

# STATES OF JERSEY

## OFFICIAL REPORT

**WEDNESDAY, 18th NOVEMBER 2009**

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

**PUBLIC BUSINESS – resumption**

**1. Draft Currency Notes (Variation of Maximum Amount of Issue) (Jersey) Regulations 200- (P.152/2009)**

**The Bailiff:**

We come next then to the Draft Currency Notes (Variation of Maximum Amount of Issue) (Jersey) Regulations, Projet 152, lodged by the Minister for Treasury and Resources. I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Currency Notes (Variation of Maximum Amount of Issue) (Jersey) Regulations: the States in pursuance of Article 1(2) of the Currency Notes (Jersey) Law 1959 have made the following Regulations.

**The Bailiff:**

Yes, Assistant Minister, you are proposing this one.

**1.1 Deputy E.J. Noel of St. Lawrence (Assistant Minister for Treasury and Resources - rapporteur):**

Under Article 1 of the Currency Notes (Jersey) Law 1959, the States can increase the maximum amount of Jersey notes which can be issued. The present limit is set at £75 million and it was set in 1999. The proposition in front of Members seeks permission to increase this limit to £100 million. The last increase in currency in circulation was in 1999 when the limit was increased from £50 million to £75 million. If the increase was linked in line with inflation over the last 10 years the limit would now be £110 million. Currency in circulation remains stable throughout the year but peaks at Christmas as people use more cash during the festive period before decreasing again in January. Currently the amount in circulation is approximately £70 million but this will increase significantly, albeit in an unpredictable amount, during December. The increased limit will enable the Treasury to meet the seasonal demand for cash and avoid a repeat of the unfortunate situation which arose during the Christmas period during last year when demand briefly exceeded the issue limit. It must be emphasised that this is not a quantitative easing as witnessed recently in the U.K. (United Kingdom) because, unlike the U.K., Jersey has reserves, nor are the Treasury printing more money. The number of Jersey notes in circulation is governed entirely by the demand of the retail banks which is driven in turn by the cash needs of their customers. If the banks were unable to issue Jersey currency notes they would be forced to issue Bank of England notes instead, if they had sufficient stocks. I should also emphasise that Jersey has a fully backed currency which means that for every pound in circulation it is matched by £1 invested. I make the proposition.

**The Bailiff:**

You propose the principles. Are the principles seconded? **[Seconded]** Does any Member wish to speak?

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

I do not think I will oppose this but it does strike me a little strange that it is being done heavily backed by the need for there to be more currency at Christmastime. What is happening is £25 million more is being made available for the States to invest, if the facts be put clearly in front of Members' eyes. Most people at Christmastime, more and more so, are conducting their Christmas shopping online and with cards so cash transactions are, in my opinion, nothing to do with this. This is an extra £25 million that the States are going to invest. That is how I see it and I am not convinced that the way it is being sold is the way it is being sold.

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

I was interested to hear the remarks of the rapporteur that this was not the equivalent of quantitative easing in the U.K. I wonder if he would expand on that detail and explain to Members in what way this is different.

### **1.1.3 Deputy D.J. De Sousa of St. Helier:**

I am happy to follow the last 2 speakers. My query is although we exceeded the circulation last year, what evidence do they have that it will exceed this year knowing the number of already redundant workers that we have and the number that are going to be redundant by Christmas?

### **1.1.4 Deputy R.C. Duhamel of St. Saviour:**

Just a brief question for the Assistant Minister for Treasury and Resources. Would he be able to tell the House how much U.K. pound sterling is in circulation so we have got a comparison, please?

### **1.1.5 Deputy J.M. Maçon of St. Saviour:**

A further question for the rapporteur. We are being told we are increasing this limit because we exceeded the £75 million limit that we have at the moment. I am just wondering how much did we exceed it last year by? For example, if you went to £80 million, why jump to £100 million? I would just like that clarified.

### **1.1.6 Deputy T.A. Vallois of St. Saviour:**

I would just like to ask if the rapporteur can explain why it is for the Christmas period we are increasing the limit and not reducing it back down afterwards?

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

Will the rapporteur confirm that 10 years ago in fact this was passed by the States, the increase that was put through then? Also I must say that I am supportive of this given that it is 10 years since this was previously done and things have moved forward. The more money that the States have to invest, the better it is for the Island.

### **1.1.8 Deputy M.R. Higgins of St. Helier:**

Deputy Vallois jumped in ahead of me there on this asking the question of why we are just doing ... we are being told it is to meet a seasonal increase. However, in the U.K. when this happens, the money is withdrawn after the Christmas period. So if it is just to deal with a seasonal increase, why are we not withdrawing it immediately afterwards? It is an unanswered question that needs to be answered.

### **1.1.9 Connétable J.M. Refault of St. Peter:**

Certainly this morning on the radio, coming into the States, they were talking with one of the representatives of the major stores in Jersey. They were certainly commenting that last Christmas there was a significant downturn in business because that was when all the banks were collapsing and people were being far more cautious. They are certainly looking forward this year to more trade. I think the argument that perhaps there is not going to be a need for more cash is not necessarily relevant for this year. This question that I have really for the Assistant Minister for Treasury and Resources if he can help me is, is there a disadvantage to Jersey if we run out of Jersey notes and English notes were used instead?

### **1.1.10 Connétable D.J. Murphy of Grouville:**

I think Members may be missing the point here that this is like an interest free loan. It is an I.O.U. Every note you issue is an I.O.U. for a pound from the States Treasury. They keep the money in and they invest it and so you earn money out of it. So the money going out is not costing us anything and we are earning interest on the money we have issued. I really do not see ... it is a complete no-brainer to me.



**1.1.11 Deputy K.C. Lewis of St. Saviour:**

I do not have a problem with this proposition at all but I am just curious if the rapporteur can inform the Assembly if he has evidence that there is a move away from credit cards to cash in view of the recession.

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

I point out that these Regulations are permissive. Although they permit up to £100 million to be issued, it does not mean that £100 million has to be issued at all times. It would be I think a waste of this Assembly's time to have to come back and change the figure every week depending on the number in circulation. It is obviously far more sensible just to give a maximum and for it to be managed appropriately. It is not quantitative easing because the funds are matched by equivalent currency elsewhere. It is just a transfer which enables us to benefit from using local currency rather than U.K. currency.

**1.1.13 Senator T.J. Le Main:**

It is important to point out as well that if people use Jersey currency we do earn out of it. If we run out of Jersey currency we use English currency which is of no benefit to the Island.

**1.1.14 Deputy I.J. Gorst of St. Clement:**

Not really wanting to prolong it. It is my understanding that this is relatively straightforward. It is a swapping of one English issued pound for one Jersey issued pound which benefits the Jersey people and the Jersey Government. Therefore, I hope that this will find support. It is nothing to do with quantitative easing, as some speakers have suggested. It is quite straightforwardly just that as I have explained.

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

Would the rapporteur just clarify that in this whether there will not be any design changes given that there is quite a lot of confusion between the English 5s and our Jersey £1 notes? There is room for change here and I wonder if he could confirm whether that is going to be the case.

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

If I could follow the last speaker by being more specific. There was talk ... certainly the Minister for Treasury and Resources told me that there were plans to radically change the design of all our notes, notably of course the £10 note with its picture of the historic battle of Jersey. I wonder if the Assistant Minister could indicate if this is what is going to happen when this takes place.

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

I do feel I have to comment in more general terms on the comments by the Constable of St. Peter. He seemed to be talking up the economy somehow, saying that we are in a better position this year than we were last year which may be true in terms of the banks but I would just like to point out that many people will be facing redundancies over the Christmas period. It is unlikely that those people will have a lot of money to spend. I think that is due to government neglect at this time.

**The Bailiff:**

Very well. I call upon the Assistant Minister to reply.

**1.1.18 Deputy E.J. Noel:**

I thank all those Members that have spoken. There have been quite a number so I will not address all their points individually. I would just like to pick up on the Constable of St. Helier's comments and the Constable of St. Brelade's comments about the change in the currency design. That is in progress. There has been a consultation carried out. I believe that draft notes will be coming out at approximately Easter for Islanders to see. If I can take it back to the topic today. I may be trying to teach Members how to suck eggs but I would just like to explain how this works. Banks transfer

money to the Treasury and we place those funds on deposit and earn interest on it. In return we give the banks pieces of paper that have a nice picture of our Queen and Duke. When these pieces of paper are no longer needed by the banks they give them back to us and we transfer back to them their monies but we hold on to the interest that we have earned. To answer the points about why there is a peak at Christmas. It is just something that traditionally happens year on year. It is completely unpredictable. Last year peaked I believe to some £86 million. The previous year it peaked by £600,000 over the £75 million limit. As has been mentioned, this is not anything to do with quantitative easing. Our currency is fully backed pound for pound. It is true that if the banks do not have Jersey currency to issue to their customers they will issue U.K. notes which we earn nothing on. I maintain the proposition.

**The Bailiff:**

Very well. All those in favour of adopting the principles, kindly show. Those against? The principles are adopted. Senator Ferguson, do you wish this matter to be referred to your scrutiny panel?

**Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):**

No, thank you, Sir.

**The Bailiff:**

Assistant Minister, do you wish to propose all 3 Regulations *en bloc*?

**1.2 Deputy E.J. Noel:**

I do, Sir.

**The Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? All those in favour of adopting the Regulations, kindly show. Those against? The Regulations are adopted. Do you propose them in Third Reading, Assistant Minister?

**1.3 Deputy E.J. Noel:**

I do, Sir.

**The Bailiff:**

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

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

Yes, just if the Assistant Minister could answer my question that I put to him originally about on the previous time it was increased, did that come to the States or was that done through some kind of Order?

**1.3.2 Deputy M.R. Higgins:**

Again I would like the Assistant Minister to answer the question. Why, if he is going to increase it over Christmas, he is not going to withdraw it after Christmas if it is just to deal with seasonal demand?

**The Bailiff:**

Yes, I call upon the Assistant Minister to reply.

**1.3.3 Deputy E.J. Noel:**

I apologise to those 2 Deputies. To answer the Deputy of St. John, I was not in the Chamber at the time. I do not know what happened 10 years ago. I believe that the Deputy is in a better position than I to know that. **[Laughter]** In regard to Deputy Higgins' question, this is a maximum limit.

It does not need to be reduced at a later date. This will put us in stead hopefully for the next 10 years.

**The Bailiff:**

The appel is called for then in relation to the Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 46</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. 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 J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy 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 of St. John				
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 A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Bailiff:**

So that completes that matter.

**2. Social Security Fund: Research into Alternative Funding Mechanisms (P.153/2009) (re-issued)****The Bailiff:**

We move next to Social Security Fund: Research into Alternative Funding Mechanisms - Projet 153 - lodged by Deputy Southern. The Greffier will read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to refer to their Act dated 10th June 2009 in which they approved the States Strategic Plan 2009-2014, and in the light of Strategic Priorities 1, 4 and 6 of that Plan - (a) to request the Chief Minister to reprioritise the Policy budget of the Chief Minister's Department to enable funding to be made available to the Minister for Social Security to research mechanisms to eliminate the need for supplementation of Social Security funding from general revenues; (b) to request the Minister for Social Security to report back to the States as a matter of urgency, and in any case no later than September 2010, with the results of the research and recommendations including analysis of the mechanisms outlined in the appendix to the attached report; and (c) to request the Minister for Social Security to bring forward for approval the necessary legislation to give effect to any proposals arising from the research and recommendations to enable any amendments to the current system to be in place no later than January 2012.

**2.1 Deputy G.P. Southern:**

It is a rare pleasure for me to stand here without my sleeves rolled up metaphorically and with a 20 minute speech in my back pocket and ready and committed to spend 2 hours battling away to move the agenda of this Ministerial government inch by inch on to rational ground and progressive measures. Instead the Council of Ministers and the Minister for Social Security have said: "By jove, I think he has got it. He appears to have brought something we can fully support." So it is a great pleasure for me to stand today. I thought it was a black swan day yesterday but this is certainly a first for me. But just briefly then. This is a measure that we have been, I believe, putting off for far too long. I first brought the substance of what I am asking to be researched back in 2003. The fact is that certainly in these days of fiscal black holes and absence of revenues and recession, we can ill afford to allow States supplementation - the contribution from the taxpayer into the Social Security Fund - to rise as it is estimated to do on these figures to £67 million annually and rising still. There are many ways that we might examine the Social Security Fund and many aspects that we need to research. One of them is outlined here. I think these measures are reasonable and the timescale that I have put on them is also reasonable and matches more or less what Social Security and the Council of Ministers were intending to do. Key to this ... and I would ask that all 3 of the paragraphs are accepted even though it appears that the first half of the first one, to reprioritise the policy budget of the Chief Minister's Department, is redundant because apparently there is already funding in Social Security to enable this work to be done. But, nonetheless, the key word I think that we need to agree is research mechanisms to "eliminate". I want to go as far as possible. Examine the elimination of supplementation not just keeping some sort of cap on it. The second paragraph clearly refers to aspects of the report and the annex in particular so including analysis of the mechanisms outlined in the appendix to the attached report. It is clear that that must be accepted if my wishes are to be carried through. Those mechanisms are the potential for removing the earnings limit for employer and employee totally on Social Security contributions and increasing the rate for all by measured percentages over the coming time to eliminate totally the need for supplementation. I believe the first measure of its own probably

reduces the need for supplementation by half approximately and there will need to be some increase in rates that we need to examine how we do that in order to eliminate the second half of that. Thirdly, that says by September 2010 we want to hear from the Minister for Social Security that he has done this research and the paper is there in front of us so we can make an informed decision about the way forward, then to come forward with some amendments by January 2012. I first brought this proposition in 2003. That is 9 years in the making. But I think that is reasonable. It can be achieved. It requires less money than I thought, so I think we can probably go ahead with this and accept that we need to do this research and we need to do it pronto. By 2012, let us see something on the desk here that we can agree or disagree this is the way forward in terms of supplementation.

**The Bailiff:**

The proposition, is it seconded? **[Seconded]** Does any Member wish to speak on the proposition?

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

Yes, just to confirm that as my comments say I am quite happy to accept this proposition. I think the Deputy may have been trying to score points and suggest that I had seen the light. I had in fact seen the light some considerable time ago. In fact as the comments make quite clear, the work required is already underway. The funding is already there. It is not a question of me seeing the light. The light has been shining.

**2.1.2 Deputy I.J. Gorst:**

The proposer says he finds himself in a strange and unusual situation. I feel the same. Not only did this Assembly approve my Business Plan which undertook to start this piece of work in 2010, it was one of my election pledges when I was voted to this office so it is particularly nice that the Deputy feels that he can come and support me and get a second approval in effect **[Laughter]** from this Assembly for my pledge and for my Business Plan. But on a more serious note, it is a piece of work which needs to be undertaken - the Deputy is absolutely right - and it is a piece of work which has started to be undertaken. He uses the word "elimination" of supplementation. That is an interesting word because, as we all know, currently supplementation is money raised from the taxpayer so anyone paying tax helps to top up the future pension of those low earners within our community. To eliminate that will in effect mean that someone will have to pay. If it is not the taxpayer, one can only think that in actual fact then it is going to be the contributor to the fund. While we are eliminating supplementation in that scenario, someone else is having to pay. It is a moot point as to whether the individual would rather pay it as a taxpayer or rather pay it as a contributor to the fund. But this is the piece of work that is being undertaken. These proposals will come back to the States and the States will have a final say on it but we should remember that someone somewhere will pay whichever way we look at it or whichever way we divide up the cake. As the Chief Minister's comment said, I am more than happy to support this proposition. I would just say as well that in looking for solutions, the Deputy is absolutely right. By removing the ceiling on contributions we would raise about £30 million so we would have to look at how we were going to raise the other half of the current cost of supplementation. But I think it is a rare day but it is a good day for politics in this Island when we across the Chamber can agree that something needs to be done. I suspect the arguments might rear their heads when it is what will need to be done. But we will cross that bridge when we get to it so I am fully supportive today of the Deputy's proposition.

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

I have to say I totally oppose these measures. I do not but I just wanted to ... I am sure it will come as no surprise that I will be supporting this. Of course it would be unfair as well to criticise the Assembly for what my grandmother used to call faffing about, i.e. putting off necessary action in the past. But I feel it should be said that quite a few of the major players involved in all that are

still with us. Supplementation was, as I recall, an issue that came up quite regularly at the election. Certainly its importance was referred to within the J.D.A.'s (Jersey Democratic Alliance) manifesto. So I am pleased with what I have heard in this short debate. Looking at the proposition and hearing Deputy Southern's explanations, particularly to part (a), are at the risk of using Deputy Le Fondré's wholly misleading words reference stealing Boxing Day yesterday, it is all very simple and all very straightforward. I hope it is this time. I welcome the apparent new commitment from the Chief Minister to inclusive government by his support and with the light apparently having been seen and burning brightly, I hope we can then move on to explore progressive taxation generally with equal vigour. I will support this.

#### **2.1.4 Deputy R.G. Le Hérissier of St. Saviour:**

Yes, I do support it but I take to heart the words of the Minister for Social Security. We know there have been 2 elephants at least in the room. One has been supplementation and the other, although it is now subsumed elsewhere the issue has not been wrestled to the ground, namely rent rebates. The assumptions upon which those 2 programmes operate have led to basically not out of control expenditure but certainly expenditure we are not really able to determine. The only thing I would say back to my point about the Minister, ultimately is this taxation under another form? There is no doubt it will, as Deputy Pitman said, undoubtedly have implications for the structure of the Social Security system because one of the groups I know from people I meet who feel very, very squeezed by it are the small business people. They find the quarterly payments really tough. They found that not only tough in the current conditions but previously. There are groups like that in the system which will have to be thought about as we inevitably will have to restructure it, were this to go through. The other group... because in a way I think we may be moving more to hypothecated taxes and I wish to follow my good friend Deputy Hill whose ability to publicise his propositions in any debate of the States is almost unbeatable. But I would like to bring up the issue of the residential care insurance. That is looming on the horizon. We know there are enormous costs building up. There is a political will among the people, I find, to pay for that but we have got to get our act in order. We have been dragging our feet for years on that. That is another cost that is looming and probably will not be absorbed by general taxation. For the moment if people get the security of not, for example, having to sort of dramatically sell-off their houses or their family having to be approached for a big payment, I think they will look kindly on it if only we can get our act together. This is really, really dragging on. So I support Deputy Southern. He has opened up the whole area. It needs rethinking. But let us remember there are other implications looming.

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

Sir, perhaps the Deputy would like me to give a point of clarification. I think I answered a question - maybe it was at the last States sitting but one - and I am pleased to be able to confirm that the Green Paper for the long term care will in be before the Council of Ministers next Thursday. So we are very far down that line and I will be meeting with Scrutiny hopefully in December to discuss the way that we are going to interact with the public on publicising that Green Paper. Just to give that information.

#### **The Bailiff:**

Does any other Member wish to speak?

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

The principles as contained in this proposition rightly will and do need to be reviewed but I suspect that this is the easy part. I remember going to many pre-meetings before G.S.T. (Goods and Services Tax) was on the agenda or on the final element to the agenda where this was one of the subjects that was looked at. I am not going to talk about the details of the people that were on the table that I was on but they were people that I would have suspected would have been totally against taking it away from one set of people and giving it to another set because of the reason that

this was perceived as a taxation as opposed to a Social Security pension fund. But there was recognition that somewhere along the line from 1948 onwards that this should have been dealt with before now and there was a necessity to make sure it is. But at the same time it is recognised that one can swap a payment of £50 million or £60 million from a Social Security fund into a taxation but it does not alter the fact that that money has to be made up by the public. We are already increasing demands on the public in one form or other. We did make a promise that we would not have any more taxation until 2012, which this is an indication it might be if G.S.T. was kept across the board at 3 per cent. But every time we sit in the States nowadays there are greater pressures on finding ways of increasing the money or reducing the cost to the States in providing the services required and the extra demand for the cost of especially things like health, education and social security. It is a difficult one. Recognising that this is the easy part, I think that the side that has been touched on by Deputy Le Hérisier is in fact the people that are self-employed and indeed those that are non employed. There are some people that cannot claim but cannot provide the work that they would otherwise like to do. As long as we understand there is still this perception of life that once you get to a certain age you are no longer a useful member of society to be earning the same amount as what you used to do. Many people have an occupation pension scheme or whatever that they can support themselves to a degree. But in Jersey, unlike Guernsey, you are classed as self-employed whether you are non-employed or whatever. These are the sort of areas that we are going to look at. Other areas that will come out of this is that we are asking for '20 Means 20.' There are a lot of people that are now paying much more in their income tax and can ill afford to have increases because these are the people that will get targeted. They also have families. Being recently an Assistant Minister for Education with responsibilities among some other things for grants and bursaries and scholarships, *et cetera*, there is increasing pressure on these parents because of the costs that are now being asked by the United Kingdom and elsewhere for the support of our children. We are now demanding that our young people have the higher education skills and qualifications that are required for what now are ordinary everyday jobs. In fact the recent one we have just heard of course is for future nurses will now need a degree. We must bear this in mind. I shall support this proposition but I also recognise that this is going to be a very difficult task to tread a very fine balance to be able to ensure that we are not just receiving an extra £30 million to £50 million or whatever, which we can spend for taxation purposes only to put an unnecessary ... maybe not unnecessary but to put a strenuous burden on the residents of this Island, many of which by then I suspect will have other pressures put on them for end user pays as we had in an indirect way yesterday brought to the States on gambling control, *et cetera*. I just thought that it be appropriate that I make those comments today.

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

I realise today that we are not discussing the research itself and the outcomes of that research but it is interesting some of the comments which people have made. I suppose people have widened it a bit because the proposition does talk about going to the extent of eliminating the need for supplementation. Fair enough, that work can be done. But from my perspective some of the comments which have been made have highlighted some of the difficulties there would be with shifting that balance quite considerably from one section of the community who are going to pay to another section of the community who are going to pay because somebody has got to pay. There is no getting away from it. Someone has got to pay for the pensions and everything else.

#### **The Bailiff:**

Senator, I appreciate I have allowed a little latitude but this is a debate on whether to look into it. Everyone seems to agree it should be looked into.

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

I agree entirely. The only comment I would make that it would be a sad day that we lose the social contracts we have with our community if we move it from one section of the community to the

other and we are not supporting those at the low end of incomes. I will leave it at that. I do support the work being done.

**The Bailiff:**

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

**2.1.7 Deputy G.P. Southern:**

I thank all those who have contributed to the debate today. I am aware that what we are talking about here is going forward to do the research with all the implications that that contains. It is not about withdrawing support for the low paid. It is or could be about making the system that we use to pay our Social Security contributions and pay for our pensions more progressive. As Deputy Le Hérisier has suggested, there are 2 issues, 2 big pots of money that we have seen to. They are the elephants in the room. Why should we have 2 of them? Rent rebate is the other. It may encourage him to recognise that that has now been subsumed in income support and I certainly have my eyes fixed firmly on that. So perhaps we will find a way to deal with that as well. Just briefly. When he says that effectively there is no free lunch. Somebody has to pay for this. We have to recognise and we must and perhaps we will in the coming 3 years recognise that the days of low tax, low spend are over. We are among the lowest taxed, including social security. Compare us with Ireland, the Isle of Man, the U.K., *et cetera*, we pay far less than almost anywhere else, certainly in the Western world. Those days, I am afraid, we have to recognise are over and we have to look at ways of funding a decent society including our pensioners. I was talking to the manager of the Citizens Advice Bureau and he said he was talking to his friend who was about to retire. He said: “Well, you are not going to be able to exist on the States pension. That is the reality so you better start drawing-in and looking at your expenditures because the reality for most people is they cannot exist on a States pension.” Serious and heavyweight questions need to be asked. This makes a start. I maintain the proposition and I call for the appel.

**The Bailiff:**

The appel is called for then in relation to the proposition of Deputy Southern, Projet 153. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 36</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		
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		
Connétable of Grouville		
Connétable of St. Brelade		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Mary		
Deputy R.C. Duhamel (S)		
Deputy of St. Martin		
Deputy R.G. Le Hérisier (S)		
Deputy J.B. Fox (H)		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy of St. Peter		



Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
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 A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

### **3. Channel Islands Lottery: allocation of profits for 2009-2010 (P.155/2009)**

#### **The Bailiff:**

We move next then to Channel Islands Lottery: allocation of profits for 2009-2010 - Projet 155 - lodged by the Minister for Economic Development. I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion to agree in accordance with the provisions of Regulation 4(5) of the Gambling (Channel Islands Lottery) (Jersey) Regulations 1975, that all monies standing to the credit of the Channel Islands Lottery (Jersey) Fund which have not already been set aside by the Minister (representing 90 per cent of the total Jersey portion of the profits of the Channel Islands Lottery from 2009 and 2010) should be paid to the Association of Jersey Charities for the benefit of the community and the charitable needs of the Island.

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

Sir, if I may, can I ask my Assistant Minister, the Constable of St. Clement, to be rapporteur for this item?

#### **3.1 Connétable L. Norman of St. Clement (Assistant Minister for Economic Development - rapporteur):**

Some of us - or a few of us anyway - may be old enough to remember when Super Fred was the public face of the 'Best of Jersey Lottery' and then the Channel Islands Lottery. In those days the profits from the lottery were used to offset some of the capital costs of the development of Fort Regent. When that was completed the States agreed that the Jersey part of the profits from the Channel Islands Lottery should be used for charitable purposes. Ever since then it has been agreed that these moneys, the profits from the lottery, should be paid to the Association of Jersey Charities. This proposition maintains that position for next year and 2010. I make the proposition.

#### **The Bailiff:**

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

#### **3.1.1 Deputy A.K.F. Green of St. Helier:**

I am sure most Members know but this money really is a lifeline to many local charities. It is getting more and more difficult for local charities to raise what we call unrestricted funding, i.e. that is funding that comes without a handle on it. You can usually get, for example, banks to pay for capital developments and suchlike but to pay for rent and staff and all the, what I call, everyday things is getting more and more difficult. This money, while it is not used for that, does take the pressure off, does allow the charities to use the monies that they raise through their own ends to

meet the day to day expenditure and this does help to meet the special expenditure such as a new roof and the like. I will support it and urge Members to do the same.

### **3.1.2 Deputy A.T. Dupre of St. Clement:**

Just something I would like to bring up. Talking about the lottery, I do think it is time we went back to having a bumper one in the summer as well. It went very well. If we can use perhaps half the profits once again to charity I think that would be a very good idea.

### **3.1.3 Deputy D.J. De Sousa:**

I will be supporting this and I hope every Member will. I am sure they will. Hopefully charities like the Women's Refuge as well will benefit out of this. We know that the charities have really been struggling this year and it will be of benefit to them.

### **3.1.4 The Connétable of St. Brelade:**

Would the rapporteur kindly confirm that the Economic Development Department receives accounts presented from the Association of Jersey Charities annually?

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

It is a sort of slightly elliptical comment but when I was on the Health and Social Services Committee, the funding for charities... we did start a move to encourage the smaller charities to work together and use common facilities. This work was carried on by Karen Huchet. I do regret that perhaps our charities here do not work as efficiently as might be. There are circumstances where charities could share the same premises. There are various examples that have been set up. I urge those Ministers who give grants to charities, particularly the Minister for Economic Development working with the Association of Jersey Charities, to continue this work so that charities are not paying unnecessary rents on property and so on and where they can more effectively use their funds for the purpose for which they were set up.

### **3.1.6 Deputy M. Tadier:**

I obviously cannot disagree with anything that has been said up until now. I just want to bring it back to something that was raised yesterday, this whole idea about when you are gambling knowing exactly what your odds are. I think it is absolutely imperative whether the proceeds go to charity or if they go to individuals, that when people buy a lottery ticket or when they place a bet, be it in a fruit machine or whatever, they know what they are getting themselves into. I would like to see in future the actual odds that are published. I can give an example. When you buy a hospice ticket for that very good cause at Christmas time or whenever it is to win the £1 million, you know exactly how much it is costing and what your odds are. You know that if a ticket costs you £300 and I think there is a pool of potentially £3 million let us say and the prize money is £1.4 million, let us say, you know exactly that you have got a 40 per cent return on your money. People make that decision and either think I am going to buy a lottery ticket because I know although the odds are not particularly great the rest of the money goes to charity. I think it is absolutely imperative that people can make that decision otherwise some people might say: "Rather than buy a lottery ticket, I am just going to give £30 to charity because that is cheaper." I think that is the only point I wanted to make.

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

I think this is one of our better moments that this House puts things like this in place. I must say as a former chairman of the Channel Islands Air Search when we required a number of items, whether it would be the flare radar or the new aircraft itself some 10, 12 years ago - probably closer to 20 years ago now - we had help as a charity from these particular profits. To me, it is there and it is doing an excellent job. I sincerely hope it is supported by everybody.

### **The Bailiff:**

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

### **3.1.8 The Connétable of St. Clement:**

I appreciate the supportive comments and, strangely enough, particularly those of Deputy Tadier because this is one of the points I made yesterday that gaming - and this is gambling - has to be verifiably fair. When we have the Gambling Commission hopefully when we bring that back in a couple of weeks, all gambling will be verifiably fair when it is properly regulated because the lottery is fair and all the information about the odds, the prizes, what you get if you buy 100 tickets or whatever is all contained on the tickets and that is from the scratch cards to the main Christmas lottery draw. That is the sort of fairness and openness that I want to see in all gaming on this Island in the future. Deputy Green was absolutely right. The monies which nowadays is approaching £500,000 - I think it was £440,000 last year - is a lifeline to the Association of Jersey Charities and is indeed a major source of their funds. Yes, of course the Association of Jersey Charities do provide us with their accounts. Senator Ferguson made the point about charities working together. Absolutely right and something which again we can mention to the Association of Jersey Charities who have all the charities in their family. But of course many charities who can benefit from these funds are small charities that do not have premises, do not have staff, rely totally on honorary officers and people who do a tremendous amount of work for no reward whatsoever except the reward that they get from the satisfaction of the work that they do. They are just as valuable as those charities who have got premises and expenditure of millions and millions of pounds. **[Approbation]** Deputy Dupre wants to see the Bumper Lottery back. Certainly there is no doubt about it that the larger the prize, the more attractive it is to the punters as it were and we sell more tickets. The scratch card system which we currently have and have had for a number of years with the £20,000 maximum prize continues to decline. They did rise a little, they plateaued and they are now starting to decline a little bit. We will be looking next year, as I have mentioned before, to totally revamp the Channel Islands Lottery system, hopefully make it more exciting and attract more monies which will make more profit for the Association of Jersey Charities. But certainly the larger prizes, as I say, do attract the punters. This is evidenced from the current Christmas draw. For those Members who do not want to know what the current first prize is, if they could cover their ears now. It has now reached £400,000 which I think is excellent and still growing. I think I have covered all the points that have been made. I maintain the proposition.

#### **The Bailiff:**

All those in favour of adopting the proposition, kindly show. Those against? The proposition is adopted.

## **4. Ratification of the Agreement for the Exchange of Information with Respect to Taxes between the States of Jersey and the Government of Australia (P.160/2009)**

#### **The Bailiff:**

We come next to the Ratification of the Agreement for the Exchange of Information with respect to Taxes between the States of Jersey and the Government of Australia - Projet 160 - lodged by the Chief Minister. I ask the Greffier to read the proposition.

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

The States are asked to decide if they are of opinion to ratify the agreement for the exchange of information with respect to taxes between the States of Jersey and Australia, as set out in the appendix to the report of the Chief Minister dated 5th August 2009.

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

I propose to speak on both this proposition and the subsequent one at the same time because I am sure that Members will be getting fed up with me coming to this House to ratify different

agreements. I think this is about the fourth time I have done it this year and these represent the twelfth and thirteenth countries with whom we are proposing to ratify an agreement. There is not much I can add to what has been said in respect of the previous treaties, other than to remind Members that as a result of signing tax information exchange agreements and as a result of other good practices and good regulations and good standards, we immediately were put on to the so-called White List as being a country or jurisdiction which is regarded very satisfactorily. These agreements which we are about to ratify further strengthen that opinion. If Members turn to pages 5 and 6 of the Australian one, they will see on Section 13 that the agreement provides for a declaration recognising the Island's commitment to high standards, to welcome Jersey as a member of the community of nations committed to co-operation and to provide clarification of improvements in respect of Jersey's view and the removal by Australia of any references to Jersey as a tax haven. These agreements are vital to our ongoing reputation internationally and I am pleased to propose the ratification of the one with Australia.

**The Bailiff:**

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

**4.1.1 Deputy J.M. Maçon:**

On 16th July when we had the ratification between Jersey and the U.K., I did raise with the Minister the issue of the manpower and financial implications. If I may quote from Hansard, I believe you said: "Contained by inference but the Deputy is right to raise the point that there must be such a statement in relation to every proposition." The Deputy of St. Mary raised the same point. The Deputy of St. John commented how many propositions had been sent back to him by the Greffe because of not having such statements. It carried on, Sir, and I believe you said: "If I may, the Chief Minister perhaps did not make myself clear. I felt that in relation to the other 3 propositions is not set out as clearly and distinctively as it should be." Senator Le Sueur replied: "I agree, Sir." You replied, Sir: "I do not think that there is a problem necessarily in the current projets because they are simply sets of regulations saying the consequences are set out in the associated 3 propositions." Senator Le Sueur replied: "I will take note when I bring forward subsequent agreements for ratification." Within these there is still no statement of financial and manpower implications. I am concerned that the Chief Minister has given an undertaking to this House that in subsequent ratifications he would include them. I will ask the Chief Minister why are they not there.

**4.1.2 Connétable D.W. Mezbourian of St. Lawrence:**

Just one small point. The Chief Minister made reference to the Australian agreement whereby any reference to Jersey as a tax haven will be removed from governmental references. He also said that he would speak to P.161 at the same time as P.160. I do not see a similar reference to the Government of New Zealand not making reference to Jersey as a tax haven. I wonder if the Chief Minister can just comment on that, please.

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

I was just wanting to help out Deputy Maçon of St. Saviour. I think if he looks at page 6 of the proposition, number 14, it is contained in there. We usually do see it as a separate item so perhaps it was just an oversight.

**Deputy J.M. Maçon:**

I thank the Deputy for her clarification but the point I was making is I believed we had an undertaking that it would be made specifically clear.

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

In following the previous speaker, I have to ask should we not ask the Minister to take this away and return with the relevant paragraph put in place?

#### 4.1.5 Senator J.L. Perchard:

Just briefly. Can I congratulate the Chief Minister and the Minister for Treasury and Resources and all those involved in preparing these agreements? I think Jersey is fast establishing itself as a jurisdiction where openness and transparency is important to our financial services industry. I congratulate him and ask, perhaps, when summing up, if he could advise as to how many other agreements are in the pipeline and when we will be signing more of them.

#### The Bailiff:

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

#### 4.1.6 Senator T.A. Le Sueur:

I was anticipating that some Members might question the financial and manpower implications. They are, as Deputy Jeune says, quite clearly set out in paragraph 14 that there are no implications for financial and manpower resources. It is not a separate paragraph. I did check with the Greffe and there is no requirement for it to be a separate paragraph as long as it is made clear. It is, in my view, quite clear to anyone who reads paragraph 14. To the Constable of St. Lawrence, pre-empting discussions on the New Zealand one, there are no references to New Zealand and tax havens there because New Zealand has not previously considered Jersey as a tax haven so it would not be relevant to put it in. I thank Senator Perchard for his complimentary remarks. He asks how many more are in the pipeline. There are 2 more in the pipeline which I am ready to sign as soon as the territories concerned agree to their part of it. I cannot remember who they are. One of them is Mexico; the other one is not. **[Laughter]** The other one is Italy, sorry. There are others in the course of negotiation. We are continuing to do that as part of our ongoing activities and, indeed, we are also starting to look at double taxation agreements. Meanwhile, I maintain the ratification of the agreement with Australia.

#### The Bailiff:

The appel is called for in relation to the proposition of the Chief Minister, Projet 160, concerning Australia. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 33</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Connétable of St. Brelade				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
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 of St. John				

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

**5. Ratification of the Agreement for the Exchange of Information with Respect to Taxes between the States of Jersey and the Government of New Zealand (P.161/2009)**

**The Bailiff:**

Then we come to the Ratification of the Agreement for the Exchange of Information in respect of Taxes between the States of Jersey and the Government of New Zealand, Projet 161, also lodged by the Chief Minister. I will ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to ratify the agreement for the exchange of information with respect to taxes between the States of Jersey and New Zealand as set out in the appendix to the report of the Chief Minister dated 5th August 2009.

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

I am pleased to note we still had a quorum for the last vote. I hope we can maintain that for the present vote. I shall not push my luck by speaking for too long, merely to reiterate what I said for the previous proposition. I have dealt with the one slight difference between Australia and New Zealand because the Constable of St. Lawrence picked it up early. Other than that, this will make the fifteenth one that we have ratified if we do so. I hope we do so and I maintain the proposition.

**The Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak on this one? Deputy Martin.

**5.1.1 Deputy J.A. Martin of St. Helier:**

It probably applies to both and it is just a question. The Minister has answered part saying we already have 15, or this will make 15. Can the Minister inform the House if either side on any of these agreements have ever invoked the Regulations to date and asked for information?

**5.1.2 Deputy A.E. Jeune:**

Just picking up on the comment from the Connétable of St. Lawrence and the reply from the Chief Minister in relation to New Zealand not having raised Jersey as being a tax haven, I would just like to say I think that is because New Zealand has many Jersey people living there and they know just what upright citizens Jersey people are. **[Laughter]** **[Approbation]**

**5.1.3 Deputy I.J. Gorst:**

I would just like to reiterate the words of Senator Perchard in welcoming the first agreement and say that I welcome the second one as well. It has been on my mind and I believe it has been on the Chief Minister's mind - and I hope he will be able to confirm this - that Jersey has a role to play in signing this type of agreement with developing countries as well as part of improving their governance locally and obviously helping them in the international arena. I wonder if he in summing up could say a few words about that, about where we are and what he sees his vision is

for concluding these agreements with developing countries and how that will help them make their way in the world and improve the lot of their citizens.

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

I just want to quickly draw the attention of Members to a sentence in paragraph 6 on page 4 of this where the Chief Minister says: "The G20 summit in Washington held on 15th November 2008 also issued a declaration which called upon national and regional authorities to implement national and international measures and protect the global financial system from unco-operative and non-transparent jurisdictions that pose risks of illicit financial activity." I fully support that statement and I just draw it to Members' attention because I will be referring to risks in the context of the debate on foundations.

**5.1.5 Deputy M. Tadier:**

A more general comment, I think these agreements are obviously to be welcomed in the interests of transparency and international co-operation. I think it is also acknowledged that the long-term aim is for automatic tax exchange agreements if we were to go to the logical conclusion where we have full transparency. I also know that this is something which the Council of Ministers in theory and in principle would welcome with the caveat that they are willing to do it and Jersey should do it so long as it is unilateral. So, basically, we will do it when other countries start to do it. Although I know in the world of realpolitik that is perhaps the inevitable position that we find ourselves in. If we always waited to do the right thing only when other people do the right thing, then I suspect if we applied that rule in every aspect of our lives then none of us would make any progress. So, there is an argument for Jersey to take the lead and to, morally speaking, engage and push for automatic tax exchange agreements.

**5.1.6 Senator S.C. Ferguson:**

Just briefly, these agreements, in fact, are something that the Corporate Affairs Scrutiny Panel has been watching and will be looking at the operation of this policy further down the line. At the moment it is too soon to look at it now. For instance, the Treasury Department now have a member of staff the main part of whose duties will be to work on the taxation side in the exchange of information. Until we have these agreements working for some time we will not know what resources are needed, how they are going to work and so on, and we shall be casting a beady eye over them in due course.

**The Bailiff:**

Very well, I call upon the Chief Minister to reply.

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

I appreciate the comments of those who have spoken. I think those that need specific replies... to Deputy Martin, it is early days yet, of course. These agreements have been ratified mainly this year and many of them do not come into force until 1st January 2010, but from those that have been ratified earlier we have had requests and we have dealt with them very satisfactorily to the satisfaction of the countries concerned, with 2 countries; that is the U.S.A. (United States of America) and the Netherlands. To Deputy Gorst, yes, indeed, Jersey is willing and is very much involved in supporting and helping developing countries in producing this enhanced level of international co-operation. We discussed this with officials earlier this year and we are committed to working with third world countries particularly in seeing whether some form of T.I.E.A. (tax information exchange agreement) or other activity such as that would be in their interests as well as in global information. To that effect, Jersey will next February be hosting a conference specifically to deal with developing countries. We are hoping that we will get some eminent people coming to that, including - if he is not fighting an election at the time - the U.K. Minister concerned. I think that is indicative of the way that Jersey is prepared to play its part, not just looking after its own affairs but looking after the world generally. Deputy Tadier raises the point about automatic

exchange of information. That is very much on the agenda at the moment. The likelihood is that the E.U. (European Union) is moving towards that and we will be moving towards that in the next year or 2. I cannot give a date at this stage. That is going to depend to some extent on the speed of movement of the countries in the E.U. which at the moment are holding things up; mainly Austria, Belgium and Luxembourg. But that is very much within our sights. Finally, to Senator Ferguson, yes, I welcome the involvement of the Scrutiny Panel in reviewing this as matters progress and I am sure we will co-operate fully in that respect. I maintain the proposition to ratify the agreement with New Zealand.

**The Bailiff:**

All those in favour of adopting the ... the appel is called for in relation to Projet 161, the agreement with New Zealand. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 35</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Brelade				
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.A. Martin (H)				
Deputy of St. Ouen				
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 of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (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)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

**6. Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 4) (Jersey) Regulations 200- (P.162/2009)**

**The Bailiff:**



We come next to the Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 4) (Jersey) Regulations - Projet 162 - also lodged by the Chief Minister. I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 4) (Jersey) Regulations. The States, in pursuance of Article 2(1) of the Taxation (Implementation) (Jersey) Law 2004 and paragraph 1.8.5 of the Strategic Plan 2006 to 2011 approved by the States on 27th June 2006 and following the decision of the States, taken on the day these Regulations are made, to adopt P.160/2009 and P.161/2009, have made the following Regulations.

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

There is a song in one of the Gilbert and Sullivan operettas which begins: "I have a little list." I have a little list which is getting longer by the year and we are adding 2 more countries to that list to make a total of 15. Sadly, while Gilbert and Sullivan can crack jokes about what they have on their list, this list is, I am afraid, rather boring and just lists the territories with whom we have entered into and ratified agreements. We are now updating the list to add the countries of Australia and New Zealand and their related territories. I propose the proposition.

**The Bailiff:**

Is the principle seconded? **[Seconded]** Does any Member wish to speak on the principles? All those in favour of adopting the principles kindly show? Those against? The principles are adopted. Senator Ferguson, do you wish this matter to be referred to your Scrutiny Panel?

**Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):**

No, thank you.

**The Bailiff:**

Very well. Do you propose the Regulations *en bloc*, Chief Minister?

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

Yes. I will answer any questions that might be put to me, I hope.

**The Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? All those in favour of adopting Regulations 1 and 2 kindly show? Those against? They are adopted. Do you propose the Regulations in Third Reading?

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

Yes.

**The Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations ... the appel is called for in relation to the Regulations in Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 37</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				

Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérissier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
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 of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (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)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

## **7. Draft Digital Switchover (Disclosure of Information) (Jersey) Law 200- (P.165/2009)**

### **The Bailiff:**

We come next to the Draft Digital Switchover (Disclosure of Information) (Jersey) Law - Projet 165 - lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

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

Draft Digital Switchover (Disclosure of Information) (Jersey) Law. A Law to enable the disclosure of information for the purposes of a digital switchover help scheme. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

The Digital Switchover Law before Members today seeks to ensure that assistance is provided to the disadvantaged and the vulnerable in our society. This Law, if passed today, will allow the transfer of agreed personal data from the Social Security Department to the BBC. This is the most practical way to ensure that those who qualify for assistance will receive it during digital switchover next year. The term “digital” describes the technology that allows broadcasters to deliver more channels of television and radio than is possible with the older analogue techniques. In November 2010 digital switchover will take place in the Channel Islands. The exact details of the Jersey digital switchover help scheme is in the process of being agreed and, as in the U.K., the Isle of Man and Guernsey, it has been set up to help people who qualify for help in changing one

television to digital. Those Islanders with special needs, the over-75s and those on agreed benefits will all be assisted. I have confirmed those elements of the Jersey benefit structure which qualify for assistance with the Minister for Social Security and recognise the need to identify people eligible for the scheme. The scheme cannot exactly match the one operating in the U.K. due to the differing benefit structures in existence. Nevertheless, we have ensured that there will be the greatest possible benefit for the maximum number of qualifying local residents. The object of this Law is to facilitate the implementation of the targeted help scheme by allowing relevant information to be passed directly to the BBC or to certain specified companies or to persons who have been engaged to administer the scheme. I will ensure that the maximum levels of protection are put in place in relation to the processing of such information. In this regard, officers have consulted with the Data Protection Commissioner throughout. This Law is solely to enable the identification of those qualifying for the help scheme and will have no further use after the closure of the scheme. Finally, it is important to clarify that there are no additional financial or manpower implications for the States associated with adopting this Law. The reason for that is that the targeted help scheme is funded through the BBC licence fee and run through an agreement with the U.K. Government. I would like to maintain the principles.

### **The Bailiff:**

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

#### **7.1.1 Deputy K.C. Lewis:**

I think the Minister has partially answered the question already. As Members may be aware, a very large U.K. telecoms company discovered that a lot of their confidential information had been released to third parties. Can the Minister confirm that all the relevant data protection issues are in place and that anyone releasing information who is not authorised will be committing an offence regardless of which jurisdiction they are in?

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

The question I have is the Minister mentioned it will be targeted and then he goes on to say it will give permission to the Minister for Social Security. The Minister did mention it would be targeted - I cannot find it in here - to the over-75s. I presume that is because we have now agreed that over-75s on a certain income are allowed free T.V. (television) licences. There is not enough information in here. My concern again is about the people we are talking about who are living in their own home. They are quite frail. They might well be over 75; they might not be. Will they be targeted? Because this just completely seems to be ... apart from the health issues in homes, I think we could be missing out on a lot of people. I do know the U.K. scheme does not look at you whether you are home owner or not. If you are in need of help you are getting that help for one T.V. on digital. I cannot see that in our Law and I would hate it to be put just on the income support where it is a complete cut-off on quite a low age and on 75, being the over-75s who cannot get a free T.V. licence. I think any income over £13,000 - I think I am right - you do not get a free T.V. licence. I think, especially if it is not being funded by us, we should include more people that really need the help.

#### **7.1.3 The Connétable of St. Lawrence:**

It is following on, really, from what Deputy Martin has just said. I am concerned about the word "targeted" and I am also concerned about the information that is going to be given to the BBC or other relevant persons under these Regulations. Will the BBC be going to the Social Security Department or Health and Social Services and asking for information on people who currently hold a T.V. licence or will they be going to these departments and asking for information on everyone over 75, everyone who may be visually impaired, everyone in care homes? I do not think there is enough information in here to satisfy me that we will have the measures in place to ensure that

information that is not required is not being given to these companies. I think the Minister, to satisfy my concerns on this, will have to give an in-depth response to this. The other query I have is what will happen to the information that is given to these companies, the BBC, *et cetera*, when they have fulfilled the requirements to disclose or to aid people in the switchover to digital? How long will they retain the information? What will they do with it at the end? If anybody does not want their information passed on to them, are they able to make representations, say, to the Social Security Department? Because it just concerns me that this could be a blanket permission for the Social Security Department and other departments to hand over information that is at the moment protected. I know that as Connétable it is difficult for me to get information from the Social Security Department with respect to people who are receiving income support and who may need help in other ways from the Parish. It is difficult as Constable to find that out, because people are having difficulty paying their rates this year. A portion of the rate payments are in the income support payments made to some people, yet Social Security will not tell us, the Constables, who is on income support, and here we are, a blanket permission for information to be handed over almost willy-nilly, it seems to me, to the BBC *et al.* I do have concerns and I would like the Minister to address them, please.

#### **7.1.4 Deputy A.K.F. Green:**

It is just to ask a question of the Minister, really, and it is probably in a similar vein to that of Deputy Martin and the Constable of St. Lawrence. There will be people that are not receiving benefit from Social Security that would, I think, in the U.K. terms anyway, have qualified for the scheme. I will give you an example: someone who by way of income might have qualified for income support but by way of residence time living in the Island they do not qualify. In the U.K. that person would have been helped by the BBC to make their transfer over to digital T.V. Is there some provision for people to make personal application or how are we going to pick up these people?

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

Following on from the Connétable of St. Lawrence, I have some concerns here because for some time now I have been hearing concerns raised to various Constables and from charities, *et cetera*: we cannot find out information from Social Security. Because if you are a charity and you have funds you want to give out at Christmas, you cannot find who the needy people are. Yet we are prepared or we are being asked to give information to the BBC and others. Now, we are not told who the others are. Is there an end date to this information? Do we know who these companies are? Can they sell on that list to other people? There is a whole host of unanswered questions here, and I would have thought that in the first instance the Social Security Department should, in fact, be working much closer with the Connétables and making sure our own areas within the Island are sorted out prior to going off-Island and handing information to, yes, the BBC. We all know who the BBC are but we do not know who the subcontractors are and how sound they are and what kind of security they hold. There is a whole host of questions here which are unanswered in the report. I am going to wait and hear how the Minister sums this up, but I think he is going to have a hill to climb to convince me that sending this information off-Island is the right way forward.

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

Just a couple of questions. Firstly, I may have missed something but I am not sure what this scheme does that necessitates this information to help the vulnerable. So, could the Minister explain that? Also, I want to know if these people are aware that the BBC has asked for their information and are aware of this proposition.

#### **7.1.7 Deputy D.J. De Sousa:**

Along similar lines, will the Minister in his summing up please assure the House of what will happen to this information when it is finished with? Will it be sent back to the States? Will it be destroyed? If so, how? Because we all know the problems the U.K. have had with files.

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

It is just a quick point about timetabling. On page 13 we are told this Law shall come into force on the seventh day after it is registered. We are told that digital switchover is November 2010, and my understanding is that laws - this is a Law - have to go to Privy Council and so on. So, I would just like the rapporteur to comment on the timetabling for this because it all seems quite tight, but I do not know the details myself.

#### **7.1.9 Deputy J.M. Maçon:**

On a similar line to the Deputy of St. Mary's, it is about the timing. As the Minister pointed out, this obviously could only last up to a certain point and I am questioning what expiry/repeal mechanism is built into this because obviously after a time, as the Minister says, it becomes obsolete. I just have an issue with having obsolete laws on our statute book.

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

I would like to try to assist the Minister in relation to some of the concerns of Members, particularly in relation to what will happen to data. One of the difficulties with this proposition is, of course, that it does not outline the mechanism of the scheme itself, it merely says that is to be agreed. Nevertheless, there are in my view ample safeguards contained in the offences in Article 3. I point to these at this stage in general terms. The whole point is that there is an offence created which carries a penalty of up to 2 years' imprisonment in relation to disclosing without lawful authority. The definition of lawful authority is in subparagraph 6 and that is limiting. In other words, if the BBC or any other organisation were to disclose other than in accordance with 6, which is for very limited purposes, they would be committing a serious criminal offence punishable with an indefinite fine or imprisonment for up to 2 years. Now, it seems to me that these are more than adequate penalties. If it was not for these penalties there, of course, would be penalties under the Data Protection Law. I would point out in passing to Members, as I have referred to the penalties, that the penalties under this Law are much greater than those under the existing Data Protection Law. If we agree to this, then it would be very hard for this House subsequently not to agree to the penalties under the Data Protection Law being increased to include a power of imprisonment which, indeed, in my view it should do and I know an amendment is going to be brought shortly. I highlight that, but I rose to defend, as it were, the Minister to say there are in my view more than adequate safeguards in relation to misuse of information.

#### **7.1.11 Deputy M. Tadier:**

I thought the Constable of St. Lawrence put it very well, but just to crystallise further some of the thoughts that came out there. I am quite concerned about this whole area of disclosure as well. For example, there may be people who do not even have a television set, who do not want to watch T.V., who may be vulnerable, who may be elderly. If they are going to get phone calls from people saying: "We would like to upgrade you to digital", first of all, they may not even know what they are talking about and, secondly, that is certainly going to be an infringement of their privacy. So, I would like to know if there is an opt-out or if you have to opt into the scheme or if the information is going to be given out blanket about people who are vulnerable. That seems slightly strange. We have also heard a partial reassurance from Senator Le Marquand about the penalties that are in place but, of course, that is only if somebody gets caught for disclosing information. If you do not get caught, that is the whole problem. Although no one is bringing the BBC in the U.K. into disrepute and no one is questioning the U.K. BBC's integrity, I think it is important to say that, as we heard yesterday, a chain is only as good as its weakest link. The more people there are who get disclosed information, then the more risk there is that that information will be used incorrectly. So,

for example, if you do not have a television set and you are, let us say, over 75 or you are frail or infirm, relevant information can be disclosed to relevant persons. A relevant person could be the BBC, it could be the Secretary of State, it could be a nominee of the BBC, it could be any person who is engaged by the BBC, the Secretary of State or any company falling within paragraph (b), and the list goes on. So I think this is why Members do have concerns and I think they are quite valid concerns. Unless we can receive valid reassurances from the Minister when he sums up, I am minded not to support this on those grounds. I would encourage Members to do that just to send a signal to the Minister that data protection is of paramount importance, certainly these days. I would encourage Members to think about whether they can support this.

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

Under Article 4 the Minister can make provisions in regards to the information that is required, so no doubt when he sums up he will be able to tell us what exactly the process will be in relation to administering this. Within the proposition itself it talks about handing over the data not only to the BBC but also other parties and other companies. So, we are not talking specifically about BBC-controlled data. We are talking about data that is passed on through the help scheme. I have risen not to repeat what has been said but to try to bring some clarity and some confidence to those people who may be listening at home that the States are going to treat this matter with the sensitivity that it deserves. I appeal to the Minister for Economic Development to set out quite clearly in his response what process will occur and what measures and safeguards have been discussed already with his opposite number at Social Security to ensure that those people who are at home, that are over the age of 75, are only contacted by *bona fide* people, they are only contacted in a manner and a way that they would not feel threatened or alarmed, and to ask in particular of the Minister for Economic Development how many people have been identified as possibly being capable of receiving this support. What is the number of individuals over 75 at present? Have they been identified? Have they been in a broad-brush way identified by the Minister for Social Security and passed on to the Minister for Economic Development? More importantly, why cannot or is it possible that the Social Security Department themselves, if the number is not too large, could make the first contact in relation to discussing these matters with the individuals so that they do not just get a cold call. I can see the Minister for Social Security shaking his head saying no, but this is my concern, is that it seems to me that there is a body of work that needs to be done that we are not doing. I feel strongly that the States itself through the Social Security Department in this once-in-a-blue-moon changeover should take some responsibility and onus upon themselves to contact these vulnerable individuals, in some cases, and make sure that they are the first point of contact, not some company or some associate or some person that has been called in to finish off introducing this scheme. I would like to have the reassurances from the Minister for Economic Development on those issues. Has he discussed this with the Minister for Social Security? What are the numbers and why can the Social Security Department not be the first ones to phone these people to let them know that their information is about to be passed on and are they comfortable with that. Because if they are not comfortable with that and if they do not want a television, then they should not be bothered.

**7.1.13 Deputy T.A. Vallois:**

It is just a quick question to the Minister for Economic Development about whether the BBC will be sending over people to help inform this or engaging local companies to go out and speak to the individuals and help on that basis.

**7.1.14 Senator A. Breckon:**

Just for Members' information, when this was lodged on 5th October, I contacted a number of people involved with the process of digital television on what was going to happen. Because in the good old bad old days we used to have a Broadcasting Committee that would have been doing some of this work. Of course, a lot of things were brought under the umbrella of Economic

Development. An article has been prepared and inserted in the next Consumer Council newsletter to go to over 38,000 residential addresses which explains about this scheme and the background to it. That is done for public information and hopefully that will be well read and it also gives a lead-in to what is going to happen because naturally people do not want to be contacted or conned or whatever else in this. So, hopefully, that will give some legitimacy to this, but that is already in hand and that will happen in the first week in December to alert people not just about the scheme but a little bit about the background of what is the switchover to digital television. I should say that the information to the public has happened on a commercial basis but it has not happened from government.

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

Just very quickly because I do not want to reiterate what everyone else seems to be saying, but the data protection issue really concerns me. Only in the last couple of days we have seen the T-Mobile thing in the news. That does really concern me. I think Deputy Le Claire for one has put it very succinctly - for him, certainly not one of his longer speeches - but I think he really touched the main nails on the head. The question has to be really why can we not have more lead shown on this locally. I do not quite understand that, so maybe the Minister could give us all a bit more information. The prospect of cold calling from people to elderly and vulnerable people who really might be quite, I would imagine, concerned and worried about this, that concerns me a great deal. It just does not seem we have really thought this through. I do understand the need to work with the U.K. on this but I just would like to be put at rest a little more.

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

It seems to me, having read this proposition 3 or 4 times, 3 times in the last half an hour, that I take a different reading on this. My view is that the BBC is a fairly responsible organisation and they want to make sure that those in our community who may not be as switched-on as some of us are on digital switchover are brought into the envelope of having their reception continued up to and including the end of 2010 and beyond. They want to make sure that people are not cut off for whatever reason, and I would suspect that the BBC and their agents who are going to carry out this scheme, which is being paid for out of the licence fee, will be fairly diligent in the way it is carried out. I doubt very much if an organisation like the BBC is going to use data from Jersey's resources or different departments to sell mobile phones or life insurance policies to other people. I doubt that very much. I do not have the concerns that some other Members have expressed. I would like to also remind people of what the Minister for Home Affairs has said on Article 3 on pages 12 and 13. There are fairly draconian penalties here for an agent of the BBC or management of the BBC should they step out of line. He has mentioned the provision for custodial sentencing. I would also, finally, draw Members' attention to disclosure of information in Article 2 on page 11 where it very specifically relates to nursing and residential homes, care homes, care home residency information, hospital information on page 10, and then it refers to the Income Support (Jersey) Law 2007. It refers to the Jersey Blind Society. It refers to visual impairment information. So, I really feel that this is a fairly straightforward proposition and I hope the Minister for Economic Development in his summing up will draw attention to the fact that the BBC is a fairly robust organisation. It is fairly well respected. It has the backing of the British Government and it looks as if Jersey, Guernsey and the Isle of Man are being asked to do the same thing.

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

It is probably only right that I should say a few words. To follow on from the Minister for Home Affairs, we must always be aware of data protection issues and endeavour to meet the requirements of the law. The law does allow for information which is being gathered for one purpose to be used for another purpose providing that it is done in an open and upfront way and appropriate approvals are received. That is what the Minister for Economic Development is doing today, he is asking the Assembly whether they believe that it is appropriate and whether they give their blessing to

allowing that information which my department has gathered for one purpose to be used for this purpose, this purpose being to enable those who are eligible to receive help with the provision of ... this is where I have to be careful. I think it is a digibox, but whatever it is that one needs to be able to receive this digital signal. I am not particularly *au fait* with how the digital system works, so I must apologise in advance. So, that is the main reason why the Minister comes to the Assembly today to get approval to allow this to happen. I should say that obviously the BBC already holds information on everyone that has a T.V. licence currently. What this is about is deciding which people in Jersey society best meet the criteria that the U.K. have for this help and then allowing a crossover. One or 2 Members - I would, of course, say this - have in my opinion been slightly unfair in the way that we handle information at Social Security. We have tried to be as helpful as possible to the Connétables. I am sure they will not mind me saying that we sent a joint letter to individuals regarding the rates. They are absolutely right, there is an element of payment for rates in the income support household provision. We are also in the process of trying to redesign the income support form so that those individuals can actively say yes, they are quite happy for the department to provide information to the Connétables to help them with this particular instance. I am, however, slightly concerned to hear that in St. Lawrence they are still encountering bigger problems than perhaps they did before the implementation of income support, but I am, as always, more than happy to sit down and see if there is a particular issue there and there is some way that we can get round it. We do, as I said in my opening statement, try to be as flexible as we can be. We have signed data sharing agreements with various institutions. The Deputy of St. John talked about Christmas and the difficulties that charities can encounter at Christmas. I am sure he is aware that my department has played an active role in ensuring that there is a joined-up approach for the joint Christmas charities appeal, and some of the issues that I believe they encountered last Christmas we have dealt with in a proactive and a joined-up way around data protection. So, we are doing all that we can but continuing to be mindful that we must, as every department must, comply with the Data Protection Law, which is there for a good reason. It is there to ensure that people's data and personal information is protected, and that is right and proper, but at the same time we must ensure that it is used in a manner which is flexible to ensure that they are receiving what they are entitled to in a joined-up approach. As I think someone else has said, this is what this proposition is requesting. The exact details of how it will happen on a day-to-day basis I am sure the Minister will go on to explain, and those decisions, as I understand it, will be made by Ministerial Order and, therefore, will be available for Members to scrutinise and request changes to should they feel that they wish to do so. With regard to Deputy Le Claire's suggestion, I appreciate what he is trying to achieve there, that perhaps an approach could be made from my department rather than from the BBC directly or from one of the contractors that they will be using to install the digibox. I do not want to give a commitment that I will do that, but I am happy to give a commitment that we can, together with Economic Development, investigate to see if that is feasible. Off the top of my head I am not certain how many individuals or families we are talking about, so I am not certain of the quantum of the job in hand if we were to use that approach. But I thank him for his suggestion and it is certainly something that we can take forward and consider.

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

I gave quite close attention to this and I have made a number of notes. I personally cannot see a problem with it. It is proportionate. It is for the greater good. It is for a specific purpose; it is a one-off. The safeguards are in place and I do not think we need to spend a lot of time discussing it. I think, really, it is something which is for the greater good and the sooner we get it the better. I am one of these people, I think, who will be eligible because we are getting interference with ours and I do not know if it is me or the aerial but hopefully ... **[Laughter]** I am giving my support.

**The Bailiff:**

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

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



I clearly understand. I have taken on board the concerns of Members and I do understand the areas of concern specifically about data being transmitted. I would like to, hopefully, give some reassurance to Members that, first of all, this is a help scheme, that we are following the basis of the help scheme that is delivered in the U.K. and has been rolled-out in the U.K. in a number of regions successfully already. I think that is an important point to make. We are not breaking new ground here. There have not been instances of cold calling in the U.K. and there will not be instances of cold calling in Jersey. The same organisation, eaga, that deals in the U.K. with giving information and supplying help and assistance to vulnerable groups will be doing exactly the same in Jersey. They will be and are fully qualified and trained in matters relating to this. I should also add that supply of information is first of all agreed by the Data Protection Commissioner. My officers, as I mentioned in my opening remarks, have had close contact with the Data Protection Commissioner. She and her department are both satisfied with the Law proposed today and, indeed, the plan that is proposed. They are entirely content with the way in which this is going to happen. I should also point out that information is governed by a legal agreement between the Social Security Department and the BBC as an extra form of protection. It is important to also be clear that if we do not adopt this Law today then the community, particularly the vulnerable people within our community, will miss out on the opportunity of help with digital switchover, which is happening in November or starting in November 2010, next year. This is not in any way trying to put a gun to Members' heads. It is just a factual position. I believe it was the Deputy of St. Mary who asked for the timetable, and he was absolutely right because if we do not pass it today this Law has to go to Privy Council to be approved. We want to start rolling out assistance in March of next year, so unless it is approved today, the timetable, as he quite rightly pointed out, is tight. In order for us to be able to meet the March/April deadline, this Law will need to be approved today. I should also like to mention ... if Members will forgive me, I am not going to go through everybody's comments. I hope that my remarks are going to cover the concerns of most that have been raised. Information about digital switchover has occurred already in the U.K. and can be picked up by local residents through the BBC. This will be increasing dramatically as we move into next year. Senator Breckon was extremely helpful a moment ago. We have already arranged through Senator Breckon and the Consumer Council that full details about digital switchover and - I hasten to add - the help scheme and how it is going to be delivered will be sent out in a newsletter which goes to every household in the Island. That in itself will help to allay the fears of many vulnerable people who may be concerned about receiving additional information and be uncertain about what the process is. On top of that, the media themselves, T.V., radio and newspaper, will be carrying advertisements and other information to help the members of the public within the Jersey community understand the process and the help scheme which will be rolled out in due course. All of these factors are there to help assist and allay the concerns of those that are most vulnerable and may be most concerned. I would like to thank Senator Le Marquand for his helpful comments. He is absolutely right, there are severe penalties in place as a provision as part of this Law, and that is absolutely right that we do not allow the information that is being passed on - appropriate information, agreed information - to be misused. As I have mentioned already, the Data Protection Commissioner is also satisfied and I can understand why. I think, apart from the particular points that I have addressed, I hope I have covered the concerns of most Members. I should just perhaps add that the precise details of the scheme itself, those that will be assisted - I think Deputy Martin was interested in this - is still to be finalised. We are almost complete on it, but we cannot map exactly what has happened in the U.K. because we are a different benefit system. I can assure Members that the maximum number of people will get the support that they so rightly deserve in the changeover to digital in November of next year. I think I have covered all the points raised by Members and hopefully the main concerns that they have. I would like to maintain the principles.

**The Connétable of St. Lawrence:**

May I press the Minister, please? He did say he did not want to answer every question individually, but my concern is that we do not give out blanket information that is not necessary. I

did ask whether the information supplied will be only on those people who hold a T.V. licence at the time, or whether we give information on every person over 75, everyone who has a visual impairment.

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

The information that will be passed on will be relevant information. I do not know whether or not the detail is sufficient to know from those on benefits who has a T.V. licence and who does not, so in that respect I understand the concerns the Connétable is raising. What I would suggest is that if there are particular residents with concerns about their information being passed on ... this is, I confirm again, a help scheme to assist the community in getting those that are vulnerable and over 75 to get help with digital switchover. If somebody does not want to have help, if they do not have a television, for example, then they will be able to write either to the department or to the Social Security Department and have their data removed if there is any doubt whatsoever in this regard. I should emphasise again any data passed on to the BBC is closely controlled in any event so there is no question of misuse of data and there are severe penalties in place should that occur. I hope that answers the Connétable.

**Deputy M. Tadier:**

Can I ask a further point of clarification? The Minister is saying that people can write in to the department to effectively opt out, so is there going to be some kind of education campaign before to let people know that they can write in? Because a lot of people will not know.

**The Bailiff:**

I am sorry, I do not think you can ask a further question now. You can ask for him to have dealt with a question you asked earlier.

**The Deputy of St. John:**

On a similar frame, though, the Minister said that people can write in. Should the department not be writing to the people?

**The Bailiff:**

I am sorry, Deputy, we cannot have continuing debate going on after the Minister has replied. Members had their chance to speak earlier.

**The Deputy of St. John:**

For clarification, it should work both ways, surely?

**The Bailiff:**

Very well. Now, the appel is called for in relation to the principles of Projet 165. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 41</b>		<b>CONTRE: 5</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy R.C. Duhamel (S)		
Senator P.F. Routier		Deputy S. Pitman (H)		
Senator T.J. Le Main		Deputy of St. John		
Senator B.E. Shenton		Deputy M. Tadier (B)		
Senator J.L. Perchard		Deputy T.M. Pitman (H)		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				

Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. 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 A.E. Jeune (B)				
Deputy of St. Mary				
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. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Bailiff:**

Very well. Now, Deputy Higgins, this is a matter for your Scrutiny Panel. Do you wish to have it referred to your panel?

**Deputy M.R. Higgins (Chairman, Economic Affairs Scrutiny Panel):**

No, Sir, we do not.

**The Bailiff:**

Minister, how do you wish to proceed? Do you wish to proceed with an *en bloc* proposition?

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

Yes, *en bloc* if I may. I will give a very short explanation of each and take them *en bloc*. There are 5 Articles. Article 1 sets out the terms used in the Law and defines them. Article 2 enables the disclosure of relevant elements of personal data relating to those people residing in care homes, those on social security benefits, visually impaired or others if it has been specified by Order. Article 3 prohibits the unwarranted disclosure of information that has been disclosed under the previous Article. Article 4 enables the Minister for Economic Development to make Orders specifying what information may be disclosed for the purposes of the Law. Article 5 names the Law and when it comes into force. I maintain the Articles.

**The Bailiff:**

Very well, are the Articles seconded? **[Seconded]** Does any Member wish to speak on any of the individual Articles?

**Deputy M. Tadier:**

Could I ask the Minister to take Article 2 separately?

**The Bailiff:**

Yes, it is open to any Member to ask for any Article to be taken separately, so that can be done. Does any other Member wish to speak? The Connétable of St. Brelade.

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

Just briefly on Article 4, how long is it proposed that any Order would take place? I imagine it would be fairly short term. Would there be a finite time involved?

**The Bailiff:**

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

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

I thank the Constable of St. Brelade. The scheme will operate during the life of the help scheme itself and will cease at the end of that. I maintain the proposition.

**The Bailiff:**

Very well. We had better, then, have a vote on Article 1 first of all because the Deputy has asked for a separate vote on Article 2. So, Article 1, first of all. All Members in favour of adopting Article 1 kindly show? The appel is called for in relation to Article 1. The Greffier will open the voting on Article 1.

<b>POUR: 41</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy R.C. Duhamel (S)		
Senator T.J. Le Main		Deputy S. Pitman (H)		
Senator B.E. Shenton		Deputy T.M. Pitman (H)		
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (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 K.C. Lewis (S)				

Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
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. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Bailiff:**

As soon as the machine is reset we will move to Article 2, where the appel is also called for. The Greffier will now open the voting on Article 2.

<b>POUR: 39</b>		<b>CONTRE: 5</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Connétable of St. Lawrence		
Senator T.J. Le Main		Deputy R.C. Duhamel (S)		
Senator B.E. Shenton		Deputy S. Pitman (H)		
Senator J.L. Perchard		Deputy M. Tadier (B)		
Senator A. Breckon		Deputy T.M. Pitman (H)		
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (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 K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
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. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Bailiff:**

Then is the appel asked for on any others? Yes. Very well, then we vote on Articles 3, 4 and 5 and the appel is called for. So the Greffier will open the voting on Articles 3, 4 and 5 together.

<b>POUR: 41</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy R.C. Duhamel (S)		
Senator T.J. Le Main		Deputy S. Pitman (H)		
Senator B.E. Shenton		Deputy T.M. Pitman (H)		
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
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Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (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 K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
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. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Bailiff:**

Do you propose the Bill in Third Reading, Minister?

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

Yes.

#### **The Bailiff:**

Is it seconded? [**Seconded**] Does any Member wish to speak in Third Reading? Deputy Le Claire.

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

I would like to thank the Minister for Social Security who picked up from my speech the fact that an analysis of the numbers may be able to allow the Social Security Department to be the first port of call in relation to the disclosure of this data. Therefore, I just ask in Third Reading if the Minister for Economic Development would acknowledge that the Minister for Social Security is willing to look at the possibility of his department making the first call and whether or not the 2 departments can work more closely together in ensuring that element of this body of work is undertaken so that the people who are at home who may get a little confused or uneasy at people contacting them are not contacted and they are not put at ill ease but are contacted in the first instance to see if they wish their data to be passed on for these purposes. I think it is just a case of the 2 departments working more closely together.

#### **7.3.2 Deputy C.F. Labey of Grouville:**

Could I just make a general observation? The Economic Development Department have brought this forward and I think the Minister alluded to the fact that this is possibly one of the last sittings it could possibly be brought forward in. Had Scrutiny decided to call it in like the Depositor Compensation Scheme we, again, would be blamed for holding things up. I do think this is not a very good way to conduct things. I do think it is rather disappointing that he did not have the courtesy to tell the Minister for Social Security that he was bringing it forward at this sitting, notwithstanding he had earlier conversations in the year, and I just wish the Economic Development Department - and there is a big department, huge amounts of officers supporting the Minister and his team - they could just organise themselves a little better.

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

Perhaps I should just correct the last speaker. Any fault on not being fully up to speed with regard today's sitting was purely mine not being fully aware of what is on the agenda rather than the Minister for Economic Development.

#### **7.3.3 Connétable J. Gallichan of St. Mary:**

I hope I have sufficient latitude to very briefly bring up something which is ancillary to this issue relating to digital switchover and the vulnerable people, many of whom are identified in here. I have long been concerned that the local teletext services face an uncertain future. There are teletext services available on the digital network but our local pages are not replicated there. I now know that they will be switched off on 15th December with the exception of the lottery page and many people, especially elderly are identified in this proposition, are very comfortable with that technology. They are not comfortable necessarily with the fact that the pages will be available on the internet, and would the Minister in taking this matter forward in the ancillary legislation he will be bringing endeavour to see whether our local teletext service can be added to the existing digital service available.

#### **The Bailiff:**

If I may, Connétable, that is a matter which should have been raised on Second Reading, I think.

#### **The Connétable of St. Mary:**

I do apologise.

#### **The Bailiff:**

No doubt if the Minister wants to deal with it he can. Are there any other questions? Minister.

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

I can reassure Deputy Le Claire that I always have pleasure in working closely with my counterpart, the Minister for Social Security, and indeed with regard to this matter we will continue to do so. I can also reassure him that to date officers have been working closely together on the matter as well and I understand his concerns and I am sure they will be taken very seriously. I do have more of an issue with what the Deputy of Grouville had to say. I, in fact, would like to take this opportunity to commend officers of Economic Development for the way in which they have worked in relation to this matter, the speed in which they have been able to work to bring this law forward in a relatively quick time because unfortunately it was not known that the data collection to enable us to help vulnerable people and people over 75 could not be delivered in a different way, which is initially the advice received. So it is through no fault whatsoever of the department that this law has come at this stage. What I am thankful for is that the Members have supported it and that we will now in a safe and secure way be able to help vulnerable people through what will be specifically for the more elderly in our society a challenging and, if I dare say it, somewhat concerning process that they will have to go through.

**Deputy C.H. Egré of St. Peter:**

Could I just ask for a point of clarification, if I may? Would the Minister just confirm that the digital switchover was to be in 2013? In fact, it was then brought forward to 2010.

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

Yes, indeed, the digital switchover timeframe has changed on more than one occasion which has not made life any easier, particularly for officers in my department in terms of dealing with this but, yes, the Deputy is absolutely correct. I maintain the proposition.

**The Bailiff:**

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

**8. Draft Proceeds of Crime (Amendment of Schedule 2) (No. 2) (Jersey) Regulations 200-(P.166/2009)**

**The Bailiff:**

We come next to the Draft Proceeds of Crime (Amendment of Schedule 2) (No. 2) (Jersey) Regulations - Projet 166 - lodged by the Minister for Economic Development, and I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Proceeds of Crime (Amendment of Schedule 2) (No. 2) (Jersey) Regulations. The States, in pursuance of Article 36(2) of the Proceeds of Crime (Jersey) Law 1999, have made the following Regulations.

**8.1 Deputy A.J.H. Maclean (The Minister for Economic Development):**

Under the Money Laundering (Jersey) Order 2008 financial services firms that carry out certain types of business and activity are required by law to put in place and maintain systems in training to forestall and prevent money laundering in respect of their operations. These requirements include the development of policies and procedures for customer due diligence, record keeping and reporting suspicious activity and the appointment of designated compliance and reporting officers. The requirements are therefore potentially very demanding and, in order to avoid placing a disproportionate burden on firms, are only applied in a manner that takes account of the risk posed



by certain activities. Following the recommendation of the Jersey Financial Services Commission these draft Regulations were removed from the scope of the Money Laundering Order, certain types of businesses and activities that are considered by the Commission to be low risk from a money laundering and terrorist financing perspective. The continued application of the requirements under the Money Laundering Order to these types of low risk activities is considered to be disproportionate relative to the low risk proposed by these particular activities. The draft Regulations will remove 3 classes of activity from the scope of the Money Laundering Order, namely persons who participate in a joint enterprise as defined in paragraph 8 of schedule 2 of the Financial Services (Jersey) Law 1998; persons who can rely upon the employee share schemes exemption in paragraph 9 of schedule 2 to the Financial Services (Jersey) Law 1998; and persons who can rely upon the incidental providers of services exemption in paragraph 7 of the Jersey Financial Services (Trust Company Business (Exemptions)) (Jersey) Order 2000. The Jersey Financial Services Commission considers each of these types of activity to be low risk from a money laundering and terrorist financing perspective. I propose the principles of the Regulations.

**The Bailiff:**

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

**8.1.1 Deputy J.M. Maçon:**

Just a point, I do not know how the Guernsey Regulations ... do they mirror, how are they different, has Guernsey been consulted, what is the comparison, because again I am just concerned that these Regulations should be standardised rather than individual considering we are so similar.

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

My concern was, and I am sure other Members will have read this as well, and seen 6 lines here of information: "The object of the Regulations is to remove certain activities within the scope of financial services" and if one goes over the page to page 5, it says at (a): "clause substituted", then paragraph 1(3)(b), and so it goes on. Where is the information? Yesterday I took the Minister for Treasury and Resources to task about the Data Protection Law, how little information we get, and here is even less and I am grateful to the Minister this morning telling us what are the 3 low risk activities but I would ask in future that maybe all Ministers make the effort of making sure that we know what we are looking for.. Last year for the Data Protection Law I took the trouble of getting out the law, *et cetera*, but I do not have sufficient time to go around and look at everything and, really, to be asked to look at such little detail; so could I ask maybe that the Minister ensures that all Members get sufficient information in the explanatory note.

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

Having been very helpful to the Minister on the previous occasion I had given him notice that I was not going to be very helpful to him on this occasion for exactly the reasons just enunciated very clearly by the Deputy of St. Martin. The information provided both in terms of the report and in terms of the explanatory note is wholly deficient. You cannot possibly tell what this means from the information. I too am grateful to the Minister that he has told us this morning what this is about but in fact I just warned him that he must do that or else. I am very grateful that he has. But, the fact is that this is wholly deficient information. This is not brain surgery. This is very simple stuff. The information contained in the report and in the explanatory note must be sufficient in itself to tell Members what this means, what this is about, without us having to do detailed research ourselves. I would urge the Minister and all my colleagues, before lodging matters to ensure that they meet those basic standards. Hopefully Home Affairs does so. If not, I expect to be taken to task.

**8.1.4 Deputy T.M. Pitman:**

Very quickly, I think Senator Le Marquand has not only told the Minister off but he has set probably a few of us to thinking. I just have to say that it was only a few months ago that the Deputy of St. Mary was told off for being terribly naughty and taking the time to do research. Well, this sums up perhaps why people have to do research. It is not, I think, sufficient and it is not really good enough and it does put you in a position where you think something you would like to support you probably will not. If I can tell the Minister off, I will. Do not know if I am allowed, but I will risk it.

#### **8.1.5 Deputy T.A. Vallois:**

It is more just to find out a little bit more information from the Minister for Economic Development. It states about the persons who carry on financial services businesses are subject to certain reporting and training obligations prescribed under the Proceeds of Crime Law as well as other obligations. Just whether he can verify whether in regards to the actual money laundering reporting or whether it is in regards to the training that the financial services businesses have to provide to their staff. If it is to do with the money laundering reporting side of things, whether there have been any reports done on these low risk businesses that we are looking to remove.

#### **8.1.6 Deputy M. Tadier:**

It is really just to do with this whole idea of terrorism and money laundering and I wanted to ask whether governments such as the U.S.A. will be allowed to invest money in Jersey, whether that would be considered because, as we know, the U.S.A. are partisan to terrorist activity all over the world and we also know that, for example, I cannot remember the President's name, but in Bolivia he was chased out of the country following a failed military ... sorry, a repression of his government and he has fled to Washington. He is now a wanted man being harboured by the U.S. Government, even though he is wanted in Bolivia. So, if someone like that wanted to invest money in Jersey, a terrorist, would that person also be considered as a money launderer and would we refuse that kind of person to invest their money in Jersey?

#### **8.1.7 Deputy R.G. Le Hérissier:**

I would like to engage in a mild form of self-flagellation and what I would like - in the most apocryphal sense of the word - to bring is I think Scrutiny has to be on the ball. We do get through the normal processes, if not through the well-timed processes, we do get these things and I suppose, in a way, there has been a reluctance on the part of Scrutiny to engage in legislative scrutiny, as we well know, partly for time reasons and partly because it appears not to be the most interesting part. But, in a way, we could simply apply the kind of test, which the in-house adviser to the Minister for Home Affairs has just applied in his speech, is this comprehensible to a lay person? Does this give them the information they need? I think while Scrutiny may be reluctant to go through a line by line analysis of a lot of the laws that are coming through I think really it might be worth very quickly us all applying this test. Does this make sense to a lay person? It has to be said, as you apply the test of course, you then, in a sense, open up other areas. But having applied the test you can send a quick email or letter to the department saying: "Look, this simply does not make sense as it is written up, could you please supply us with the information and so forth." I say that because the idea of 53 of us doing it on the hoof, as sometimes we tend to do is not very good and it would be nice if the relevant panel had said: "Well, it looks okay but there are vital bits of information missing which it would be much better to have."

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

Given the lack of information of Article 1(2) I propose we move on to the next item so that the Minister can come back with all that relevant information within Report and Proposition.

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

Standing Order 85 allows a Member of the States to propose without notice during the debate that the States move to consideration of the next item on the order paper. The presiding officer is not to

allow the proposal if it appears to him that it is an abuse of the procedure of the States or an infringement of the rights of the minority and the practice is generally to exercise a discretion against allowing a proposal to move on to the next item if less than 9 people have spoken. So far 8 people have spoken. But furthermore it does seem to me that there are other propositions which one could bring which would be to refer back for more information and that would be the better course of action, so I disallow the proposal to move on to the next item.

**The Deputy of St. Mary:**

Can I then propose what you just suggested be proposed. [Laughter]

## **8.2 Draft Proceeds of Crime (Amendment of Schedule 2) (No. 2) (Jersey) Regulations 200-(P.166/2009) Reference back**

**The Deputy Bailiff:**

There is a proposal to refer back and, Deputy, can you indicate precisely what more information you want.

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

Yes, Sir. Gladly. As we have been advised by some speakers, in my note here to myself says: "As transparent as mud." We are priding ourselves on being a transparent and well-regulated jurisdiction and here we are with these Proceeds of Crime Regulations where we have absolutely no detail. Now, the Minister did run through quite quickly, I did not even write it down it was so quick, what the exempted categories were going to be and we need to see this in writing. We need to have it here so that anybody can refer to it. They do not have to go digging through Hansard, which takes a year and a day because it is not even searchable, and we have the same problem in other spheres and it really is necessary to tell the Council of Ministers that they have to bring stuff to this House in an appropriate form so that we can understand, so that we know what is going on, and so that we do not have to do mountains of research chasing around when we should be told in the first place, so I move the proposal.

**The Deputy Bailiff:**

[Seconded] As the proposal to refer back for more information in writing as to the basis for the proposition has made and seconded, I allow that motion. As Members will know, I was not here for the presentation by the Minister so I am not in a position to know how much information was provided to the Assembly earlier on, but Members will be able to form their own view about that when they come to vote on the proposition to refer back. It is on that basis that I allow the proposition to refer back now. The Deputy of St. Mary has spoken to that. Does any other Member wish to speak? Minister, do you wish to reply?

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

I can understand some of the concerns that Members have raised. This matter is a relatively straightforward matter. I had hoped that in my opening remarks, which unfortunately you were not able to hear, that I explained the 3 activities that we were seeking with regard to this to be removed. I think the important point to bear in mind is that we in this Assembly are not, if I may be so bold as to say, and I include myself, the experts in such matters, the Jersey Financial Services Commission is the expert, is the independent expert, they are the supervisory body as far as financial services are concerned and it is on their recommendation, which is unusual in this case, that this particular proposition has been brought. I feel that to reference it back is not going to add anything to the debate at all. If you would be minded to do so, I would like to, as part of this short comment confirm to Members again what it is we are seeking to do here. If that would be allowable I will very briefly give comments that I have here from the J.F.S.C. (Jersey Financial Services Commission) which might help Members in their determination.

**The Deputy Bailiff:**

I think it is a matter for you, Minister, as long as you are addressing the proposal to refer back. If you want to give information which Members can take into account as to whether they want to reference back, that is entirely to you.

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

In that case, Sir, thank you for that direction. I will do so. I have for Members information some notes here which are specifically from the J.F.S.C. I would like to address first of all the first item which is persons who participate in a joint enterprise as defined in paragraph 8 of schedule 2 in the Financial Services (Jersey) Law. The J.F.S.C. advice on this matter is that: "This is a low risk from a money laundering and terrorist financing perspective because the investment business activity being carried out is by persons participating together in a joint enterprise and the investment business activity is undertaken for the purposes of that joint enterprise." With regard to the second item, that is persons who can rely upon the employee share schemes exemption in paragraph 9 of schedule 2 of the Financial Services (Jersey) Law 1998, again the J.F.S.C. comment as follows: "This is inherently low risk from a money laundering and terrorist financing perspective because the investment business carried out on relates to the award of securities in a company or a group company of which a person is an employee or a relative of such an employee. In addition many of the companies that rely upon the exemption in paragraph 9 of the Financial Services (Jersey) Law will be non Jersey companies with a Jersey subsidiary. Making such a non Jersey company subject to the Money Laundering Order would require the company to enter into arrangements with a person in Jersey so that it could meet requirements of the Money Laundering Order. This would place a disproportionate burden to the money laundering and terrorist financing risk posed and may have the perverse effect of discouraging non-Jersey companies from offering employee share schemes in Jersey resident employees of that group." The third and final one is the persons who can rely upon the incidental providers of services exemption in paragraph 7 of the Financial Services (Trust Company Business (Exemptions)) Order 2000. Again the J.F.S.C. advice on that is as follows: "Persons that use the incidental providers exemption will be low risk from a money laundering and terrorist perspective because the exemption requires them not to carry on trust company business as their sole or main profession and they must not be remunerated for the trust company business service they provide." I hope that Members will appreciate that the information and the detail of this particular proposition is, I would hope, relatively uncontentious. It is supported by the J.F.S.C: it is a recommendation from them. I believe that, or certainly I hope that Members will not support the reference back and allow us to proceed with moving this forward. However, I would say that I appreciate the comments about further information and I will give an undertaking to Members that if more detailed information is required on propositions of this nature I will ensure that my department ensures that Members have such information in advance of the debate and certainly I would apologise to Members that the information supplied prior to the debate was not sufficient as the Deputy of St. Martin, and I believe one or 2 others, have suggested.

**The Deputy Bailiff:**

I invite Members to the view this should not be a lengthy debate on a reference back. It is a very straightforward point. Deputy Le Claire.

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

Every once in a while I feel inclined against my better wisdom, or my habit should I say, to give a little and in this instance I am going to give a little to the Minister for Economic Development. I think in his apology he has recognised that an administrative and due diligence issue in lodging propositions of this nature has been identified. The request to reference this back for more information is based upon the fact, no doubt, that many Members like I were extremely surprised to hear that the Minister for Home Affairs had not understood or has not indicated in his speech that he was not clear as to what the actual proposition was referring to and had thanked the Minister for Economic Development for his briefing during his speech. Now, I think it is a particularly

interesting set of developments when the Minister for Home Affairs turns to the Minister for Economic Development in relation to a Draft Proceeds of Crime Regulation and lets him know, publicly, that he would have liked more detail. It tells me a number of things (1) Scrutiny has not had an opportunity or Back-Benchers have not had an opportunity to understand or consider the matter; (2) the Ministers are not talking adequately and the Minister for Home Affairs has not had the adequate briefing in my view from this morning's speech and, moreover, the Council of Ministers are not talking to each other either because these propositions, especially if they are backed by the Jersey Financial Services Commission, on the tail end of a number of significant international financial reviews of this jurisdiction should be in the future at least considered in the round at the Council of Ministers tables and by the Scrutiny Panels in relation to financial regulations. Where I was going to support - and it would obviously be open for Members to take their own view - the reference back was on the grounds that the financial and manpower implications tabled by the Minister for Economic Development are identified as being nil to the States and yet we have got evidence in this debate that the police have not cast their eye, or at least it would seem the police have not cast their eye upon what body of work they would have to undertake in the future. Let us not forget that a large level of the finance industry's activities have to be policed by the police services themselves and more and more and more we are seeing police officers assigned to overseeing the regulation and administration of laundering money, crime, *et cetera*. So there is a cost to the States, there is a policing cost to the States. When I make these points I do so with the knowledge there is only one community police officer for St. Helier and all the other police officers are engaged in other activities, one of which significantly is overseeing the money laundering side of things. So, in summation, I am going to give my support to the Minister for Economic Development because he has given us an apology but I certainly hope that this message is going through to the Council of Ministers that enough is enough. This surely should be the last time, it is an embarrassing moment I would say.

#### **8.2.4 Deputy M. Tadier:**

Really just to speak on the principles of good government. Now there is a pre-supposition that government should be conducted in public and openly and certainly when propositions are being made, and I think looking at this - just to borrow my colleague's, I have scribbled all over mine already - if we flick through this, it says there are 6 pages all together, if you take out the front page you have got a very small paragraph on page 3, an even shorter paragraph on page 4 and then page 5 goes on to the Regulations which, again, if you take out the headings is about half a page. So all this could actually fit on to one single sheet of double-sided print, and that is what we have been given as States Members. Also that is what the public is given so if anyone wants to consult the States website and look at it they will find a lot more on Hansard than they will in the actual proposition, and it should be the other way round in something this simple. We should have a fairly lengthy proposition telling States Members all the information they need to know. It is not satisfactory to ask for things to be done on trust and I would also venture to say it is not satisfactory for Deputy Le Claire to have to stand up and say: "Well, I am not happy but I am going to choose to support the Minister this time" because it is not about supporting the Minister, or otherwise. It is about making good decisions with good information. Anyone who works on Scrutiny knows that we work on an evidence-base and if we do not have anything in writing and if the public do not have anything they cannot hold us to scrutiny. So I think the principle is right. We should be asking for a reference back. What we have been presented here is poor with a capital P. There is also the point about the manpower implications which is questionable. I think this simply is not satisfactory. To say that the J.F.S.C... it is okay by them, well that is fine. Nobody has a problem with that. I do not think anyone in principle has a problem necessarily with the proposition but we do not have the information here. If the J.F.S.C. are backing it, if they say it is such a good idea then let us see that in writing. I think this does need to be referred back. We cannot just say we simply support and trust the Minister for Economic Development because it sets a bad precedent. I certainly know if anything was presented from the other side it will be thrown out completely and it

probably would get moved on to the next item. So I think we need to say what is good for the goose is good for the gander, and here we do need more information. It can be done quite quickly I am sure, and then we can all vote on this probably unanimously but let us do things by the book.

#### **8.2.5 The Connétable of St. Lawrence:**

In the past I have been criticising propositions that do not give us enough information on which to make our decisions and as soon as the reference back was proposed I wrote down on my proposition: “What information was given by the J.F.S.C. to E.D.D. (Economic Development Department) which was not then divulged to Members?” I was minded at that time to support the reference back but the Minister has, in fact, told us what information was given to them by the J.F.S.C. and that is enough for me to now not support the reference back. However, what I would like to do is urge Ministers again to supply the information that they are given and I wonder whether that information was held back in order for the Minister to respond to possible questions that would have arisen during the debate on this proposition. I do feel that if that was the case it was a wrong decision, all information should be supplied to us and I will not be supporting the reference back.

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

As chairman of the Economic Scrutiny Panel I will not be calling this for scrutiny and the reason why is we have spent months on things like Depositor Compensation, we are again picking up the Public Private Partnership in tourism and we have got other major issues we want to get on to. If we have to keep on pulling these in it is going to make our workload impossible. We were working twice a week on hearings on the Depositor Compensation for months. So, I think it is totally unreasonable to expect the Scrutiny Panels to pick up all these things and I am not happy with this, and I do support the reference back. There is insufficient information and despite what the Constable of St. Lawrence has just said, I heard what the Minister said. I am thinking: “Yes, I am trying to remember what the Money Laundering Regulations, what the Law says and so on.” How many Members in this House have got a clue what is in the Money Laundering Regulations without having to look at them? So, yes, the Minister has said these things to us, he has told us he is going to do that. I have not got a clue where it fits in. I would love to be able to see it. I have not got the time to do it and I believe the department should provide that information to States Members. Not only on this occasion but every occasion. I fully support the reference back.

#### **8.2.7 Deputy S. Pitman:**

I am going to say much of what Deputy Higgins has just said in that I have been a member of the Scrutiny Panel for Economic Development for a year and he quoted some of the laws that this was referring to and most of what he said, I am glad he gave a second explanation, but most of what he said I did not understand and it was not just the laws but the jargon that was used along with them. He has also admitted and apologised for not providing enough information in this proposition and I do not think that is good enough. That should have been in there to begin with and I will be supporting this proposition.

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

Very, very brief because Deputy Tadier really took the words out of my mouth. Unlike Deputy Le Claire I cannot support something just out of goodwill and it is something I really want to support but I do not think government can work that way on trust. I mean I do trust the Minister, perhaps foolishly, perhaps not, but it does not seem the way to do government and what disturbs me really is the Minister used what seems to be the buzz term of the moment. It is all very simple. It is all very straightforward. We are hearing this all the time now from the Ministers - all the time. We heard it from Deputy Le Fondré just the other day. When we do hear those words the sirens should go off because it means it is not very simple at all and I really need to think the Minister or the Chief Minister needs to get to grips with this because otherwise things are going to get referred

back when perhaps they do not warrant it and most of us do not want to do it, but I feel I am going to have to support the reference back.

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

On a point of order, Standing Order 103(2)(d), I would like to just clarify because it seems that my contribution has been misunderstood by at least 2 Members. My decision not to support the reference back has been made by the fact that the contribution of the Minister for Economic Development clearly spelt out the rationale behind the J.F.S.C.'s reasoning that they would wish this to go through.

**8.2.9 Deputy A.E. Jeune:**

It appears to me to be very clear that this Assembly has sent out a very clear message about the necessity for clear information. This was also identified earlier today by Deputy Maçon. I do consider that we have now been given in this instance the information from the Minister and I will therefore not support the reference back. But the message to Ministers and their departments has been given loud and clear. Learn from today's experiences and, as Deputy Le Hérissier said earlier, Ministerial departments and Scrutiny work together.

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

Once again, and not for the first time in my 10 months since I am back in the Chamber, we have seen shoddy reports and propositions come to the Chamber and I am pleased to see the Minister for Home Affairs nodding his head because it is shoddy. The Ministers are trying to ride roughshod over the remainder of the Chamber and it is unacceptable for this type of report and proposition to come to the House. Unacceptable. That is why when I stood up and asked to move on, which was not acceptable but the reference back has been accepted, that is why because I think it is time the Ministers came to book, they were taken to book. We were given a quotation or verbal information from a quango, because that is what the J.F.S.C. is. They are not members of the government. So we have got to take it and therefore we should see that in writing. Their comments should be in writing in any report that comes to the States so at least we all can see what has been said. Not a definition given by the Minister of his definition of what is said, because we have got to take him at his word but he may have missed one word or 2 words out of that particular definition of what has been explained which could throw things into a completely different channel, so therefore I am supporting the reference back because I think Members and the public, anyone who picks up this proposition in the future needs to be able to see at a glance what we are referring to. We saw earlier with some of the Chief Minister's propositions of information was hidden in a paragraph where it should have been a standalone paragraph. It is time, and I know the Ministers behind me are having a little chuckle earlier at our expense, but as far as I am concerned ... and there is another Minister having a chuckle at the back on the far side, the Minister for Housing, who is telling me to sit down, so therefore I will stay standing **[Laughter]** and he may not get away quite as early for his lunch as he hoped. As far as I am concerned that we have to send a message out to the Council of Ministers to get their act in order. They have been in place now for 4 years on to the new system and it is high time that we saw decent reports and propositions without errors coming to the House and with the full information.

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

Here I am back to seek to assist the Minister in his cause. He has made an ample apology to the House for the failings, quite correctly for the failings in the proposition and in the detail, but one of the things that I had to resist when I was a judge was sometimes the temptation to punish people for procedural mistakes rather than to look at the substantial issue. Now what we should be doing, in my view, is deciding whether or not we really do now need to have more information. We have had further information provided in the last speech of the Minister, he provided us with all the information which he had. In my view he should have done that right from the start. But we now

have ample information with which to make a decision and for that reason I am not going to support the reference back. But I do have to take up one or 2 issues raised by Deputy Le Claire. There is no crisis here in the Council of Ministers. The Council of Ministers routinely considers all the business which is coming up in the future and we discuss it and we see where we have difficulties, we try to come to a common mind where we cannot. There is no crisis of manpower in the police going to be caused this because this reduces the amount of cases in which things have to be reported, so there is no manpower issues whatsoever and no crisis that there has not been consultation. I simply wanted to make the point, which has now been perhaps overly made, that there were failures of information and this must be addressed in future. But this is not a reason to punish the Minister in some way for procedural failings.

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

We have had a considerable amount of finger pointing and suitable chastisement of the Minister but let us look at the beam in our own eye first. We cannot expect as Back-Benchers or Scrutiny members or both to be spoon-fed all the time about everything. The Law is quite ... this amendment refers to the Proceeds of Crime (Jersey) Law. Well, the Proceeds of Crime (Jersey) Law is one of the most important laws in one of the most important sections of our economy and for the benefit of Members I am probably the other person in this House who is reasonably conversant with the Law and the guidance notes, and there are guidance notes on money laundering which will explain the issues in simple terms and, as I say, if finance is so important to Jersey I recommend Members should look at the guidance notes and then they will understand the background to this particular amendment, but we cannot expect to be spoon-fed all the time with everything. The Minister should consider himself suitably chastised.

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

As the person - you were not in the House, Sir - that started the hare running and I think what we have had is a much better debate because we have now drawn everything out and I think in many ways the Deputy of St. Mary has to be complimented for bringing forward a reference back, but I am not going to support it. I make it quite clear because I think what we have now got is what we were looking for in the first place and I think a lesson is going to go across to E.D. that they have got to get their act together. In fairness, I do not want to be flippant about this, but I know what they are so busy doing, the E.D.D. are so busy regulating those 29 betting shops [Laughter] they have not really got the time to write a report to tell us or Back-Benchers what is really going on. I think what we are doing, we are cutting our noses to spite our face and I would ask Members that we really get on. We could have finished this morning, I hope we can. But I am not going to support the reference back.

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

It is sort of in a similar vein really but I do not know which way I really want to vote on this. We have heard the apologies, we have now heard the reasons. I am in dire straits because I can see the exact same debate going on P.167 because it is exactly the same. It is completely lacking of information because I was reading it earlier in another debate and I wanted to know who these people were who were regulated and now come under something, something, something. Yes, Deputy Le Claire is going to forgive the Minister and give a bit today. What I would ask the Minister to do ... Senator Ferguson has just said to us this is the economy of our Island and we have not done this, we do not need to be spoon-fed, but this is only a Regulation. For what everybody needs to know and does it make sense outside, I would ask the Minister to take back these 2 propositions, include the information that has been asked for. Do not take it on trust and everyone, once it comes back, it will be treated as the nobby that the Minister thought it was going to be. That is really insulting to this House. He thought these 2 propositions, this one and the next, were going to be noddies and they are not. The Minister does have all the information, again we need it checked. I will also say this, and I will not tell Scrutiny how to do their job, I understand from the



Scrutiny chairman that they are under pressure but I do know all the Scrutiny Panels when I worked on, anything that was lodged under our department came to that meeting, 6 weeks, when it was lodged and I am not saying scrutinise this but all they had to do was open these 2 and say: "This does not cut it. We want more information." It could have been addressed then and this debate would not have happened. So I say it is on both sides but I really do not want to sit through the next debate on a reference back and where we are, and I do urge the Minister for all his promises, he does know he has made a mistake, do not go to the vote and take these back and bring them back as soon as possible, it is 7 days after the Regulations have passed we can pass them on 8th December, not a problem.

#### **8.2.15 Connétable P.F.M. Hanning of St. Saviour:**

I was very disappointed with this because this is one of the very few times we get a chance to reduce government and not increase it and reduce control, so to have what is basically a very disappointing proposition put before us was a shame. We have had the apology, we have had the explanation, I think we have had enough information now. I will not support the reference back but I am nevertheless disappointed and I am glad that the Minister says he will improve things in the future.

#### **8.2.16 Deputy T.A. Vallois:**

I will just be very quick. I am not sure exactly which way I am going to vote for the reference back because I just ... I understand the Minister has apologised but I just remind Members about the 2 agreements that we agreed today, the ratification of the tax exchange agreements in which earlier sessions we asked for clearer financial and manpower implications and it was a ruling from the Chair and yet we still had the same thing as the last sitting. There was no actual ... although I do understand that the Minister has apologised and is quite happy to say that in future he will provide more information, but I really do find this difficult and I do not think it is very fair for Senator Ferguson to say that we cannot expect to be spoon-fed because there is so much that comes through this House. All of us have different expertise in different fields. I understand money laundering because I used to work in financial services, but it is not fair to expect every single person in this House to know absolutely everything about what is in front of us and it does help to have a little bit more information. I will depart on that.

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

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

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

I must say I am sort of torn a little bit by the Deputy of St. Martin but I have looked again at my notes and really there is no other way to go than to make sure that this comes back in a proper form. The question is not whether we have now been told. It really is not the question. That is not the question, we have been told and I challenge anyone here to say honestly that as the information flew by their ears they could grab it and work with it and test it mentally and say: "Okay, I am satisfied that that was all right." Now Deputy Vallois just said she is quite expert in anti-money laundering provisions. Now she might have been able to alone in this Assembly, or one of the few people, to have captured what the Minister told us on the hoof, like live, and made some sense of it and been able to process it reasonably but the rest of us, frankly, if we do not have it in writing in time we cannot do our job. I was, I must say, mystified by the Constable of St. Lawrence and Deputy Le Claire. The issue here is about doing things in the right way and if we do not start at some point doing things in the right way, we have heard of cases of: "Oh well, here we go again" with information that is missing. The Constable of St. Lawrence and myself have a bee in our bonnets about appointments. We have said again and again we want full information on appointments. Not because we are going to quibble and query on every appointment but just because we need to know. We need to have it in writing who these people are. We need the scope

of the appointment identified, we need the number of meetings. We just need to be able to satisfy ourselves. It is not also just for us, it is on the public record. It is searchable, you can find it, who we have appointed to what and why. Now, I thank the Minister for his interesting and informative explanation but really it was not quite germane to the debate. The point is we could not possibly have taken it in. The Minister has apologised and he has pledged that this will not happen again. As I have said, with appointments we have been there, we have asked for it and still some Ministers do not provide the necessary information. Deputy Jeune rightly said that this debate has sent a loud and clear message to Ministers. Now the only question is whether we need to underline that with this particular reference back. Well, I believe we do because in fact we have not been able to test what the Minister has said. He has simply said it. Furthermore, we cannot go back to it. It will not be in writing. It will be buried in Hansard. The public cannot check, we cannot check, we could not go to our third parties like Deputy Vallois or other people that we know who know and say: "Does this stack up, does this make sense? Were we so inclined?" This is not a finger pointing reference back. It is about getting the right process. By the way, I am not asking for an encyclopaedia every time, and nor are Members, on every proposition. No. We are just asking for enough information to allow us to ask questions, and that brings me to my final point, and Senator Ferguson did refer to it. It is incumbent on us as Back-Benchers and as Scrutiny, in fact, to be more diligent in testing propositions in a timely way. We saw today many, many questions being asked on the floor of the House that probably could have been dealt with beforehand by emails and conversations and I count myself in that criticism. Too often we use the floor to ask questions that should have been clarified before so let us all tidy up our act. We have been talking about how we use our time. Back-Benchers and Scrutiny should be more on the ball with propositions so that we test them before we come here so that we can be quicker when we are here. But there is obviously a rider to that. We cannot test what the Ministers and others bring in propositions if the information is missing. So, I am sorry, we do have to refer this back. It is a very simple matter. We had it given to us orally. We just need it in writing, in a checkable, testable, verifiable way that the public and ourselves can access later. I move the reference back.

### **The Deputy Bailiff:**

Do you call for the appel, Deputy? The appel has been called for on a proposition to refer P.166 back to the Minister for further information. I invite all those Members outside the Chamber wishing to vote to return to their seats. The Greffier will open the voting.

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

### 8.3 Draft Proceeds of Crime (Amendment of Schedule 2) (No. 2) (Jersey) Regulations 200- (P.166/2009) - resumption

#### The Deputy Bailiff:

We therefore return to the debate on the citation of the principles. Does any other Member wish to speak? Minister, I invite you to reply.

#### 8.3.1 Senator A.J.H. Maclean:

I think we have probably more or less had the debate during the course of the reference back so if I may I will just reconfirm to Members that I understand their concerns about the need for further information and I will make certain that additional information is provided as and when required. The only 2 that I was slightly surprised with, although I appreciated the assistance and confirmation from Senator Le Marquand, as a member of the Council of Ministers he clearly was privy to discussions that we had and bullet-proof briefings on this matter before but nevertheless clearly that needs to be more detailed in the future. Also the Deputy of St. Mary, although I understand his concerns, as a member of the Scrutiny Panel he could of course have chosen to ask for further information. I would just reconfirm to members of Scrutiny that we are always available to provide additional information on any areas of legislation that they wish to, not necessarily scrutinise formally, but just wish to discuss in more detail. With that said I would like to maintain the principles if I may.

#### The Deputy Bailiff:

The principles are proposed. Would all Members in favour kindly show. The appel is called for. Members wishing to vote kindly return to their seats. The proposition is whether to adopt the principles of the Draft Proceeds of Crime (Amendment of Schedule 2) (No. 2) (Jersey) Regulations, P.166. The Greffier will open the voting.

<b>POUR: 38</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 3</b>
Senator T.A. Le Sueur		Deputy S. Pitman (H)		Deputy M. Tadier (B)
Senator P.F. Routier		Deputy T.M. Pitman (H)		Deputy of St. Mary
Senator T.J. Le Main		Deputy A.K.F. Green (H)		Deputy M.R. Higgins (H)
Senator J.L. Perchard		Deputy D. De Sousa (H)		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				

Connétable of St. Clement				
Connétable of St. 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 J.A. Martin (H)				
Deputy of St. Ouen				
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 K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy J.M. Maçon (S)				

**The Connétable of St. Clement:**

It has been tradition in this House, I am not sure even if it is Standing Orders, that when Members address the Chair or question the Chair they normally come to their feet. I have noticed on a number of occasions, particularly this morning, Sir, that one or 2 Members are asking questions or making requests seated. I just wondering ... standards should be maintained in this place and I would hope that Members would recognise that.

**The Deputy Bailiff:**

I am grateful, Connétable. No doubt the Chair should be firmer. You are absolutely right, it is in Standing Orders. I would ask the chairman of the Economic Affairs Scrutiny Panel, you have indicated I think already you do not wish to scrutinise this regulation?

**Deputy M.R. Higgins (Chairman, Economic Affairs Scrutiny Panel):**

No, Sir, we do not.

**The Deputy Bailiff:**

Minister, do you wish to propose the Regulations *en bloc*.

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

Yes, Sir, if I may. There are only 2 Regulations. Regulation 1 makes the necessary changes to schedule 2 of the Proceeds of Crime Law and Regulation 2 is the citation and commencement clause. I propose Regulations 1 and 2.

**The Deputy Bailiff:**

Is the proposal seconded? **[Seconded]** Does any Member wish to speak? That being so the proposition for the Assembly is to adopt Regulations 1 and 2. All those in favour kindly show. Those against. The Regulations are adopted. Do you move the Regulations in Third Reading, Minister?

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

Yes, Sir.

**The Deputy Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak on Third Reading? All those in favour kindly show. Those against. The Regulations are adopted in Third Reading.

**9. Draft Proceeds of Crime (Supervisory Bodies) (Amendment of Law) (No. 2) (Jersey) Regulations 200- (P.167/2009)**

**The Deputy Bailiff:**

We now move to P.167 the Draft Proceeds of Crime (Supervisory Bodies) (Amendment of Law) (No. 2) (Jersey) Regulations. I ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Proceeds of Crime (Supervisory Bodies) (Amendment of Law) (No. 2) (Jersey) Regulations. The States, in pursuance of Articles 11(4) and 44(2) of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, have made the following Regulations.

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

I should perhaps start by acknowledging that I suspect Members may feel that there is not sufficient information **[Laughter]** contained. I will therefore try in my opening remarks to cover all the relevant points which I hope will be satisfactory to Members in this instance. These draft Regulations will make some clarifying amendments to the schedule to the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008. The inclusion in the schedule of a specified business or activity requires a person carrying on such a business or activity to register with the Jersey Financial Services Commission so that they can be supervised for compliance with anti-money laundering countering the finance and terrorism measures. The draft Regulations will avoid an anomaly whereby a person who carries on a regulated business would have to notify the Commission if, in addition to their regulated business, they are carrying on certain activities that are exempt from registration under 2 of the regulatory laws administered by the Commission. Such notification is unnecessary given that the person would already be known to the Commission by virtue of carrying on a regulated business. This anomaly was temporarily resolved by virtue of the Proceeds of Crime (Supervisory Bodies) (Transitional Provision) (Jersey) Order 2008 which expires on 30th November 2009. These draft Regulations will come into force prior to this date and will permanently address this anomaly thus removing the need for further temporary orders to be made. I propose the principle of the Regulations.

**The Deputy Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak? Then the proposition is to adopt the principles to these Regulations. All Members in favour kindly show. Members against? The principles are adopted. Chairman of the Economic Affairs Scrutiny Panel, do you wish to scrutinise these Regulations?

**Deputy M.R. Higgins (Chairman, Economic Affairs Scrutiny Panel):**

No, Sir, we do not.

**The Deputy Bailiff:**

Minister, do you take both Regulations?

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

Yes, Sir, *en bloc*. Again there are only 2 Regulations which I propose *en bloc*. Regulation 1 makes the necessary changes to the schedule of the Proceeds of Crime (Supervisory Bodies) Law and Regulation 2 is the citation and commencement clause. I propose the Regulations 1 and 2.

**The Deputy Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on the Regulations? Those Members in favour of adopting the Regulations kindly show. Those against. The Regulations are adopted. Minister, do you propose the Regulations in Third Reading? Seconded? **[Seconded]** Does any Member wish to speak? All Members in favour of adopting the ... the appel is called for. Members wishing to vote kindly return to their seats. The proposition is to adopt P.167, the Draft Proceeds of Crime (Supervisory Bodies) (Amendments of Law) (No. 2) Regulations in Third Reading. The Greffier will open the voting.

<b>POUR: 41</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator T.J. Le Main				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
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 of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
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. De Sousa (H)				
Deputy J.M. Maçon (S)				

## **10. Draft Foundations (Winding up) (Jersey) Regulations 200- (P.169/2009)**

### **The Deputy Bailiff:**

We now come to Projet 169, the Draft Foundations (Winding up) (Jersey) Regulations in the name of the Minister for Economic Development and I ask the Greffier to read the citation.

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

Draft Foundations (Winding up) (Jersey) Regulations. The States, in pursuance of Article 56 of the Foundations (Jersey) Law 2009, have made the following Regulations.

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

I would make a comment here that I hope Members will find the information supplied is slightly more detailed and will meet with their requirements in giving sufficient information. I will hopefully support the details available to Members with my opening comments. These draft Regulations would be made under the Foundations (Jersey) Law 2009 which Members will recall was passed on 22nd October 2008 and came into force on 17th July of this year. The Law introduced a new type of wealth management vehicle known as a foundation. A foundation is the distinct legal entity like a company but unlike a company it does not have shareholders. It has easily recognisable liabilities and accountabilities openly recorded on a public registry in the same way as a company. It holds assets in its own name for the purposes set out in its constitutive documents. For clients and authorities originating in jurisdictions not familiar with the concept of trust a foundation may be a more acceptable offering. As well as being used for wealth management and estate planning foundations may also have applications in more specialised areas such as long term charitable aims or securitisations where it is desirable the property be given to a legal entity and applied for specific purposes. As with companies and trusts the use of foundations is subject to compliance with the Commission's policy on sensitive activities. **[Interruption]**

### **The Deputy Bailiff:**

The Chair is itching to impose a £10 fine. **[Laughter]**

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

Perhaps you might impose a fine on all but the speaker. **[Laughter]**

### **The Deputy Bailiff:**

Perhaps next time.

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

No doubt that will endear myself to Members. If I may, I will continue. A number of safeguards have been put in place to ensure the good management of foundations. In particular, the foundation will be run by a council and this council must include at least one member who is a financial services professional, regulated by the Jersey Financial Services Commission. This member, known as the qualified member, has some specific duties, both under the Law and under these Regulations. The foundation must also have a guardian, whose role is to supervise the council and to protect the interests of the foundation's beneficiaries. These draft Regulations provide for the winding-up of foundations, i.e. the disposal of any remaining assets at the end of a foundation's life. It was envisaged for the time the Foundations Law was passed that the States would make Regulations, dealing with these matters, and the relevant enabling provision was included in Article 56(1) of the Law, which is set out in the report to the draft Regulations. Clearly it is important now that foundations have been established in Jersey - and there are currently 22 on the register - that provision is made for them to be wound-up in an orderly fashion, having due regard to the interests of all those affected, particularly the creditors. These Regulations are very similar to the provision

made for winding-up companies in Part 21 of the Companies Law. This is appropriate since companies and foundations are both bodies corporate and similar principles, therefore, apply. In both cases there are different procedures applicable, depending on whether the foundation or company is solvent or not. If a foundation is solvent, then it will be able to pay off all its debt in full, with something left over to be distributed in accordance to its charter. In this case it is appropriate for the foundation council, supervised as always by the guardian, to conduct the winding-up, either directly or by appointing a liquidator. However, if a foundation is not solvent, then the creditors will not be able to be paid in full, so they are entitled to be overseeing the winding-up, in order to ensure that they each receive as much as is possible. Therefore, as with a creditor's winding-up for a company, it is the creditors who will appoint a liquidator if a foundation is insolvent. There are also provisions again, as with companies, for foundations to be wound-up because it is just inequitable to do so, or because it is in the public interest, or perhaps because the foundation has failed to pay the specified fees to the registrar. I propose the principles of the draft Regulations.

**The Deputy Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? If no Member wishes to speak then the principles are put to the Assembly for adoption. All the Members in favour, kindly show. Those against. The principles are adopted. Chairman of the Economic Affairs Scrutiny Panel, do you wish to ...?

**Deputy M.R. Higgins (Chairman, Economic Affairs Scrutiny Panel):**

No. We do not wish to scrutinise it.

**The Deputy Bailiff:**

Minister; how do you wish to propose these Regulations?

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

There are quite a lot of Regulations. I was going to try, where possible, to take them *en bloc* but I basically was proposing groups. I was going to start with Regulations 1 to 3. If Members are suitably satisfied, I will take them *en bloc* in total.

**The Deputy Bailiff:**

If you wish to take them *en bloc*, that seems to be ...

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

I might suggest that, if I take them *en bloc*, if Members have any particular questions on a particular Regulation, I would be more than happy to address that, otherwise I will take them *en bloc*.

**The Deputy Bailiff:**

Is the proposal seconded? **[Seconded]** Is there any Member wishing to speak? Are there any questions for the Minister?

**10.2.1 Deputy R.G. Le Hérissier:**

This is the debate on the Regulations?

**The Deputy Bailiff:**

This is the debate on the Regulations in total.

**Deputy R.G. Le Hérissier:**



Part 6 of the power of the Royal Court, I wonder could the Minister assure us that everything to do with the legality of foundations will be dealt with in Jersey. Is that correct, that there is no possibility of other jurisdictions being involved?

**The Deputy Bailiff:**

Does any other Member wish to speak? Minister.

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

Yes. I can reassure the Deputy that if it is certainly relating to a foundation in Jersey that is registered in Jersey or is continued into Jersey then, yes, it is subjected to the laws and will be dealt with appropriately within the jurisdiction.

**The Deputy Bailiff:**

Regulations 1 to 40 of the Draft Foundations (Winding Up) (Jersey) Regulations are proposed. All Members in favour, kindly show. Those against. The Regulations are adopted. Minister, do you move the Regulations in the Third Reading?

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

Yes.

**The Deputy Bailiff:**

The Regulations are proposed in Third Reading. **[Seconded]** Does any Member wish to speak?

**10.3.1 Deputy R.G. Le Hérissier:**

Just a quick question. How strong is the possibility of foundations being wound-up? What is the likelihood of this happening?

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

It has been mooted before that there might be a need, in the future, for some form of upper chamber to go over legislation such as this, that is rushed through or done in a rather rapid way, rather than saying the words “rushed through”. I think that the Chief Minister needs to consider this issue about the way that we pass legislation in this House. If we can spend 2 and a half hours debating whether or not we paint the swings yellow or red and then rush through serious legislation such as this, I think there is a issue and I would ask the Chief Minister to look at this please and consider the merits, or otherwise, of an upper chamber or perhaps I would be forced to bring, to the best of my ability, a proposition for that on it its own.

**The Deputy Bailiff:**

Does any other Member wish to speak? Minister.

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

With regard to Deputy Le Hérissier; how likely is a foundation to fail? I would say as likely as any company is, perhaps, to fail. They are, effectively, wealth management tools and they are going to be very closely regulated by the J.F.S.C. We would not expect to have very many failures and that is probably the only answer that I can give to him. None at all, probably, but we would expect to have very few. With regard to Deputy Le Claire, I think the question was more directed towards the Chief Minister, so I will leave it to him, perhaps offline, to deal with that. I maintain the proposition.

**The Deputy Bailiff:**

The Regulations are proposed in Third Reading. All Members in favour, kindly show. The appel is called for. Any Members wishing to vote on adopting the Foundations (Winding Up) Regulations in Third Reading should return to the Chamber. The Greffier will open the voting.

<b>POUR: 44</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator T.J. Le Main				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy 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 of St. John				
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. De Sousa (H)				
Deputy J.M. Maçon (S)				

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

Would it be permissible to ask a question of the chairman of the relevant Scrutiny Panel because the question I wonder is whether the Scrutiny Panel, in fact, has time to look at all this legislation, which is obviously a concern, because what we have done is we just had passed a large piece of legislation pretty well on the nod.

**The Deputy Bailiff:**

Connétable, I think that is a matter for you to address with the chairman of the panel, privately, and no doubt in formal question time on a subsequent occasion, if that should be necessary.

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

Could I propose that we continue and try and finish the business?

**The Deputy Bailiff:**

There is a proposal to continue. Is that seconded? **[Seconded]** I would hope that Members can simply vote on this without a debate.

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

I would just like to make an observation. I am concerned about rushing legislation through too quickly. The next issue is relatively minor, with regard to foundations and mergers, nevertheless there are something in the order of 37 Regulations. I do not feel it is appropriate that we should rush that. I would like to give Members the opportunity of listening to my remarks regarding those and the opportunity for them to question should they so desire. In that respect I think it is inappropriate.

**The Deputy Bailiff:**

Perhaps we can go to a vote, forthwith, on Senator Le Main's proposition that we continue now to finish the business. All Members in favour, kindly show. **[Laughter]** All those against. Senator, that seems to have been a fairly conclusive rejection of that proposition. I take it that someone wishes to propose the adjournment.

## **LUNCHEON ADJOURNMENT PROPOSED**

**The Deputy Bailiff:**

The adjournment is proposed and agreed. We stand adjourned until 2.15 p.m.

## **LUNCHEON ADJOURNMENT**

### **PUBLIC BUSINESS - resumption**

#### **11. Draft Foundations (Mergers) (Jersey) Regulations 200- (P.170/2009)**

**The Deputy Bailiff:**

The Assembly now comes to P.170/2009 - Draft Foundations (Mergers) (Jersey) Regulations 200- - in the name of the Minister for Economic Development and I ask the Deputy Greffier to read out the citation.

**The Deputy Greffier of the States:**

The Draft Foundations (Mergers) (Jersey) Regulations 200-. The States, in pursuance of Article 56 of the Foundations (Jersey) Law 2009, have made the following Regulations.

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

I trust Members have had a bountiful lunch and are feeling in good humour **[Laughter]** for this afternoon's continuance. I will, when we get to the Regulations, spend a little bit of additional time to ensure that Members have any further detail that they might feel that they are requiring. For the moment I would like to just start by saying that this is another set of Regulations to foundations making provisions for foundations to merge. As well as providing for Jersey foundations to merge with each other, the draft Regulations also provide for Jersey foundations to merge with foundations overseas. This has the effect of the combined product being either a Jersey foundation or an overseas foundation. It was envisaged, at the time that the Foundations Law was passed, the

States would make Regulations dealing with these matters and that the relevant enabling provision was included in Article 56(1) of the Law, which is set out in the report to the draft Regulations. Once again, these draft Regulations reflect the existing provisions for mergers for companies contained in Part 18B of the Companies Law. In relation to the cross-border element, they also reflect elements of the Foundations (Continuance) (Jersey) Regulations 2009, passed by the Assembly on 15th July 2009. In particular, in order to protect Jersey's reputation, all mergers involving a cross-border element will be subject to approval by the Jersey Financial Services Commission. I propose the principles of the draft Regulations.

### **The Deputy Bailiff:**

Is the principle seconded? [**Seconded**] Does any Member wish to speak? Deputy Le Hérissier.

#### **11.1.1 Deputy R.G. Le Hérissier:**

Why is the provision being brought at this particular stage and, secondly, does the Minister anticipate there will be a lot of mergers and is a merger a sign of the good functioning of this Law or the bad functioning?

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

I shall speak at rather more length than that, but not very long, with some questions about these Regulations. Members will recall that I drew attention when we ratified the T.I.E.A.s this morning to the communiqué of the G20 in 2008 and their stated need to protect the global financial system from unco-operative, non-transparent jurisdictions that pose risks of illicit financial activities and I underline the words "unco-operative", "non-transparent", "risks" and "illicit" and we see in the report of this proposition, and indeed in the Regulations, that we are going to make possible, if we approve these Regulations, the merging of Jersey foundations into foreign entities and *vice versa*, so that foreign entities can merge and disappear into a Jersey foundation and these entities will exist in the jurisdictions of Panama, St. Kitts and Nevis, and Liechtenstein, all, of course, jurisdictions that are absolutely in the top drawer. Well, I have real disquiet about having bedfellows of this nature and I am not sure that we should not look at this very carefully and ask ourselves, are these suitable bedfellows for the top jurisdiction in the world, the one that comes top of the list, whiter than white? I have real problems here and my problems are made even more sharp by the fact that I put forward an oral question to the effect of: "What were foundations for? Who would wish to establish a foundation in Jersey and for what purpose?" and I was told to look in the debate of Hansard October 2008, so I did and I have read it and I am still none the wiser. So I put the question again and I said, in my note to the Assistant Greffier: "I am not interested in the legalese, I am not interested in that a foundation can hold assets, be dissolved, blah, blah. I am interested in why someone would establish a foundation in Jersey, who would do this and for what purpose?" and the question was disallowed, which is one of the reasons why I did some research for this debate and I have some questions for the Minister, and I hope that he will be able to answer them in his summing up. I think that the only way to avoid attack and, indeed, this has been mentioned in our good *Jersey Evening Post* by no less a figure than the Deputy Bailiff, in fact, the then Attorney General, who is our President today, and I have the cutting here, but warning us to be very much on our guard about attacks on the jurisdiction. So there are big issues at stake here about risk and about where we are going and, in the context of these Regulations, I would like to ask the Minister some questions. Would the Minister spell out the exact nature of the risks alluded to in the report and Regulations - could somebody lend me a Regulations. Sorry I have lost them in my wad - Article 20, if I can refer Members to it, on page 20, the Article is entitled "Refusal by Commission to accept an application to implement a merger agreement". So there is this safeguard that the Commission can refuse a merger. I am reading from paragraph 1: "The Commission may refuse to accept an application to implement a merger agreement if it is satisfied that it is necessary to do so (a) in order to protect the reputation and integrity of Jersey in financial and commercial matters, (b) in the best economic interests of Jersey or (c) to protect the international standing of Jersey" and I

would like the Minister to clarify the risks under (a) and (c). What exactly is the risk to the reputation and integrity of Jersey, in financial and commercial matters, if we pursue the capacity to merge foundations, as I said, from Jersey into another jurisdiction or *vice versa*; and (c) to protect the international standing of Jersey? It is interesting that we are giving the Commission these powers with respect to foundations and, as I said, would the Minister spell out the exact nature of the risk or risks? The second question is: there is provision in the Regulations for what happens in the register when a Jersey foundation ceases to exist and that is there is a note put in the register that it has ceased to exist and, indeed, where it has flown to, what other foundation it has become part of or even what other entity in another jurisdiction it has merged with, but there is no provision in the Regulations for what happens in the other direction? So if we have an entity in Panama or Liechtenstein which merges with a Jersey foundation and therefore vanishes, ceases to exist, there is nothing in the Regulations about what happens in that jurisdiction to ensure traceability and my question is: why is there no provision and what is the associated risk? It may be that the Minister will reply that there is no provision because we cannot provide for what happens in St. Kitts and Nevis, Liechtenstein and Panama. But then there is the associated question; what is the risk of allowing these mergers away from these territories into a Jersey entity without, apparently, a legal safeguard that we can apply? The third question is: can the Minister confirm that under a T.I.E.A... and we approved a T.I.E.A. today for Australia and New Zealand, and we read on page 11 of the T.I.E.A. that we approved this morning, with Australia, we read the following: "Article 4 Exchange of information upon request. Each party shall ensure that it has the authority, subject to the terms of Article 1, to obtain and provide, through its competent authority and upon request ... various information about banks and trusts" and (b)(3): "In the case of foundations, information on founders, members of the Foundation Council and beneficiaries" and I would like the Minister to assure Members that that information is available and how the relevant authorities would go about finding out that information, when my understanding is that much of what goes on inside foundations is secret and protected, and I will come to that aspect in a moment. So, there is the question; how can the Minister be sure that we can comply with requests, under the T.I.E.A.s that we have signed, with respect to foundations, when there is considerable secrecy around them? I will, as I say, go into that in a minute. The next question is: what is a foundation for? I have explained to Members that I did ask this as an oral question and it was turned back. So I would ask; who would use a foundation? For what purpose would they set up a foundation in Jersey? Who would use it and why would they do it? I want to refer Members, as background to all this, to a little explanation of what foundations are, because I know there is anxiety out there about foundations, so I did some research and I found the Bedell Cristin presentation of what a foundation is and I think, if I read out selected paragraphs, Members will see just how real these concerns of mine are and hopefully will adopt them as their own concerns. I am very concerned with what I read here: "The charter is open to public inspection. It contains certain required information, such as the name of the foundation, its objects and details of any initial endowment of the foundation. Other information can be included in the charter if desired, but is not required, in particular details of how any beneficiaries of a foundation are to be ascertained - which is why I asked the question about T.I.E.A.s - and details of what is to happen to any assets remaining after dissolution of the foundation. These can be included in the charter, solely by reference to the Regulations of the foundation. The charter does not need to specify or identify the founder or the council members." So we are referred to the Regulations and the next sentence is: "The Regulations are private and must provide for the appointment, replacement and remuneration of any of its council members, how the council should operate" and so on. So we are referred to the Regulations to find out more but the Regulations are private. I continue: "The founder is the person who originates the foundation and he may reserve rights to himself or to others." As indicated, his identity need not be a matter of public record. That really rings alarm bells and is the cause of my questions today. I will skip a few paragraphs: "Every foundation will have a guardian [and this was mentioned in the original debate extensively] whose duty is to ensure that the council carries out its functions properly under the Law, the charter and the Regulations and in the interests of the objects

or beneficiaries. Anyone can be appointed a guardian, except a council member”, so you think they are independent and then you get: “But that restriction does not apply to the founder or the qualified council member.” So there are 2 members of the council, namely the founder and the qualified council member, who is the regulated professional, who can be the guardian: “The guardian can also be given veto or similar powers over actions of the council” and, finally after a few paragraphs: “There will in most cases be no need to take out probate on the death of a person with an interest in a foundation, as the assets do not form part of a person’s estate on death.” I just wonder where the assets have gone. I am just a lay person. “Similarly the assets do not form part of a person’s property on their bankruptcy as, for example, would be the case with shares in a company.” I will repeat that: “The assets do not form part of a person’s property on their bankruptcy.” I do fear that we are laying ourselves open with respect of these mergers in and out of foundations into the Island from other jurisdictions and out into other jurisdictions. I do fear that we are laying ourselves open. I am uneasy and I just find all this very problematic and I hope the Minister can clarify, for all of us, just what the nature of the game is that we are playing here.

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

What business are we in? We are in the business of wealth management. What does that mean? In some cases it means hiding the money from other tax agencies. Quite simply, hiding money so it does not get taxed, but that is the business we are in and I must, again, I seem to be for ever nowadays rising to my feet to praise the Deputy of St. Mary for his research in the first place and his asking of these vital questions. We are in the business of hiding money from tax authorities elsewhere in the world. That is what we are doing. That is what we are doing. A foundation is a version of a tax efficient mechanism. It is similar to a trust. It is very much the tool in the armoury of, particularly and spectacularly, Liechtenstein and there are serious doubts about the activity of Liechtenstein. Now, here we are told now we can transfer particular foundations to or from Liechtenstein and we are worried about our international reputation. We are proud to be on the White List. We are proud to have signed 15 T.I.E.A.s and yet we just heard, in the case of who is the beneficiary, who is the founder, what is the function of these foundations, we just heard that we do not have to be transparent, we do not have to register, we do not have to know those names. So the meaning of this T.I.E.A., in terms of foundation, is absolutely meaningless and especially handy for those who wish to hide money from their tax authorities, we can transfer these in and out of jurisdictions. That is the business we are in. It is nefarious business; we can call it tax avoidance if you like, but the difference between tax avoidance and tax evasion is just simply a point of view. The Deputy has pointed out, quite correctly, how dangerous a business we are getting into. It is presented by the finance sector as just another tool to assist us to do business in wealth management. But without the transparency, without the ability to identify beneficiaries, without the clear transparency attached to the T.I.E.A., we are in a dodgy and dangerous business. Beware of voting for this transferability of foundations.

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

I think I need to reassure Members about the activities of foundations and, indeed, of trusts, which I suspect the Deputy and previous speakers would have classed in the same boat as being beyond their particular pale. I have to draw distinction between the confidentiality of what is published information, available for all to see, and what service providers have to know before they are able to act for a particular client and the requirements put on those service providers by the Jersey Financial Services Commission. It is the activities of the Jersey Financial Services Commission in regulating trust providers and company providers and service providers, which have been so highly commended by the International Monetary Fund in their recent report and they appreciate the extent to which Jersey service providers fulfil the requirements of knowing their clients and knowing what is behind the entities they are talking about and they have praised the way in which the Financial Services Commission reviews and regulates those activities, so that when a jurisdiction applies under a tax information exchange agreement for legitimate information, even

though it may not be on a public register, it is known to the service providers and can be obtained from those service providers and it will be a requirement of the Financial Services Commission to ensure that those service providers do provide the information. So, what the Deputy of St. Mary and Deputy Southern are saying is simply scaremongering and is very wide of the mark and I do want to reassure Members, who may be confused by those matters, that there is a considerable difference between confidentiality and secrecy. This is a situation where the Regulations and the quality of service provided by our service providers - and these foundations have to be provided through a recognised service provider - do provide the safeguards that we all recognise and will require in order that Jersey can be a well regulated jurisdiction.

#### **11.1.5 The Connétable of St. Helier:**

I thought the Chief Minister was going to do it but perhaps he was leaving it for the Minister to do and that is to knock the comments of Deputy Southern into a cocked hat. I do not know whether this is the official J.D.A. (Jersey Democratic Alliance) point of view on the financial services industry, but to say that the only difference between tax evasion and tax avoidance is your point of view is completely wrong [**Approbation**] and I think there are tens of thousands of people in this Island who depend on the financial services industry, who work in it and if they hear that and they hear that comment unchallenged will be quite horrified. It is simply wrong and misleading. It may be the policy of the J.D.A. Well, that is very interesting. I did not know they had gone quite that far, but I would urge Members not to allow that point of view to be endorsed simply by our not saying anything about it. It is wrong. We all, presumably, do not go out of our way to pay as much tax as ... I mean, I do not. I try and claim all my tax allowances and I think most other people do. We use financial services and businesses use the financial services industry to minimise, to avoid tax. They certainly do not try and evade tax because if they do they will find themselves in court. So, I think that comment by the Deputy, unless he is willing to retract it, was unfortunate and should really be rejected by this House.

#### **11.1.6 Deputy K.C. Lewis:**

Just one very minor point. I stand to be corrected but I understand Liechtenstein has signed up to full tax disclosures only last week.

#### **11.1.7 Deputy M. Tadier:**

I have to take exception with the comments of the Constable of St. Helier because I think it is a semantic game we are playing here and, depending on your point of view, tax evasion and tax avoidance, in certain circumstances, can be one and the same thing. For example, I know that companies in Jersey ... and I have seen documents that do promote the services and they quite candidly say we will help you to avoid tax so you do not have to declare it to the tax man. There are mechanisms and, depending on which point of view you will raise, then for the U.K. taxman or other tax collectors in other countries, for them to decide whether it constitutes evasion or avoidance and it can be a very grey area. So, while Jersey may well provide a vehicle, it is not for Jersey people to say whether it is evasion or it is avoidance, it is up to the other jurisdictions and it is a subjective matter. It is like the difference between a terrorist and a freedom fighter. That is the difference. It is a question of perspective. We live in a subjective world and it is not always that clear cut, so I think that needed to be said and it may not always be comfortable to listen to people like the Deputy of St. Mary and Deputy Southern, but my ... I am sorry, I hear talks of Marxism. I am not sure what relevance that has. Maybe if we talk about Chomskyism, because I am really talking about semantics here and the differences and subjectivism. I do not think that has anything to do with Marxism at all. I think the Deputy of St. Mary's point really is, I believe, in layman's terms he is saying this is basically a scam. I may be putting words into his mouth there but the interpretation is that we have to be wary. This could just be another mechanism to avoid tax. It is up to every Member to decide whether that is the case or not. That is all I wanted to say.

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

Very quickly, I just have to say I was disappointed with the comments of the Constable of St. Helier. I am certainly not anti-finance and I challenge him to ever show anything that I have ever said that could portray that way and, of course, he will not be able to respond because he cannot. I am certainly not anti-finance in the way that many people regard the Constable, anti-unions and anti-best working practices, but there you go, we are all different. What I am against is these anti-Jersey measures that could show us in a bad light and I think that is probably what the Deputy of St. Mary was trying to flag up; issues which really do demand close examination and cannot be described on about 2 postage stamps, as seems to be the case with much we get from the Council of the Ministers. If we want to challenge our critics all the time then the best way is to do it right up front, transparently and answer any questions they put to us. I fully support finance. I do not support people who try to get out of paying tax that they should, whether it is here or in another jurisdiction, and if that is a left-wing policy, well I guess I must be a lefty, sorry Constable. I think the Deputy of St. Mary, again, has said something of great insight and he puts a lot of thought into what he says. He is really just asking us to think these things through. That should not be frowned upon in the States and it should not be criticised as being derogatory or damaging or negative. It is a positive to explore all the flaws. I mean, perhaps for the Constable again it was just a bit of points scoring against Deputy Southern, but there we go. I am not sure which way I am going to vote on this but I would like some more answers because it seems to me that in this particular area the T.I.E.A.s may not be worth the paper they are written on, and that is a concern to me and I would like that answered.

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

Everyone in this House is a tax avoider. Everybody puts their allowances into their tax return and thereby avoid tax. So, that is what tax avoidance is, starts right at the bottom, quite straight forward, quite legal, no problem. As to foundations, depending on the purpose of what you are doing, depends on the form of instrument you use. I was a trustee of a charity; now this operated as a company limited by guarantee but we could just as easily have been a foundation. There are also, in the Foundations Law, considerable similarities to Company Law. The Deputy of St. Mary may not have realised that company directors are not in fact listed on the annual returns put into the Financial Services Commission, although the information is known by the Financial Services Commission and the service providers and there are also considerable similarities to trusts. Now, the problem with trusts is that they are an Anglo-Saxon concept and, if I am right, they were invented during the crusades to prevent the wife, who was left at home, running off with the estate while the husband was off fighting wherever they went to fight. **[Laughter]** Presumably Jersey husbands went off to have a quick crusade and a jolly. **[Laughter]** Foundations are, in fact, something that is more easily understandable by non-Anglo-Saxon legal systems and I might also point out that they are very well recognised in jurisdictions like Delaware, which is just around the corner from Washington and is a concept that is very widely used in the U.S. and, as I have said, the J.F.S.C. can and does have access to all the information that the Deputy of St. Mary is questioning. There are a number of reasons why you would have a foundation, as there are for trusts. I cannot remember all of them off the top of my head but one of the reasons would be to protect children from people who might otherwise ... I suppose you would call them fortune hunters and for charitable purposes. This is really just another form of organisation, much like a trust, and I do not have any problem with this.

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

Can I ask for a point of clarification from the speaker? I did not interrupt but I did try, but she did not hear. Could I ask for a point of clarification? The speaker mentioned tax avoidance and said we are all tax avoiders, well I sort of take exception to that **[Approbation]** and the reason I do is that in the very report that we approved, or we approved the proposition on T.I.E.A.s this morning, we read that the O.E.C.D. (Organisation for Economic Co-operation and Development) hosted a conference in 2008 entitled Conference on the Fight Against International Tax Evasion and



Avoidance. There is a difference between avoidance and aggressive avoidance and I wonder if the speaker would like to comment on that.

**Senator S.C. Ferguson:**

Evasion, as I understand it, is when you are doing something illegal. Avoidance is something that is perfectly legal. Now, it is perfectly legal for me to claim child allowance on my tax return if I have children that are of the right age. If I claim tax allowances for children in my current tax return then that, effectively, is an evasive action.

**11.1.10 Deputy I.J. Gorst:**

I am rather loathe to join this debate this afternoon, however I am pleased to be able to follow the Connétable of St. Helier and the ongoing discussion that we seem to have been having of late in this Assembly about tax evasion and avoidance and I too was disappointed that Deputy Southern felt that it was simply a point of view rather than it being a point of law, which we all know is the case. Some comments have been made, also by Deputy Southern, about hiding money and that tax efficient products were simply that, to hide money. The Deputy of St. Mary talked about the details being on the public record. I suspect he, like myself, has accounts with banking institutions in this Island. I would be loathe to think that that fact was a matter of public record, however that institution itself is aware of that. Another issue I wanted to nail - and I think the Chief Minister touched on it as well - and that is what the use of a T.I.E.A. would be for this particular wealth management tool and, as the Chief Minister said, an authority could make a request for information on particular individuals, whether the detail of the founder, *et cetera*, is available in the public domain is not germane to what the report returning would be. There would be an obligation, if that report was submitted to the jurisdiction, on service providers to provide the information that the jurisdiction was requesting, provided it was approved by our jurisdiction as being a legitimate request for information. So I think it is unfair for Members to say that they are not worth the paper they are written on. I think that we know that practice has proved that to be incorrect. We also had some concerns from some Members with regard to the probity of other jurisdictions. I do not wish to comment on those *per se*, simply to say that it is important that we, as a jurisdiction, continue to comply with international governance and best practice, because those individuals and families and other service providers which use jurisdictions are only too aware of international reputations of jurisdictions and it might be that individuals who currently have a foundation in another jurisdiction feel that that jurisdiction has general bad press and perhaps has not appeared on the White List and they wish to move their product to some other jurisdiction, one that they perceive as meeting international standards and I believe that we, as a jurisdiction, should welcome those individuals, providing they meet the standards that we lay down for our financial services. So it does remain extremely important that we continue to comply with international best practice, and one hopes that the fact that we have complied, perhaps in a time when some individuals felt that we were over-complying, we are now going to reap those rewards and see money and products and individuals move to Jersey because they recognise the high standing of our jurisdiction and of our financial services. Foundations, as I am sure the Minister will say, are already a product in operation in our Island. This is extending them slightly and allowing the mergers with other foundations and I hope that today Members will see that this is yet another improvement and will perhaps allow the transposition of money from other foundations to products registered in Jersey, and I ask that Members do support this.

**The Deputy Bailiff:**

Does any other Member wish to speak? If not, I call on the Minister to reply.

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

I will try to deal with the most pertinent questions raised by Members. I apologise in advance if I do not address everybody, but I will try and address all the questions that have been raised. Deputy

Le Hérissier asked about why this is being brought now. In fact, he will note that in the Foundations Law that was passed by this Assembly there was an enabling power and this is exactly what we are bringing now. There was always an intention that the provisions, both winding-up and mergers, would be brought at a later stage and, of course, this is the later stage that I am referring to. He did ask about if we know to what degree, what numbers, we will see of mergers. I suspect he was probably referring to foundations generally. To date there have been 22 foundations registered locally. Obviously the other items are a little bit premature because we are only debating them today. The exact numbers in the future is not clear but the industry clearly feels there is an opportunity. The most important thing to bear in mind is that this is a new product for the finance industry. It is an extension, I should say, to an existing product which will help our finance industry to continue its important diversification. The Deputy also asked about mergers, whether it was a functioning of a good or a bad result, I think was his question. I would not say that it is either. I think it is merely an opportunity, as I was just mentioning. The Deputy of St. Mary went in all sorts of different directions with regard to this. He did not appear to appreciate that we have already passed the Foundations Law, we already have them as a functioning product in the Island; what we are dealing with today is the matter relating to mergers. He was particularly concerned about risk and I do understand his concerns in that respect. I would like to hopefully give him some reassurance and I hope I will give further reassurance when we come to the Regulations with the details that are contained therein but, for now, the Deputy mentioned Regulation 20, with regard to risk, and I should point out that it is the J.F.S.C. who will be making the risk assessments with regard to not only foundations generally but in regard to this matter, which is in relation to mergers, whether they be inward or outwards. The J.F.S.C. is, in fact, and rightly so - appropriately so - the gatekeeper in this regard. Under Regulation 19 - and I will come to this of course in due course - the J.F.S.C. can ask for any information that it requires and that is quite appropriate. The Deputy was also asking about whether there is compliance with T.I.E.A. and he talked about secrecy. Well, there is not an issue here as far as secrecy is concerned with this particular product. Foundations have no effect on T.I.E.A. and I think that point has been covered, mainly by the Chief Minister and Deputy Gorst, I believe. He also asked the Deputy of St. Mary about what is a foundation for, what is the purpose of a foundation? Quite simply, it is to manage and distribute wealth. It is a new legal body. It combines aspects of companies and trusts and it offers a degree of additional flexibility but, in summary, it is for the managing and distribution of wealth. Deputy Southern, who is sitting over there smirking, I have to say that I was more than disappointed by the comments that he made, which I thought were unnecessary and misguided and he knows that; I am sure he knows that. We have been, as an Island, continuously reviewed by different august bodies. We have had recent reviews from the I.M.F. We have had the Foot review. We have a White listing, one of the highest White listings that any jurisdiction could achieve. We meet all international standards, good governance, best practice and so on. We have one of the finest financial services industries in the world and the suggestions that Deputy Southern was making were completely unfounded, completely untrue and, frankly, he should really withdraw the comments that he has made **[Approbation]** because it is misrepresenting the finance sector. I quickly mention that Deputy Lewis was correct in his point, although it has no direct relevance to the mergers. He was right in what he said and, finally, I would just like to in summing up remind, thankfully, the very limited number of Members who seem to be opposed not only to this particular proposition but to the finance industry itself, that 53 per cent of our G.V.A. (Gross Value Added) comes from that industry. It employs 13,000 people in the Island. It has a valuable need for additional products for diversification and this is one of those products and opportunities that I think is essential that we allow the financial services industry to have, an industry that is important for jobs and is important for our tax revenues, and I would suggest that any Member who feels that those issues, such as jobs and tax revenues, are important, would vote for that. I know the majority of Members agree with that, but there does seem to be a very small minority that do not. If I may, I would like to maintain the principles.

**Deputy M. Tadier:**

Can I ask for clarification of the speaker, just on that last single point, the justification, saying that because such a large part of our economy is reliant on the finance industry, in itself means we should necessarily support any kind of finance industry. Does the Minister also acknowledge that during the 1700s, much of the wealth and G.D.P. (Gross Domestic Product) in the Caribbean was on the back of the slave trade **[Approbation]** and if we were to take that argument in isolation, we should also have supported the slave trade?

**The Deputy Bailiff:**

It does not sound like a point of clarification to me, Deputy.

**The Deputy of St. Mary:**

I have a genuine point of clarification, however. **[Laughter]** I would ask the Minister to answer my questions. I do not know what the point of speaking is if you ask questions of a Minister to answer them in his summing up. There were 2 things he did not answer; one is the exact risks that the J.F.S.C. would deal with under Article 20. He said they would make the risk assessment. I know they would make the risk assessment. What are the exact risks, and the second point is he has still not explained, I cannot get the answer; who would set up a foundation in Jersey and why would they do so?

**The Deputy Bailiff:**

Minister, you are asked to clarify.

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

The exact risk, as the Deputy quite rightly said himself, is something that is going to be assessed, or is assessed by the gatekeeper, which is the Jersey Financial Services Commission. Risks with regard to any individual foundation coming into the Island will be assessed on merit as it comes in. The important thing is that any requirement for the merging of a foundation from a foreign jurisdiction into the Island would be properly and rightly assessed by the professionals. I cannot give any clearer indication to the Deputy. I suspect he will not find that satisfactory but I am afraid that is the fact of the matter. As far as who would set up the body, I think it was pretty clear. I made it clear that this is a management and distribution of wealth tool. Any body or individual who has assets they want to put into a body such as a foundation in order to manage that or those assets, whether they be property or something else, for ultimate beneficiaries would find this particular structure similar to a trust, similar to a company but a little bit more flexible in the make up and I think the further details will be clarified, hopefully, in the Regulations.

**The Deputy Bailiff:**

Do you call for the appel? The appel is called for. All Members wishing to vote on whether to adopt the principles of the Foundations (Mergers) (Jersey) Regulations are invited to return to the Chamber. The Greffier will open the voting.

<b>POUR: 39</b>		<b>CONTRE: 5</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy G.P. Southern (H)		
Senator P.F. Routier		Deputy S. Pitman (H)		
Senator A. Breckon		Deputy M. Tadier (B)		
Senator S.C. Ferguson		Deputy of St. Mary		
Senator A.J.D. Maclean		Deputy T.M. Pitman (H)		
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				

Connétable of St. Brelade				
Connétable of St. 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 J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
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 I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

**The Deputy Bailiff:**

I ask the Chairman of the Economic Affairs Scrutiny Panel whether he wishes to scrutinise these Regulations?

**Deputy M.R. Higgins (Chairman, Economic Affairs Scrutiny Panel):**

No, Sir, I do not.

**The Deputy Bailiff:**

Minister, the Regulations in Second Reading, how do you wish to proceed?

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

There are 37 Regulations in total. I propose to take *en bloc* where I can but I would like to start, if I may, with Regulations 1 and 2.

**The Deputy Bailiff:**

Very well, Regulations 1 and 2.

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

Regulation 1 is an interpretation provision and Regulation 2 introduces the key concept of a recognised entity. This is the same concept as that used previously in the continuance Regulations which were passed by this House in July of this year. Regulation 2 also allows the Minister for Economic Development to designate classes of foreign bodies corporate as recognised entities which will be permitted to merge into Jersey. In the first instance I intend to designate bodies from

a number of jurisdictions where we know that there is a real demand to merge into Jersey in order to take advantage of the quality and high standard of regulation that Jersey is able to offer. These include jurisdictions such as Panama, the Bahamas, Lichtenstein, St. Kitts and Nevis. Bodies seeking to merge into Jersey from these jurisdictions know that the high quality of Jersey's regulated community will ensure that Jersey foundations are effectively and responsibly run. Importantly, as I have already mentioned, the Jersey Financial Services Commission will be the gatekeeper in ensuring that only the highest quality foundations are allowed to merge into Jersey. I propose Regulations 1 and 2.

**The Deputy Bailiff:**

Are the adoption of Regulations 1 and 2 seconded? [**Seconded**] Does any Member wish to speak on Regulations 1 and 2? Nobody wishes to speak, then all Members in favour of adopting Regulations 1 and 2, please show. Those against? Those Regulations are adopted. Minister?

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

If I may, I would like to take Regulations 3 to 12 *en bloc*.

**The Deputy Bailiff:**

Regulations 3 to 12; carry on.

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

Regulations 3 to 12 deal with mergers where all the parties are Jersey foundations. Regulation 3 provides that foundations may merge and that the product of the merger may be either the continuance of one of the existing foundations, which effectively absorbs the other, or a new foundation which will be given a new number by the registrar. This choice is intended to give the maximum degree of flexibility to those planning mergers. Regulation 4 requires that the foundations intending to merge must set out the terms of the merger in a formal agreement which in particular must include the proposed charter of any new foundation to be formed. Regulation 5 requires notice of the merger to be given. Firstly, the notice must be published in a manner that is specifically by the Registrar. I understand from the Registrar that it is his intention to specify the publication in the *Jersey Gazette*. Secondly, notice must be given to creditors. Anyone who objects to the merger may then apply to the Royal Court. Regulation 6 requires an insolvent foundation to obtain the permission of the Royal Court before merging. This will only be granted where the Royal Court is satisfied that the merger is not prejudicial to the interests of the foundation's creditors. I should highlight that this safeguard is in addition to the creditor's right to apply to block the merger. Regulation 7 provides for the qualified members of the merging foundations to make a joint application to the registrar for the merger. Regulation 8 allows the registrar to refuse to accept a merger application if a new foundation is to be created and the new foundation would be unacceptable on either of the grounds contained in Article 27 of the Law in relation to creating a new foundation, i.e. if the foundation has a misleading or undesirable name or if its purposes are not legal. Regulation 9 provides for the registrar to implement a merger agreement where the requirements of the Law have been complied with and the registrar has accepted the application. Regulations 10 and 11 provide for the implementation of the merger where a new foundation is created, i.e. for the necessary adjustments of the register and for the assets and liabilities of the old foundations to be transferred to the new foundation. Regulation 12 covers these matters where the merging foundations are to continue as one of the existing foundations. I propose Regulations 3 to 12.

**The Deputy Bailiff:**

The adoption of Regulations 3 to 12 is proposed. Is that seconded? [**Seconded**] Does any Member wish to speak on Regulations 3 to 12? Deputy Le Hérissier.

**11.3.1 Deputy R.G. Le Hérissier:**

Just a minor point; 5(b) of Regulation 8, I wonder, I cannot understand that; does it mean that the word “foundation” should be used or that the word “foundation” should not be used?

**The Deputy Bailiff:**

Does any other Member wish to speak? Minister?

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

I am just reading the relevant piece that the Deputy has very kindly asked about. My understanding is that the important point is the foundation must not be ... that the name used must not be misleading but it is in relation to the foundation.

**The Deputy Bailiff:**

If I may help Members, the requirement is that it ends in the word “foundation”; that it does end in the word “foundation”, or a similar word in a foreign language. So it is identifiable as a foundation. The Regulations 6 to 12 are proposed. All Members in favour of adopting those Regulations, kindly show. All those against? The Regulations are adopted. Minister, you wish to propose ...?

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

Yes, if I may, Regulations 13 to 24. Regulations 13 to 24 deal with the mergers between Jersey foundations and overseas foundations. In other words, recognised entities where the product of the merger is to be a Jersey foundation. Regulation 13 provides that one or more Jersey foundations may merge with one or more recognised entities and that the product of the merger may be either the continuance of the existing Jersey foundation, which effectively absorbs the recognised entity, or a new foundation which will be given a new number by the Registrar. As before, this choice is intended to give the maximum degree of flexibility to those planning mergers. Regulation 14 requires that a foundation and a recognised entity intending to merge must set out the terms of the merger in a formal agreement which in particular must include the proposed charter of any new foundation to be formed. Regulation 15 requires notice of the merger to be given. Firstly, the notice must be published in a manner to be specified by the Registrar. I again understand from the Registrar that it is his intention to specify publication in the *Jersey Gazette*. Secondly, notice must be given to all creditors. Anyone who objects to the merger may then apply to the Royal Court. Regulation 16 requires an insolvent foundation to obtain the permission of the Royal Court before merging. This will only be granted where the Royal Court is satisfied that the merger is not prejudicial to the interests of the foundation’s creditors. As before, this safeguard is an addition to the creditor’s right to apply to block the merger. Regulation 17 provides for the qualified member of the merging foundation to make an application to the Jersey Financial Services Commission for permission to merge. In particular, this application must certify that the merger is not prohibited by the relevant overseas jurisdiction and that any necessary overseas permissions have been obtained and that the merger will be recognised by the overseas jurisdiction in question. Regulation 18 allows the Commission to require security for its expenses. Regulation 19 allows the Commission to demand further information, if needed, to determine the application. Regulation 20 allows the Commission to refuse to accept a merger application on the grounds that it would be contrary to the reputation and integrity of Jersey, in the economic interests of Jersey, or to protect the international standing of Jersey. It may also refuse to accept a merger application if a new foundation is to be created and that the new foundation would be unacceptable on either of the grounds contained in Article 27 of the Law in relation to creating a new foundation, for example, if the foundation has a misleading or undesirable name or if its purposes are not legal. Regulation 21 provides for the Commission to instruct the Registrar to implement the merger agreement once it is accepted. Regulations 22 and 23 provide for the implementation of the merger, where a new foundation is created, for example, necessary adjustments to the register for the assets and liabilities of the old foundations to be transferred to the new foundation. Regulation 24 covers these matters where the

merging foundations are to continue as one of the existing foundations. I propose Regulations 13 to 24.

**The Deputy Bailiff:**

Regulations 13 to 24 are proposed. Are they seconded? [**Seconded**] Does any Member wish to speak on any of these Regulations? Deputy Le Hérissier.

**11.4.1 Deputy R.G. Le Hérissier:**

To quiet cursing from all sorts of quarters. Regulation 15; if there is somebody that has a credit under £5,000, for example a charity, how would the Minister tell us that that creditor's interests are dealt with? Regulation 17; the implementation of merger agreements, is there ever a situation envisaged where a charitable foundation could well be merged with a non-charitable foundation?

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

Just a quick question on Regulation 17. In paragraph 4 the parties to the merger agreement have to produce a certificate signed by the qualified member making the application concerning the foreign entity and I read that there is quite a bit of interference in a sense, or oversight of the laws of the foreign jurisdiction. Points (e), (f), (g) and (h) all refer to matters within the foreign jurisdiction which need to be certified and I just wonder if the Minister would comment on the fact that there is no mention of any file note in the file of the entity saying that it has been closed and where it has gone to and that requirement is in all the other legislation that I have seen when it goes out of Jersey. There is always the note saying: "This has been closed. This is the date. This is where it has gone to." But there seems to be no requirement at all on the entities within foreign jurisdictions and, as I keep pointing out, there is reputational risk at stake here and I will not repeat my comments on Article 20 but I just remind Members that we are talking about risk and we have not had the risks explained.

**The Deputy Bailiff:**

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

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

Deputy Le Hérissier asked a couple of questions and I think I will take them, if I may, in reverse order. With regard to the charitable entities merging with non-charitable, that would really be a matter for the J.F.S.C. but I would suggest that that is an unlikely option. Creditors under £5,000 was the first question that he asked and it is reliant on a notice published in the *Gazette*. The Deputy of St. Mary was asking about Article 17 and in particular he seemed to have a concern, understandably, about how foreign jurisdictions deal with merging into the Island and in fact file notes he was referring to. Under Regulation 19 the J.F.S.C. have powers to ask any other jurisdiction for whatever information that they so require so that the information is clearly available in that respect. If he is concerned in particular as to what is happening in a foreign jurisdiction, that of course is a matter for their own individual laws but we certainly have the provisions to obtain the information required if we so desire. I maintain the proposition.

**The Deputy Bailiff:**

Regulations 13 to 24 are proposed. All Members in favour of adopting those Regulations kindly show. Those against? The Regulations are adopted. Minister, which Regulations do you wish to come to next?

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

If I may, I would like to do Regulations 25 to 35 *en bloc*.

**The Deputy Bailiff:**

Right, 25 to 35.

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

Regulations 25 to 35 deal with mergers between Jersey foundations and overseas foundations, i.e. recognised entities where the product of the merger is to be an overseas foundation. Regulation 25 provides that one or more Jersey foundations may merge with one or more recognised entities and that the product of the merger may be either the continuance of the existing recognised entity, which effectively absorbs the Jersey foundation or a new recognised entity of the same type. As before, this choice is intended to give the maximum degree of flexibility to those planning mergers. Regulation 26 requires that a foundation and a recognised entity intending to merge must set out the terms of the merger in a formal agreement. Regulation 27 requires notice of the merger to be given. Firstly, the notice must be published in a manner to be specified by the Registrar. I understand again from the Registrar that it is his intention to specify publication in the *Jersey Gazette*. Secondly, notice must be given to creditors. Anyone again who objects to the merger may then apply to the Royal Court if they so decide. Regulation 28 requires an insolvent foundation to obtain the permission of the Royal Court before merging. This will only be granted where the Royal Court is satisfied that the merger is not prejudicial to the interests of the foundation's creditors and, as before, this safeguard is in addition to the creditors' rights to apply to block the merger. Regulation 29 provides for the qualified member of the merging foundation to make an application to the Jersey Financial Services Commission for permission to merge. In particular, this application must certify that the laws of the relevant overseas jurisdiction allow the merger and will recognise the merged entity as having all the rights and liabilities which were previously vested in the foundation. Regulation 30 allows the Commission to require security for its expenses. Regulation 31 allows the Commission to demand further information, if needed, to determine the application. Regulation 32 allows the Commission to refuse to accept a merger application on the grounds that it would be contrary to the reputation and integrity of Jersey, as well as the economic interests of the Island and to protect the international standing of the Island as well. Regulation 33 provides the Commission to grant permission for the merger and to notify the qualified member of this. Regulation 34 provides the qualified member must inform the Commission at the earliest possible date once the merger is implemented in the overseas jurisdiction and that the Commission will then pass the information on to the Registrar. Regulation 35 provides for the necessary changes to the register to reflect the merger. I propose Regulations 25 to 35.

**The Deputy Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak on the adoption of Regulations 25 to 35?  
Deputy Le Hérissier?

**11.5.1 Deputy R.G. Le Hérissier:**

Just a couple of points; under 29, is there an assumption that an overseas jurisdiction will have laws in place to mirror our laws? Secondly, under Regulation 32, could the Minister give examples, under 32(1)? In other words, examples of where the Island or the J.F.S.C. would say: "No, we do not approve of the merger"? Can he give us the grounds upon which it would say that?

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

Under 34 where it says: "... earliest date possible to be notified", what is the period of grace given that it has only got: "... earliest date possible"? Is it a week, is it a month? It is not specific.

**The Deputy Bailiff:**

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

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

Again, Deputy Le Hérissier, with regard to overseas jurisdictions mirroring our laws, no, that is not necessarily the intention but obviously it is clear that it would have to meet the necessary



requirements of the laws that we have here. The second question from the Deputy about the J.F.S.C., I am sorry, I cannot recall.

**Deputy R.G. Le Hérisssier:**

Under Regulation 32, could the Minister give examples, under 32(1)? In other words, examples of where the Island or the J.F.S.C. would say: “No, we do not approve of the merger”? Can he give us the grounds upon which it would say that?

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

It could be any number of things. It could be to do with the fact that the way in which the foundation intending to merge had conducted its business in the past. It may have issues, debts, insolvency, there may be reputational issues with the founder of the particular foundation; any number of issues that would be of concern to the J.F.S.C. from a reputational point of view to the Island. The list could be numerous. The Deputy of St. John asked a question on the timing; there is not a specific time that I can give to him other than the fact that it is as early as possible after the event is notifiable, so the Commission would take a view on that but it would be expected to be within the immediate period after the notification.

**The Deputy Bailiff:**

Minister, in relation to Deputy Le Hérisssier’s first question, I wonder whether you would have wanted to refer back to Regulation 17, paragraph 5, points (e) to (g), which requires the qualified person to certify that all is well in the other jurisdiction?

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

I think it would be wrong of me not to agree with you. [Laughter]

**The Deputy Bailiff:**

Regulations 25 to 35 are proposed. Members in favour of adopting those Regulations, kindly show. The Regulations are adopted. Minister, that leaves you with Regulations 36 and 37.

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

Quite so, Sir and I will take them together, if I may? Regulation 36 provides for penalties for various offences under the Regulations. Law Officers have confirmed that these penalties are appropriate. Regulation 37 provides for the citation and commencement of the Regulations. I propose Regulations 36 and 37.

**The Deputy Bailiff:**

Is that seconded? [Seconded] Does any Member wish to speak? All Members in favour of adopting Regulations 36 and 37, kindly show. The Regulations are adopted. Minister, do you move the Regulations in Third Reading? Is that seconded? [Seconded] Does any Member wish to speak? The Deputy of St. John?

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

Yes, can I congratulate the Minister on this time for giving us more information than he did in the previous report and proposition? I sincerely hope in future, when he brings reports and propositions, he will establish this practice; not the earlier one. Thank you.

**The Deputy Bailiff:**

Does any other Member wish to speak? Minister, the appel is called for on the Draft Foundations (Mergers) (Jersey) Regulations, P.170. All Members wishing to vote should return to the Chamber. I ask the Greffier to open the voting.

<b>POUR: 34</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy S. Pitman (H)		

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

## **12. Employment of States of Jersey Employees Law: proposed changes (P.175/2009)**

### **The Deputy Bailiff:**

The Assembly now comes to Projet 179 - the Employment of States of Jersey Employees Law: proposed changes - by the Deputy of St. Martin. I ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion (a) To agree that the employment of States of Jersey Employees (Jersey) Law (2005) should be amended as necessary to provide that (i) the composition of the States Employment Board should be amended so that it is comprised of the Chief Minister as chairman or another member of the Council of Ministers nominated by the Chief Minister in his or her place, together with one other Minister appointed by the Chief Minister and 2 elected Members of the States who are neither Ministers nor Assistant Ministers elected by the States; (ii) the casting vote of the person presiding at meetings of the States Employment Board provided by Article 6(1)(f) of the law should be abolished and replaced with the provision that, in the event of an equality of votes, the matter under discussion shall be determined in the negative, (iii) the casting vote of the person presiding at meetings of the Jersey Appointments Commission provided by Article 21(2)(f) of the law should be abolished and replaced with the provision that, in

the event of an equality of votes, the matter under discussion shall be determined in the negative; (b) to request the Chief Minister to bring forward for approval ...

**The Deputy Bailiff:**

Greffier, I am afraid you will have to halt as we are not quorate. Could I please invite the Members to return to the Chamber so that we will be quorate again? If Members do not return very shortly we will have to call the roll. Greffier, I think we were not quorate for the whole of your reading and I think you had better start again.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion (a) To agree that the employment of States of Jersey Employees (Jersey) Law (2005) should be amended as necessary to provide that (i) the composition of the States Employment Board should be amended so that it is comprised of the Chief Minister as chairman or another Member of the Council of Ministers nominated by the Chief Minister in his or her place, together with one other Minister appointed by the Chief Minister and 2 elected Members of the States who are neither Ministers nor Assistant Ministers elected by the States; (ii) the casting vote of the person presiding at meetings of the States Employment Board provided by Article 6(1)(f) of the law should be abolished and replaced with the provision that, in the event of an equality of votes, the matter under discussion shall be determined in the negative; (iii) The casting vote of the person presiding at meetings of the Jersey Appointments Commission provided by Article 21(2)(f) of the law should be abolished and replaced with a provision that, in the event of an equality of votes, the matter under discussion shall be determined in the negative; (b) To request the Chief Minister to bring forward for approval the necessary amendments to the Employment of States of Jersey Employees (Jersey) Law 2005 to give effect to the proposals.

**The Deputy Bailiff:**

I call upon the Deputy of St. Martin to propose the proposition.

**The Deputy of St. Martin:**

Before I begin, I did receive a message or an email from the Chief Minister; it was obviously to you, Sir. I think it would be helpful if I was to know whether in actual fact we are going to agree to the proposed change to the amendment from the Chief Minister because I do not have a particular problem with it except it makes it easier for me to know what I am talking about. Am I going to talk, bearing in mind what the Chief Minister is asking for, via the email to you or by what we have in front of us?

**The Deputy Bailiff:**

Well, the usual, of course, is to propose the amendment first. Chief Minister, I understand you wish to propose to the States an amendment to the amendment which was lodged?

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

That is correct, Sir. If Members turn to the amendment, which has 4 and a half lines, I would wish to restrict the amendment to the first one and a half lines and then it would simply say, in subparagraph (a)(1) for the words "one other Minister", substitute the words "2 other Ministers or Assistant Ministers" and the amendment would cease there. The reason for that, and doing it at this late stage, I realised that the amendment is inconsistent with the report I have lodged. It is also inconsistent with the speech I have written. [Laughter] It is inconsistent with the discussions I had with the Deputy of St. Martin and we need to avoid that inconsistency. If you are prepared and the Members are prepared to allow me simply to propose the first one and a half lines ending with the words "Ministers or Assistant Ministers", then I would be happy and I think that the Deputy of St. Martin would be happy and Members might also be happier.

**The Deputy Bailiff:**

Well, it is a matter for Members to decide whether to reduce the minimum lodging period, which is in effect what this is, in the case of a proposition to amend another proposition if they think the amendment would not make any significant change and we will come to that in due course but I am sure, in the circumstances, it is now clear to you, Deputy, what the Chief Minister is going to ask Members to do.

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

Yes, I think the Chief Minister is already really making that case for why there should be amendments to the non-Executive on the States Employment Board because quite clearly not all the knowledge and all the wisdom is with the States Employment Board or indeed the Council of Ministers. However, that little plug said, the reason for this proposition, really, came as a result of a vote of confidence that Deputy Southern brought forward a few weeks ago. I could not support it, however it was quite clear that there were concerns expressed about the role played by the States Employment Board. I had already drafted my speech until lo and behold we had the eleventh hour amendment which was last week and, of course, we have got another one now. However, in my original speech I devoted a considerable amount of time into the board's lack of balance and how both the S.E.B. (States Employment Board) and the Council of Ministers have been misfiring and also oblivious to what its role was, or its responsibilities. I therefore do not need to dwell on the board's mishandling of its pay negotiations or be completely out of touch with its handling of the spiralling suspension issues. It is, of course, costly to the States. As Members can see, the Chief Minister has now accepted that the States Employment Board lacks balance and agrees there should be changes to the present Law and, naturally, I am pleased and in fact we are not a million miles away so it has got a lot closer irrespective of whether the States accepts the amended amendment by the Chief Minister or my proposed proposition, which I think is the best one. However, again, I am disappointed that having accepted that the present board lacks balance, he now wants to create another imbalance by having the number of board Members, having 3 on the Executive and 2 on the non Executive, so that imbalance will continue. It is a shame because, having sort of agreed that there was an imbalance, he still wants to maintain one. I lodged my proposition because, in my view, there was a lack of representation of views of the Members of the States as a whole. I was and I am still of that belief that the Board should comprise of 2 executives and 2 non-executives and that way the non-executives would be elected by their fellow peers on the floor. Again, I would hope that will give us true balance and any disagreements would be discussed within the confines of that Board with no inbuilt majority; that is very important. Now, the other 2 amendments of mine which might not appear to some Members to be important, but I think they are and have unfortunately not been accepted by the Chief Minister, but I do not believe that any Member should have 2 votes in any particular set-up. The current law provides that the presiding officer will have a second and casting vote if the vote is tied. Now, the Chief Minister, in his amendment says that a tied vote could potentially result in no decision being taken. Now, I totally disagree because, in a tied vote it is evident that there is no majority so therefore a decision has been made. In other words, you cannot go forward. It happened to me recently here with the Verita vote; there was a tie and the vote did not get through so the result was it did not succeed so there was a result. In fact, I wonder if Members would allow the Chief Minister the right if it was a tie for him to have a casting vote? Indeed, today it is my proposition, I could say I am the chairman, if there is a tie can I have a second and casting vote? That is the logic of my argument. I believe that people should only have one vote and the same says for the Jersey Appointments Commission Board. Of course the reason I am bringing this forward, we are having ... the States Employment Board also caters for the Jersey Appointments Commission and likewise they also have the casting vote. Again, I want to refer to the comments made by the Chief Minister because he will discuss that later too. He says it is unnecessary because, as constituted, there are 5 members of the Jersey Appointments Commission. However, there will be occasions where there may be only 4 on that committee. So, therefore, is it right again for someone to have a second casting vote? So, what I am looking for is purer quality across the way. I am asking Members to give their

support to what I am proposing, that we will have 2 Members of the Executive on the States Employment Board and 2 non-Executive Members, in other words Back-Benchers or whoever who are not Assistant Ministers and there will be no casting vote. I make the proposition.

**The Deputy Bailiff:**

The proposition is made. Is it seconded? [**Seconded**] Very well, we have an amendment in the name of the Chief Minister. I think, Greffier, if you read the entire amendment, to start with.

**12.2 Employment of States of Jersey Employees Law: proposed changes (P.175/2009) - amendment (as amended) (P.175/2009 (Amd.))**

**The Deputy Bailiff:**

Very well, we have an amendment in the name of the Chief Minister. I think, Greffier, if you read the entire amendment, to start with

**The Deputy Greffier of the States:**

Page 2; in sub-paragraph (a)(1) for the words “one other Minister” substitute the words “2 other Ministers or Assistant Ministers” and for the words “and 2 elected Members of the States who are neither Ministers nor Assistant Ministers elected by the States” substitute the words “and 2 elected Members of the States who are not Ministers to be nominated by the Chief Minister.”

**The Deputy Bailiff:**

Now, Chief Minister, you wish to propose a variation to that amendment so that it reads only in sub-paragraph (a)(1) for the words “one other Minister” substitute the words “2 other Ministers or Assistant Ministers.”?

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

That is correct, Sir, yes. If Members were to look at the report - and I apologise for bringing it at the last minute - if Members were to look at the report about three-quarters of the way down the page it says: “This proposal would enable the Board to more regularly reflect a balance of views among States Members” and that was the intention both of the Deputy of St. Martin and myself. In fact, when I looked at my speech again I said I wanted to ensure that I am prepared to let 2 States Members come to the Board who were not members of the Executive. My intention was quite clear but I accept that the wording of the amendment could allow members of the Executive to form those other 2 people as well, or one of them. So, to avoid confusion in Members’ minds, I felt it was better if I simply withdrew the second part of this amendment and I now formally ask leave of the House to withdraw the second part.

**The Deputy Bailiff:**

Is that seconded? [**Seconded**] Does any Member wish to speak on that? I would have thought we could go straight to the vote on that. All Members in favour of ...

**Deputy J.M. Maçon:**

Just very quickly, being in a similar situation recently I fully support what the Chief Minister is trying to do. Mistakes happen to all of us.

**The Deputy Bailiff:**

The proposition is to permit an amendment to the amendment so that it reads only in sub-paragraph (a)(1) for the words “one other Minister” substitute the words “2 other Ministers or Assistant Ministers.” All Members in favour of permitting that amendment, kindly show. Those against? The amendment is permitted. So, Chief Minister, would you now like to speak to the amendment?

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

Yes, indeed, and although the proposition from the Deputy of St. Martin has 3 elements to part (a), I really want to focus on the first part because the other 2 parts are details which we can talk about later, after we have dealt with the amendments. So, I think really, first of all we want to understand what we mean, what is the purpose of the States Employment Board and do we in fact need such a Board? If I draw Members' attention to the report, one of the functions of the Board is to determine policy and that is set out quite clearly in Article 8 of the Employment of States of Jersey Employees (Jersey) Law 2005, a Law which we passed some 4 years ago. Now, Article 1 of that Law determines that the Chief Executive Officer shall be responsible for the administration and general management of the public service, so with the advent of Ministerial government, policies are set in broad terms, within the context of the Strategic Plan, which is approved by the States at the end of each term. But the obligation to deliver on those policies is given to the political Executive, that is to say the Council of Ministers. It is the practical delivery of that policy which is carried out by the Chief Executive Officer in accordance with the Law. So, in some ways we can do without a States Employment Board because their functions could really be carried out by the Council of Ministers themselves and indeed, it is only the Council of Ministers that can realistically set policies for the Chief Executive to carry out. That is why I think when, in 2005, we passed the Law, we stipulated for very good reasons that the only Members of the Board could be Members of the Council of Ministers. So, my initial thoughts, seeing the proposition of the Deputy of St. Martin was that it was unrealistic but then I had further thoughts which said to me: "No, be reasonable" and I am aware of the concern that many Members feel that the activities of the States Employment Board are a closed book to them. This in turn, I think, creates an element of secrecy or mistrust and that is certainly something which I want to avoid. I want to ensure that the policy decisions made by the States Employment Board could be seen by and could be scrutinised by any States Member. At the same time, I had to ensure that decisions could be made. In short, I am at one with the Deputy of St. Martin in saying that a change would be beneficial. For that reason I am proposing that the number of members on the Board be set at 5 and that while 2 of those would not be members of the Executive, the other 2, apart from myself, would be members of the Executive; either Ministers or Assistant Ministers. At the present time there is no facility in the Law for an Assistant Minister to serve on the States Employment Board. I think that is a lacuna in the present legislation and I would be happy to see an Assistant Minister serving on that Board just as much as a Minister. But I do believe that we need to have some way of resolving the situation. The Deputy of St. Martin believes that it is acceptable to have a *status quo* situation where nothing can happen. Now, there are cases where one is changing operations where it is quite right that, if in the absence of an agreement or a majority view, no change should take place but in the case of the States Employment Board, we are talking about setting policies and, in that sense, something has to be done. One cannot have a policy vacuum so one has to have a way of ensuring that a decision can be reached and that is where we have confusion perhaps between the *status quo* arising in something like the States Chamber and what would happen in something like the States Employment Board. If I pursue that in a slightly different direction, if one were to have a stalemate situation like that, who is to be held to account by the other States Members? Is it the Council of Ministers? Is it the non-Executive Members or is nobody to be held to account? That is practically a totally unsatisfactory situation but that would be the result of the amendment of the Deputy of St. Martin. If this amendment of mine is acceptable then we would really obviate the need for a casting vote because there would be a basic majority. I accept that 5 Members will not always be there; a quorum would presumably be 3 but in that case then at least a decision would inevitably be taken. I think the important thing is really to get the principle established that yes, there should be non-Executive Members on the States Employment Board. I am happy to take their message and in one way or another instruct the Law Draftsman. I believe that my amendment provides a more effective way of achieving the objectives of the States, the objectives of setting and delivering on policy and therefore I propose the amendment.

**The Deputy Bailiff:**

The amendment is proposed. Is it seconded? [**Seconded**] Does any Member wish to speak on the amendment? The Deputy of St. Mary?

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

Just briefly, seeing as nobody wants to comment on this amendment, so I do not know if then it goes through on the nod or what but the fundamental issue is highlighted in ... it is very helpful, by the way, in his report that he spells out the functions of the States Employment Board. It just shows how useful a good report is, or a report that says something. In paragraph 4 of the States Employment Board's functions: "To employ persons on behalf of the States and administrations of the States and all the other aspects to health, welfare and safety of States employees to ensure the public service conducts itself with economy, efficiency, probity and effectiveness, determining policy [which the Chief Minister mentioned], to determine training..." and so on. They all really come under employing persons on behalf of the States and administrations of the States and my comments on the original proposition apply now to the amendment, which are that the fundamental issue here is one of inclusion. Is it a one party state or is it an inclusive government? Within that, is it this House which is fundamentally in charge or is it the Council of Ministers and who are public servants working to? Who are the Civil Service working to? Are they working to the Council of Ministers or do we here in this House have the ultimate responsibility for what happens out there in the public sector? That is the fundamental question; who employs public servants? Who is ultimately responsible and where does the power lie? I think that is what this amendment is about. If we go with it, it is 3/2 in the S.E.B. and the Council of Ministers in theory would always have their way if, assuming there was a split between the States Members, the non-Executive and the Executive, which would not necessarily be the case anyway. But the fundamental question is, is it not, is it the Council of Ministers up on the 9th floor of Cyril Le Marquand House who are determining the way the public sector works for us in terms of human resources or is it equal; this House and the Council of Ministers side by side? I think, putting it like that, the second one might be more healthy. This House and the Council of Ministers side by side but I will listen to debate. I wanted to say that quickly so people can come in because it is a very important issue, this. The report of the proposer highlighted the failings of the S.E.B. and, my goodness, he is right. We have real problems. We have to change; the Chief Minister has accepted that and the question is is it parity within the States Employment Board or is it that the Council of Ministers retain the upper hand in principle and I just will listen to the debate with great interest. I think people can see where my leanings are at the moment but that is immaterial. I just want to hear the debate. Is it parity or is it basically just more of the same?

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

This will take about 30 seconds because I have to say the shambolic nature of the Council of Ministers just gets worse and worse. What is the point of listening and reading things through, writing 12 pages of speeches, then you are brought with this, on the day, during the session, a complete and utter shambles? I have to say Deputy Maçon is far too kind to the Chief Minister because I think he is embarrassing. It really makes me furious. What do people think listening to this utter rubbish? It is an absolute disgrace to democratic government. I wanted to talk at length about this but I think I will try and save it for the Deputy of St. Martin's main amendment. I am glad in a way that the Minister has done this but it is only tackling half the problem. It is still about control. It is still about keeping something which is just an extension of a political perspective when it should be about looking after our employees' rights, ensuring they are fairly treated. I am glad the Chief Minister has recognised that it is not ideal the way it is because I for one - and I know many of the public in here are sick and tired of hearing about inclusive government and what do we get? Well, we have not got all our gambling laws in place but I would happily give the Chief Minister a nice wager at any odds he likes that there will be some names who would never be on any list of inclusion despite whatever their skills may be, and we have got a lot of different skills in this House. I could guarantee there will not be a Deputy of St. Mary, a Deputy of St. Martin, a

Deputy Tadier, or any Member of the J.D.A., or Senator Breckon; farcical and I think this is probably the lowest point of government for many a year. An absolute shambles.

#### **12.2.4 Deputy S. Pitman:**

I probably will repeat some of what has already been said but I cannot ... the Chief Minister spoke of change; that there would be no change if we have an equal Executive to non-Executive. Well, I cannot see any change with what he is proposing; 3 Executives, well, as we witnessed, Executive Members always stick together and that includes, mainly, most of the Assistant Ministers. So, there will be no change; 3 Members will stick together and their policy, what they want will go forward. That will override the 2 non-Executive Members so I cannot see that changing whatsoever. Again, he talks about accountability and that we need a mix of Members. We need 3 Executive and 2 non-Executive and he said we will get more accountability but, as I have just said, it is not going to change with 3 Executives. But it does need to change and I will be supporting Deputy Hill's proposition because we have had 4 Members on the Executive who make up the States Employment Board and we are seeing massive, massive failings recently with the pay freeze, no negotiations, very little consultation and listening to our employees who we say we always value and then of course there is the huge expense of continuing year on, year out suspensions. That, obviously, is not being dealt with. So, it is evident to me that we need an equal mix of States Members, given these failings, and of course we have some Members, non-Executive Members who have great knowledge and experience in employment laws, the likes of Deputy Southern and Senator Breckon but of course, like Deputy Pitman has said, I cannot see them getting the vote on this. Thank you.

#### **12.2.5 Deputy M. Tadier:**

To try and be constructive here I think the Deputy of St. Mary raised a valid point and it is who employs States workers so, the people in the public sector, are they employed just by the Council of Ministers or are they employed by us corporately as a States body? I suspect the answer is the latter. It is we, as the States, the 53 Members who employ people in the public sector. Obviously we will each have a view as to who should maybe be on that board and it is perhaps not very fruitful to discuss that here today. What I would like to bring it back to is this whole idea of the Troy rule, which we heard of quite a lot during the Senatorial hustings. Basically that says that there has to be 10 per cent more people in the non-Executive than are in the Executive in the States to balance the books, so to speak, or to balance the States, to hold the Executive to account. It seems to me logical that the same process should be extended to any make up of this board so that it does not seem correct, based on that principle, that there should be 3 Members of the Executive versus 2 of the non-Executive. Obviously we cannot have 10 per cent more of the non-Executive here so I think the next best thing is to have 2 and 2. That seems to be just more in the interest of balance so I think it is quite right to reject the amendment than to go with the suggestion of the Deputy of St. Martin.

#### **12.2.6 Deputy J.M. Maçon:**

Deputy Shona Pitman asked: "What change will there be?" and there is of course a subtle one and that is of responsibility, as has been said, and the Council of Ministers has suffered much criticism over the whole pay negotiations issue because the States Employment Board has been seen as the Council of Ministers Employment Board but of course with this amendment the responsibility shifts from the Council of Ministers to the States as a whole, which is of course quite subtle but, as the Deputy is already saying "immediately", there is an issue with the weighting, which I absolutely agree with which, if you have 3 Members of the Executive who are very tight in their political persuasions it does not matter who else is on the other side, you have got an inbuilt majority there. So I think that is the problem with what the Chief Minister has brought. I think the subtle difference is that the responsibility becomes the States as a whole which, not that we would ever point fingers or apportion blame but in this situation it would become, the States body as a whole,



all of our responsibilities as opposed to the current situation which is whereby the Council of Ministers can be blamed, pointed the finger at, *et cetera* and so, therefore, I think this perhaps is the major issue. Is it just simply shifting what could be seen as blame on to all States Members, which is not what we want? What we want is just a more representative body who are on the States Employment Board who we would hope would achieve better decisions. Thank you.

#### **12.2.7 The Deputy of St. Peter:**

The fundamental issue, as I have seen it in this particular area, was the concern about exclusivity and this amendment thought by the Chief Minister deals with that particular issue. One of the concerns that he expressed in his speech is that there could be an element of secrecy in the old system, purely on the fact that there was no Member of the non-Executive element sitting around the same table. If things go wrong, and we would have 2 Members of the non-Executive team sitting around that same table, I am sure this Assembly will get to hear about it very quickly, which they did not do before. I am happy with having a group of people with an odd number, so at the end of the day a decision is made and things are taken forward. I would not want to see a negative issue with things stagnating. It has that potential. However, what I would say is that, as a member of the Corporate Services Scrutiny Panel, if we were to find that the States Employment Board were continually making decisions where there was a 2/3 split and that 2/3 split was the 3 Executive and the 2 non-Executive, we would be coming back to this Chamber with an amendment to change it and I have put that in as a safeguard. I would take my word to the States on that basis and, on that basis, I will be supporting the Chief Minister's amendment.

#### **12.2.8 Deputy D.J. De Sousa:**

I just really wanted a point of clarification from the Chief Minister and that is he said about policy being developed by the Council of Ministers. I do understand that but I understand that the States vote on the policy though before implementation, am I not right?

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

Partly to echo the Deputy of St. Peter, in a way it depends from which end of the telescope you look at this, you could argue that if you were an opportunist and a tactician, you will try and get a non-Executive majority on the States Employment Board because it is one of the creatures, so to speak, of the Council of Ministers. What you could also argue, those people who are saying that, the opportunists and the tacticians, what they could also say is that it seems illogical to look for a more open and inclusive Employment Board but not to look for a more open and inclusive Council of Ministers. So, if you are going to have a consistent policy you should apply it to both bodies. In order to make it run it should not be as the Deputy of St. Peter said, obviously it should be structured, it should be chaired and hopefully the membership will be such that it will be a body that certainly, in its initial dealings with issues will be consensual in approach so that there will not be a need to go to these constant 3/2 decisions to which the Deputy of St. Peter referred to. I have to object to the predictions of gloom and doom that I think Deputy Trevor Pitman said when he said: "Oh, there will not be these people on it, including myself and so forth" but surely it will be up to the Assembly as a whole. They will decide which non-Executive Members can put the case forward that is not currently being put forward, but put it forward in such a way that it can persuade people. Because, quite frankly, if you put people on the Board who are constantly going to get into a 3/2 division, it is going to be a recipe for failure from the very beginning. So, if you are going to put people on who are ideologically opposed to the current encumbrance, it is going to be a pretty useless exercise. It will just confirm divisions, confirm polarisation so I think there is a lot of confused thinking. I thought the Deputy of St. Martin's modest aspiration was that this needed to be a more democratic board, it needed to open its ears to broader thinking within the House and it would not lead itself into what you might call the self-reverential situations where the incumbents spend all the time convincing each other how right they are without listening to the broader field. I thought that is the role you wanted the Board to perform but if it is going to become some kind of

ideological sort of body where the 2 parties are very strongly opposed to each other, then it will not lead, despite what Deputy Trevor Pitman is seeking, it will not lead to the kind of inclusivity that he is seeking. All it will lead to will be the utter frustration, which the opposition people in this House are already experiencing; this inability to basically break through the barrier.

**Deputy T.M. Pitman:**

Could I just clarify what I said because I do not think my colleague has understood? I was talking about the lack of inclusion generally and I think he is as much part of the opposition as me, when he falls off the fence, that is.

**The Deputy Bailiff:**

I think that sounds like a second speech, Deputy Pitman and we certainly ...

**Deputy R.G. Le Hérisier:**

Contradictory sentences do not make sense.

**The Deputy Bailiff:**

We certainly do not want to have a further second speech. Deputy Green?

**12.2.10 Deputy A.K.F. Green:**

Just a few words in support of this amendment, and I am delighted that the Chief Minister has altered it at the very last minute, albeit out of procedure, and that is because, as the amendment was, I could not have accepted it and nor could I have accepted the proposition as it was. I will give my reasons for this; we heard a lot about democracy and all the rest of it. Democracy is in this House. The working panel needs to get on and do the job but we do need to widen the skills of the Board and I am delighted that the Chief Minister has looked at that and said: "Well, we will look at the skills from the House as a whole as well as from the Executive." I think it is a very positive way forward. It is nothing to be negative about and we ought to give it a chance to work.

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

I was waiting to hear what I was going to hope for; a little bit more of the middle ground speaking and I am rather disappointed and I do not think we have had one Connétable at all speak and I would have liked to have heard the views of what I consider the middle ground that would have had a view. However, maybe they are thinking quietly to vote support so I will not rock the boat. What would happen if I had brought a proposition to the States and said that I think we should have had 3 non-Executives and 2 Executives? What would have happened? I would never think of doing that simply because I believe in equality and us having to be able to debate it. I would not dream of doing that and here we are, a Chief Minister doing so and I remind, again, the House, it was not that long ago and I remember how much work was put in in trying to overcome the suspension business. When I think that the Members gave me the support to set up a panel to review the suspensions and this word "control" came again because did the Chief Minister accept what we were saying in the House? No, because the Suspension Panel was made up of the Corporate Management Board and I had to bring a proposition to the House just for the House to agree with what we thought was middle ground. I am disappointed, again, here we have another repetition, I suppose, of the Corporate Management Board where the Minister must have it and always thinks the worst of those people who are not part of the Council of Ministers. You know, I am not seeking to go on the States Employment Board, I am not doing it for myself, I am doing it because I believe it is right and I am delighted to hear those people who have said so. But whether I, for want of a better word, win this proposition or lose the amendment, whatever happens, we have won something, because we have got a concession out of the Council of Ministers, but they have not got it right and it can only be put right by at least having 2 if not ... even if they are a minority. I would hope we would not have a minority. What I would hope that we will have is a pure balance, and bearing in mind that it is the Members of this House who will elect those 2 non-elected members to

go on to the States Employment Board. But I am also mindful that there does seem to be an inbuilt balance in favour of the Executive and it seems to be that even you might have good worthy men or women who could go on to the States Employment Board and are elected on to it but would still be very frustrated because there is 3 to them and you have that inbuilt. I am not for that, I am all for inclusivity, it is a shame but I would hope that Members will not support the amendment. What I am proposing I think is a fairer way, a much more democratic way and it is the middle way. So I would ask Members that they would reject the Chief Minister's amendment.

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

We have heard a lot today about words like balance and inclusivity. What I would like to take us on to is the word "representative". I believe it is absolutely vital that the States Employment Board and indeed the Government and the Council of Ministers as a whole accepts that it has, I believe, a duty in the name of consensus politics to be more representative. But not just more representative, really representative. There is the key difference I think. It is a reality that there are more non-Executive Members in this House, because that is the way we set it up, than there are Executive Members. Why can we not reflect that representation, that representativeness in the States Employment Board? Now, Deputy Le Hérisier made a fine case - a fine academic case - as he always does talking about how one achieves consensus and how one achieves what one needs to do to persuade other Members to a point of view. He said: "There is no point in putting people who are ideologically opposed to the current incumbents on the same board because that will just lead to frustration." In saying that, I think he accepts that the ideology exists in 2 places; in the Council of Ministers there is an ideology, there is a political will, political consensus. The weight has formed itself, it is effectively a political party. It operates very well indeed, possibly better than any other sector in the Chamber in that it sticks together and it votes together. I can barely remember times when certainly Ministers and in the majority of cases, the majority of Assistant Ministers, perhaps on the fingers of one hand, the number of occasions when we have seen any splitting from the ideological party line: "This is what we are going to do" on almost any policy. That certainly is reflected in the ideology of the States Employment Board as currently constituted. Can one imagine that that ideology will be any less strong, any weaker by the mere reduction of one Member of the Council of Ministers from 4 down to 3? Will that change occur? Of course it will not. The ideology will be just as strong. So, a 3/2 split is the thing that rather than enabling persuasion to take place will almost certainly guarantee a 3/2 split whenever it occurs. The only way to make it worthwhile, I believe, to open up the States Employment Board is to go down the line presented by the Deputy of St. Martin and go for an equal, balanced basis. That way one might get some progress. It is one of those things that as we examine this particular situation, just look, apart from the pay freeze which has caused endless, endless trouble and will continue to do so throughout the winter and into the spring, and Members will not be surprised since I brought a motion of no confidence in the current *status quo*, but I believe that was a serious, serious error not just in the way it was brought about but in fact in the ideology that lies behind it. But look what we have to do; we have to deal with our suspensions policy. Now that is not a matter of ideology, that is a matter of humanity and making sure that people get their just desserts in the appropriate way. Then we are on to what will be coming our way in the quite near future as a result of the spending review and the fiscal review. We have been told, it is either increase taxes or job cuts. Now that indeed is a very serious issue and if we are seen to maintain this imbalance between the political, if you like, between the cross-section of the attitudes in this House, I think we will fail to take the Island and certainly the public sector with us if we end up in 6 months down the line talking major outsourcing, major privatisation, major redundancies. We have to put a balance into the States Employment Board in order to deal with those sorts of issues in a balanced way and to be seen to be doing it in a balanced way. I think the proper response is contained in the Deputy of St. Martin's approach. When I read it I thought this is a logical consequence of the issues that were coming before us concerning the States Employment Board and I have not heard anything, and certainly today with its last minute attitude change from the Chief Minister, to convince me that

that approach is not the right approach. I urge Members to vote against this last minute amendment and to go with the proposition of the Deputy of St. Martin.

**12.2.13 The Connétable of St. John:**

I basically rise in response to the Deputy of St. Martin who wanted a Constable to speak. Much of what I was going to say was already said by the Deputy of St. Peter. I do not think there is a perfect solution to what is being proposed at the moment because I am in favour of accepting what the Chief Minister is proposing, not because I am a Constable and not because I want to follow him. I just think we need to move forward on this matter and try and get some balance. There may be Constables sitting on these benches that would be prepared to go on the Employment Board, but I think there would be opposition from other people in the Assembly in that they would assume that we are just purely there to follow the Ministers. That is not the case with us, I can assure many of the Members opposite that is not the case. That is all I want to say.

**12.2.14 Deputy J.G. Reed of St. Ouen:**

I feel that I must stand up as one of the Council of Ministers and maybe deal with some of the comments that individuals have been making during this debate and I would like to take Members back to the basics and the basics are that we are all elected in this Assembly, all 53 of us, to serve this Island in whatever way we believe and are able to do so. Furthermore, the Council of Ministers is not some clandestine group of people. We are 10 individuals that this Assembly, all 53 Members, took part in electing to fulfil certain functions. Now with those functions come responsibilities known by everybody, including ourselves when we put our names forward and others, that we accepted we needed to carry out. There is no issue or fact in that non-Executive Members, which I was and have been one for 6 years prior to becoming Minister, that non-Executive Members are the only ones that can adopt a caring, sensitive, consistent, coherent and harmonised approach to dealing with certain matters - which seems to be the view not only expressed by the Deputy of St. Martin but many others in this Assembly - who are now suggesting that because we happen to be a caring group of individual States Members who happen to be Ministers and have acknowledged some of the comments that were made during that vote of no confidence debate where a group of States Members tasked with a particular job were required to make some very difficult decisions based on real evidence, that they somehow lacked the sense and understanding of others. That is not true. I also do not believe, as Deputy Maçon has suggested, that the idea is that we want to pass the blame. No. It is that we are proposing to open up the opportunity for Members, apart from the Council of Ministers, to participate in the States Employment Board knowing, and I underline this, that the States Employment Board whoever is on it, has a responsibility as the body that is responsible for the employment of all staff. They are tasked with that job, again, by who? By us. By us, nobody else. It is too easy when things get difficult and when you are not in the firing line to go: "Oh, it is them." Well, I am sorry, we all have a responsibility and yes, I accept mine as I am sure everybody else does whether they are in the non-Executive or the Council of Ministers. But please, let us stop trying to pretend that one group of people is any better or different to the others. We are in it together, let us act like that.

**12.2.15 The Connétable of St. Helier:**

Now is not the time to explore the performance of the Council of Ministers, whether it is as transparent as it might be or clandestine. Clandestine is a nice adjective coined by the last speaker. It is a time to consider whether this amendment is required to the Deputy of St. Martin's proposition. I would like to echo the Minister for Education, Sport and Culture who just spoke by taking things back to basics. The basics are the functioning of the States Employment Board and what we know of how that is worked particularly in relation to the pay negotiations and the fallout that has come about from that and the effect on industrial relations in the Island has not been good. On the other side, we have to accept, I think, all of us, that the Deputy of St. Martin has a history of bringing well-researched and reasonable propositions on these matters to the Assembly and

deserves our support and I am quite comfortable with what he is setting out to do, and I am going to support him. I am not going to support the amendment of the Council of Ministers and that is not incidentally in order to try and build bridges back with the J.D.A. and repair the damage done to my relationship with Deputy Trevor Pitman. I am going to support this because I think the Deputy of St. Martin has a good track record of searching out the correct way to treat our employees and he sees a way of improving the functioning of the States Employment Board, making it more balanced and accountable. So, I will be not supporting the amendment.

**12.2.16 Senator S.C. Ferguson:**

I have heard a lot this afternoon about representation and a majority of non-Executives on the S.E.B. but I have not heard anything about accountability. If a board operates properly it must be accountable. Who will take the rap when the S.E.B. allegedly gets something wrong? The Ministers. We are not discussing suspensions today, Deputy Southern is well aware that the Deputy of St. Peter is to chair a panel on human resources policy including suspensions and the operations of the S.E.B. and we are not discussing pay freezes. But the people on the S.E.B. must not only have authority or be representative but they must be accountable and the way of the world being what it is, it is the Council of Ministers' representatives who will be held accountable in the long term. I think this amendment combines opening up the procedures plus more transparency with more inclusion and I support the amendment.

**12.2.17 Deputy A.E. Jeune:**

It appears to me that Deputy Tadier is somewhat misguided. I believe we in this Assembly do not employ States of Jersey employees, they are employed by their department and are responsible to their managers in those departments under the States Employment Board. There may be times we would like it to be, as Deputy Tadier thinks it is, but alas, as I have said, I do not believe it is and I would appreciate the Chief Minister in his summing up, if he would say if this is correct. I would agree with Deputy Le Hérissier in wishing to see consensus among the Board and this amendment, I believe, can facilitate that. Deputy Southern talks about the party line in the Council of Ministers. Having attended a few Council of Ministers' meetings I am clearly not able to agree with Deputy Southern. I will be supporting the amendment.

**12.2.18 Deputy T.A. Vallois:**

I will just pick up on something that the Deputy of St. Peter said with regards to adding this amendment on and the Corporate Services Panel would pick it up and bring it to the attention of the Assembly straight away which I am sure we would, as a member of Corporate Services, however if we turn that argument on its head and say: "Well, we will have 2 of the non-Executive and 2 of the Executive and if there were any problems Corporate Services would pick it up and bring it to the Assembly" so there is not really an argument on that side of things because either way if there was a problem you would hope Scrutiny would pick it up anyway whether we added an extra member of the Executive or not. But I would also like to bring you to a point of Senator Ferguson's about accountability. If we refer to Standing Orders under our code of conduct I will just read out under accountability where it says: "Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office." That does not dictate whether we are in the Council of Ministers, whether we are in Scrutiny or anything like that so we are all accountable to the members of the public that voted us into this States Chamber. So I would just like to emphasise on that and I will not be supporting this amendment because I would rather see how the Deputy of St. Martin's proposal will go and then if there are problems with that we will bring it back to the House and change it.

**Deputy M. Tadier:**

I have a point of order. Yes, I was out of the room while Deputy Jeune was speaking, I would have liked to ask a question of the Attorney General, unfortunately he is not here. I believe that Deputy

Jeune misled the House saying that I was wrong when I said that States employees are not employed by the States, so ideally I would like confirmation from someone, perhaps from the Chair. The way I see it is that States employees were employed by the States because they are States employees. Who is the States? We are the States. So it is a simple requirement of logic that they must be employed by us.

**The Deputy Bailiff:**

My understanding, Deputy, is they are employed by the States Employment Board. I saw the Connétable of St. Lawrence?

**12.2.19 The Connétable of St. Lawrence:**

Very briefly, I am glad that the Chief Minister made or proposed the amendment to his amendment because my reading of the amendment prior to that was that we could have elected 2 Members of the States who are not Ministers but that would not have precluded us electing 2 Assistant Ministers to sit on the board. I would like to direct a question to the Chief Minister. In his summing up, I hope he will address the issue as to whether or not he would have been bringing proposals to change the composition himself rather than bringing an amendment to the proposition by the Deputy of St. Martin?

**12.2.20 Deputy I.J. Gorst:**

I will be supporting this amendment. I have had experience of the previous States Employment Board. I know other Members have had experience of previous Establishment Committees and Human Resources Sub-Committees. It is quite easy from a distance to believe that something should be done differently and with the benefit of hindsight believe that a different approach should have been taken. Whether the Assembly today accepts the amendment of the Chief Minister or simply accepts the proposition of the Deputy of St. Martin, it seems that there will be 2 new non-Executive Members on the future States Employment Board going forward and I would just like to take this opportunity to wish them all the best, whoever they might be, who will be wishing to take on this role and make these decisions.

**12.2.21 Senator P.F. Routier:**

Yes, very simply, I take the points made by the previous speaker and I think we are moving in the right direction by accepting this amendment. I think what people recognise, although Deputy of St. Martin has spoken about the need for an odd number on the board against that principle I do believe that decisions do need to be made by the Employment Board and to have an even number is not an appropriate thing to be doing. I think we really do need to be able to put them into a position where they can be held accountable for their decisions and they can go ahead. I think it would be bad for everybody, employees, if things are just left in the air. Decisions do need to be made and I think we should enable that to happen, so we will have 2 non-Executives, 2 Executives and we have to remember, as the Deputy of St. Ouen, said we have elected a Chief Minister to represent us, we all made that decision right at the very beginning of this session that the Chief Minister should be held to account and that we should give him that ability to take those decisions on our behalf if he needs to make those decisions. But hopefully the 2 and the 2 and the Chief Minister combined can make a consensus decision.

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

I think it is appropriate for me to comment at this point with regard to items in the report about this projet as I am a member of the Board as is ... I do not think either colleagues are present. I think that because there is innuendo in the report about lack of performance, for want of a better word, of the Board and I would like to refute that. The Deputy referred to lack of balance on the Board and I think that any responsible employer must have an experience of employment, especially with the workforce the size of the States. Ideally, members of the Board will have had some experience of employment and they have to have experience of employing people in a fair and equitable manner.

Thus, I think, we must be careful in selecting the right people for the job. It is very easy to be magnanimous with other peoples' money, in fact, with the States money, but in my role on S.E.B. I have taken the role to being that as an employer acting out States policies and being duly conscious of the funding availability rather than as a States member who, with respect, could be simply doing the job for popular support. My responsibilities at T.T.S. (Transport and Technical Services) mean that I am responsible for some 600 employees and as such I am keen that they are properly looked after if my department is to function properly. I contend therefore that in my particular case and in the case of other Members who have also departmental responsibilities in terms of staff employment, that they have an obligation to take a balanced view. In terms of policy, I think that the States Employment Board does have work to do with regard to H.R. (Human Resources) policy because my perception is that we have not really got one and it is a bit fragmented and apart from general direction from the Strategic Plan, we have not really got a defined policy to work to and I think that is an issue that needs to be addressed sooner than later. The public sector is highly constrained by many old-fashioned working practices which we need to move away from and into the 21st century and I think Jersey lags behind the U.K. in this. In terms of past performance we must learn from experience and there is no doubt that we have had and are having an unprecedented economic crisis to deal with and I adhere to the decisions which I have made on the S.E.B. It is not easy to make unpopular decisions and I suspect that several Members would have difficulty in doing this. I think it is important that any member of the S.E.B. must be prepared to separate themselves from the populace view and I repeat that, as I said it earlier. I have no difficulty in following my own views which are not always in accord with others if I think they are the right ones. I would also refute the allegation that members were too busy to give proper care and attention to the tasks in their remit. I believe we all contributed fully at meetings where needed and challenge the Deputy for evidence of this. The Employment Board must also be cognisant of the private sector in Jersey and avoid the developing chasm between them and our much valued public sector. With regard to suspensions, the Deputy has been quite rightly assiduous in his pursuit of reducing suspensions. The Employment Board were advised professionally regarding the proposals from the Deputy and, I believe, followed the well-intentioned route that it did. But I am pleased to say there have been a reduction in suspensions but I am frustrated by the fact that the remaining ones are constrained by police or judicial issues and are, in effect, beyond the control of S.E.B. I think it must be remembered that Senator Ozouf's proposition to remove funding from the proposed 2009 pay increase was approved by this Chamber. Deputy Southern's proposition for a salary increase was rejected. Deputy Rondel's proposition for a salary increase was rejected. Deputy Pitman's reinstatement of funds was rejected, all via the States and this I read as giving support to the States Employment Board. I listened to my colleagues in this House. I listened to the electorate. I listened to employees and I listened to professional advice and make decisions based on that and do not propose to change my ways. Whether I am on the S.E.B. or not is immaterial, but I would urge anyone who is on it to follow those principles and suggest that the Chief Minister's amendment should be supported and I would also support Deputy Gorst's comment that any non-Executive Members finding themselves on the Board will find it an interesting career development.

**Deputy S. Pitman:**

Point of clarification. The Constable said that he mentioned that we needed to have the right people on the Board, could he just clarify what he meant by right people?

**The Connétable of St. Brelade:**

Yes, I mentioned at the outset of my speech that I felt that those who had employment experience would be an advantage to having them on the Board.

**The Deputy Bailiff:**

That is a genuine point of clarification. Now, Deputy Le Claire?

### 12.2.23 Deputy P.V.F. Le Claire:

Short and sweet really. The last time I had cause for concern in regards to a casting vote that was conducted by a Chief Minister was from the former Senator Frank Walker who cast his casting vote in the relocation of green waste to La Collette rather than where it was recommended to go at Warren Farm. So, my own experience is one that tells me it is not necessarily wise to give somebody that has got it wrong 2 votes.

### The Deputy Bailiff:

If no other Member wishes to speak I will call upon the Chief Minister to reply.

### 12.2.24 Senator T.A. Le Sueur:

I would like to thank all Members who have spoken this afternoon, indeed quite a number of them. I hope that my comments in summing up will not be regarded as adversarial. I do not want to make this an adversarial debate and I think the general tone of the debate this afternoon, as maybe exemplified by Deputy Le Hérissier, is the need to adopt a more consensual approach. This amendment, which I am proposing is in my view, a good way of better achieving that consensual approach. I think furthermore, if I can move on to the comments from Deputy Green, who said that this would enable us to have a States Employment Board with wider skills. I think that is so important, given trying to find the States Employment Board at present of 4 members between 10 States Ministers. It can be quite difficult to find the right balance of skills. To have a choice between 53 States Members gives much more opportunity for that wider balance of skills, and for that reason alone I think this amendment should be supported. So I am sorry if certain Members seem obsessed with the idea that nothing that the States Employment Board or others can do is ever right. I think the general tone of the meeting this afternoon, and Members generally, is that best give this a chance. It looks like a better way of doing things than we are doing at the current time. I think if I were to single out one speech as particularly relevant, it was that from the Deputy of St. Peter, who points out quite clearly and quite rightly, that with non-Executive Members on the States Employment Board, if things are done in an improper way, not only will that become general knowledge but also the States and the Scrutiny Panel themselves, will want to get hold of it. I am satisfied that that will not happen but I am equally satisfied that the Scrutiny Panel, if needs be, will hold the States Employment Board to account. It is important that they can be held to account and that is why I am so grateful to Senator Ferguson, for the comments that she made. Now getting on to the speeches and the first speech from the Deputy of St. Mary, about who would employees work for, I think that has already been answered indirectly by the Chair, and I am grateful, not only that you answered it but you got the answer correct. **[Laughter]** Article 2 of the Law says that, States employee means a person who is employed under a contract of employment made between the person and the States Employment Board. So the States Employment Board is the employer and that covers States employees. It does not cover Crown appointments or police officers but other than that it covers all States employees. Article 3 goes on to say that, the Chief Executive Officer is the person employed under this Law as a chief executive responsible for the administration and general management. I think it is important that when we look at amending laws we do not look at a proposition in isolation, we also refer to the actual law itself that we are seeking to amend. I think it is maybe a salutary point for, not just this debate, but generally that amendments need to be placed in the context of the law as a whole. I think that probably answers Deputy Tadier's point of view also, who asked about who employed staff. If I go on to the Members I have not yet mentioned, I am sorry to hear from the Deputy of St. Martin that he would not seek to be a member of this Board. I think he has shown such an interest in States Employment Board matters, **[Approbation]** I would have been quite happy to put his name forward, but there we are, that is his particular choice. If I go on to Deputy Southern, I think most of his comments have been responded to, either by the Deputy of St. Ouen or the Constable of St. Brelade, both of whose comments I value and I think they have echoed some sound words. At the end of the day it is going to be a question for Members whether they believe that this amendment, which I am proposing is a



workable one. I believe it is. I believe it will lead to an improved States Employment Board. I hope Members feel the same way and I maintain the proposition and ask for the appel. Sorry, the Constable of St. Lawrence did ask me if I would have brought the proposition myself had Deputy Hill not done so. I have to be honest and say, I might have done but not this year probably because of the number of laws to be reviewed. This is just one of many as far as I am concerned. So maybe this comes to the top of the pile and I congratulate the Deputy of St. Martin on doing that but, as I was about to say, I maintain the proposition and ask for the appel.

**The Deputy Bailiff:**

The appel is called for on the amendment of the Chief Minister to the proposition of the Deputy of St. Martin. Those Members who are not in the Chamber are invited to return to it in order to cast their votes. The Greffier will now open the voting.

<b>POUR: 28</b>		<b>CONTRE: 17</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Senator B.E. Shenton		
Senator P.F. Routier		Senator A. Breckon		
Senator S.C. Ferguson		Connétable of St. Helier		
Senator A.J.D. Maclean		Connétable of St. Lawrence		
Senator B.I. Le Marquand		Deputy R.C. Duhamel (S)		
Connétable of St. Ouen		Deputy of St. Martin		
Connétable of Trinity		Deputy G.P. Southern (H)		
Connétable of Grouville		Deputy P.V.F. Le Claire (H)		
Connétable of St. Brelade		Deputy S. Pitman (H)		
Connétable of St. Martin		Deputy of St. John		
Connétable of St. Saviour		Deputy M. Tadier (B)		
Connétable of St. Clement		Deputy of St. Mary		
Connétable of St. Peter		Deputy T.M. Pitman (H)		
Connétable of St. Mary		Deputy T.A. Vallois (S)		
Deputy R.G. Le Hérisier (S)		Deputy M.R. Higgins (H)		
Deputy J.B. Fox (H)		Deputy D. De Sousa (H)		
Deputy J.A. Martin (H)		Deputy J.M. Maçon (S)		
Deputy of St. Ouen				
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 I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				

**12.3 Employment of States of Jersey Employees Law: proposed changes (P.175/2009) - as amended**

**The Deputy Bailiff:**

We now return to the Proposition P.175 of the Deputy of St. Martin as amended. Does any Member wish to speak?

**Senator A. Breckon:**

I wonder if I could seek clarification through the Chair as to how we might vote on this because when proposing it, the proposer never said anything at all about paragraph (iii), about the Jersey

Appointments Commission and there is nothing contained in the report? So I would, Sir, ask through you, the proposer how we vote on it?

**The Deputy Bailiff:**

Well it is a matter for the proposer. Deputy do you intend to take the votes separately (a) and (b), or (a)(i) separately from (a)(ii)?

**The Deputy of St. Martin:**

It might be easier to separate them.

**The Deputy Bailiff:**

Vote separately?

**The Deputy of St. Martin:**

Yes, Sir.

**The Deputy Bailiff:**

Does any Member wish to speak? Deputy Tadier.

### **12.3.1 Deputy M. Tadier:**

*Plus ça change, plus ça reste la même.* So, essentially we all know what that means but for the people that maybe do not, the more it changes or the more it seems to change, in fact the more it stays the same. This is the case I think for also the reforms that we did not get through. We had lots of reforms come to the States, for electoral reform - constitutional reform perhaps to be more exact - and nothing happened and then at the end we all passed this very small, in some people's minds, very significant idea that we should all have one single election day. We all patted ourselves on the back and said: "Is that not really great?" But in fact what it did, it looked progressive on the surface but it just entrenched the *status quo* because they made all of our jobs safer and it makes change even more difficult. The reason I mention that is I believe it is germane, because this is exactly what we have here. I am not going to be supporting the amended proposition. It may come as a shock to certain Members, and the reason I cannot do that is because I think to do so would be to legitimise the wrong decision that I believe has just been made by the House. I think, to have a minority of non-Executives with a majority of Executive Members on this panel is a nonsense. I think further than that, I think it is an actual insult and I think it would legitimise the body in a way it should not do so I cannot endorse that. We heard talk in the previous debate about moving in the right direction, that this is better than it was and that just seems to me, it smacks of mediocrity. We are saying: "We are moving in the right direction but it is ... really it is not perfect." Well what is the goal? If we are going in a direction, is the goal to have proper representation on the S.E.B. through the States? I know we have had this whole semantic argy-bargy here about who employs States workers. I think, just to clarify the way I look at it, it is that the States Employment Board are with the States Employees workers through the States Employment Board. So we come up with as much sophistry and semantic analysis as we want but essentially they are States employees and all of the States should have a say on decisions that are made, and it should be done in a proportional way. So I simply cannot accept this whole idea that it is better, but it is certainly not the best. What I would encourage Members to do is to reject this. If really the whole problem is that there is not an odd number and that we are going to get hung decisions all the time, what I would say is reject this and we will bring a new proposition. We will have 3 Members of the non-Executive on; we will have 2 Members of the Executive. Or if this gets through then what we will have, I will bring a proposition or somebody will, to add another 2 from the non-Executive to the body because it needs to be more representative of the States Assembly and I certainly cannot support this in its amended form. I encourage other Members, who perhaps are on the progressive side, to also reject this.

### **12.3.2 Senator A. Breckon:**

Just to make a couple of points on this. Perhaps Members should be a little bit more open minded because most tribunals are made up of a cross-section and Members are nominated for their particular experience - from a trade union or a worker background, whatever it may be, work with councils, others from employers - and then there are others who are others. I am not quite sure what others are but they come from that particular category and they seem to be able to reach decisions. I think what we have to do here, for me this is a step forward as amended, and I think we perhaps can live with it for a while and see what happens because I would say, in circumstances we are all reasonable people willing to listen to the case, the argument and the possibilities and that is what we want here. We want a group of people from this House that will do that and recognise that it is a very responsible area, employing people who have hopes and aspirations, who have the responsibilities of that. There are all sorts of complications to that but I think what we have to do is, this is a step forward, we have to live with it and see what happens and trust the people who are appointed or nominated by the Chief Minister and by this House, and will be indeed accountable to this House. If the House does not like what is coming forward then it is up to any Member to bring forward a proposition to test what they are doing or what they are not doing. So for me, I can live with this for now and as it progresses then it can be judged by what it is doing. If we, as a House do not like it we can change it.

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

Senator, before you metaphorically sit down, you had asked about taking the vote, whether the vote was going to be taken separately. I just emphasise to Members, it is one debate so Members should make a contribution to the whole of (a) at one go, although we take the votes separately. Chief Minister.

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

I just want to make 2 points, firstly in relation to comments from Deputy Tadier just then. He may regard it as semantics as to who the employer is, I can assure Members that when, as has happened to me, there was a charge levelled against the States Employment Board, it is the Chief Minister's name that is on the summons. So there is no doubt where the buck stops and who is accountable. So let us not to be too hung up about semantics. It comes home to some people. More seriously I was going to talk about part (iii) of (a) of this proposition because, firstly I would like to once again reiterate how good it is that we now have a Jersey Appointments Commission to oversee appointments in the public sector. It happens that their appointment was brought in to the same law as the Draft Employment of States of Jersey Employees (Jersey) Law but that is really the end of it. The Appointments Commission is not accountable to the States Employment Board. The Appointments Commission is accountable for its own actions, and is responsible for ensuring independence, in that appointments made in the name of the States Employment Board are made on fair and objective grounds. It is the Appointments Commission themselves who set their own procedures and that is quite right because they are, and should be seen to be, an independent body. It is not for us to determine how they should set about their procedures. Now I think in reality the nature of the decisions they make is that casting votes are very unlikely to ever be needed in Appointments Commission discussions so part (iii) is maybe irrelevant. I do think it sends the wrong message to people who give of their time to serve and do this valuable job on the Appointments Commission, to dictate to them that they should have to abolish the idea of a casting vote and stick with the *status quo*. I think it gives the wrong message to the Commission and for that reason and that reason alone, I prefer to oppose part (a)(iii), and I am grateful that the Deputy has agreed to take the 3 parts separately. As to part (a)(ii) of the proposal, having agreed part (i) in the amended form, part (ii) is to me fairly meaningless and I have got no strong views either way.

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

Can I just ask for one clarification of the Chief Minister, about the Appointments Commission, simply to ask whether in all other matters they determine their own procedures? Would this be exceptional if we mucked around with the casting vote scenario?

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

As far as I am aware, in all their procedures, providing they comply with the law, they set their own procedures.

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

I do think it is important that we get rid of the casting vote whenever and wherever we can. There is an adage, it may be an old adage and it may not be politically correct, but one man one vote: nowadays one person one vote. I take us back to the earlier contribution I made when I wrongly identified Warren Farm, it was Warwick Farm. When you are wrong it does not seem right, as I say again, that you give yourself another vote, as the chances are you are not going to vote differently the first time than you do the second. I am not going to be able to support (b) if part (a) is not going to get through in its entirety. I would strongly encourage all Members to vote in its entirety for part (a). I think personally, unless we are prepared to get rid of the casting vote we are just going to continue to allow the course of the natural way of things to be perverted and I think it is wrong. I would also like to ask, in summing up, if the Deputy of St. Martin could tell me how many members are on the Appointments Commission: 5? So therefore if there is anything that needs to be decided in a proper meeting that is of any significant issue then there should be at least enough people where a casting vote is not needed. I really did not like it when I found out unbeknownst to me, when the change to government occurred, that the Chief Minister was able to appoint himself 2 Assistant Ministers because that was a trick none of us expected when we talked about the balance of power within the Assembly.

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

The Law is quite clear. It allows any Minister to have more than one Assistant Minister provided the total quantity of 13 is not exceeded.

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

Yes, and that is how the trick was written in, but it did come as a surprise nevertheless that when the Chief Minister was appointed for the very first time that there were 2 Assistant Chief Ministers appointed because the majority of us that sat through the change in the system never expected it. Likewise, and this is why I am making this point, it came as a great surprise to me when I was investigating the compost issue and the decision to locate, wrongly, recognised now and then, wrongly to locate the green waste plant at La Collette. It was the wrong decision against all of the officer's advice but the Chief Minister in his wisdom of the day decided to cast his casting vote in favour of the wrong decision, in the face of all evidence that said do not do it. Casting votes in my experience, and the ways that these little nuances are written in to laws, need to be written out and here is an opportunity for us to get rid of 2 of those today. If (a) is not supported in its entirety I will not be supporting (b).

**The Deputy Bailiff:**

Does any other Member wish to speak? If not I call on the Deputy of St. Martin to reply.

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

Can I say, I can understand the sentiments of Deputy Tadier, and it does sometimes gaul that you are going to vote for something because the majority have voted for it, but I have this expression before that quite often I do vote and I hold my nose, because you know, you have got to look, at the end of the day, that we have got somewhere today. It is possibly sometimes you have got to lose a little to gain a little and, as much as sometimes it does go against the grain to vote for something, what we have got to look at today is that we have got something. The Connétable of St. Lawrence

posed a good question to the Chief Minister, would he have brought it himself? I am not saying how economical he was with the truth but he did say: "Well he probably would have come forward at some time or other." I just wonder if the same would have happened about the suspensions, that I think the Connétable of St. Brelade was saying how it was improved. Well I wonder again, if it had improved, if it had not been done by someone outside the States Employment Board it would not have happened and again this would not have happened today. So to Deputy Tadier, what we have got today is that, as much as I do not like it, we have got 2 Members of the non-Executive on the States Employment Board. We would not have had that, and we would not have had that with this Chief Minister. I am sorry to say it would not have come. It would have come maybe in 18 months' time but certainly it would not have come in the immediate future. So we have got something today. It may be a bit of a hollow victory but we have got something. I will say we, the States have got something and more important the States employees should have better representation and that is what my proposition is all about. I am disappointed, I really am disappointed that we have not got the vote the other way round because I think Members have got it wrong. However, we have made a start. Coming back to what Senator Breckon has had to say: "We have got to live with it." It is a start and for those Members who eventually do go on the States Employment Board, if they do not like it I hope they will have the courage to come to the States and say: "It is not working, please change it." The Chief Minister talked about this, the tied vote, and the reason I brought it was it would make a nonsense, and yes I did speak when we talked about the General Trades Union workers where we had a 5 and 5 and I said: "Is it not interesting that no one has got the casting vote?" Yet here we are today it is so important that someone has the casting vote and of course it is the Chief Minister who has it always because he has a majority of 3 to 2 and the casting vote, if we go along with what the Chief Minister is asking. I would ask Members to go with what I am proposing, that there is not a casting vote. I think Deputy Le Claire was dead right: "One person, one vote." I can see Deputy Duhamel at the end. He may well remind himself that the days when we were on a committee together where, in fact we were on 2 committees together, where both presidents always had 6 members on their committee. They did not have 7. Deputy Duhamel remembers because the chair or the president always had 2 votes. It really was ... I found it so annoying that we were trying to get things done but the president had 2 votes and it stuck in my mind. The reason I brought the 2 together is because the law ... it would be wrong, it would be wrong of me to come to the House and say: "Look I am accepting a casting vote for the Jersey Appointments Committee because it is there" and I am not going to do the same for the States Employment Board. I believe in equality. What I am asking Members to do is, reluctantly I think, they have got to vote for the, amended as it is now part (a). I would certainly ask that they would also vote for part (b) to include what I am asking for.

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

Can I just ask for a point of clarification, if I may? With a body of 5, is there therefore no necessity to have a casting vote because it will always be a majority vote and the definitions are different?

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

There will be occasions, even though there may be 5 on a committee, only 4 may be present. It is for those occasions when there is 4, is it right that whoever is that chairman has 2 votes? Again we are coming back to what Deputy Le Claire was saying, that the chairman will have 2 votes, who has the casting vote. I think it is wrong. It would only occur when you have a tied vote but I would ask Members to see, despite what Deputy Tadier is saying, I would ask Members to support (a) in its amended form, support (b) as I have got it and support (c) as I have got it because I think I have got it right. Sorry, part (a)(i) as amended, and support (a)(ii) separately and (a)(iii) separately. So I would ask Members to support both my proposition as (i), (ii), (iii); 3 votes.

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

Deputy, you are calling for votes separately on paragraphs (a)(i), (a)(ii) and (a)(iii)?

**The Deputy of St. Martin:**

Yes.

**The Deputy Bailiff:**

Do you wish the appel?

**The Deputy of St. Martin:**

Yes, Sir, each one separately.

**The Deputy Bailiff:**

On each one, very well the first proposition for the States is whether to agree that the Employment of States of Jersey Employees (Jersey) Law should be amended as proposed by the Deputy of St. Martin, amended by the Chief Minister. All those Members wishing to vote, who are outside the Chamber, please return to the Chamber and the Greffier will open the voting.

<b>POUR: 41</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy S. Pitman (H)		
Senator P.F. Routier		Deputy M. Tadier (B)		
Senator B.E. Shenton		Deputy T.M. Pitman (H)		
Senator A. Breckon		Deputy M.R. Higgins (H)		
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. 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 Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (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 K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (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)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Deputy Bailiff:**

We now come to the second proposition, (a)(ii): the casting vote of the person presiding at meetings of the States Employment Board should be abolished. I ask the Greffier to open the voting.

<b>POUR: 30</b>		<b>CONTRE: 15</b>		<b>ABSTAIN: 0</b>
Senator B.E. Shenton		Senator T.A. Le Sueur		
Connétable of St. Ouen		Senator P.F. Routier		
Connétable of St. Helier		Senator A. Breckon		
Connétable of Trinity		Senator S.C. Ferguson		
Connétable of St. Martin		Senator A.J.D. Maclean		
Connétable of St. Saviour		Senator B.I. Le Marquand		
Connétable of St. Lawrence		Connétable of Grouville		
Connétable of St. Mary		Connétable of St. Brelade		
Deputy R.C. Duhamel (S)		Connétable of St. Clement		
Deputy of St. Martin		Connétable of St. Peter		
Deputy R.G. Le Hérisier (S)		Deputy J.B. Fox (H)		
Deputy J.A. Martin (H)		Deputy of St. Ouen		
Deputy G.P. Southern (H)		Deputy of Trinity		
Deputy of St. Peter		Deputy E.J. Noel (L)		
Deputy J.A. Hilton (H)		Deputy A.K.F. Green (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 of St. John				
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 D. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Deputy Bailiff:**

We now come to the third part of the proposition: the casting vote of the person presiding at the meetings of the Jersey Appointments Commission should be abolished. I would ask the Greffier to open the voting.

<b>POUR: 23</b>		<b>CONTRE: 22</b>		<b>ABSTAIN: 0</b>
Senator B.E. Shenton		Senator T.A. Le Sueur		
Connétable of St. Helier		Senator P.F. Routier		
Connétable of St. Martin		Senator A. Breckon		
Connétable of St. Saviour		Senator S.C. Ferguson		
Connétable of St. Lawrence		Senator A.J.D. Maclean		
Connétable of St. Mary		Senator B.I. Le Marquand		
Deputy R.C. Duhamel (S)		Connétable of St. Ouen		

Deputy of St. Martin		Connétable of Trinity		
Deputy R.G. Le Hérisier (S)		Connétable of Grouville		
Deputy J.A. Martin (H)		Connétable of St. Brelade		
Deputy G.P. Southern (H)		Connétable of St. Clement		
Deputy J.A. Hilton (H)		Connétable of St. Peter		
Deputy P.V.F. Le Claire (H)		Deputy J.B. Fox (H)		
Deputy S. Pitman (H)		Deputy of St. Ouen		
Deputy I.J. Gorst (C)		Deputy of St. Peter		
Deputy of St. John		Deputy of Trinity		
Deputy M. Tadier (B)		Deputy S.S.P.A. Power (B)		
Deputy A.E. Jeune (B)		Deputy K.C. Lewis (S)		
Deputy T.M. Pitman (H)		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)		
Deputy M.R. Higgins (H)		Deputy J.M. Maçon (S)		
Deputy D. De Sousa (H)				

**The Deputy Bailiff:**

We now come on to part (b): requesting the Chief Minister to bring forward for approval the necessary amendments to the Employment of States of Jersey Employees (Jersey) Law 2005 to reflect the proposals. The Greffier will now open the voting.

**Senator P.F. Routier:**

Just for clarity, there is no mention of the changing of the ... I cannot vote on it.

**The Deputy Greffier of the States:**

No, I am sorry we are in the middle of a vote.

**Senator P.F. Routier:**

The problem being that (b) talks about the changing the Employment of States of Jersey Employment Law for employees but it does not request anybody to change the Jersey Appointments Commission, Article 2(a). I just do not know how this was done.

**The Deputy Bailiff:**

We can only vote on what is before us, Senator.

<b>POUR: 41</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 1</b>
Senator T.A. Le Sueur		Deputy M. Tadier (B)		Connétable of St. Peter
Senator B.E. Shenton				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				



Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (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 I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Deputy Bailiff:**

Right, we now come to the arrangement of future public business and I invite the Chairman of the Privileges and Procedures Committee.

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

I beg your indulgence, Sir, the intervention by Senator Routier has led me just to a query and I wonder if I could straighten that out now? The proposition said to (b): the Chief Minister bring forward for approval the necessary amendments to the Employment of States of Jersey Employees (Jersey) Law and I thought that was the same Law that was made up of the Employment of the Appointments Commission and therefore it would be the Chief Minister himself who would have to bring forward those changes, otherwise there would be no action on this decision.

**The Deputy Bailiff:**

The Chief Minister has had the advantage of sitting in the Assembly, he knows what the votes have been and it will be a matter for him to decide what he wishes to do next.

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

I have got the message anyway.

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**13. The Connétable of St. Mary (Chairman, Privileges and Procedures Committee):**

The arrangement for public business takes as a basis the lavender sheet with the following changes: 1st December, the addition of P.139 - the Draft Gambling Commission (Jersey) Law 200- - which was deferred from the current sitting and the associated amendment; and there is a second amendment lodged to P.141, in the name of Deputy Noel. I also have had an indication that the

Connétable of St. Ouen may wish to defer Projet 144 - the Plémont Holiday Village: acquisition by the Public. I wonder if he is now in a position to clarify that?

**13.1 Connétable K.P. Vibert of St. Ouen:**

Yes, as Members will be aware, the agents of the owners have recently submitted a further planning application. I have been in contact with them. I have offered them the facility of a room at St. Ouen's Parish Hall to exhibit the plans and the model for anyone who wishes to see it and I am also in the process of agreeing with them, a date when a public meeting will be held. So I would like to hold P.144 over until 19th January.

**The Deputy Bailiff:**

Deferred to 19th January. Do Members agree that it should be deferred to 19th January?

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

May I take this opportunity, since there is a break in the order, to ask through the Chair if I may, Deputy T. Pitman, if he has decided whether or not to continue to seek debate of P.148? Because I believe that the advice that has been given by Her Majesty's Attorney General clearly states that that would be at odds with the States' strategic decision that I brought to the ...

**The Deputy Bailiff:**

No doubt the Chairman of P.P.C. (Privileges and Procedures Committee) is just coming on to this shortly.

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

Right, Sir.

**13.3 The Connétable of St. Mary:**

I have had no indication from Deputy Pitman on that matter so it is a matter for him to advise. The rest of the business that I do know about: 8th December sitting remains unchanged. The 19th January 2010 sitting has the addition of P.144, as just discussed - the Plémont Holiday Village; and has P.196 - the Review of the roles of the Bailiff, Attorney General and Solicitor General: appointment of Chairman and members of the Review Panel - lodged by the Council of Ministers; and P.197 - the Committee of Inquiry: confidential files held by Jersey Police on States Members and others - in the name of Deputy Higgins.

**13.4 Deputy I.J. Gorst:**

Sorry, I wonder if the Minister for Economic Development could give us an indication if he is obviously feeling confident that he will be able to provide the House with the information that it requested before the next sitting? I wonder if he could give us an indication of quite what that is going to be and in what form, and when we are going to receive it in order to have a fully informed debate in less than a fortnight's time.

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

Yes, I am more than delighted to do that. I will be arranging for a further briefing for States Members. The Deputy is referring to P.139 - the Draft Gambling Commission (Jersey) Law - which was referred back specifically for information on the cost of the Commission. We will be providing written information for States Members and we will be backing that up with a briefing and I would hope and encourage as many Members as possible to be able to attend the briefing, the date of which will be circulated shortly once it is agreed. We are checking to make certain that there are no other meetings being held on the chosen day so that it hopefully will be as acceptable as possible to Members to come along to that particular briefing. I would also add that if Members have any particular concerns above and beyond this, both myself, and the department will be delighted to hear from them and we will add that in to the information we supply.

**Deputy I.J. Gorst:**

The indication given by the Minister there was that he was merely looking at the cost of the Commission. I think the reference back - unfortunately the mover of the reference back is no longer in the Assembly - was that it was quite a broad cross-benefit of the Commission in relation to regulating 29 betting shops. I wonder will the Minister be providing comparative jurisdictional numbers so that we can get a full understanding of the cost benefit of the Commission as proposed, not simply the running costs?

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

I can assure the Deputy and indeed Members that we will supply enough information that I am sure will satisfy Members to both the value of the Commission, the cost of the Commission and other relevant details that will be useful and valuable in determining the outcome of the debate.

**Deputy I.J. Gorst:**

The Minister said he would be holding a briefing and that we would have the information in good time. I wonder if he could give us an indication of when that will be.

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

Certainly before 1st December. We are trying to, as I mentioned a moment ago, establish a suitable date where there are no other meetings, scrutiny hearings and such like. I would anticipate being able to advise Members of the proposed date within the next 48 hours.

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

I am sorry, Sir, but I would like to request through the Chair, an inquiry of Deputy T. Pitman for P.148 because it will be in conflict I understand with our desire to introduce, or at least the majority of our desires, to introduce the United Nations Convention on the Rights of the Child. If we progress with this, and I do not know if there is an amendment coming to it or what his intentions are, but I certainly could do with a steer right now because there is a body of work that would need to be undertaken, that I would need to do or not need to do based upon that knowledge.

**The Deputy Bailiff:**

It is a matter for the Deputy. Deputy, are you in a position to give any indication to Members today?

**13.7 Deputy T.M. Pitman:**

Absolutely, it will definitely be going ahead. It might even be amended tomorrow. I certainly will not leave the amendment as late as today's, but yes definitely. I discussed it with the Attorney General yesterday.

**13.8 The Connétable of St. Mary:**

Just on the basis of the fact we have obviously had some very lively discussions just on planning the business, I would anticipate that we will need the full 3 days for the next sitting, Tuesday, Wednesday and Thursday, and would have in reserve the Friday because with the gambling legislation it could well go on.

**The Deputy Bailiff:**

So you propose that we have an additional continuation day of Friday. Is that seconded? **[Seconded]** Members in favour show hands? That seems to be agreed.

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

I lodged Projet 196 on Tuesday, which is the Review of the roles of the Bailiff and Crown Officers. This is a subject which has been in the pending tray for I think rather too long and I would hope we would come to a decision on that before Christmas so that the panel could get started and get

underway. I appreciate that I may require a 6-week lodging period, so I would like to give notice early to Members that I will seek Members' indulgence to reduce that lodging period in order that the appointments can be made this side of Christmas, and the panel can get on with their work. I am sure the person who brought the original proposals would endorse that view but I do want to give Members as much notice as possible.

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

If the Chief Minister is seeking that delay today then I would oppose that until the next sitting when he could seek that delay then because we have not yet been given ...

**The Deputy Bailiff:**

Chief Minister, the Greffier points out that a 2-week lodging period applies for the propositions to the appointment of persons to any tribunal or public body.

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

That being the case I will then seek the indulgence of the House to add that to the list of 1st December. I prefer to be on the 1st rather than the 8th because the 8th is the last sitting of the States - the Budget Sitting - and I think that particular timetable is long enough. So, particularly since there is one item removed from 1st December and potentially another one as well, I urge Members, particularly if we are going to sit for 4 days, to take that one as well on 1st December.

**The Deputy Bailiff:**

So this is a proposition to bring P.196 forward to be debated on 1st December?

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

Correct, Sir.

**The Deputy Bailiff:**

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

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

I would like to speak against that please, if I could. This is a significant issue to discuss the role of unelected Members of the States that are appointed by the Crown. This has been simmering away in the background for as long, if not longer, than I have been on this Island let alone in the States, and today we have been circulated a list of names and their appointments, and the process that was undertaken by the Chief Minister in conducting those appointments. I have already made an inquiry as to the way that that proceeded to one of the members of the Privileges and Procedures Committee, to get some detail behind that proposal and I still have not had that information. One of the questions in particular would be, for example, why there are no apparent lay people appearing on this? It seems to me the great and the good have been appointed, which does not beckon well for any realistic changes in my view. Although it may be, and I am reflecting on that, that it is best to leave things as they are. I certainly do not think though however, while I am trying to give thought to whether or not to bring an amendment to these proposals, if it is even at all possible to, because of the process that has been put in place, whether or not rushing this through is going to allow us the time that we need to evaluate our options. I certainly would like to try to consider bringing an amendment to this and I do not even know at first glance of it whether or not I am able to. So I think rushing it through like this is probably the worst thing to do. I have never heard such eagerness to get something happening in relation to the constitutional changes of this Assembly. "Let us get this done", says the Chief Minister. Well what was wrong with getting it done the in last 3 years we have been shouting about it or the last 6 years, 10 years? Suddenly it is being rushed through it seems and I do not think we are getting a chance to have a fair investigation as to who is being proposed and what make-up this body is going to be. This is a significant issue for this Island. It is probably the most significant issue for this Island long-term. The support and

the roles that the Crown Officers hold in this community not only has an effect on this Chamber but on society as a whole and our standing in the international world. For the Chief Minister to make this proposal now, at the last minute of this session on a day when most of us probably have not even read the proposal, I think is not the best way to go. So with the greatest of respect, I would ask that he does not rush this through and give us an opportunity to reflect upon the proposals that he is bringing please.

**The Deputy Bailiff:**

Just a matter of procedure, Deputy, may I just point out that in relation to a proposition with a minimum lodging period of 2 weeks, the minimum lodging period for an amendment is one week. So Members will have one week from the date the Chief Minister’s proposition has been lodged within which to lodge an amendment. Chairman did you wish to say anything?

**The Connétable of St. Mary:**

No, Sir, I was just going to offer the Deputy, I would happily go through the procedure that was followed with him afterwards.

**The Deputy Bailiff:**

Does any other Member wish to speak? There is the proposition, seconded, from the Chief Minister that we take P.196 on 1st December. All Members in favour? The appel is called for. I would invite Members not in the Chamber to return to vote on the proposition to take P.196 on 1st December. P.196 is the appointment of members to the review group for the Crown appointments. I ask the Greffier to open the voting.

<b>POUR: 32</b>	<b>CONTRE: 9</b>	<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur	Senator B.E. Shenton	
Senator P.F. Routier	Deputy G.P. Southern (H)	
Senator A. Breckon	Deputy P.V.F. Le Claire (H)	
Senator A.J.D. Maclean	Deputy S. Pitman (H)	
Senator B.I. Le Marquand	Deputy of St. John	
Connétable of St. Ouen	Deputy of St. Mary	
Connétable of St. Helier	Deputy T.M. Pitman (H)	
Connétable of Trinity	Deputy M.R. Higgins (H)	
Connétable of Grouville	Deputy D. De Sousa (H)	
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 Hérisssier (S)		
Deputy J.B. Fox (H)		
Deputy J.A. Martin (H)		
Deputy of St. Ouen		
Deputy J.A. Hilton (H)		
Deputy of Trinity		
Deputy K.C. Lewis (S)		
Deputy I.J. Gorst (C)		
Deputy A.E. Jeune (B)		
Deputy A.T. Dupré (C)		
Deputy E.J. Noel (L)		

Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

**The Deputy Bailiff:**

Is the adjournment proposed?

**The Deputy of St. John:**

Prior to Members leaving, if my Environmental Panel could meet me in the coffee room immediately afterwards re. the meeting we are supposed to be having?

**The Deputy Bailiff:**

I think that was a proposal for the adjournment. **[Laughter]** The States stand adjourned until 9.30 a.m. on 1st December.

**ADJOURNMENT**