to this additional meeting on behalf of Members. [Approbation]

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

Sir, although this is an extraordinary session of the States, the States of Jersey Law requires that should a Minister resign I have to bring that fact to the next meeting of the States. Accordingly, Sir, I have to advise the House that last week I received the resignation of the Health and Social Services Minister, Senator Perchard. I would just like briefly to say how grateful I am to the Senator for all he has contributed over the last 4 months to the Council of Ministers, to the States Employment Board but, above all, to the Department of Health and Social Services where he has driven forward some policies and some procedures within there which, I think, have invigorated the department and given that department and its customers a great sense of purpose and hope for the future. I would like to thank him, Sir, for his work over those past 4 months and advise the Members that I will be bringing forward nominations for a new Minister at the next sitting of the States on 28 April.

##### **1.1 The Deputy Bailiff:**

Thank you, Chief Minister. Then the only matter of business for the Assembly is Projet 60 lodged by Deputy Southern. However, before that can be taken, the Assembly has to consider whether to agree that the minimum lodging period should be reduced under standing order 26.7 which says: "The States may reduce a minimum lodging period if it is their opinion that the proposition relates to a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate." I will ask the Greffier to read the proposition but then Deputy Southern will have to make a proposition under standing order 26.7. Greffier, if you would read the proposition?

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

The States are asked to decide whether they are of opinion; (a) to express their concern in respect of the apparent interference in the communications between elected representatives and their constituents which arises from the arrest and detention of Senator Stuart Syvret on the 6th April 2009; (b) to further express their concern in respect of the suppressing effect of such actions upon other elected representatives and members of the public; (c) to further express their concern in respect of the searching of premises without a search warrant and the consequent taking of communications between members of the public and their elected representatives; (d) to request the Minister for Home Affairs to make an urgent statement concerning the decisions, whether operational or political, taken by the States of Jersey Police and the Minister in relation to the arrest and detention of Senator Stuart Syvret; (e) to request the Privileges and Procedures Committee to make an urgent statement explaining the extent of the protection offered to States Members and their constituents via Parliamentary privilege.

##### **The Deputy Bailiff:**

Yes. So Deputy, if you wish to make your proposition under standing order 26.7?

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

Indeed, and Article 26.7 does say: “The States may reduce a minimum lodging period if they are of the opinion that the proposition relates to a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate.” I believe that is the case, that this is, in the words of the *J.E.P. (Jersey Evening Post)* last night: “A matter of genuine concern.” It is a matter of very serious import that we should be called back as a matter of urgency to debate 2 issues and the first is, effectively, the rule of law which impacts not just on every Member of this Chamber but every resident on the Island; for the very fact of the rule of law, I believe, has been threatened. Secondly, there is an area in which the rules, if you like, the guidance, is very grey - is nebulous - around the aspect of Parliamentary privilege. Key to that is the extent to which that privilege can be said to apply to matters of business that belong rightly in the realm of every Member to deal with the concerns of his constituents, represent issues that his constituents call him to do, to make public where necessary the information pertaining to those incidents and, above all, to maintain some form of confidentiality around correspondence with those constituents. Now, these issues have been called into question very recently in the U.K. in a serious issue which has parallels with the case now. Of course, it is important to recognise that although there is a case before us - the case of the police actions surrounding Senator Syvret - while that illustrates the problem, it is not the sole issue at hand. It does not matter what you think of Senator Syvret’s actions or the police actions in that case; the question is what does that say about the rule of law? As a result I have been asked to call this meeting and why I have done so is that what I think is critical to the whole process in the light of what now is considerable publicity in the public arena, nationally and internationally, around incidents on Jersey. Building on a reputation which has suffered in recent times over the Haut de la Garenne affair, *et cetera* - the suspension of a police officer - Jersey is the focus of some quite serious national and international attention. It is important at this time that, as soon as possible, this House takes control of issues, the issues that are raised, and asserts itself to say, “And we are in charge, we are aware of what is going on and we will sort it”. Hence the wish to bring to the House these issues, which I think everyone would admit are of serious concern, and say, “This House must debate them at the earliest possible time and assert itself in these issues” so that we are not seen as mere pawns in the tide of events but that we are attempting to take control to examine the issues and to give directions if necessary to those concerned to say, “Please investigate the issues properly and fully in the light of these 2 serious issues of concern: the very rule of law, and the exercise of Parliamentary privilege and the extent to which that privilege stretches or does not stretch”. Both are live and important issues. Just briefly, without wishing to touch on the seriousness of the issues and the issues themselves, I call Members’ attention, just as an example, to page 4 of my report and paragraph 3.3 where it points out the conditions under which a warrant shall be executed for the search of premises and persons in the case of a data protection issue. Now, we are informed by the police, that this is a data protection matter and that the charges concern data protection. If Members examine the contents of page 3, they will find that 7 days’ notice in writing is required, an unreasonable refusal is required and, subsequently to that, after refusal, the person concerned has been notified by the Commissioner of an application for a warrant. That, patently and manifestly, did not happen in this particular case. Why? Because that is the law as we created it. We put those safeguards in believing that they were the appropriate safeguards around data protection issues and any warrants issued in the name of data protection. Why then do the police believe that they can ignore that restriction, that limitation on their powers, properly put there by this House...

### **The Deputy Bailiff:**

Deputy, I am sorry, but we do not want to go into the full debate here. This is why...

### **Deputy G.P. Southern:**

I am going to illustrate this particular issue as one of the issues and why it is so important. This House - and I was just about to do that - I believe this Assembly must demonstrate that it is the law-maker in this Island and not the police and it will hold the police to account for actions which go other than the way in which we have prescribed. That is the issue of the rule of law and that is the

issue we must certainly start to debate today, I believe, and certainly to assert that we are in charge of this legislation and the rule of law. I believe that, for example, is one of the questions that should be debated and must be debated today, I believe. Thank you.

### **The Deputy Bailiff:**

Is that proposition seconded? Yes. **[Seconded]** Does any Member want to speak on whether standing order 26.7 should be applied? Yes, Senator Le Sueur?

### **1.3 Senator T.A. Le Sueur:**

We gather in this Chamber as an Assembly to debate and create legislation and, in doing so, we set ourselves certain rules of procedure. They are our rules; they are not imposed on us by anybody else outside this Chamber. We set our own rules - our own standing orders - and it is up to us, having created those standing orders, to abide by them. Now, standing order 26.7 is quite clear in its wording that we can reduce the lodging period if we so choose if - and it does not say so, but I would regard it as if and only if - it is a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate. Now, while the proposer talked about the rule of law, the rule of law is not going to change within 7 days but I think for us to change our own rules, or to not abide by our own rules, brings this Chamber and the Membership of the States into disrepute. It simply suggests to us that we are taking a cavalier approach to what is clearly an important issue. I believe that if we create here the precedent of deciding that we overthrow our own rules where we feel so inclined, we will end up not being able to govern properly and that is not something which I relish. I believe, Sir, that there is no reason why this subject matter, which I acknowledge is something of seriousness and capable of debate, should be raised, indeed, but it is not a matter which would be prejudicial to delay for a week or so. I believe that to try to foist this on us at 5 or 6 days' notice is a step too far and I do not believe that we should debate this proposition this morning.

### **1.4 Senator A. Breckon:**

Sir, if I could just touch on something the Chief Minister has just said and remind him that on occasions, for financial laws and regulations, we have done exactly that; we have lifted or amended standing orders to allow them, for economic benefit or in the national good, as it were. But I think, Sir, the issue is of such importance - and I do not want to touch on the subject but on the proposition, Sir - but I just want to give an illustration of the dilemma that this has left me in. In the last week or so a number of people have contacted me with some very personal details so that I could make representation on their behalf to Housing, Social Security and Education and there are some family matters behind that that really should not be in the public domain, are not for anybody else's eyes unless I, with their agreement, present them to the relevant authority to make the case. I have a severe discomfort that somebody could give me a knock on the door at 5.00 a.m. in the morning, or kick the door down, take the stuff away and without due cause or reason start pawing over this stuff. On my personal computer, I administered my late mother's estate; it really is of no interest to anybody, and I really wonder why somebody should have the authority, without making the case, to look over that stuff just for their own satisfaction, as it were. There are other issues, Sir, just another thing I want to touch on, and I have done it in the past; I have objected to a planning matter on somebody else's behalf and that is because they did not want to upset their neighbour or whatever it may be. But I have done that without disclosing the person. I have made the objection and said, "A number of people have contacted me". Now, that could be one person or it could be a hundred. Sometimes it has been backed up with signatures, other times it has not and it really worries me. People have contacted me recently and I say, well, "Understand that I could be a bit exposed here because I will not give your details to anybody". But now, somebody could get access to them and that really worries me and, for me, Sir, this matter is of such importance, I would like clarification on that and, if they can, why and how and who and where will it go? Who will see it? Will it get back, which could embarrass not me but the people I am trying to represent

on some of these issues and I think that, as Members of this Government, we need that clarification. I think we do and we do not need it in 6 weeks' time, we need it now so that we, if we do get approached, can act on behalf of others with a degree of certainty. That really, Sir, is why I have signed this. I have not mentioned any person by name. This is not for me. What it is about is an important principle, Sir, that I think is worth debating at an early opportunity and I think that is today. Thank you, Sir.

### **1.5 Deputy P.V.F. Le Claire of St. Helier:**

Good morning. I think also I can recall on a number of occasions, the States having dropped the minimum lodging period for matters to do with financial services issues, international terrorism issues. The other day I think we had it for a social security issue and we only did this within the last 2 weeks or so of this Assembly; definitely within the last 4 to 6 weeks. So for the Chief Minister to say that we would be setting a precedent and casting aside these rules which we have laid before us as golden guidelines, I think is a little disingenuous [**Approbation**]. There are many tactics that are played in politics and one does not have to spell them out; one can see them quite clearly. The issue is, will the issues change in 7 days or will the Ministers be better prepared to defend the case which, at this level, is really neither here nor there? At this level of the debate, to talk about and to propose lifting standing orders, we are being asked to do so because we feel that it would jeopardise Jersey in some way if we did not debate these issues. I personally believe that if we do not debate these issues there will be no confidence in the community, as there is at present, with any form of whistle-blowing from States departments through politicians or from members of the public who work for firms from which that they may feel they may lose their job if they impart information to politicians. From politicians to other politicians and, most importantly, from the public to the police, because that is the extent of the erosion of confidence in the community. Members of the public already have trouble in certain sectors in certain instances and individual cases, of speaking with the police; they approach politicians. But some members of the public - indeed, the great majority - have confidence in the police. Sadly, Sir, that has been severely rocked in the last 2 weeks and I am genuinely concerned that people will not be approaching the police and that confidence in the police has been lost. We have an opportunity if we lift standing orders today to hear some of the rationale behind the occurrences in our most recent period and I think there are issues that we need to debate about matters of privilege within this Assembly. It has nothing to do with the individual member or the background or history of the individual member. It has to do with whether or not we re-engage confidence in the community by allowing people to communicate with the authorities and those elected to oversee them. I would put it to members, Sir, and to the public that if we put off debating this today, we are putting off the confidence of this Island with those authorities and their elected representatives for the sake of 7 to 10 days so the Council of Ministers can better prepare themselves.

### **1.6 Deputy M. Tadier of St. Brelade:**

It is probably fitting that I follow on from Deputy Le Claire as I agree with some of the points he has been making. Let us start off first of all with the Chief Minister's argument that he seemed to say, "We make the rules, no one else" as if that is an argument for not lifting standing orders which seems slightly strange to me as I think it was given earlier as an argument in favour of lifting standing orders. Now, to me, this is a no-brainer; we are here so on a practical level we have all got out of bed, some of us have cut short our holidays early, others maybe have just returned. We were not expecting to meet today. So we are here, we might as well get on with it and do something for a change instead of sitting round and having to come back next week and wasting everyone's time and money. I believe it was Senator Shenton who said that it would be a waste of money to meet today. I am not sure if that is true or not but, if that is the case, then we are already here so it would be a waste of money not to carry on and debate this today. So on a practical level, let us just get on and do what we are paid to do. Now, the Chief Minister also said that lifting standing orders would somehow send a message out to the outside world that we are not able to govern ourselves

properly. I do not think that is what it would do at all. I think if we did not lift standing orders then it could well do that. But let us get to the focal point of what we are debating here; we are not debating the rights and wrongs of the police action, what we are debating is lifting standing orders on the basis that it would be prejudicial to the Island not to do that. As we know, Jersey has been in the media a lot in the past few years but, in particular, recently - and I was not thinking so much of Haut de la Garenne which is the word we must not mention in this Chamber, it seems - rather I was thinking of the recent G20 report and we made it onto the white list, and well done; we can pat ourselves on the back for that. What kind of message does this then send out to the international community, those people who might want to invest in Jersey, if we do not take this opportunity to take to task what is a very serious matter of what appears to be, on the surface, certainly, heavy-handed policing. As has been said before, it is not about any particular individual but I think it is only right that the House does show that we make the laws, as has been said on both sides, no one else and we should not be afraid to take the police to task if necessary and that is what we are here to debate. We go into that with an open mind and I think it would be foolish to put it off until next week what we can do today. I think there is a saying like that, is there not: "Do not put off until tomorrow what you can do today."

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

I support quite a lot of the sentiments that Senator Shenton has made known in the media over the last few days and he has decided not to attend today but we are here and we have come to a different conclusion on how to deal with this proposition today. All Members have been called to this special sitting using the provisions laid down in standing orders and we cannot get away that; that is, the provisions that are within our standing orders and we have been served notice to be here and we have all taken an oath in the Royal Court and we have to come to States sittings whenever we are called to do so. I, and I know many others, are not too happy to be here today. I am a bit reluctant to have broken into what we had already planned to do. But we are duty-bound to be here and we can deal with this in 2 ways: one is to decide not to agree to have the debate today because it is not a matter of urgency and it is not prejudicial to Jersey. I think the proposers, probably, of the main proposition may have been making a mistake in their timing of this debate because I think if we do debate it today there will be strong arguments saying that the debate is too early because of lack of information in the proposition and it could, perhaps, interfere with the current case that is going on. It is a possibility; there might be those sort of arguments made. So if we do debate the proposition today, I expect the proposition is probably going to fail. If the proposers want to have this debate, I think they will be probably working against themselves. It needs to be recognised that if we do not debate the proposition today that the proposer will eventually have the right to have that debate at the next sitting or at some stage in the future. As much as I dislike being called into the States today this proposition today, we have a difficult situation to deal with. The proposer will be able to, as I say, have his debate whenever he wants in the future. So practically and pragmatically, when we look at the future State sittings and the amount of real important business we have to debate at our next sitting, I am going to vote to debate this today. I am going to agree to lifting standing orders because I think we should dispense with this proposition; we should concentrate on the real business that we have to debate at our next sitting. In doing that, I need to make it really clear that I do not agree that it is urgent, I do not agree that it is prejudicial to Jersey. It is just a pragmatic matter which I believe that we should... but we are all here and please do not think that I am going to support the proposition, because I am not, but I think we should deal with this thing today because we are here now and should get on with it.

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

Sir, I was deeply troubled by the underlying sentiments of Deputy Southern. Deputy Southern, in his proposition spoke, and I think I quote accurately, of: "The need to take control." He spoke of the need for this House to issue direction. Sir, we are a Legislative Assembly, an Assembly based upon the democratic foundations of a clear separation of legislative and judicial powers; that

separation in place, rightly, in democracies across the world. It is quite clear that the proposition that we are being asked to debate is an attempt to interfere into the settled, or should be settled, arrangements of operational independence of the police. I find it bizarre that Deputy Southern is asking us to interfere into operational policing matters when such matters were, in my view, quite rightly rehearsed in the child abuse investigation and pointed out of the need for a clear separation. Deputy Le Claire and others have spoken about the issue of reduced lodging periods. I completely agree with the sentiments of the Chief Minister. I would also say that I do not think that there has ever been a proposition which has been lodged with 5 days. Yes, we have reduced lodging periods but it has been to reduce it from 6 to 5 weeks for some important issue of financial services legislation but never have we put a proposition before the Assembly and debated it after 5 days. So we do not know the reasons for the arrest that is under discussion and I do not want to get into the detail of the debate. It is clear that there is an ongoing investigation. That investigation must, surely, in our institutions and our arrangements, be allowed to conclude. It may well be, Sir, that after that investigation is concluded, in whatever way, there is a need for this Assembly to deal with the issues of Parliamentary privilege and independent Members' access to their information, just as the issue with Damian Green in the U.K. However, that must surely be after the operational matters of the police have concluded. I realise that this is a close call because those Members who will vote against breaking standing orders will be accused of not wanting to have a debate on, effectively, a technicality. I do not want that to be said. I am quite willing, under normal circumstances, to have any sort of debate but I think that we are being asked to make a step into interfering into operational policing matters and that cannot be right for any Assembly, not least this Assembly, to do. On balance, while I am willing to have a debate, we cannot cross that line in interfering into operational policing matters.

### **1.9 Deputy F.J. Hill of St. Martin:**

I was one of the 7 Members who signed the paper and I did give a lot of consideration before I signed it because one of the things I did have to consider was the fact that I would be seen to be supporting Senator Syvret and it is not a question about supporting Senator Syvret. There are times when I wish he would temper his language and be a lot more diplomatic and a lot more statesman-like in some of the things he says. It is unfortunate that, by being seen to be supporting the signing of this, it is seen that I am supporting his actions and I make it absolutely clear I am not; I am here because I think this is a matter for the States to deal with. I certainly do not think we are breaking any rules. The rules are quite clear; we are the masters of this House, if we decide we want to suspend standing orders, that is quite alright. It is not breaking the law. But I think what we ought to be looking for is to see if we have public confidence, if we have public confidence in the police and I am speaking as someone with 30 years' policing service and it does disappoint me. Also, have we got public confidence in the Chief Minister and in the Minister and in this House. I think one of the saddest things I find is the absence of any statement, anyone taking ownership of the responsibility of the police action. **[Approbation]** All I would have asked for, in fact I did ask; I circulated my email to everyone to ask the Minister for Home Affairs just what happened and really, at the end of the day, is he satisfied with the action that took place? If he was, take ownership of it. If he was not, take action about it, but we have heard nothing so all we are here today is discussing whether we should meet, on the information received, thank goodness, from the *J.E.P* because, apart from the *J.E.P.*, we have heard nothing from anybody else until we have had the proposition put before us today. So I think this is all about public confidence, confidence in ourselves and also are we capable of carrying out our own task. Just to draw something in from the question are we too soon. Those who will have read last night's *J.E.P.* would have seen that came under the editorial; were we acting too soon. I think we are not acting soon enough. If one looks just 2 pages further on in the *J.E.P.*, one will see that: "Police Chief faces G20 tactics grilling." Are they hanging around in the U.K? Of course they are not. They are not shoving things under the carpet. We made the mistake, we are leaving things to, I do not know who at the end of the day, because we were told, "Do not involve yourself in Haut de la Garenne, leave people to get on

with it". There is a £14 million bill: I am not prepared to sit back. I would hope that States Members will have the courage to support what we are here for today and, certainly, do not be perverse and vote to debate it then ignore the evidence that is going to come before us to ensure that we do get a statement from the Minister and we hear from P.P.C. I will be supporting the proposition.

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

Sir, it occurs to me that Members may wish to know what my views are in relation to this matter. I am, in fact, torn in 2 different directions. Having spent until 7.50 p.m. last night preparing a 5-page detailed speech on this matter, I would rather like to be able to deliver that speech today, while it is fresh in my mind, *et cetera*. But on the other hand, I do have a problem because I suspected when I looked at the proposition that its fundamental and first reason behind it was to seek to interfere with the operational freedom of the police. I am grateful to Deputy Southern for having told us blatantly that that is so; that he wishes to take control, i.e., to take control of operational matters.

**Deputy G.P. Southern:**

Sir, that is misleading, I have made no attempt to say that I wish to take control of operational matters. I wish to assert the rights of this House in law-making. **[Approbation]**

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

But I am sure, Sir, that Deputy Southern will explain to us later the difference between those in practical terms. Going to Deputy Tadier's remarks - I am sorry he is not here to hear what I am saying - where he said that he did not wish to criticise the police and went on to do so. It is quite clear that the first few paragraphs of the proposition are an attempt to criticise the police in relation to operational matters while those operations matters are still in train. Now, the Deputy of St. Martin mentions the matter of the statement. I have made it very clear to the Deputy of St. Martin why I did not think it appropriate to make a statement at that time. My position is still the same but I am very happy and, as part of my notes for the speech, I will deal with certain factual matters and issues. So, Sir, I am torn in 2 different directions. This is not an urgent matter. The only rationale for it to be urgent would be if this is indeed, as I suspect, an attempt to interfere with the operational freedom of the police. Other than that, it is simply not an urgent matter. On the other hand I personally would want to get on with the debate. So I am torn in 2 different directions and, for those reasons, I am very happy to leave it to the other Members of the House to do exactly what they like. I will therefore abstain.

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

Just briefly. A couple of Members - 2 or 3 Members - supporting this proposition have said that this debate, or the debate that they wish to have, is not about an individual Member. Sir, the title of the proposition is **[Laughter]**: "Arrest and detention of Senator Stuart Syvret and associated matters." Now, if this then is not a debate about an individual Member, I would like to know what is. As this is about an individual Member who is currently under investigation - rightly or wrongly we will eventually find out - the time clearly is not now to have a debate about an individual Member **[Approbation]**. The time to have this debate is not even next week or the week after. The time to have this debate is when the police investigation is complete, when we have all the information we need to have an informed and evidence-based debate, have all the information we need to come to a sensible and proper decision on this proposition. It certainly is not now and I do not believe it is even right to do it next week or within the next few weeks.

**1.12 Deputy D.J.A. Wimberley of St. Mary:**

Yes, I take issue with the comments of the previous speaker. It is not about one particular person **[Laughter]**. Of course, as the proposer rightly pointed out in his opening remarks, this is an illustration; it raises questions which this House should address and cannot get out of addressing. Senator Ozouf and also, I think, the Constable of St. Clement - I will come to Constables later



because there is a serious issue there - mentioned operational policing matters and it is not about that either, that is straying into the actual substance of the debate. We will of course, when we get to the substantive debate, be talking about the relationship between this House and operational matters but that is not what we are talking about now. So what matters is should we be moving on to the next proposition. This debate will be about the rule of law, as the proposer pointed out, but it is also about the relationship between the police and the residents of the Island; the police and the community they serve. I would have thought that is a very important matter indeed, particularly in the light of what is happening over the water which has been on the front pages of the nationals for several weeks now, in various contexts. We use the word “accountability”, the accountability of the police; that is a very important concept. Who are they accountable to? Are they accountable to themselves? I hope not. Are they accountable to the community and, if so, how is that structured, how is that put in place? Or are they accountable to the States, this House, or are they accountable to the Government? We have seen the problems that that leads to, again, over the water. So I would have said that these are big questions and certainly ones that this House should not duck and should not say, “This is nothing to do with us; let the police get on with their job”. The people who oppose this procedural motion, would have to make a good case that the debate would be better if we took it in a week’s time or even later than that. I do not believe that case has been made. I think the case for the importance of these matters and the urgency of these matters has been made more strongly. I want to make an observation about conflict of interest. I do have real problems with this and I hope that others share them. We are the legislature; we are trying to find the best way forward in this matter, as in others, for the Island and on behalf of our constituents. We are discussing, essentially, the role of the police, the role of the police in our society in the 21st century. Yet we have, as I understand it, 12 policemen sitting here. We do not, we have 8 or 9 but, anyway, there we are, there are policemen sitting in this Chamber. If we were discussing the role of the senior Civil Service, how would we feel if there were 10 senior civil servants sitting in these seats and we were discussing the relationship between the States and the senior Civil Service? I know that the arrest and detention of Senator Syvret was carried out by the States of Jersey Police.

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

Could I interject? On a point of clarification, could the Attorney General please tell us whether or not Connétables are still police officers or has that role been moved across to the Chefs de Police?

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

The formal roles of the Connétables have not been removed and they remain in charge of the honorary police forces in each Parish.

**The Deputy of St. Mary:**

Thank you for that clarification. I will mention that in the next paragraph of what I want to say. Sir, as I was saying the arrest and detention of Senator Syvret was carried out by the States of Jersey Police but nevertheless the honorary and States Police work closely together and I believe some training is shared and so on, and we know that. I am not an expert; I was just coming to that point that the Deputy of St. John raised. I am not an expert in the constitutional niceties of the exact role of the Constables in this matter but I do sense a conflict and I hope that in the course of this pre-debate that some of the Constables will care to comment on this...

**The Deputy Bailiff:**

No, Deputy, I think we are, at the moment, talking about whether to have the debate. If you want to raise that, it seems to me a matter for...

**The Deputy of St. Mary:**

I do hope that they will advise us about this matter and whether they are going to vote on this at all. To conclude, I do not want to be here, other people have mentioned that; there are plenty of other things to do and it was a busy week. But the fact is it came up and I do believe we are responsible.

“It came up”, that is one way of putting it, and I believe we are responsible to get on with it and discuss these very important matters.

**The Deputy Bailiff:**

Does any other Member wish to speak on this particular matter? We have had a reasonable statement of views. Constable of St. John?

**1.13 Connétable G.F. Butcher of St. John:**

Deputy Southern in his opening speech stated that he had been asked to bring this proposition. I wonder, when he sums up, if he could state who asked him and, secondly, is he the true author of this proposition, Sir? If he could answer those questions?

**The Deputy Bailiff:**

Any other Member wish to speak on the standing order point? Deputy of St. John?

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

Yes, Sir. Given that we are here today and our time over the next few months is going to be taken up with far more serious debates other than this one, I think we would be remiss in not using the time sensibly and dealing with this and putting it to bed, one way or the other, Sir.

**1.15 Connétable J. Gallichan of St. Mary:**

Sir, just bringing this right back to the basics, it is not a question of are we going to debate this, it is a question of are we going to debate it today. I would just like to make a couple of quick points about that. Why is there a standing order that gives us a lodging period? Surely, part of it must be that every Member is able to give due and full consideration to every proposition laid before them for debate and that must, surely, be to enable us to make sure the debate is productive and the debate is pertinent and gives an outcome of which the States as a legislature can be proud. Also, of course, it allows every Member the opportunity of making an amendment to a proposition. My concern about this, Sir - and I air this for every Member to give their own thoughts to it - is it is not only that we are dealing with a very short lodging period here, we are also dealing with a very short lodging period during a period of recess. We are very keen, and standing orders are very keen, and many times it is raised, Sir, that the States Members have an obligation to attend State sittings and Members who are given an absent when they are not on States business, who are en default, are looked down on for that, Sir, and it is rightly so. We need to make sure that Members are focusing on the business of the States and are present which is why I made the point at roll call, Sir, of saying there are Members who are not here because they are simply perhaps not even aware that this sitting is going on, if they are on holidays that they have booked outside of States time because they have been requested to. There is no State sitting scheduled for this week. So the question is, is the matter so urgent that it has to be debated today when there are Members who have not got the opportunity of participating. I would also raise the point that, in the proposition on page 8 paragraph 5, certain questions are raised about the Connétables of relevant Parishes, about the Connétables' honorary offices, that question an extent of their involvement, Sir. I think it is incredibly pertinent that the Connétable in question is out of the Island, Sir, and not able to attend a sitting this morning. So surely the question that Members need to ask is, is the matter so urgent that it must be debated today and is it also possible that, by debating it today, we are not giving it the due consideration it may deserve and we are denying some Members the opportunity to participate? I have cited the question of paragraph 5 page 8, are we going to be doing anything effective? Is this a talking shop or is this a productive way of conducting the business. Sir, I think Members need to focus on the exact reasons of why a lodging period has been introduced in standing orders to decide whether they need to lift it and also to consider the implications for Members generally, if this decision is taken too lightly, and I leave it to Members to decide the weight. Furthermore, Sir, on another point, although some Members are absent today, there are other Members who have been absent until only yesterday - I know of at least 2, Sir, and possibly

3 - and have not been able to give this the consideration it deserves. One section of the proposition, item (e): "Request Privileges and Procedures Committee to make an urgent statement." Sir, the proposer did not contact me as Chairman of Privileges and Procedures before making the proposition - he had no need to; I do not say he did, but he did not take the opportunity of doing so. But I can advise him that it has not been possible in the period since this was lodged to convene a core session of P.P.C. (Privileges and Procedures Committee) to even give it preliminary discussion, Sir. That is why I wonder, are we seeking to find productive output from this debate or are we just debating because the debate has been called? Thank you, Sir.

**1.16 Deputy M.R. Higgins of St. Helier:**

Despite the title of the proposition which, again, I have only just noticed, I believe that this proposition is about important constitutional matters. I believe a failure of this Assembly to protect its privileges and to address these issues shows itself to be impotent. The failure to show how important it is to protect Parliamentary privileges - which, I remind Members of the House, are in place to protect Members from interference and to enable them in turn to protect the rights and liberties of citizens of the Island - is a statement to the effect that, as we are not prepared to urgently address our own rights and privileges, that we cannot be trusted to protect their rights. A delay in debating this matter is a signal that we do not really think it is important. Senator Shenton, through his absence, is showing what he thinks and, personally, I think it is contemptuous; he should be here. **[Approbation]** Senator Routier, by stating that he thinks that the proposition will fail is also showing what he thinks. I believe that it is not a proposition in support of Senator Syvret or to interfere with the operation of the police. I believe it is about defending Members' ability to do their jobs without fear or hindrance and is of fundamental importance and, therefore, I believe that it should be debated today.

**1.17 Deputy T.M. Pitman of St. Helier:**

I really wish to say what my colleague behind me has said but I will not sit down. **[Laughter]**.

**The Deputy Bailiff:**

There is no need to repeat it, Deputy **[Laughter]**.

**Deputy T.M. Pitman:**

I will say it differently. I would truly like to thank the Constable of St. Clement for highlighting Deputy Southern's - the proposer's - huge mistake. He really should have called this, "Arrest and detention of he who must not be named". I think the Constable was surely having a little jest at our expense because, clearly, this is not about one individual. The fact the name is on the proposal paper is quite irrelevant. It is about issues and I think as Deputy Tadier said earlier, whether we like it or not, we are here today; we are going to look pretty damn foolish if we do not get on and...

**The Deputy Bailiff:**

Please do not swear in the Assembly.

**Deputy T.M. Pitman:**

Sorry, Sir. Pretty foolish if we do not talk about it. It has been described by Senator Shenton that the people who are behind this are an errant group of politicians. I do not think I am errant in supporting this. I took a lot of consideration and thought in it and I have to say that it is mainly because of the members of the public who contacted me about it. They might not all have the same conclusion as to the rights and wrongs of the matter but they would like some answers and I think that is what we are being asked to request. What can be wrong with that, and it is a matter of urgency. I do not agree with everything that Senator Syvret says or does but, as I say, that is almost a secondary issue; in fact, it is a secondary issue. My concerns touch on matters that Senator Breckon has mentioned: confidentiality. I am certainly one politician who has liaised, often quite late at night - that might sound a bit sinister - with Senator Syvret on a wide variety of issues.

Now, if those were about members of the public and concerns that have been put to me and I have sought his advice, I am very concerned where that information now is. That should remain between my constituent and another politician who I have discussed it with and I think the public has every right to have this matter clarified. It seems, whenever there is a bit of a contentious issue in this House, it is never the right time to discuss it. I think it is very important, I do not think it is asking too much or even a great deal to have some statements from the Minister for Home Affairs or from Privileges and Procedures. There is nothing before the courts so why can we not get on and debate it? This is about civil liberties and I would hope, as I say, that the words of the Constable of St. Clement were a joke because that seems to be a very flippant approach and I really hope this House will not be challenged to be so politically illiterate that we cannot separate one individual from serious civil liberties. This needs to be discussed, and most of us are here. The fact some people are on holiday, well, that is life; it happens, does it not? Let us get on and deal with it and get this clarified and restore some confidence to the public. Thank you.

**The Deputy Bailiff:**

I call upon Deputy Southern to reply. Connétable, have you something new to add?

**1.18 Connétable A.S. Crowcroft of St. Helier:**

I did have my light on, yes, Sir.

**The Deputy Bailiff:**

Because we are debating whether to debate and we have taken an hour so far.

**The Connétable of St. Helier:**

Very briefly, I was almost swayed by the Constable of St. Mary's comments, particularly with regard to certain Members not being here; being unable to speak and to represent their constituents. However, I think I am right in correcting her that we are not technically in recess at the moment and I believe that most States Members do keep a watching eye on their constituents' interests when they are off-Island. We are very nearly back in session next week and I think the key question for Members is whether the expression of our concern about what has happened and the requesting of 2 statements in relation to what has happened, is a matter of urgency. I believe that, given the importance of what has happened, given the potential impact on our constituents who wish to give us confidential information, it is a matter of urgency that we express our concern. We are not criticising the States of Jersey Police, as the Minister was saying, [Approbation] we are simply sending a warning shot across the bows. It is in the nature of warning shots that they are fired quickly because, if you do not, you can end up at war so I would urge Members to get on and have this debate.

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

As identified by the Connétable of St. Mary, I am one of those persons who only arrived back in the Island last night. I do have serious concerns about issues that are raised in this proposition but I do want to have more information in order to make an informed decision when this is debated. I do not believe that this is an emergency and, therefore, will not be supporting the lifting of standing orders. Thank you.

**1.20 Deputy G.P. Southern:**

I must admit a certain admiration for the way in which you manage to look at your shoes at the moment when you were calling for additional speakers. Interesting technique, Sir. It appears to work or almost worked. We have had a reasonable debate about the need or not - the absence of need - for a debate on this particular subject. I believe the issues have been fully aired. I would just like to make one or 2 remarks, certainly, starting with Senator Le Sueur's - the Chief Minister's - remarks, where he talked about whether or not this was sufficiently prejudicial to the reputation of the Island as to merit and an urgent debate. I believe, and I remain convinced, that it

is. If I could just illustrate it significantly: perhaps, at some stage tomorrow, the day after, we see a headline in the *Financial Times*, “Threat to Rule of Law in Jersey” or, “Rule of Law Brought into Question in Jersey”. Can you imagine the impact of that on our major industry? Members may think I exaggerate but that is the question; we will, if we debate today, be debating the rule of law and who makes those laws and who supervises the carrying out of those laws. That is of vital interest to all Members, not only of this Island but of the international community at large. That is the effect. When Senator Ozouf says I talk about taking control. I am not talking about taking control of police actions day in day out, I am talking about taking control of the supervision of those police [Laughter] which is in the hands of the Minister and I wish to hold him to account for those actions and for him to attempt to justify to this House why what appears to be a blatant breach of the rules we have laid down in the interests of operational matters, why he should consider that that is justified and to justify himself to this House. It may be he can and may be he cannot but that is one of the issues. Finally, as several people have said, we are here today and I thank Members for turning up to this additional meeting, as requested by, as Members will know, 6 other Members of the House, to call this meeting: Deputies Pitman, Tadier, Vallois, Higgins, the Deputy of St., Martin and Senator Breckon. So those are the movers of this particular motion. Since we are here, and I am as reluctant to be here as anybody; I do not wish to take on extra work, Lord knows, I have got enough work to do. I could instead today have been enjoying myself grilling in Scrutiny the Minister for Education, the Minister for Home Affairs and the Minister for Health and Social Security. That might not have been a grilling because it would have been his last turn on the toaster. But that is what I would much rather be doing today, rather than standing here. Nonetheless, we are. I urge Members to get on and get this debated and get it out of the way. Thank you.

**The Connétable of St. John:**

Could I ask for a point of verification? The Deputy has not answered my question, Sir.

**Deputy G.P. Southern:**

I was asked who were the people who asked me. I believe I have listed 6 people who asked me to organise this thing.

**Deputy M.R. Higgins:**

Sir, can I just make a point of clarification, as well, for the Constable. The people who find the proposition...

**The Deputy Bailiff:**

No, I am sorry. Members cannot start standing up and answering questions. The point was asked of the proposer. Very well. Now, the matter before the Assembly then, is anyone asking for the appel? Yes. The appel is called for in relation to the proposition of Deputy Southern that this matter should be taken under standing order 26.7, notwithstanding the lodging period not having been complied with, and Members should return to their seats and the Greffier will open the voting.

<b>POUR: 20</b>		<b>CONTRE: 25</b>		<b>ABSTAIN: 1</b>
Senator S. Syvret		Senator T.A. Le Sueur		Senator B.I. Le Marquand
Senator F.E. Cohen		Senator P.F. Routier		
Senator A. Breckon		Senator P.F.C. Ozouf		
Connétable of St. Helier		Senator T.J. Le Main		
Deputy R.C. Duhamel (S)		Senator J.L. Perchard		
Deputy of St. Martin		Senator S.C. Ferguson		
Deputy R.G. Le Hérisssier (S)		Senator A.J.D. Maclean		
Deputy G.P. Southern (H)		Connétable of St. Brelade		
Deputy P.V.F. Le Claire (H)		Connétable of St. Martin		
Deputy S. Pitman (H)		Connétable of St. John		
Deputy I.J. Gorst (C)		Connétable of St. Saviour		

Deputy of St. John		Connétable of St. Clement		
Deputy M. Tadier (B)		Connétable of St. Peter		
Deputy of St. Mary		Connétable of St. Lawrence		
Deputy T.M. Pitman (H)		Connétable of St. Mary		
Deputy A.T. Dupré (C)		Deputy J.B. Fox (H)		
Deputy T.A. Vallois (S)		Deputy of St. Ouen		
Deputy M.R. Higgins (H)		Deputy of St. Peter		
Deputy D. De Sousa (H)		Deputy J.A. Hilton (H)		
Deputy J.M. Maçon (S)		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy K.C. Lewis (S)		
		Deputy A.E. Jeune (B)		
		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		

**The Deputy Bailiff:**

That means the matter cannot be debated today. So that then brings matters to an end.

**Deputy P.V.F. Le Claire:**

Sir, on a point of order and information; perhaps a ruling from yourself, Sir. Matters today were debated in relation to lifting standing orders and, during that debate, the issue of whether or not the Constables were police officers themselves was raised during this debate of raising standing orders. As part of standing orders is that Members must declare an interest, whether or not their interest is something that debar them from speech is something that is written down in our standing orders and did not occur today, Sir. I would like to know whether or not the Constables should have, and have been, remiss for not having done so; declaring an interest as police officers.

**The Deputy Bailiff:**

No, I am quite satisfied the Constables do not have an interest which they need to declare. **[Aside]** Deputy Southern, do you wish to, as we are here, raise the matter of when you want this proposition to be debated?

**Deputy G.P. Southern:**

I certainly do, and I was going to raise it after the meeting but if you think it is appropriate that I do now, yes; I still believe it is a matter of urgency. We need to deal with it. I would seek to have it taken on the next order paper. That still requires, I believe, us to lift standing orders, but it then becomes 12 days instead of a fortnight.

**The Deputy Bailiff:**

Yes, you could not have it debated, I do not think, if you are to comply with the full lodging period, it cannot be debated until the Thursday. Is that right, Greffier? Yes. So it would have to be the following meeting, I think.

**Deputy G.P. Southern:**

I can only lodge it for the following meeting.

**The Deputy Bailiff:**

Yes, or you are going to have to ask Members.

**Deputy G.P. Southern:**

Or I could ask again, and we have had the debate, and people might have changed their mind in 10 days' time. I will discuss it later. That is what I thought, Sir. It is not easy.

**Senator J.L. Perchard:**

Sir, may I test the Chair by suggesting that we consider carefully about holding this debate while there is a live police investigation and that only paragraph (e) of the proposition could be debated; the rest has every possibility of contaminating what is a current investigation and I suggest, Sir, that the house should consider now not debating this at all, with the exception of paragraph (e), until such time that the judicial process is completed against Senator Syvret.

**The Deputy Bailiff:**

I am sorry, Senator, I am not willing to take that as proposition without notice. This is a matter to be considered by the Assembly as and when the matter comes before it. Very well. So the session is now closed.

**ADJOURNMENT**